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## Implementation of Minimum Wages Act, 1948 in India

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*One of the first developing nations to implement a minimum wage policy was India. The Minimum Wages Act, of 1948, is also one of the oldest and first labour legislations implemented after independence. This act aims to ensure that the employees are paid a fair wage and are not exploited by their employers. Though the act was enacted 74 years ago, it was considered progressive for its period. While periodic revisions to minimum wage laws have helped them remain effective in protecting workers in the organised sector, this has not been the case for unorganised workers, who primarily remain outside the scope of minimum wage laws even though they are the ones who are in real need of the protection offered by this act. This paper aims to highlight the issues in the implementation of the minimum wage law in India.*

**Keywords:** *policy, minimum wages, unorganised sector.*

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### INTRODUCTION

According to International Labour Organisation, the minimum wage is defined as “the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract” Most employers exploit their employee by providing them with unfair low wages. Hence, to protect the employees from being exploited, a minimum wage is set by the

government, and all employers are required to pay according to it. It aids in obtaining sufficient income to maintain a minimal level of living. Additionally, it serves as a tool for eradicating both gender discrimination and poverty.

The payment of minimum wages is governed by the Minimum Wages Act, 1948 in India. The Directive Principles of the Indian Constitution's Article 43, which states that "The state shall endeavour to secure," is the foundation for the Minimum Wage Act of 1948. To ensure a fair deal for the labour class, the government should provide work, a living wage, working conditions that ensure a respectable standard of living, and full enjoyment of leisure time and social and cultural opportunities to all workers, whether they are in the agricultural, industrial, or other sectors of the economy<sup>1</sup>. The Constitution's "concurrent list" contains the word "Labour," which provides for the adoption of labour laws by both the federal and state governments. While the central government regulates contractors and occasional workers at businesses, state governments enforce labour laws for the majority of workers in the informal sector. All central government-enacted labour rules have an impact on the structure and level of salaries in the unorganised sector, either directly or indirectly.

### **EVOLUTION OF MINIMUM WAGES ACT, 1948**

In order to regulate minimum wages in particular employments, a Minimum Wages Bill was submitted in the Central Legislative Assembly. The bill was enacted in 1946 and went into effect in 1948. A Central Advisory Council was established by the government to provide guidance on matters pertaining to the payment of fair salaries to labour and the fair return on capital invested while the industrial relations were deteriorating. In order to "identify the principles on which fair pay should be founded and to suggest the lines on which these principles should be applied," the Central Advisory Council established a tripartite group named the "Fair Wages Committee." This Committee's report, which defined three levels of wages – a minimum pay, a fair wage, and a living wage – was a significant turning point in the development of India's wage

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<sup>1</sup> Srija A, '14 Implementation of the Minimum Wages Act, 1948 - Case Study of India' ( 2014) 14(7) GJHSC <[https://www.ies.gov.in/pdfs/global\\_journal.pdf](https://www.ies.gov.in/pdfs/global_journal.pdf)> accessed 15 October 2022

policy. "The minimum wage must provide, not only for the fundamental necessities of existence, but also for the preservation of the worker's efficiency by providing for some level of education, medical needs, and amenities," the committee advised.

### **THE MINIMUM WAGES ACT, 1948**

In order to prevent labour exploitation or sweatshop conditions, the Minimum Wage Act of 1948 establishes and enforces minimum wages for scheduled employment. The Act's goal is to guarantee workers a minimum wage sufficient for basic needs. According to the Act, the appropriate government must set minimum wage rates for the work types listed in the schedule and evaluate and adjust such minimum wage rates no less frequently than every five years. Once a minimum wage has been established in accordance with the Act's provisions, the employer is not permitted to claim that he is unable to pay the stipulated wages to his employees. The Act requires that wages be revised by the respective governments every five years. The minimum wage is made up of two parts, the base pay, and the variable dearness allowance, which are both biannually indexed to the CPI (Consumer Price Index).

There are four possible minimum wage rates: time rate, piece rate, guaranteed time rate, and overtime rate. According to the Act, separate minimum pay rates may be established for a) various scheduled employments; b) various tasks performed within a single employment; c) adults, adolescents, and children; d) various locations; or e) male and female employees. Additionally, the minimum wage may be set by any other time that the notified authority may specify, including a) an hour, b) a day, c) a month, or d) any other term.

In accordance with the standards established by the State Government, the Act also provides for overtime pay for employees who work above the required number of hours. At the 1988 conference of labour ministers, it was suggested that minimum wages be tied to increases in the consumer price index in order to safeguard them from inflation. The determination of the minimum wage in India is based on a number of variables, including socioeconomic and agro-climatic circumstances, the cost of basic necessities, pay capability, and regional characteristics that affect the wage rate. Because of this, there are different minimum wages around the nation.

The idea of variable dearness allowance (VDA) connected to the consumer price index has since been established. In April and October of each year, the VDA is updated. 22 states and Union Territories have implemented VDA as a component of minimum wage, even though the Centre has already made provisions with regard to all scheduled employments in the central domain<sup>2</sup>.

### **IMPLEMENTATION AND COMPLIANCE WITH THE MINIMUM WAGES ACT, 1948**

Workers in organised sectors are more negatively impacted by poor minimum wage act implementation than are workers in unorganised sectors. Millions of employers, most of which are tiny businesses, sole proprietorships, or households, employ unorganised workers; as a result, it is challenging to provide legal protection for them. Due to the lack of a comprehensive legal norm, they are subject to exploitation due to the variety of the places they work and the types of jobs they do. In addition, many workers don't record payments below the minimum wage rate out of fear of losing their jobs. These workers are even made to confirm payments below the minimum wage by their employers.

Poor implementation of the minimum wage law is the main issue in India. The Act gives the relevant government (Central, State, or Local) the authority to set a minimum wage for employees in unorganised sectors. However, industries have frequently received exemptions from having to pay minimum wages. In addition, changes to the minimum wage have only been made infrequently (where the actual prescribed limit is within 5 years). Such a failure in Minimum Wages Act implementation is the result of both administration failures and flaws in the policy framework<sup>3</sup>.

A cogent enforcement plan built on information sharing, efficient labour inspections, and sanctions for infractions is typically necessary to ensure a high degree of compliance. The likelihood of compliance is also decreased by the lack of clear information available to employers and employees regarding the amount of the minimum wage and the potential consequences of

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<sup>2</sup> Prof. Biju Varkkey & Khushi Mehta, ' Minimum Wages in India: Issues and Concerns' ((*Paycheck*, 2012) <[https://paycheck.in/root\\_files/080415\\_minimum\\_wages\\_in\\_india.pdf](https://paycheck.in/root_files/080415_minimum_wages_in_india.pdf)> accessed 10 October 2022

<sup>3</sup> *Ibid*

violation. Increasing the involvement of NGOs and workers' organisations could be another method of ensuring the efficacy of the implementation apparatus<sup>4</sup>.

According to the Code on Wages Act, the government must select inspectors or facilitators to verify that the organisations are abiding by the regulations. The punishment depends on how serious the violation was. The maximum penalty is three months in jail and/or a fine of one lakh Indian rupees. A complaint can be filed with the labour inspector by the worker alone, through a registered trade union, or through a lawyer if the minimum wage is less than the government's proclaimed rates. In research conducted<sup>5</sup>, it was found that higher minimum wages are associated with higher noncompliance and that the headcount measure of noncompliance is higher for women, casual workers, younger workers, those living in rural areas, and unskilled workers. Noncompliance with the minimum wage has been found to be a key feature of the Indian labour market, with rates as high as 90% for some workers<sup>6</sup>.

## ISSUES AND CHALLENGES WITH THE ACT

The minimum wages act was progressive for the period it was implemented but being very progressive has led to certain issues. There have been questions over whether India has a clear and consistent wage policy, particularly in the unorganised sector. This is mostly because there are poor standards for fixation, enforcement, implementation, and coverage throughout the nation. The following are a few such issues:

- The cost of non-compliance is quite minimal. They must be significant in order to deter employers from breaking the Act's rules. Additionally, the process for applying the penalty is complicated.
- Another issue raised in the Evaluation Studies on the Implementation of the Minimum Wages Act, 1948, done by the Labour Bureau under the Ministry of Labour & Employment, is the lack of knowledge about the Minimum Wages Act among employers

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<sup>4</sup> Uma Rani and Belser P, 'The Effectiveness of Minimum Wages in Developing Countries: The Case of India' (2012) 4(1) International Journal of Labour Research, 45

<sup>5</sup> Mansoor K and O'Neill D, 'Minimum Wage Compliance and Household Welfare: An Analysis of over 1500 Minimum Wages in India' (2021) 147 World Development

<sup>6</sup> *Ibid*

and workers. However, despite being aware of the minimum wage, workers' willingness to accept lower pay is still influenced by other strong forces, such as limited bargaining power, the rural push brought on by drought conditions, a lack of employment opportunities, the loss of income-producing assets, debt, etc.<sup>7</sup>.

- Despite the Minimum Wages Act's requirement that wages be reviewed every five years, this rarely occurs, which is another deficiency. The Minimum Wages Act also contains a provision that specifies present wages must be maintained if they are not changed. Some employees now live below the poverty line as a result of this arrangement, which has only increased state labour agencies' indifference and lack of accountability.
- The employment or industrial activity must be listed on the Schedule of Employments in order for the minimum wage to be established. Currently, there are 1232 scheduled jobs in the state sector compared to 45 in the federal government. The requirement for inclusion in the list of scheduled employment is that at least 1000 state residents must be employed in that activity. As a result, a lot of activities are left off the list. Many workers in the unorganised sector are now excluded from the Minimum Wage Act due to this inclusion requirement.

## THE WAY FORWARD AND CONCLUSION

Fixing a basic minimum pay that is in line with the living wage of the relevant State or Union Territory is urgently needed, especially for low-skilled occupations like agriculture, household work, stone crushing, etc. so that those who earn minimum wage can live respectably. To encourage better compliance, the penalties for breaking the law must be increased. Workers, trade unions, and labour organisations must actively support minimum wage legislation in India. In order to provide the basic subsistence of employees in unorganised sectors, it would also require sincerity on the part of the labour bureaus in each state to set the minimum wage rate based on moral and humanitarian considerations. The primary issue in the unorganised sector is the application of laws and policies. Additionally, low productivity in unorganised sectors, fewer opportunities for gainful employment, and a lack of worker organisation limit

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<sup>7</sup> Srijia A (n 1)

their ability to bargain, which contributes to their precarious position. Therefore, the participation of non-governmental groups and labour unions can be crucial to improving the enforcement of the minimum wage statute. Not only are higher minimum wage rates urgently needed, but a fundamental shift in how the problem is approached is also required. The current minimum wage system is actually making poverty worse rather than better. Efforts to improve the situation include stepping up the enforcement apparatus, streamlining the process for covering and revising the minimum wage rate, tying the rates to the Consumer Price Index Numbers (CPI), and involving more workers' organisations in the implementation of the Minimum Wages Act.<sup>8</sup>

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<sup>8</sup> *Ibid*