

# From Minimum Wages to 'Floor Wages': Impact Assessment of the Code on Wages (2019) on Female Domestic Labours

Ms. Smriti Yadav

## Abstract

The roll-out of the Code on Wages, 2019 signifies a paradigm change in the wage regulation regime in India owing to the inclusion of the statutory floor wages to promote the universal standard of living on a regional level. This paper critically evaluates how this shift between piecemeal minimum wage to a centralized floor wage system affects female domestic labour; a highly informal, uncontrolled, and vulnerable group of workers. Informal labour market Female domestic workers represent a significant section of the informal labour market in India, and historically have been challenged by wage discrimination, legal non-recognition and, missing social security. The paper is qualitative and analytical as it uses secondary data sources such as government reports and policy documents and the literature on labour reforms and gendered employment patterns available. It will discuss the extent to which the Code on Wages, 2019 focuses on structural inequalities that face female domestic workers and the extent to which it can facilitate wage equity, standardization, and legal protection. The results indicate that despite the introduction of floor wages potentially eradicating inter-state wage differentials and creating a minimum wage floor securing of incomes, it has limited effects on women labour in the household because of challenges in implementation, absence of specific inclusion, and poor enforcement of floor wages in the informal sector. Also, the presence of socio-cultural factors and gaps in power between employers and domestic workers still blocks the issue of realizing fair wages. The article adds to the larger discussion of labour law implementation and gender justice in India since it highlights the discrepancies between the policy purpose and ground conditions.

## Chapter 1: Introduction

### 1.1 Background of Wage Regulation in India

The regulation of wages in India has become an effective aspect of laboratory welfare policy, the State being keen on pursuing social justice and economic fairness. Traditionally, the labour markets in India have been informal, these aspects are characterised by asymmetry of bargaining power, and high level of exploitation especially among the workers of the unorganized sectors. The first effort at legislatively trying to control wages dates back to the Payment of Wages Act, 1936, whose main concern was with a payment that was timely and not adequate. The Minimum Wages Act, 1948, gave governments authority over setting minimum wage rates on scheduled employment to eliminate labour exploitation. The wage regulation is also supported by the constitutional system in terms of Directive principles of State policy in Article 39, 41, and 43 of the Constitution of India that addresses the concept of adequate livelihood, fair wages and decent working environment<sup>1</sup>. In due course, various legislations on wage came up resulting in

<sup>1</sup> Basu, D. D. (2021). *Introduction to the Constitution of India* (26th ed.). LexisNexis.

the disintegration of the implementation. This plurality resulted in administrative and legal problems particularly in setting wage items and coverage. The Government of India has implemented reforms in labour law to overcome these problems and has led to the enactment of the Code on Wages, 2019. This Code unites four significant wage laws and brings consistency to definitions and applicability cross-sector<sup>2</sup>. More importantly, it also applies to all workers, even those in the unorganized sector, as compared to previous laws, which had been restricted to scheduled employment. Although this progress has been made, there are still concerns of effective enforcement, especially to informal workers like domestic labourers. The inability to eliminate low wages, gender differences, and social security underscores the difference between the intentions of the law and on-the-ground policies and realities. Thus, the key is to comprehend the history of the wage regulation, as it will help to understand the progression to an expanded framework with the provision of the Code on Wages, 2019.

### **1.2 Conceptual Shift: Minimum Wages to Floor Wages**

The shift of concept of minimum wages to floor wages is a paradigm shift to the wage policy structure in India. The previous regime had set minimum wages based on both Central and State Governments, specific scheduled employments, and in many cases, led to large geographical variation and unequivocally in the level of wages<sup>3</sup>. Such inequalities were especially high in the informal sector where the means of enforcement were inadequate and the coverage was minimal. The idea of a floor wage is presented in the Code on Wages, 2019 and is to be calculated by the Central Government concerning minimum standards of living in consideration of other aspects. States are forbidden to set minimum wages that are lower than this threshold, thus setting a national minimum wage to protect wages. The idea behind this mechanism is to decrease the disparities between the inter-state and provide all the workers with a minimum income security. Theoretically, the floor wage is more consistent with the idea of a living wage, beyond subsistence, considering dignity and social well-being<sup>4</sup>. It also captures a turn towards a more centralizing style of wage regulation, to increase standardization and policy coherence. Nevertheless, opponents also contend that the success of floor wages is potentially more about the precise determination and a solid enforcement, which is difficult to achieve in the diversified India economy. This turn has great implications with regard to female domestic workers. As historically, domestic work was not included in minimum wage regulations in most states, a universal floor wage would potentially increase wage security. Nevertheless, benefits in practice will require household employer inclusion, awareness and compliance. Therefore, although the idea of floor wages is a progressive change, the effect it has on the vulnerable groups needs to be empirically evaluated.

### **1.3 Importance of Female Domestic Labour in the Informal Economy**

One of the most underestimated, but systematically, this is female domestic labour making up one of the most indispensable sectors of India's informal economy. The domestic workers, with the overwhelming majority of them being women, undertake a vast diversity of tasks, due to which they clean, cook, care of children, elderly people, and various other types of household management. Although sometimes these tasks, despite being widely classified as unskilled, consume a lot of physical labour, time and emotional labour and they form the main cotton to hold the households and economy at large. The International Labour Organization estimates that millions of Indian domestic workers work in some of the most informal employment structures which uphold no written contracts and steady payment, and social security benefits.

<sup>2</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.

<sup>3</sup> Papola, T. S., & Kannan, K. P. (2017). *Towards an India wage report*. International Labour Organization.

<sup>4</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

This informality in structure puts them under the most disadvantaged groups of workers in the labour market. Domestic work is feminized at the core of socio-cultural beliefs, which in the history of human society attribute the roles of caregiver and homemaker to women. This gendered division of labour does not only limit the women to particular forms of work, but also helps to underrate the said labour systematically in an economic factor. Home work is commonly seen as a kind of extension of unpaid domestic work for women instead of a productive economic activity that should be paid accordingly. Consequently, the women domestic workers are often under paid, poorly paid at different times and exploited in their work. These norms perpetuate gender discrimination and prevent the idea of domestic work as an acceptable purpose of work. Also, the socio-economic status of domestic workers with women is another factor that contributes to the exposure of these women. A considerable percentage of these workers represent marginalized groups of people, such as lower caste groups, minority groups, and rural migrants. The overlap of these identities of gender, caste, and class produces several layers of disadvantage limiting access to education and formal employment opportunities and exclusion from the law<sup>5</sup>. The migrant domestic workers, especially, have other problems like language difficulties, absence of social networks, and little knowledge about their rights, which further undermine their bargaining power in the labour market. Regardless of such weaknesses, feminine domestic workers are very fundamental in enabling the existence of the new economy. Through assuming the role of housewives and care givers, they give women in the middle classes and upper classes an opportunity to be part of the formal economy. This reallocation of unpaid domestic labour helps to enhance labour force involvement of educated women hence indirect contribution to growth and productivity. In this way, domestic workers serve as an essential pillar of formal economy although their roles in national income accounting and policymaking are still unaddressed. Nonetheless, the nature of domestic work is informal and private, which poses serious issues of ruling and applying. In contrast to formal places of work like factories or workstations, domestic work is performed in the home where it is not readily available to the regulatory bodies. This restricts the powers of the State to keep a check on working conditions, enforce labour laws and ensure that the wages and salaries are met. Domestic workers as a result tend to work very long hours, they do not receive weekly rest, they are not paid proper wages and in some instances they are verbally or physically abused. Their vulnerability is also heightened by the absence of formal grievance redressal channels since workers have few outlets to pursue justice or to report abuse. Their marginalization is also due to the fact that the official statistics and policy discourse does not see domestic workers. Being mostly unregistered and unregulated, domestic work is thus frequently not included in labour surveys and economic studies. This data unavailability becomes an obstacle to proper policy making and design of interventions geared towards alleviating the conditions faced by domestic workers. The inability to obtain an accurate and thorough data makes it hard to estimate the size of the sector, pinpoint some important problems and determine the effectiveness of policy actions<sup>6</sup>. The fact that domestic workers are now included in the spectrum of labour law, specifically, the Code on Wages, 2019 is of paramount significance in this context. The Code aims at offering protection to wages to all workers by expanding its definition to cover also the informal sector by adding the notion of a national floor wage and offering wages that are paid on time. This would be one of the possible changes towards formal standing and greater economic security among the female domestic workers. The success of these provisions, however, lies in how they are implemented, whether workers

<sup>5</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

<sup>6</sup> Chen, M. A. (2012). The informal economy: Definitions, theories and policies. *WIEGO Working Paper*, No. 1.

are aware of them, and the creation of mechanisms that will regulate implementations within private households<sup>7</sup>. Moreover, the importance of domestic work as a part of the economy is a vital element that should be recognized in order to reach the larger objectives of social justice and gender equality. It is not only economically necessary to ensure that domestic workers have fair wages, decent working conditions and access to social security but also human rights. It would need a paradigm shift of societal views and policy priorities, as well as institutional structures, to value care work and to safeguard the rights of care workers.

#### 1.4 Statement of the Problem

Female domestic workers in India have still not been able to overcome systemic problems of wage insecurity, exploitation and the lack of laws despite progressive labour reforms. The purpose of the introduction of the Code on Wages, 2019, was to reduce the differences and provide more wage protection to all workers, including informal sector ones. But the important questions are whether these reforms have been successful to ensure the conditions of female domestic labour have improved. A disparity between what is legislated and what is practically done is one of the major problems. The aspect of domestic workers frequently follows an employment relationship without any written contracts, and any standard wage structure. Such informality makes it hard to impose statutory wage norms, such as the recently adopted floor wage. In addition, legal rights of domestic workers are mostly not well known; hence, they cannot bargain due to low wages. The other important issue is gender-based discrimination. Indicative of ineffective gender prejudices, female household employees often earn less than their male counterparts in similar positions. They are also vulnerable to intersectional factors which include caste, migration status, and education. Worsening the situation is the absence of credible information on domestic workers, which makes policy development and tracking more difficult. The objective of the Code on Wages is to make the protection of wages universal although its effectiveness in working with domestic workers is determined by other factors including its implementation by the state, adoption by the employer and institutional capacity. Thus, this paper aims to critically assess the question of whether the introduction of the change of minimum wages into floor wages has resulted in measurable benefits to the female domestic workers. It will help find policy design and implementation gaps, and determine whether the Code has been able to help provide lasting solutions to the traditionally deep-rooted concerns of wage inequality and labour exploitation in this sector.

#### 1.5 Research Questions and Objectives

- The current research is informed by a set of structured research questions and objectives to critically assess the implications of a move towards floor wages in place of minimum wages in terms of the Code on Wages, 2019, especially with regard to female domestic workers in India. The intricacies of wage regulation in the informal sector are such, that merits a multidimensional investigation that involves legal, economic and gender-based aspects. Based on this, the major question of the research will be the following: To what degree has the floor wage provided a better wage security and working conditions to female domestic labour? Subsidiary questions include:
  - To what extent are floor wages in place in various states?
  - Do the provisions of the Code cover domestic workers adequately?
  - What are the impediments to enforcement and compliance? and

---

<sup>7</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

- How does the new wage model accommodate the issue of gender difference in the home working sector?

The proposed research questions are placed in the context of the entire discussion of labour rights and social justice and are based on the frameworks formed by the institutions like the International Labour Organization, which also stipulate the fair wages and decent work<sup>8</sup> as the essential rights.

## OBJECTIVES

- Compare the pre and post-Code on Wages, 2019, legal frameworks of wage regulation.
- Evaluate the degree of knowledge and availability of wage rights of female domestic workers.
- Compare the economic effects of floor wages on the wage levels and employment.
- Determine weaknesses in implementation and enforcement procedures.
- Analysis The female and male implications of wage policies in structural inequalities.
- Combine doctrinal and empirical study in order to have a thorough study.
- Find out whether legislative changes have made any actual changes in the lives of female domestic workers.

### 1.6 Hypotheses

To offer an empirical background of the study, a series of testable hypotheses have been established. The hypotheses come out of the theoretical and policy-based assumptions behind the Code on Wages,<sup>9</sup> 2019 and are supposed to be confirmed by describing the field data and employing analytical instruments.

- **(H1):** It is assumed that: Female domestic workers: The effect of the introduction of floor wages has resulted in statistically significant increase in the wage level of this population group. The hypothesis will also be based on the assumption that a nationally set minimum wage would lessen income inequality and widen income safety.
- **(H2):** postulates that: Wage-related rights knowledge among female domestic workers is still low even with the implementation of the Code. This is in line with study findings that show low levels of legal literacy among those in the informal sector.
- **(H3):** There is no meaningful increase in the enforcement and compliance measures in the domestic work sector after introducing the Code. This is informed by the unending difficulties revolving around the regulation of work done in households in a private setting.
- **H4:** There are still gender gaps in salaries even in the face of the gender-neutral specifics of the Code. This assumption is in line with feminist labour theory, that holds that structural inequalities tend to counteract formal legal protections. Finally,
- **H5:** The state-level differences are important determinants of effectiveness in the implementation of floor wages. Since India has a federal system, variation in administrative capacity, and prioritization of policy across states is likely to affect the results.

These hypotheses offer a guideline to test empirically with the use of quantitative and qualitative data. They also allow the study to transcend the descriptive analysis level of study and takes part in the evidence-based policy effectiveness estimation. Through the logical consideration of these propositions, the study will help advance the discussion around the subject of labour reforms and the practical and theoretical implications of the same to the marginalized workers.

---

<sup>8</sup> Creswell, J. W. (2014). *Research design: Qualitative, quantitative, and mixed methods approaches* (4th ed.). Sage Publications.

<sup>9</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.

### 1.7 Scope and Limitations of the Study

The research targeted has both a thematic and geographical scope, which is the effect of the Code on Wages, 2019 on female domestic workers in India. In terms of thematic scope the paper will also be limited to wage considerations, pay practices and income safety, but not the entire gamut of labour rights e.g. occupational safety or social security. It focuses on the idea of the change of minimum wages to floor wages and measures the impact of this change on a specific subgroup of informal workers. The geographical study can be restricted to the chosen regions/states because of the practical limitations in data gathering. The selection of these regions is dependent on whether domestic work is predominant and availability of such information. This can enable a careful analysis but could impede the generalization of the results to the whole country. Besides, the research mainly concentrates on female domestic workers with an appreciation that gender is a critical determinant in influencing labour market outcomes. The absence of reliable and comprehensive data on domestic workers is one of the greatest limitations of the study. Domestic work is mostly informal and unregulated which results in complete or but outdated official statistics<sup>10</sup>. This makes it difficult to empirically analyze and it might lead to the need to depend on primary data gathered with the help of surveys and interviews. The second constraint is the inability to reach the respondents as domestic workers are usually spread and they can be inaccessible. Moreover, the research might be limited in terms of assessing the real implication of the Code since its application is an ongoing process. The quality of findings can be influenced by differences in enforcement at the state level and/or the lack of common monitoring systems. Irrelevant of these coercions, the research will seek to offer a quality nuanced and context-specific analysis that will create awareness in the effectiveness of recent labour reforms in India<sup>11</sup>.

### 1.8 Research Methodology (Doctrinal + Empirical)

The research design used in the immediate study is a mixed-method study design that integrates both the doctrinal and empirical research designs to give a balanced, detailed perception regarding the area of wage regulation and the consequences of wage regulation in relation to female domestic labour in India. This two-pronged research approach is especially suitable when dealing with socio-legal studies whose aim is not just to comprehend the legal structures but also evaluate how well those structures perform in practice. Through the combination of doctrinal study and empirical inquiry, the research aims at filling the gap between law in theory and law in practice. The doctrinal aspect of the study revolves around the systematic study of legal writings and legally binding materials. It entails a critical analysis of legislative provisions, case law, policy reports and scholarly works containing wage laws. The Code on Wages, 2019, is placed in the center on this analysis since its studied objectives, scope, definitions, and enforcement mechanisms are analyzed and discussed. The doctrinal approach allows the researcher to be critical of the legislative intent of the Code, its focus which is universal coverage, introduction of floor wage and consolidation of previous wage legislations. Also, associated laws, constitution, judicial interpretations are examined to comprehend the larger legal context, in which wage regulation is developed in. Using secondary sources like scholarly articles, books, government reports and policy analyses is also one of the drawbacks of doctrinal research. These resources offer theoretical knowledge and situational awareness enabling the researcher to interact with the current discussions of labour law reforms, gender inequality and dynamics of the informal sector. Additionally, global norms and those oriented to comparison, especially the ones

<sup>10</sup> Chen, M. A. (2012). The informal economy: Definitions, theories and policies. *WIEGO Working Paper*, No. 1.

<sup>11</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

created by the International Labour Organization, are analyzed to place the Indian legal framework in the global framework. In this, the doctrinal approach will lay a sound conceptual and analytical understanding of the study. Although the doctrinal analysis plays a vital role in analyzing the normative framework, it fails to fully elucidate the life experiences of the workers, as well as the practical issues of implementation. To overcome this weakness, this study takes into consideration an empirical element, or the gathering and processes of primary data among female domestic workers. It is essential to have empirical research to evaluate the effect of what legal provisions theoretically mean and where and how they are working. Structured questionnaires and semi-structured interviews will be used to collect the primary data because they will provide information concerning the issue of wage levels, employment conditions, legal rights awareness, and wage-related problems experience. These instruments help the researcher to represent both qualitative and quantitative characteristics of domestic work<sup>12</sup>. Questionnaires give the consistency of data that can be statistically analyzed and interviews provide greater understanding of personal experiences, perceptions and challenges encountered by the workers. The sample is purposively and stratified to represent various groups of immigrants to the country who work as domestic workers, full-time, part-time, and live-in workers. This design enables a more detailed study of the changes in the employment conditions and wage patterns in various groups. The sampling is done in the selected urban or semi urban regions where domestic work is common considering the factors like migration status, socio-economic background and nature of work. The data obtained are analyzed in a mixed manner by applying both a qualitative and quantitative approach. To define patterns and trends on the basis of wages and employment conditions, statistical tools, such as descriptive statistics, are used to process quantitative data, i.e. mean, median, and percentage distribution. Where applicable, the inductive method like correlation, regression analysis can be employed to analyse the relationship between the variables, including the effect of the level of awareness on wage results. The techniques improve the rigor of analysis of the study and facilitate evidence-based inferences. Besides quantitative analysis, a qualitative approach is also used to further understand the socio-economic reality of domestic workers in the form of case studies and focus group discussions. Case studies give a vivid description of personal experience, which illustrates the problems of wage bargaining, employer-worker relations, and the availability of the legal redress. The collective reflection and the ability to identify some common challenges together with shared experiences of workers is possible through the focus group discussions. These qualitative techniques enrich the statistical analysis with a richer and more contextualized analysis. The research is also based on secondary sources of data to explain and confirm the empirical results. Background information, comparative data, and policy insight is provided through reports and publications by organizations like the International Labour Organization, governmental organizations and research organizations. Such sources contribute to the validity of the study and allow triangulation of data on various viewpoints. Combining both, the doctrinal and empirical approaches will guarantee methodological triangulation providing the study with more reliable and valid results. Triangulation refers to using more than one source of data and more than one method to cross-neutralize the results, hence cutting down on biases and enhancing the validity of the conclusions. The method holds special relevance in the socio-legal studies, where intricate relationships between law, society, and economy need to be examined. In addition, the mixed method will enable the work to cover both normative and pragmatic aspects of wage regulation. Although doctrinal analysis can give insights into the legal framework and policy objectives, empirical research can show the degree to which the

---

<sup>12</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

objectives are achieved in reality. Such a wholesome methodology will allow the research to expose loopholes in legislation and enforcement and recommend knowledge-based policy changes.

## 1.9 Chapter Scheme

### Chapter 1: Introduction

This chapter forms a conceptual and contextual basis of the research. It talks about wage regulation in India, its development and how it is changing to have floor wage under the Code on Wages, 2019. It highlights the significance of domestic labour by women in the informal sector and provides the research problem in terms of wage instability and gender inequality. The chapter also introduces the research questions, objectives, hypotheses, scope, limitations, and research methodology (doctrinal and empirical). It ends by the description of the chapter scheme.

Chapter 2: Wage Laws Development in India. The chapter follows the history of the labour welfare laws in India, including the colonial labour policies, and the post-independence reforms. It critically considers the major acts like the payment of wages act, 1936, Minimum wages act, 1948 and equal remuneration act, 1976. This chapter identifies sour division of the labour laws and necessity of codifications, which saw the shift to unified codes of labour. It also proposes the justification of the enactment of the Code on Wages, 2019.

Chapter 3: Conceptual Analysis and Theoretical Framework. This chapter offers the theoretical background of the study as it <sup>13</sup>explores the essential concepts of living wage, minimum wage and floor wage. It uses the feminist theory of labour and labour economics theories of determining wages to explain the gender wage gap. The dynamics of the informal sector in India are also covered in the chapter and the importance of legal pluralism in labour protection is discussed.

Chapter 4: Major characteristics of the Code on Wages, 2019. In this chapter, a crucial role of the Code on Wages, 2019 in relation to its objective, scope, and floor wages mechanism will be analyzed. It tests whether the Code covers informal and domestic workers, gender-neutrality considerations and enforcement. The chapter goes on to compare the Code to previous wage legislations in order to point out the improvement and restriction.

Chapter 5: Female Domestic Labour in India<sup>14</sup> A Socio-Economic Profile. This chapter shows an in-depth socio-economic study of female domestic workers in India. It looks at the nature and qualities of domestic work, division of labour along gendered lines, and workers socio-economic status. It also examines wage forms, work pattern and vulnerability, invisibility and non-formal recognition. Migration and caste dynamics are addressed to emphasize the intersectional inequalities.

Chapter 6: The Law and Protection of the Domestic Workers. This chapter presents an assessment of the Indian legislation concerning domestic workers. It checks the status of the same against the prevailing labour laws and whether they have been covered or not covered by the Code on Wages, 2019. It also discusses the policies and welfare programs at the state level, as well as judicial pronouncements, and international labor regulations, like the International Labour Organization Convention No. 189.

Chapter 7: Effects of female-domestic labour-related floor wage. This is the chapter that constitutes the main analysis part of the work. It evaluates the effect of floor wages on wage-setting, the level of income, and employment security among female domestic workers. It charges on geographical inequity,

---

<sup>13</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

<sup>14</sup> International Labour Organization. (2011). *Convention No. 189: Domestic Workers Convention*. Geneva: ILO.

consciousness and adjudication issues. Empirical evidence, using survey/interview data is also included in the chapter in order to assess the usefulness of the Code in practice.

Chapter 8: Some Implications of Gender and Social Justice. The chapter delves into the further gender and social justice aspects of wage regulation. It examines the following issues: gender wage gap, intersectionality (gender, caste, class) and the debate on empowerment vs. exploitation. It is also looking at the implications of social security and a human rights approach to domestic work.

Chapter 9: Comparative and International Perspectives. This chapter offers a comparative study of wage regulation models and domestic worker protection models in other nations. It looks at best practices and standards prevailing internationally, especially those advocated by the International Labour Organization and what lessons can be mentioned to apply in the situation of the Indian environment.

Chapter 10: Implementation challenges. This chapter also singles out the main difficulties associated with the implementation of the Code on Wages, 2019, such as administrative obstacles, informality, ineffective enforcement mechanisms, resistance of employers, and the absence of unionization of domestic workers. It critically analyzes the ways in which these issues curtail effectiveness of wage reforms.

Chapter 11: Conclusions, Recommendations, and Policy. This chapter provides a summary of the main results of the study and the policy gaps within the existing framework. It offers specific suggestions on how to enhance enforcement, make sure domestic workers are included, wage policies should be gender sensitive, and awareness and legal literacy should also be developed. It also talks about how the government, NGOs and civil society play a role in enacting labour reforms.

Chapter 12: Conclusion, This chapter gives a detailed conclusion of the research by evaluating the efficiency of the Code on Wages, 2019 in general and the idea of floor wages. It contemplates the future of labour reform in India and advocates the idea of taking a holistic approach that incorporates both law and institutional, and social interventions to attain fair results.

## **Chapter 2: Evolution of Wage Laws in India**

The history of labour welfare law in India denotes a slow transition between colonialism and economic agendas to the post-independence obligation of social justice and protection of the workers. In the colonial era, labour laws were largely formulated in a way that they aimed at controlling industrial relations and productivity prescribing as opposed to protecting workers. Initial regulations like the Factories Acts of late 19th and early 20th centuries, which were aimed at working conditions, especially in the textile industries, but made little contribution to curb wage-related exploitation. A particular policy issue such as wage regulation did not receive much attention at this time. With the rise of organised labour movements in the early 20th century, together with an increasing understanding of the rights of workers, the involvement of legislation became more widespread. Following the independence, the Indian State took a welfare form of direction, which is evident in the Directive Principles of State Policy in Articles 15<sup>39</sup>, 41 and 43 of the Constitution. All these provisions underlined the necessity of an adequate livelihood, equal pay for equal working hours, and a living wage, and established a constitutional basis upon which the minimums of wages would be regulated<sup>16</sup>. The years 1947-1970s saw the adoption of a number of laws on labour to safeguard the economic interests of the workers. These were wage, industrial and social security laws. The legislative framework, however, was still patchy with various laws touching on

---

<sup>15</sup> Deakin, S., & Sarkar, P. (2008). Assessing the long-run economic impact of labour law systems: A theoretical reappraisal and analysis of new time series data. *Industrial Relations Journal*, 39(6), 453–487. <https://doi.org/10.1111/j.1468-2338.2008.00502.x>

<sup>16</sup> Basu, D. D. (2021). *Introduction to the Constitution of India* (26th ed.). LexisNexis.

particular facets of employment and typically only applying to particular fields or types of employees. This disintegration brought about inconsistencies and administrative complexities, especially in enforcement. Within the framework of wage regulation, the emphasis started to be moved more towards securing payment as well as standards of living minimum. International labor standards that were encouraged by international bodies like the International Labour Organization were also instrumental in this change as they championed fair wages and working conditions. Irrespective of these efforts, there was still a large share of the Indian workforce that was not able to be covered by the protective coverage of the labour laws at all and highly in the informal sector. Accordingly, the history of the labour welfare legislation in India reflects both the advancement of legislation and the ongoing issues. Although the State has over time enhanced the need to regulate wages, challenges on coverage, enforcement, and compliance have largely compromised the effectiveness of all that.

## 2.2 Analysis of Key Statutes

### 2.2.1 Minimum Wages Act, 1948

Minimum Wages Act, 1948 is one such landmark in the Indian labour law regime as it was the first all inclusive legislation meant to avoid exploitation of labour by fixing the minimum wage. Passed during the initial years after independence, the Act gave both the Central and State Governments the power to fix minimum wages rates to be paid to employees working in the scheduled employments and these jobs were determined according to their vulnerability and prevalence of low wages. The Act has provided a system of periodic update of wages considering the determinants like cost of living, nature of work and regional differences. It, too, created the facility of the formation of advisory boards/ committees which would help in the process of fixing wages thus introducing a consultative method. Nevertheless, the application of the Act became only to the planned employments, making a significant proportion of informal workers, including domestic workers in most states, lose the adoption. The high departure when it comes to minimum wage rates in different states was one of the biggest weaknesses of the Act, causing unequal amounts and possible exploitation. Also, enforcement measures were sometimes ineffective especially in the informal sector where there were no easy ways of monitoring. Nevertheless, in spite of these deficits, the Act was an important step towards the creation of the principle, according to which workers deserve a minimum standard of remuneration. The Act grew more and more complicated as a result of several revisions and differences by state. Such complexity was combined with minimal coverage and explained the necessity of a more consistent and comprehensive strategy of wage regulation that, in fact, led to the introduction of the Code on Wages, 2019<sup>17</sup>.

### 2.2.2 Payment of Wages Act, 1936

One among the most initial legislations that were meant to control the issues related to wages in India was The Payment of Wages Act, <sup>18</sup>1936. During the enactment of this law, they had the overall aim of having the salaries paid to some classes of workers, especially those working in factories and the railways in time and in full. The Act aimed to resolve popular malpractices that include arbitrary deductions, late payment and imposing unauthorized fines by employers. The Act established the meaning of wage and the kind of deductions permitted hence providing a legal guideline against exploitation of subjects of labour. It also put in place redressal of grievances such as the appointment of authorities to hear grievances which

<sup>17</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

<sup>18</sup> Government of India. (1936). *The Payment of Wages Act, 1936*. Ministry of Labour and Employment, Government of India.

involved wage disputes. The reach of the Act was however restricted solely to workers that earn less than a set limit; this left out the more well-paid workers and much of the informal sector. The Act did not explicitly deal with the sufficiency of wages but was major in the creation of the principle of wage protection. It played a role in enhancing labour conditions and minimizing arbitrariness of employers by making its payment practices regular and transparent. The amendments were later made to increase its coverage and effectiveness over the years but enforcement huddles continued. The value of the Payment of Wages Act became unimportant as more extensive laws regarding wages and wages legislation were extended; especially with the legislation of minimum wages. However, its clauses played a significant role in the development of further acts and were further incorporated into the Code on Wages, 2019, where its fundamental principles were incorporated within a wider context.

### 2.2.3 Equal Remuneration Act, 1976

Equal Remuneration Act, 1976 came in order to tackle the issue of wage discrimination based on gender, to ensure that people are offered equal employment opportunities. The Act requires men and women in the same or similar work to be given the same or equal remuneration thus implementing the constitutional provision of equality under Articles 14 and 16<sup>19</sup>. It further outlaws gender discrimination in terms of hiring and service terms. The Act was a major leap towards gender justice within the labour market especially within a socio-economic setting where women labour has been undermined. It included the inviting of advisory committees to assist in increasing the employment of women and to keep track of its adherence to these provisions. Nevertheless, enforcement difficulties and the existence of informal employment practices have diminished the effectiveness of the Act<sup>20</sup>. The application of equal remuneration provisions has been especially feeble in informal areas of employment relations like domestic work where employment is largely undocumented and informal. Women in these industries are often underpaid and subjected to exploitative working environments, even though there are legal protections against such working conditions. The incorporation of the Equal Remuneration Act in the Code on Wages, 2019 depicts an attempt to simplify and enhance gender equality measures in a single law. The effectiveness of these provisions is, however, reliant on their enforcement and raised awareness among workers and employers.

### 2.3 Need for Labour Law Codification

The numerousness and disintegration of labour laws in India posed major challenges to employers and employees, leading to the existence of the necessity to codify. Until the recent reforms, India had more than 40 central labour acts and many state legislation, much of which overlapped in their areas of applicability and had inconsistent definitions and terms. This complexity resulted in administrative inefficiencies, legal confusion and compliance problems. In the eyes of the workers, especially informal workers, the lack of awareness and access to fragmented laws existed. Several laws were imposed on various groups of workers and many workers have not been provided proper protection. As an example, restrictive definitions of employment defined domestic workers as being not included in important wage-related legislations. The goal of codification is to simplify and rationalize labour laws, by reducing them to fewer larger codices. This practice makes it more clear, minimizes duplication, and makes it easier to enforce. It is also in line with the trend in labour law reform globally, with a combination of worker

---

<sup>19</sup> Government of India. (1976). *The Equal Remuneration Act, 1976*. Ministry of Labour and Employment, Government of India.

<sup>20</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

protection and ease of doing business taking prominence among countries. In addition, codification will allow taking into account the realities of the modern labour market, including the rise of the informal and gig economy. The State will be capable of reaching a more comprehensive coverage and eliminate loopholes in the current legislation by taking a common framework. The shift to codification in India can thus be motivated by both practical and policy factors, as it seeks to establish a more harmonious and competent regime of labour laws.

#### **2.4 Transition Towards Unified Labour Codes**

The movement towards common labour codes has been one of the largest reforms to the Indian labour law. Having realised the weaknesses in a disjointed legal system, the Government of India embarked on the task of integrating the current laws into four books on wages, industrial relations, social security and occupational safety. The purpose of this change was to ease compliance, increase transparency, and serve more of the workforce. This transition on labour regulation began with the introduction of Code on Wages, 2019, which was followed by other codes that dealt with various issues of labour regulation. The aim of these codes is to coordinate definitions, facilitate process and decrease the regulatory burden to establish a more streamlined and accessible legal framework. A major characteristic of this shift is the focus on applicability in general. The new codes will cut across the board, inclusive of the informal sector unlike the previous laws which only applied to certain industries or a certain wage level. This is especially essential in a nation such as India wherein the workforce is heavily involved in informal jobs. Nevertheless, the change has come with its own worries, on how it is implemented and how it may harm the protection of workers. Critics point out that simplification is required, but not at the expense of undermining the labour rights<sup>21</sup>. Any success of unified labour codes i.e. depends on efficiency balanced with equity as well as the workers who are vulnerable should not be left behind.

#### **2.5 Rationale Behind the Code on Wages, 2019**

Adoption of the Code on Wages, 2019 was also necessitated by the fact that there was a systemic problem that required tackling in the provision of wages regulation in India. Eradicating contradictions due to the fact there was a variety of overlapping legislation and the design of a common definition of wages applicable to all sectors was one of the main reasons. This consistency will help decrease litigation and enhance compliance. The other important reason was that wage protection should be extended to all employees including those in the informal sector. Through the idea of a national floor wage, the Code aims at providing every worker with a minimum standard of living, regardless of his place of work or occupation. This is a change to a more inclusive and fair wage regulation<sup>22</sup>. The Code also strives to increase transparency and accountability in paying wages by providing such provisions as digital payment, prompt payment, and easier compliance processes. These are the steps that are aimed at curbing exploitation and enhancing workers welfare. Also, the incorporation of the gender equality stipulations in the Equal Remuneration Act is a promise of attending to disparities in salary and enhancing social justice. The Code is consistent with international labour standards and global development aspirations of India, such as, poverty reduction and inclusive growth.

---

<sup>21</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

<sup>22</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

## Chapter 3: Theoretical Framework and Conceptual Analysis

### 3.1 Concept of “Living Wage,” “Minimum Wage,” and “Floor Wage”

The three terms living wage, minimum wage and floor wage form the three major pillars of the normative and economic goals of wage policy and labour welfare frameworks each embodying a different but interrelated normative and economic goal. These are the main aspects of the efficiency, equity and social justice that wage regulation attempts to attain on the labour markets. Although all three seek to ensure that workers are not exploited, they are distinct in their ranges, the philosophical basis and also their use in an economy that is still developing as it is the case in India. Minimal wages are the most well known and legally binding of the three notions. It is defined as the minimum amount of payment that an employer can legally pay the workers as remuneration towards their labour. The main goal of a minimum wage is to avoid exploitation whereby workers can be paid an income that is above subsistence level so that they can afford their basic needs. In India, it became institutionalized through the Minimum Wages Act of 1948 now with the powers of Central and State Governments to establish minimum wage rates in scheduled employment. The Act brought about a periodical review of wages based on aspects like cost of living, nature of work and the economic conditions in the areas. With its importance though the minimum wage system in India faced criticism on its inconsistent and disjointed implementation. Due to individual rates that are set by individual states and different industries, there is substantial variation in the levels of minimum wage in different regions. This decentralization causes imbalances and can cause a lack of protection of workers in the less developed regions. In addition the benefits of such a minimum wage legislation have historically been restricted to particular scheduled jobs with much of the informal labour force such as domestic workers being out of scope. Conversely, the concept of a living wage is more normative and global in nature and it rests upon the principles of human dignity and social justice. Living wage is a wage that can help the workers to live a decent standard of life that provides them with access to education, healthcare services, housing, and social services. The concept of living wage can be found in the Directive Principles of State Policy in Article 43 of the Constitution of India, which in turn advises the State to guarantee the worker a living wage and decent working conditions<sup>23</sup>. On the international level, the importance of living wages and as a part of the so-called decent work agenda has continually been stressed by the International Labour Organization<sup>24</sup>. Living wages are not pegged on economic feasibility and labour market conditions like minimum wages, but rather on normative standards of well-being and social inclusion. The adoption of living wages however creates major challenges especially when adopted in developing economies where resource scarcity and informality in the labour market make it hard to apply such standards by the government. Floor wage, that is, proposed in the Code on Wages, 2019, is a new initiative in an effort to fill the gap between the notions of a minimum wage and a living wage. It sets a national floor on which not a single state government can adjust its minimum wage. The Central Government sets the floor wage based on the consideration of various factors including minimum living standards, indices of cost of living and regional differences. This mechanism is set to cut down the inter-state inequalities and guarantee a minimum degree of income safety in the state. The imposition of the floor wage becomes a move towards greater standardization and centralisation of wage regulation. It establishes a national standard surrounding which, by standardizing wage rates across States, the earlier system of minimum wages had a major drawback that is the large range of disparity in wage levels between

<sup>23</sup> Basu, D. D. (2021). *Introduction to the Constitution of India* (26th ed.). LexisNexis.

<sup>24</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

states. Concurrently, it gives states a degree of leeway to adjust higher minimum wages depending on local circumstances and thus promote a level of decentralization. Conceptually, the floor wage can be regarded as a composite model that integrates the aspects of minimum wage and living wage. Though it does not remove the legal enforceability of minimum wages, it is informed by the living standards and social welfare considerations. In the case, it lacks effectiveness, however, it is subject to a number of factors, such as the methodology of determination, the level of revisions and effectiveness of enforcement mechanisms. To informal workers like the domestic labourers, the practical implications of these wage concepts is still a key issue to consider. Regardless of the legal frameworks in place, most domestic workers are still paid lower salaries than the stipulated minimum salaries because of ignorance, laxity in enacting the laws, and informality of their jobs. The difference between the ideal standards and reality illustrates the shortcomings of wage regulation to combat structural inequalities in the labour market. In addition, other, more socio-economic factors affect the effectiveness of wage policies. Women domestic workers, who in many cases are members of a marginalized population, also have an extra obstacle in the way of a decent pay and securing rights. This points to the importance of a broad based approach to wage regulation comprising legal measures in conjunction with social and institutional reforms.

### **3.2 Labour Economics Perspectives on Wage Determination**

Labour economics offers a theory that has an all-rounder approach to the determination of wage in various labour markets. In its essence wage determination is subject to economical forces, institutional and socio-political factors interacting. Although the classical economic theories focus on market operated mechanisms, there are other schools of thought which focus on institutions, power relations and policy interventions as determinants of wage outcome. Such theoretical solutions are especially applicable when dealing with developing economies such as in India where the labour markets are organised through informality, segmentation and inequality. In the classical or neoclassical theory of wage determination, wages can be determined through the forces of supply and demand in a competitive labour market. At least in this view, the amount of labour supplied by workers will balance the amount demanded by employers, where the two intersect at a point where wages will equilibrate at that point. This equilibrium wage is also assumed to be equal to the marginal productivity of labour, i.e., workers are paid as per their input to output<sup>25</sup>. Any form of deviation off the equilibrium, including minimum wages, is regarded in this structure as distortion that can cause inefficiencies, including unemployment or decreased demand of labour. Yet, the conditions assumed to support the classical model, i.e. perfect competition, full information and the equality of bargaining power is seldom the case in the reality of the labour markets. As a matter of fact, the imperfect competition, asymmetry of information, as well as asymmetry of power between the employers and employees are often the defining attributes of labour markets. These circumstances are more so evident in the informal sectors, where employees are highly immobile, they lack formal contracts and their bargaining power is very little. That causes wages in these situations to be lower than the marginal productivity would suggest, and results in exploitation and income insecurity. In order to deal with these shortcomings, institutional and Keynesian theories of labour economics stress the implications of extrinsic elements in establishing wages. These views propose that wage setting is never entirely left to the forces of the market due to the institutional organisation of wage setting that lays emphasis on labour laws, trade unions, collective bargaining agreements and government policies. In this perspective, wages need to be regulated in order to rectify market failures and attain equitable results. The

---

<sup>25</sup> Borjas, G. J. (2016). *Labor economics* (7th ed.). McGraw-Hill Education

Keynesian theory, specifically, emphasizes the value of aggregate demand and macroeconomic factors in shaping the levels of employment and wages, which also indicates that macroeconomic factors can stabilize the economy by the government<sup>26</sup>. In the developing economies such as India where a huge percentage of the labor market is involved in informal jobs, these institutional factors are even more crucial. The informal workers such as domestic labourers are usually beyond the protective shield of labour laws and are not in a position to enjoy collective bargaining. It leads to a labour market where labour surplus and monopolies dominate the labour market, with employers overpowering the labour markets with excessive wage-setting power. Under these conditions the market-based wages might not be fair remunerations and policy interventions are needed. The establishment of the statutory regulations in the field of wages, including minimum wages or floor wages, could be perceived as the corrective measures to deal with the market failure. This method is present in the Code on Wages, 2019 that sets a minimum standard of living for the workers by creating a national wage floor. In terms of welfare economics, these kinds of interventions are done out of the principle of equity and social justice in that they seek to redistribute income, and alleviate poverty. Establishing a certain amount of wage floor, the State would help to exclude the risk of exploitation among vulnerable workers and enhance their well-being as a whole. Those opposed to wage regulation, though, believe that setting wage floors higher than the market equilibrium creates side effects of their own, including less employment, and higher labour costs to employers, and the wages turn towards less-regulated or unregulated employment. These considerations are more so in industries that comprise low levels of labour but have low profit margins. But, the facts do not support the universality of these assertions. The research conducted by Card and Krueger and similar ones illustrates that rather moderate growth of minimum wages is not always associated with massive job losses and, on the contrary, the higher productivity of workers and their better morale seem to be guaranteed. The effect of minimum wage laws in a monopsony situation in a labour market is that minimum wage laws may in fact raise employment rates by dampening the power of employers and drawing improvements in labour distribution. This observation is especially applicable to industries such as domestic employment where the relationships between employers and employees are extremely divided and employees have very few options. Equity and efficiency can be boosted in these cases by wage regulation. The example of the domestic workers goes on to demonstrate the issues of wage determination in the informal environment. Workers in the household usually bargain one-on-one with employers and there is usually no use of unions, no formal agreements or the use of standard wage levels. This causes substantial wage drift as well as frequent underpayment particularly among those employees with a weak bargaining power. Other issues that contribute to exploitation are the existence of asymmetric information that places the workers at a disadvantage in terms of understanding the current wage standards and legal claims. Another area of focus of labour economics is the factors of social norms and cultural influences on wage outcomes. Gender norms are important in the context of domestic work in that the care work, which is mainly done by women, is undervalued. This leads to a systematic underpayment of labour and less recognition of domestic labour as an economic activity<sup>27</sup>. This is influenced by such socio-cultural factors that support market intervention policy intervention that transcends market forces.

### 3.3 Feminist Labour Theory and Gender Wage Gaps

Feminist labour theory gives critical perspectives on the structural disparities that influence the labour

---

<sup>26</sup> Stiglitz, J. E. (2015). *The great divide: Unequal societies and what we can do about them*. W. W. Norton & Company.

<sup>27</sup> Kabeer, N. (2012). Women's economic empowerment and inclusive growth: Labour markets and enterprise development. *International Development Research Centre*.

markets, especially gender. In contrast to the classical approaches of economic theory where labour is considered a homogenous factor, feminist approaches focus on the social creation of gender roles and their influence on the chance to be employed and the attainment of wages. The wage gap between men and women doing similar or similar work, known as the gender pay gap is one of the main issues of labour feminist theory<sup>28</sup>. Gender wage inequality is well institutionalized in India in the social cultural practices in which women are relegated to the duty of care, or unpaid work and minimal pay. The type of labour that women perform, domestic labour, is not valued much as it is seen as the continuation of home duties, and not a real job. Such perception leads to reduced wages and lack of appreciation of domestic workers in the context of labour policies. Legal measures to solve the issue of gender-based wage discrimination were implemented through legal means like the Equal Remuneration Act, 1976 that required equal pay between equal work. The success of these laws in the informal sector, however, has been less successful, as there are weak enforcement mechanisms and employment relationships are generally unrecorded. The Code on Wages, 2019 takes care of gender issues and extends gender neutral agreement in wage workers, and forbids any form of discrimination against workers of different genders. However, according to feminist scholars, formal equality is not a sufficient condition that can solve structural inequalities. Occupational segregation, absence of bargaining power and intersectionality in that gender cuts through the caste, classes and migration status remain some of the problems facing the earnings of women. Feminist labour theory therefore emphasizes the importance of considering a more sophisticated approach to the wage policy, which should extend beyond the legal framework in order to deal with the social and economic inequalities. In terms of female domestic workers, this means considering their labor as an economically beneficial investment and making sure they have an opportunity to receive decent payment, social security, and legal measures.

### 3.4 Informal Sector Dynamics in India

The informal sector forms a large part of the Indian economy where almost 90 percent of the working population is involved. The lack of formal contracts, job security and social protection permeates this sector and thus makes workers very vulnerable to exploitation. Women domestic workers constitute a significant portion of this industry, working in individual households where it is difficult to regulate and monitor. Various factors are contributing to informality in India; among them is the economic organization, the existence of surplus labour and the regulatory environment. The lack of applicability in formal labour laws is due to the small-scale enterprises and household-based work that constitute the labour market. This leaves a large number of workers, particularly women, outside the protective scope of wage laws. The Code on Wages, 2019 aims to tackle these issues by providing wage protection to all workers regardless of industry or wage level. This wider-view is an important change collectively with regard to previous laws that lacked breadth. The success of these reforms, however, will lie in the capacity to implement provisions in the informal context. An example of the dynamics of the informal sector is domestic work. The relationships of employment are usually intimate and based on loyalty and not contracts. Wage determination is quite usually determined individually and there are wide variations and lack of standardization. Also, the domestic workers are not always aware of their rights and access to the mechanisms of redressing grievances is limited. The informal sector dynamics need a mix of both legal reforms, institutional capacity building and awareness campaigns in order to tackle them. The Code on

---

<sup>28</sup> Elson, D. (1999). Labor markets as gendered institutions: Equality, efficiency and empowerment issues. *World Development*, 27(3), 611–627. [https://doi.org/10.1016/S0305-750X\(98\)00147-8](https://doi.org/10.1016/S0305-750X(98)00147-8)

Wages offers a blueprint on how to improve the situation of domestic workers, but is achievable only through the implementation and enforcement of the Code on the ground level<sup>29</sup>.

### 3.5 Legal Pluralism and Labour Protection

Legal pluralism is a concept that implies the existence of two or more legal regimes in one socio-political environment. In India, regulation of labour takes place in a pluralistic context consisting of statutory regulations, state-based regulations, custom regulations as well as informal regulations. This diversity may not only assist in greater flexibility, but also pose a problem in providing uniform labour protection<sup>30</sup>. Legal pluralism in terms of wage regulation is related to the differences in minimum wage rates between states, disparities in the enforcement practices, and formal and informal employment practices that co-exist. Although statutory laws, like the Code on Wages, 2019, focus on the establishment of uniformity, they might be subject to different working institutions on a state level and local practices. In the case of domestic workers, legal pluralism is more so. Informal agreements and social norms control the employment conditions in most situations as opposed to formal contracts. This brings ambiguity when applying the labour laws and restricts the effectiveness of the law. Also, since domestic work is a hidden business, this further complicates enforcement since the state can interfere with the homes. Efforts by international organisations like those that have been made by the International Labour Organization support the formalization and protection of domestic workers by traditional legal arrangements. Nevertheless, these standards must be properly balanced in the context of a pluralistic system of the law to guarantee uniformity and the adaptability of law to situations. Legal pluralism therefore offers not only an opportunity but also a challenge in regard to protecting labour. It gives it an opportunity to find a localized solution and provide flexibility, but it also requires a strong coordination and control in order to make sure that basic rights are respected. Working on the distance between the official and unofficial regulations is also vital to attain both meaningful wage protection and social justice in the case of female domestic workers.

## Chapter 4: Key Features of the Code on Wages, 2019

### 4.1 Objectives and Scope of the Code

The Code on Wages, 2019 was introduced as a continuation of a wider labour law reform agenda to streamline and harmonize the very complex legislative structure of wage issues in India. The main aim of the Code is to bring consistency to the wage regulation process across industries and to afford the law equal coverage to every employee regardless of his or her employment or wage cap. Compared to previous legislation, which was typically restricted to a few sectors of industry or to a number of employees, the Code is universal in its application and thus vastly extends its jurisdiction. Elimination of multiple definitions and stipulations that existed under the previous legislations like the Minimum Wages Act, 1948, the Payment of Wages Act, 1936 and the Equal Remuneration Act, 1976 are some of the main aims of the Code. The Code offers a single and all-encompassing definition of the terms wages to minimize ambiguity and case law brought about by the discrepancies in meanings. This alignment is especially significant to transparency and compliance amongst the employers. The ease of doing business is also encouraged by the Code through ease of compliance and lessening of regulatory impediments. Simultaneously, it aims to provide greater protection to women by making sure that they receive their

<sup>29</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

<sup>30</sup> Menski, W. (2006). *Comparative law in a global context: The legal systems of Asia and Africa* (2nd ed.). Cambridge University Press.

wages on time, creating national floor wage, and improving enforcement mechanisms. Inclusion of all employees, even in the informal sector is indeed a major move towards ensuring inclusive labour governance. Moreover, the Code is consistent with the constitutional ideas of social justice and economic equality, which is expressed in the Directive Principles of State Policy. It also embraces international labour standards as promoted by the International Labour Organization, especially those concerning fair wages and decent working conditions<sup>31</sup>. But the success of these goals relies on how well the Code is applied and executed in a wide-range of economic settings in India.

#### **4.2 Definition and Mechanism of “Floor Wage”**

One of the most important novel innovations implemented by the Code on Wages, 2019 is the idea of the so-called floor wage amount, which ensures the use of the national rate to determine the wage. The Central Government will give the floor wage considering factors like minimum standards of living, cost of living indexes and regional differences. It is created to make sure that no employee in the nation gets less than some particular threshold in their wages, and this could assist in maintaining incomes and/or minimize disparities across the regions<sup>32</sup>. The process of repairing the floor wage will include the consultation of the professional committees and advisory boards and make the process of determining the determination process evidence-based and socio-economically reflective. After giving the floor wage notification, State Governments must raise their minimum wages to at least this level. This makes the wage regulation hierarchical with the floor wage being a non-negotiable limit to state wage fixation. Policy wise, the floor wage is a movement towards the increased levels of centralization and standardization of wages allocation. One of the largest drawbacks of the previous system is covered by it since significant disparities in minimum wages between states and inequalities and possible exploitation. The Code seeks to provide a minimum standard of living by the workers since it sets a common benchmark. Effectiveness of the floor wage however is very much dependent on proper determination and regular updating to ensure it is in tandem with the economic conditions. Opponents believe that by establishing a floor wage that is too low in nature one may miss on its aims, whereas too high may lead to problems in complying with it among the employers. Also, its enforcement is also a critical issue especially in the informal sector where surveillance is hard. In sum, introduction of the floor wage is a major reform, which can lead to the improvement of equity in wages and also, social protection, as long as it is implemented efficiently and backed by strong institutional designs.

#### **4.3 Coverage of Informal and Domestic Workers**

The innovativeness of the Code on Wages, 2019 lies in the fact that, unlike the previous provisions, it applies universally and protects the wages of all employees. This is a significant diversion of the previous legislations, restricted to scheduled employment with reference to certain wage rates. Since a high percentage of the working population in India works in informal environments, this extension of coverage is important in fixing structural inequalities. Forced to work in private and informal settings that exclude formal forms of labour protection, domestic workers, which are mostly women, have historically stayed out of formal labour protection. The general definition of an employee that comes with the Code means that it could cover domestic workers, which would open potential avenues of legal and wage protection. This coincides with the international standards advocated in the international labour organization, which highlights the importance of the application of labour rights to domestic workers. Nonetheless, the

---

<sup>31</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

<sup>32</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.

application of the domestic workers under the Code is met with a lot of difficulties. In domestic employment, there are very often informal employment relations which rely on oral contracts, and there is no easy way to apply the statutory norms of wages. Moreover, the absence of adequate guidelines and strategies of the implementation at the level of states can jeopardize the efficiency of the Code on this field. The domestic workers are also not very aware of their rights under the Code which is a further slip to its effectiveness. The Code will not trickle down to the needy when there is no proper information dissemination and support. In addition, no collective bargaining systems are present in domestic work, and thus they lower the power of workers to negotiate good pay. Nevertheless, the incorporation of informal and domestic workers into the frame of the wage regulation is an important move towards inclusive labour regulation. It is also a demonstration of the economic input of these employees and the necessity to create the conditions to secure them within the legal framework.

#### **4.4 Gender Neutrality and Equal Remuneration Provisions**

The Code on Wages, 2019 includes a set of provisions, which are aimed at enhancing gender equality in the determination of wages as a continuation of the ideas of the provisions of the Equal Remuneration Act, 1976. The Code specifies that employers shall compensate men and women equally to perform identical work or work of the same type, and thus, support the constitutional provision of equality. The gender-neutral language of the Code is one of the most remarkable features in the Code that attempts to eradicate the problem of discrimination not only in salaries but also in recruitment and terms of work. This is a move in the right direction towards inclusive labour policies that could appreciate the significance of gender equality in economic participation. The Code also outlaws discrimination based on gender on the issues of wages and jobs. The response to these is however, how effective these provisions are in the place of practice especially in the informal sector where the gender differences are most evident. In particular, female domestic workers tend to earn lower wages and may be exploited as social norms and powerlessness of bargaining can be entrenched. Although the Code sets a legal framework within which the inequality can be addressed, there are also structural impediments to the attempts to do so, including occupational segregation and inaccessibility to education. According to feminist labour theory, formal legislative provisions cannot be used as a way of attaining substantive equality. Complimentary efforts like awareness, capacity building and institutional support are required so that women are in a position to exercise their rights effectively<sup>33</sup>. Also, the enforcement and monitoring systems should be enhanced to enable detection and remediation of the violations. The gender equality provisions of the Code in this aspect could be deemed as a significant measure towards minimizing issues of wage gaps. Their success will however be determined by their level of inclusion in the wider socio-economic policies as well as whether they are well supported by effective strategies on implementation.

#### **4.5 Enforcement Mechanisms and Penalties**

The success of all labour legislation heavily depends on the effective enforcement and the former Code on Wages, 2019 implements a number of mechanisms to strengthen compliance and accountability. The replacement of the traditional system of labour inspectors with a more facilitative system of search and support; Inspector-cum-Facilitator. By doing so, the method will help in creating a balance between enforcement and advisory roles and allow the inspectors to help employers meet the legal obligations and at the same time check compliance<sup>34</sup>. Also included in the Code is the usage of technology in monitoring

<sup>33</sup> Kabeer, N. (2012). Women's economic empowerment and inclusive growth: Labour markets and enterprise development. *International Development Research Centre*.

<sup>34</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.

of inspections such as web-based inspections and electronic record-keeping. These will be taken to hyphenate transparency, decrease corruption, and waste efficiency in the enforcement. Moreover, the Code also provides the channel of redressing grievances allowing employees to complain about some wage-related infractions. The punishment for failure to comply has been justified and sometimes it has been escalated in order to discourage the offender. To employers that do not pay minimum wages or abide by the minimum payment provisions on time may face fines and in some scenarios, jailing. Nonetheless, the Code also embraces the possibility of compounding offences, where employers can settle the violations by paying a certain amount through the Code without having to face a long lasting legal process. Regardless of these provisions, enforcement is a big challenge especially in the informal sector. Domestic employees, working at home, are hard to keep an eye on, and the crimes are often unreported because they are afraid of taking action or because they are not aware. Enforcement mechanisms are successful thus based on institutional capacity, co-ordination within the authorities, and effectively involving the stakeholders. Essentially, though the Code proposes contemporary and flexible enforcement procedures, their success will be pegged on their strong implementation and capacity to solve sector-specific issues particularly in informal workplaces.

#### **4.6 Comparison with Earlier Laws**

The Code on Wages, 2019 is a great shift in form, as compared to other previous legislations related to wage issues, to combine four law zones into one comprehensive law. These are Minimum Wages Act, 1948, the Payment of Wages Act, 1936, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. The purpose of this consolidation is to streamline the legal environment, prevent conflicting definitions, and legal provisions. The universal applicability of wage protection is one of the significant advances provided by the Code since previous laws had only a limited coverage. As an example, the Minimum Wages Act limited its application to scheduled employment which excluded a number of workers. Conversely, the Code applies to all employees, thus increasing inclusivity. The other major difference is that it introduces the concept of floor wage, a concept that was not there in previous legislations. This is an innovation that will correct the problem of regional inequalities and set a national level of wage determination. The Code also makes wages definition standardized, which removes uncertainty and cases of court suits. Reforms in the enforcement aspect of the punitive approach to a facilitative approach is a significant change. The willingness to use technology and to introduce Inspector-cum-Facilitators tracks a modernization approach to compliance. Nonetheless, there are worries that there will be a possible erosion of the protections afforded to the workers and the lack of control mechanisms.

## **Chapter 5: Female Domestic Labour in India – A Socio-Economic Profile**

### **5.1 Nature and Characteristics of Domestic Work**

Things such as cleaning, cooking, child care, the elderly, and other household maintenance activities are all activities that fall under the Domestic work sector in India. It is an intensive and a service childhood which plays a critical role in the operation of urban and semi-urban households. Contrary to formal employment sectors, domestic work is very individualized with employment relationships largely being founded on informal agreements as opposed to written agreements. The consequences of this informality include a high degree of variation in working conditions, wages, and job security<sup>35</sup>. The location of domestic work in the privacy sphere is a hallmark of this work and makes it difficult to regulate and

<sup>35</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

enforce labour laws. Individual households generally employ domestic workers as opposed to corporate entities, and it is hard to standardize working conditions or execute uniform staffing. It is also characterised by the fragmentation of work, in that most workers work on a part-time basis in several households making it even harder to regulate labour. This industry is highly feminized, with most of the women being the majority of domestic employees. This feminization is associated with conventional gender roles where a woman is associated with household and care giving duties. This makes domestic work appear like a continuation of free domestic labour, which has been undermined economically<sup>36</sup>. The other feature of domestic work is that there is no formal training or skill recognition as most jobs involve a lot of expertise and experience. The result of this unprofessionalization is poor salary and reduced career mobility. Moreover, domestic workers are not usually provided with social security benefits, paid leaves and health insurance benefits and these are offered in formal sectors of employment. The Code on Wages, 2019 tries to deal with some of them and provides wage protection to all workers, regardless of the fields of their work. Nonetheless, the special character of domestic work would be a problem as far as implementation is concerned, especially as far as the availability of compliance in the households. Therefore, it is important to learn the nature of domestic work to be able to develop effective policy interventions.

## 5.2 Gendered Division of Labour

In India, gendered division of labour is a key characteristic of domestic labour, based on strongly-held socio-cultural standards. Historically, women have had the main portion of their work in the homes and taking care of the home as well as when hired to work in other households as household labour force. This segmentation is not only due to economic necessity but also a patriarchal division which creates and supports gender roles. This gendered division in the labour market is realised in occupational segregation whereby women's individual occupations have been segregated to low paid, non-formal and care related work like domestic workers. Such jobs are not taken seriously since they have been considered to be mere extensions of the domestic roles of women instead of intricate labour that should be being paid. Thus, female domestic workers often receive low wages, poor job guarantees and are not appreciated in comparison to other workers. Gender norms, which persist to this day, have an influence on bargaining power and employment terms. In domestic work, women do not have a lot of freedom to negotiate wages and working hours, in part because of their social-economic dependence and absence of other working options. It is also worsened by the fact that there are no collective bargaining structures and trade unions existing in the sector. Law legislation e.g. the Equal Remuneration Act, 1976 and the Code on Wages, 2019 exist in order to deal with the problem of gendered discrimination in that they provide equal pay to equal work. Yet, the informal sector has its share of the limits as these provisions are only effective to some extent, because of poor enforcement and undocumented employment relationships. Feminist labour theory posits that not only is a change in the law needed in this context but that society as a whole should change as well in terms of culture. This involves breaking stereotypes, education and skills building and making women more active in the decision making processes. Applied to the sphere of domestic work, it is crucial to understand that care work can be economically valued to achieve gender equity and enhance the labour conditions<sup>37</sup>.

## 5.3 Socio-Economic Conditions of Female Domestic Workers

In India, the economically and socially marginalized groups that make female domestic workers are often

---

<sup>36</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

<sup>37</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

lower-income families, rural migrants, and lower caste groups. They have low income, poor access to education as well as insufficient social security that defines their statuses socio-economically. These aspects add to their susceptibility and limit their possibility to advance in their economic situation. The wage received by most of the domestic workers is subsistence-level and is likely to be below the basic means of survival though food, shelter, medical care, and education. Non-regular work and any absence of job security contribute to their economic challenges even more. Very often, employees receive wages monthly or daily without any official contractual arrangement and, therefore, are vulnerable to any wage reduction, late payment, and unilateral dismissal<sup>38</sup>. The domestic workers also have limited access to social services and welfare schemes, which is mainly caused by their informal status of employment. They usually do not have their identification documents, bank accounts and knowledge about the government programs, which may not help them access the benefits. Another important issue is health risks because domestic work is physically intense and requires working in unhealthy conditions, with no proper safety precautions. The Code on Wages, 2019 aims to enhance wage security by providing a national floor wage and paying in a timely manner. But what triggers these provisions on the socio-economic conditions of domestic workers will be determined by how effectively they are implemented and how aware workers will be. Domestic workers have limited opportunities for education and skill development and this is limiting their exposure to upward mobility in the labour market. Most employees get into the industry when they are at a tender age, and they are unable to get themselves out of low paying positions. A multifaceted solution to these socio-economic challenges should involve legal protection and social and economic empowerment programs.

#### **5.4 Wage Structures and Employment Patterns**

The structure of wage in domestic work is very fluid and quite uncontrolled, a representation of the informal nature of work. Since the formal sectors ensure that wages are fixed and controlled, in many cases, domestic workers are negotiating their wages with the employers on a case-to-case basis. It leads to major inequalities in respect to the location, the type of work and even the bargaining power. The domestic workers can be hired on full time, part time, or live on a basic and with different wage structure. The large percentage of the workforce who are part-time workers are normally employed in many houses and do their work on a per-job or per-house basis. On the other hand, live-in workers get monthly salaries and lodging and meals, but frequently have to work more hours with minimal demarcation between job and personal life. Lack of standardization of wages creates discrepancies and in most cases, underpayment is the case. Wages in most instances do not reflect the amount of hours worked or complexity in the work done. Also, there is minimal transparency in the process of wage setting and workers are not allowed many options in the event of conflict. The Code on Wages, 2019 is challenging to combat such problems, because the floor wage is introduced, and every employee should be paid at least a certain portion of salary. The success of this provision to the domestic work sector however, depends on the household level enforcement and adherence. Seasonal demand, migration and socio-economic factors also affect the employment patterns in the field of domestic work. The number of workers with many irregular jobs and forced to constantly switch employers is great. This instability also weakens their incomes and indicates the necessity of formalization and control of the sector.

#### **5.5 Vulnerability, Invisibility, and Lack of Formal Recognition**

A large part of the susceptibility of female domestic workers in India is because of the nature of their

---

<sup>38</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

work, which is informal and private. The invisibility of domestic work in the formal economy and the policy structures is one of the most important challenges. As housework is done in domestic homes, it is usually not covered by labour statistics, labour regulation, and social protection measures. Such invisibility is also a factor in a lack of formal recognition, which, in its turn, shapes the rights and entitlements of domestic workers. And lacking legal recognition of them as workers, there is a tendency to lock them out of minimum wage policies, social security policies, and redressal of grievances. This gives birth to a vicious circle of exploitation and marginalization that is hard to get out of. Other factors that contribute to vulnerability include gender, caste, and migratory status. The long working hours, low wage and substandard working conditions are common casts of domestic workers and their rights are not effectively enforced. These cases of abuse, harassment, and discrimination are not novel and are frequently not reported because of the fear of losing the job or because of legal ignorance. By making wages protection a right of all employees, the Code on Wages, 2019 tries to deal with certain of these difficulties. Nevertheless, its effectiveness is constrained by the absence of explicit measures that are applied to domestic workers and enforcement difficulties. Vulnerability and invisibility are key issues that need a multi-dimensional intervention that incorporates law, awareness, and institutional consolidation. The job of acknowledging domestic workers as being a constituent of the working population is important to the entitlement of workers and the enhancement of their socio-economic status.

### **5.6 Role of Migration and Caste Dynamics**

The issues of migration and caste further influence the formation of the domestic work sector in India. The high count of domestic workers is migrant workers who travel to urban areas in pursuit of jobs and who are either rural or economically disadvantaged. Poverty and absence of opportunities as well as agrarian distress frequently motivates this migration. There are other problems that migrant domestic workers face such as language barrier, absence of social network, and accessibility of social services. Their migrant position usually exposes them to greater exploitation since they might not be aware of their rights as well as have a few alternatives to out of the employment offer. The dynamics of caste are also a very significant factor that defines access to employment, and working conditions. The lower caste groups are usually linked with domestic work; the past social stratification history and occupational division. This connection strengthens the stigma and discrimination, which further alienates domestic workers<sup>39</sup>. The overlapping of caste, gender and migration forms a multifaceted system of disparities, which influence the level of the wage and the job safety, as well as access to the legal system. Domestic workers who are out of marginalized caste groups are especially exposed to female domestic workers, whose discrimination both at the workplace and outside is faced. Although the Code on Wages, 2019 is a measure that gives a conceptual foundation in wage protection, it specifically lacks the intersectional issues. Thus, more policy actions are needed to address structural inequalities that form the foundation of the domestic work industry. The role of migration and caste interactions is crucial to the understanding of the inclusive labour policies that are to meet domestic workers-specific needs. It emphasises the need to take an intersectional perspective on labour regulation in order to make sure the reforms are fair and effective<sup>40</sup>.

---

<sup>39</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

<sup>40</sup> Kabeer, N. (2012). Women's economic empowerment and inclusive growth: Labour markets and enterprise development. *International Development Research Centre*.

## Chapter 6: Legal Status and Protection of Domestic Workers

### 6.1 Domestic Workers under Indian Labour Laws

In India, domestic workers are in between the law of labour regulation. History Most labour laws historically catered to the needs of the industrial and organized sector by employing the services of persons in informal, domestic-based forms of employment, leaving domestic workers largely out of their considerations. To illustrate, laws like the Minimal Wages Act, 1948 and Payment of Wages Act, 1936 applied only to scheduled employment or establishments which met some of the criteria and thus exempted domestic workers in most jurisdictions. Despite the fact that domestic work has been included in the list of occupations regulated by minimum wages in some states, there is a gap in coverage of domestic workers on a national scale. Such haphazard treatment has led to a patchy coverage of protection with domestic workers in some states enjoying the protection of statutory wage perks whereas others are not. Moreover, the inclusion of domestic workers is weak even in the states where it is established because domestic labor is too personal, and the employer-worker relationships are not formalized. Besides wage based laws, domestic workers do not usually enjoy the protection associated with any other labour rules like social security, occupational health rules as well as the grievance redressal system. This omission indicates a bigger systemic problem in Indian labour law in which informality contributes to the scope and efficacy of legal tenure. The efforts to overcome this gap have been done in terms of policy initiatives and draft legislations to specifically deal with domestic workers. But the lack of a national legislation devoted to work at home remains a barrier. Their inability to be recognized as workers as suggested by various laws also makes them more vulnerable. Introducing code on wages, 2019 is a move in the right direction towards inclusivity through offering all employees protections over wages. However, the general attitude of the law towards domestic workers is unclear, and there is a necessity to implement specific legislative interventions that will focus on the specifics of this field.

### 6.2 Inclusion/Exclusion under the Code on Wages

The Code on Wages, 2019 brings a major change in the legal context by coming up with a broad definition of what constitutes an employee and thus could bring to its scope domestic workers. The Code covers every worker and does not discriminate against any in terms of the sector or nature of work as compared to previous laws which were applicable to scheduled employment or a set wage limit. Such a broad definition, in theory, allows domestic workers to assert minimum wages, and enjoy the notion of a national floor wage. Nevertheless, there are no limitations to the extension of the Code to domestic workers. Although the statutory language is ample in its language, the practicality of the provisions is based on the state-level regulations and mechanisms of implementation. In most instances, domestic work is not clearly identified in wage notifications and as such there is no clarity on the rate of wages that should be applied. This leaves a disparity between formal coverage and effective coverage. The other problem is the application of the wage conditions in the private households. Households cannot be easily inspected as does a factory or commercial enterprise and it is hard to track whether the statutory wage norms are adhered to. Also, there are no written contracts and uniform employment terms, which only makes enforcing harder. The domestic workers are also not very aware of their rights in accordance with the Code, limiting their right to claim their fair wages. Unless there is sufficient information dissemination and support structures, the benefits of the Code might not be realized among this vulnerable population. Besides, absence of collective bargaining lessens the abilities of domestic workers in negotiating enhanced wages and working conditions. Nevertheless, despite all these difficulties, the incorporation of domestic workers in the range of Code can be seen as a significant step towards formal recognition. It is more

oriented towards international labour standards promoted by the International Labour Organization and indicates an increasing recognition of the necessity to safeguard the workers in the informal sector. But the way in which legal inclusion can be converted into practice is a pressing challenge to policymakers.

### 6.3 State-Level Policies and Welfare Schemes

With no nationwide legislation equally addressing the interests of the domestic workers the various states in India have made moves in an attempt to offer legal and welfare assistance to the workers via state policies and schemes. The degree of implementation of these measures also differs considerably across the states, covering the range of scopes, coverage, and effectiveness, which is representative of decentralized labour governance in India<sup>41</sup>. The domestic workers have been covered under the umbrella of minimum wage laws in some states, and thus, they are provided with the protection of the law in terms of minimum wage. Others have instituted welfare boards to give the social benefits of security like health insurance, pensions and maternity benefits. As an example, such states as Kerala, Tamil Nadu, and Maharashtra have introduced the welfare schemes specifically directed to domestic workers, providing the benefits through the contributions made by the workers, employers, and the government<sup>42</sup>. These programs are significant milestones towards better socio-economic status of domestic workers. Their success, however, is frequently hampered by such related factors as low registration of users, their expectant ignorance, and administrative drawbacks. Most domestic employees are not covered by these schemes because they are informally employed and are not documented. The Code on Wages, 2019 offers an opportunity to harmonize state-related provisions on wages. But the welfare regime remains based on state-level policies and institutional capacity to undertake its operation. This forms imbalances in the degree of protection that is achieved to domestic workers in varying countries. Also central and state governments should coordinate their efforts in order to achieve successful introduction of labour reforms. In the absence of such coordination, duplication, gaps, and inconsistencies in policy outcomes will be a possibility. Empowerment of the institutions at the state level and the improvement of awareness of domestic workers is thus critical towards the enhancement of the coverage and effectiveness of welfare schemes.

### 6.4 Role of Judicial Pronouncements

The role of judicial pronouncements has been prominent in determining the legal state and protection of domestic workers in India. Without the enactment of elaborate laws, courts have tended to judge by the existing laws and constitutional rules and give protection to the helpless employees. The adoption of labour jurisprudence has been aided by the court jurisdiction focused on fostering social justice, equality, and dignity. Indian courts have on a few occasions identified the rights of the workers in informal sectors and have demanded spreading the labour protection to marginalized groups. Although there is minimal case law that explicitly covers the domestic workers, general judicial interpretations of the labour rights are relevant to this industry. As an example, the principle of equal pay is equal work has been considered as a constitutional requirement to give vitality to the aim of legislation like the Equal Remuneration Act, 1976. The judiciary has also mentioned the need to adopt the labour welfare actions through efficient legislation and has instructed governments to make strides towards better implementation. Courts in the domain of wage disputes and labour rights have frequently taken a progressive stance in their decisions, placing a greater emphasis on the welfare of workers rather than technicalities. However, the effect of

<sup>41</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

<sup>42</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

judicial pronouncements is restricted by the reach of the legal system. The social-economic status of domestic workers makes them in most cases unable to have the necessary resources and awareness to pursue legal solutions. This restricts the real-life application of judicial interventions in handling their grievances. The Code on Wages, 2019 presents a statutory framework which can be interpreted and realized in terms of the judicial practices. In future, judiciary will play a critical role in eliminating ambiguities, enforcing rules, and respecting the rights of domestic workers. Enhanced judicial interventions in this sector could be improved through strengthening legal aid and awareness mechanisms.

### **6.5 International Standards: ILO Convention 189 (Domestic Workers Convention)**

International labour standards offer a valuable framework of assessing both national policies and practices concerning the local labour force. In <sup>43</sup>2011, Convention No. 189 or the Domestic Workers Convention was adopted by the International Labour Organization as a way of ensuring decent working conditions to domestic workers globally. This Convention acknowledges domestic work as work and introduces a minimum level of standards in the field of wages, working conditions and social protection. Some of the main principles highlighted in Convention 189 include fair employment terms, protection against any form of abuse and social security. It also demands the regulation of working hours, written contracts and regard of basic labour rights. Notably, the Convention recommends the necessity to focus on particular susceptibilities of domestic workers, such as informality and gender-based discrimination. Despite not being a signatory to Convention 189, it is important to note that the country of India has used the provisions of the convention as a guide to policy making. The current Code on Wages <sup>44</sup>2019 incorporates some of these principles by provision of wage protections to every worker and encouraging gender equality. But there are still big loopholes that exist in the social security, occupational safety and formal acknowledgement of the domestic worker. International standards can be used to align national policies to the international best practices and can increase protection of domestic workers. It also includes a ground of advocacy and policy reform so that governments are prompted to fill the gaps that are present in labour regulation. The principle of Convention 189 would need an integrated strategy that incorporates law reforms, institute building, and sensitizing the populace to integrate into the law creation process. In the case of India, by adhering to such standards, it can not only advance the working conditions of domestic workers, but also encourage inclusive and equitable labour policies.

## **Chapter 7: Impact Assessment of Floor Wages on Female Domestic Labour**

### **7.1 Changes in Wage Determination Mechanisms**

Introduced as part of the Code on Wages, 2019, the floor wage will serve to bring about a structural change in wage determination in India, especially in informal sectors like domestic work. Until this reform, the determination of wages was still decentralized as the Minimum Wages Act, 1948 established minimum wages on individual scheduled employment. This caused a lot of disparity in wage rates within states and sectors, which tended to produce discrepancies and inequalities. The floor wage system is a centralised level set by the Central Government and according to which no state can establish its minimum wage levels. This forms a pyramidal form in wage determination with the floor wage serving as a binding floor. This reform, theoretically, makes the level of uniformity more prominent and minimizes the inter-state discrepancies. In the case of domestic workers, who frequently were not included in the timetable of

---

<sup>43</sup> International Labour Organization. (2011). *Convention No. 189: Domestic Workers Convention*. Geneva: ILO.

<sup>44</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.

employment, the extended definition of what constitutes an employee as outlined in the Code might have them fall under the statutory wage protection. But in actual sense, wage negotiations of the domestic worker in the country remain to be informed by the informal negotiations between the employees and the employer in the country. The lack of standard employment relationships coupled with the individualized character of the employment relationships prevents the effect of the statutory wage norms. Neetha claims that many domestic workers continue to base their rates on existing unofficial rates and bargaining capabilities instead of actual wage notifications. Moreover, the practicality of the floor wage is based on its sufficiency and periodical update. When the floor wage is pegged too low, it might not have a dramatic impact on present wage arrangements. On the other hand, when it is pegged at a realistic level that represents living expenses, it can be an effective benchmark in enhancing wages. The idea to make floor wages relevant under the influence of expert committees and cost-of-living indices is meant to make it related, yet the implementation is not an easy task. In such a way, although the idea of the floor wage mechanism is a positive step towards standardization, the influence of this process on domestic workers is mediated by the fact that the workers in question have informal jobs and the degree of implementation.

### **7.2 Effect on Wage Levels and Income Security**

Wages will increase due to the introduction of floor wages in the Code on Wages, 2019, and will give workers greater income security. The Code focuses on creating another minimum wage nationally in order to make sure that all employees are guaranteed a minimum level of pay, which will decrease instances of excessive wage inequality and exploitation. As a wage paid to domestic workers, typically at subsistence levels, freer income levels may result due to the floor wage, especially in areas where wages were previously under the national standard. This has the ability to lead to a higher standard of living and access to basic facilities, as well as a stronger economic state. Moreover, the need to pay wages on time according to the Code can help minimize cases of late or not paid wages, frequent in the domestic work industry<sup>45</sup>. The true effects on wage levels however, are affected by various factors, as it hinges on how aware the workers are, whether the employer complies and the state level of implementation. Domestic workers do not know about statutory wages and in most instances, they have no option but to receive low wages. Furthermore, the fact that no formal enforcement is carried out in the private households means that it is difficult to maintain the floor wage. Also contributing to income security is the nature of employment. Lots of domestic workers work on part-time or casual jobs with odd working hours and numerous employers. Such fragmentation lowers the stability of the income and it becomes hard to determine the total effect of wage reforms. The social security benefits are also not available, thus, weakening economic security. According to empirical research, the effect of wage reforms may contribute to the gradual increases, nevertheless, it is often disproportional and also requires specific local circumstances<sup>46</sup>. Thus, it is true that the floor wage, even though it can improve the security of incomes, will not work effectively in the domestic work sphere meaning that it will have to be supported by other measures like raising awareness about the wage, formalizing the workforce, and ratifying the enforcement mechanisms.

### **7.3 Regional Disparities in Implementation**

The existence of regional differences in the implementation in various states is one of the major obstacles in measuring the effects of the introduction of the floor wages. The federal nature of India allows great autonomy to State Governments in labour regulation where minimum wages are fixed above the

<sup>45</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

<sup>46</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

nationally-determined floor wage. Consequently, there are disparities in policy priorities, economic conditions, and administrative capacity, which results in uneven implementation of wage reforms. In a bid to mitigate these disparities, the Code on Wages, 2019 tries to introduce a common floor wage. Nevertheless, the state can still dictate higher minimum wages depending on the local circumstances, and this might make further fluctuation. The wages in the less developed economies can reach the minimum wage, and in the developed ones, the wage can be considerably higher, so the simple floor wage value can be quite low. These differences are also severe, especially in the case of domestic workers. The wages paid in cities where the cost of living is higher are relatively higher, as compared to rural or less developed areas where domestic workers are likely to earn salaries below the floor wage since there is poor enforcement and their awareness is limited. Moreover, migration has an effect on the dynamics in wages since workers who have migrated out of low-wage areas can take lower wages in areas to which they migrated. Institutional capacity is also associated with implementation issues. The more successful states in relation to their administrative and work infrastructure as well as their active labour departments will enforce wage provisions more efficiently. Conversely, states that lack resources might not have the ability of tracking compliance, particularly in the informal sector. These geographical gaps are the reason why the central and state governments need to coordinate their efforts to have equality in terms of wage policies. Although the floor wage offers a floor, to bring about fair results, it is important to satisfy the contextual socio-economic and institutional disparities between regions.

#### **7.4 Accessibility and Awareness among Domestic Workers**

The effectiveness of the wage reforms through the implementation of the Code on Wages, 2019 heavily depends on the awareness and access to the information of the domestic workers. However progressive legal provisions may be, they cannot achieve the desired effect until the recipients are aware of their rights and have resources to exercise their rights. In the case of domestic work, the awareness gap is high, which can be attributed to the low literacy rates and insufficient access to information and social marginalization. Many domestic workers are completely unaware of any minimal or floor wages, and continue to rely on haggling and bargaining over their wages. Another aspect that contributes towards this ignorance is the fact that there are no official channels of communication and outreach initiatives that could be employed to approach this sector. The domestic workers have no right of trade unions or institutional means of disseminating information and safeguarding their rights as compared to the workers in the organized industries. Even with their knowledge of the rights; workers will not find it easy to access redressal mechanisms of the grievances. The process of complaining, dealing with authorities and passing through the court systems is a time consuming process that requires usage of resources and expertise, which most domestic workers lack. In addition, employees are not willing to exercise their rights because they fear job loss or to be punished. In Wages The Code upholds redressal of grievances in addition to appointment of Inspector-cum-Facilitators to assist in the compliance. Nonetheless, it is limited to the scope of the mechanisms in the domestic work industry. Access by way of interventions should be enhanced and these include community based support mechanisms, awareness campaigns and legal services. Awareness and accessibility should be enhanced so that one can be able to translate provisions of the laws into practical opportunities. Without them, the impact of wage adjustments on local workers was likely to be negligible and that is where a multi-dimensional approach to the implementation of labour policies should be mentioned<sup>47</sup>.

---

<sup>47</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

### 7.5 Employer Compliance and Enforcement Challenges

The enforcement and compliance by the employers are the key success factors of the wage reforms in the Code on Wages, 2019. Although the Code outlines new enforcement tools, such as the Inspector-cum-Facilitator model and online compliance tools, their applicability to the domestic work sphere is also limited by the characteristics of employment in the sphere of a private household. The domestic work is faced by individual employment relations, no written contracts and inadequate regulatory control. There is no simple way of inspecting formal establishments, so it is hard to ensure adherence to the wage provisions in households. This entails a vast gap in enforcement and in most cases the violations remain undetected and unreported<sup>48</sup>. Attitudes of employers are also very important in compliance. A number of employers do not see any presence of domestic work as a formal employment but as informal help, which impacts their capacity to comply with the statutory norms of wages. The lack of standard guidelines and enforcement mechanisms particular to domestic labor supports this perception. Penalties due to non-compliance are also stipulated in the Code such as fines and even imprisonment. Nonetheless, these penalties cannot be frequently applied to the domestic work sector, as it is difficult to identify deliberate attempts of their violation and take legal measures. Moreover, that the compound offences are to be compounded could diminish the deterrent power of punishment. These challenges can be overcome through a multi-pronged strategy, which involves educating employers, creating contract standards and enhancing institutional capability. There can also be community-based monitoring and Donor involvement with civil society organizations to help improve compliance. Finally, some form of enforcement is also necessary to make sure that the advantages of wage changes are spread to domestic employees.

### 7.6 Empirical Analysis (Survey/Interview Data, if used)

Empirical evidence makes up a significant part of a measurement of the practical effectiveness of floor wages upon the female domestic labour. Using these surveys and interviews as primary data collectors will enable the researcher to understand the patterns of wages, employment situation, and the level of consciousness among the domestic workers. This information gives a foundation on measures of effectiveness of the Code on Wages, 2019 beyond its theoretical framework. The variables in the survey data are usually age, education, job type, and hours of work, wage rate and social security. This data might be analyzed to see trends and patterns, including the differences in wage between regions or between full-time and part-time employees. Hypotheses and significant relationships could be tested using statistical applications: descriptive analysis, correlation, and regression. Interviews and qualitative approaches will allow better understanding of the experiences of the domestic workers, such as difficulties negotiating the salary, employer relations, and attitudes towards the legal provisions. These stories bring out the difference between policy and practice and offer a background on which to interpret quantitative results. Empirical research can frequently indicate that although the result of wage reforms is at times better, they are also uneven and their effects depend on the awareness, implementation, and additional socio-economic issues. As an example, urban workers who are more inclined to be aware of wage regulations might be better-off than workers in rural or less developed areas. The combination of the empirical data with the doctrinal analysis makes the study valid and reliable. It enables researchers to make evidence-based conclusions and present policy proposals which are based on the lived experience. Empirical analysis becomes

---

<sup>48</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

especially relevant in the framework of domestic work where the voice of workers needs to be taken into consideration and the labour reforms should keep the employees in mind<sup>49</sup>.

## Chapter 8: Gender Implications and Social Justice Concerns

Gender wage gap is one of the most enduring forms of inequality in the labour market especially in informal sectors like domestic work. Structural and socio-cultural biases against women in India manifest as women always receive lower pay as compared to men in terms of similar or analogous work, which places little value on their labour. Wage discrimination affects female domestic workers, who are in the majority of the labor force in this field, particularly because of the idea that domestic work is unskilled, and the continuation of duties that are unpaid at home. Equality of pay laws like Equal Remuneration Act, 1976 were enacted to mitigate the gendered monetary abnormalities by decree to pay equal wages to equal labourers. This is included in the Code on Wages, 2019, which explicitly forbids any discrimination based on the gender in wage setting and terms of employment<sup>50</sup>. These provisions however, are ineffective in the domestic work sphere because of informality, non-observation and because formal contracts are not provided. Type of work, working hours, and ability to negotiate are some of the factors that tend to affect the wage gap in domestic work. Women doing similar activities can be assigned different pay rate depending on their imagined status in the society or their bargaining strength. Further, gender stereotypes also promote labour segregation where females are relegated to low-paying jobs which perpetuates further income inequality. Empirical evidence suggests that regardless of legal policies, there are still sex pay gaps because they are poorly enforced and workers do not even know about them. The domestic work is also a private issue that makes it more difficult to identify and rectify discrimination issues. The issue of the gender gap in wages needs a multi-dimensional solution that uses both a legal solution as well as social one. These encompass creating awareness, institutionalization, and questioning societal cultures that undermine the work of women. In the absence of such initiatives, the essence of equality of the wage under the current laws may be therefore hardly achieved.

### 8.2 Intersectionality (Gender, Caste, Class)

Intersectionality is a critical concept that offers a framework through which the multiple inequalities of female domestic workers in India can be understood. Intersectionality acknowledges that people can be doubly or triply impacted by various social identities, e.g. gender, caste, and class and that these identities interact to bring about distinct types of disadvantage. All of these overlaps in the domestic work setting, where employment, wage rates and working conditions are greatly affected by these factors. Female domestic workers are in most cases operating in lower socio-economic classes as well as via marginalized castes which have conventionally been linked with service-oriented jobs. This connection only enhances stigma and restricts chances of vertical mobility. Further amplifying discrimination, women belonging to lower castes are subjected to discrimination along with gender-related attitudes towards women in the labour market. An important factor in the development of employment relations is also the class dynamics. Most households doing this are usually of a higher socio-economic status and this establishes a hierarchy between domestic workers which influences bargaining power, and working conditions. Such a mismatch can easily lead to some exploitative measures, such as low salary, excessive working hours, and job insecurity. The Code on Wages, 2019 has a universal approach to wages protection, although it does not

<sup>49</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

<sup>50</sup> Government of India. (2019). *The Code on Wages, 2019*. Ministry of Labour and Employment.

cover the intersectional inequalities specifically. Whereas the Code lays out a guideline in the provision of minimum wages, structural disadvantage on the marginalized groups is not considered. Intersectionality cannot be solved by mere policy interventions that are not based on recognition of the differences. This will comprise positive actions, education, and community-level activities that will empower the disadvantaged workers. It is important to appreciate the widespread interactions of gender, caste and class in the process of formulating inclusive labour policies that would deal with the source of the inequality.

### 8.3 Empowerment vs. Exploitation Debate

The paradox of empowering and exploiting the domestic work industry is very complicated. On the one hand, working as a domestic worker allows females to receive income and become financially independent and provide support to households. To most women, particularly the migrants and economically disadvantaged, their work at home appears to be a lifeline in their lack of other options<sup>51</sup>. Conversely, the circumstances in which domestic work is done tend to be indicative of systemic exploitation. Poor wages, labour hours, social security deficiency and lack of formal contract are the hallmarks of the industry. The informal aspect of employment and power imbalance between employees and employers worsen these conditions<sup>52</sup>. To put this balance towards more empowerment, the introduction of the Code on Wages, 2019 aims to grant legal security and wages protection. The Code hopes to improve economic security and minimize exploitation by setting a basic wage, and a consistent payment schedule. The degree to which these objectives are attained however, is left to effective implementation and enforcement. The contentious issue of empowerment-exploitation also underlines the aspect of agency among domestic workers. Where others can bargain for an improvement in their working conditions and salaries, others are left in exploitative terms because they have no choice and no bargaining power. This difference highlights the need to have collective organization and support networks to increase worker empowerment. Finally, the domestic labor market is indicative of wider socio-economic disparities that cannot be alleviated by legal reform. Finding the solution between the empowerment aspect and the protection one implies a holistic solution that is inclusive and involves legal, economic, and social interventions.

### 8.4 Social Security Implications

Social security is an important aspect of labour protection and it includes benefits like health insurance, pensions, maternity benefits and accident compensation. But formal social security systems tend to leave out Indian female domestic workers relying on informal employment. This exclusion has a serious impacts on their economic stability and well-being. Code on Wages, 2019 deals more with regulation of wages as compared to regulation of social security provisions. Although minimum wages are a crucial measure of economic security, it cannot deal with the overall vulnerability of domestic workers. In the absence of social security, workers are left vulnerable to other risks like sickness, age and unemployment. There are state level programs and welfare boards that offer few social security benefits to domestic workers but coverage is usually limited and not uniformly applied. Also many workers are not able to access such schemes due to lack of awareness and administrative barriers. The international labour standards established by the International Labour Organization put much focus on the need to extend social protection to all workers including the informal sector workers. Combining social security and wage regulation can go a long way in ensuring the well-being of domestic workers is improved. To close the

---

<sup>51</sup> Chen, M. A. (2012). The informal economy: Definitions, theories and policies. *WIEGO Working Paper*, No. 1.

<sup>52</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

gaps in social security, central and state governments should work together, and domestic workers should be included in the general social protection programs. To make sure that this vulnerable group gets social security benefits, it is necessary to strengthen institutional mechanisms and address the accessibility.

### 8.5 Human Rights Perspective

The problems that the female domestic workers deal with can be explained within the framework of a larger human rights system, which implies dignity, equality, and the non-exploitation aspect. The basic human rights that domestic workers face include a right to appropriate wages, safe working conditions, and rights against discrimination of all kinds. The rights are embodied in national and international legal tools<sup>53</sup>. The Code on Wages, 2019 has been added to the fulfilment of these rights as it sets a minimum wage level and forbids discrimination. These provisions, though, will be effective with their implementation and enforcement. Without the proper mechanisms, legal rights might be theoretical and not practical. In a global context, the concept of decent work, which encompasses fair wages, social protection and labour rights protection, is promoted in frameworks that have been crafted by the International Labour Organization. These standards present a yardstick of assessing the national policies and emphasize on the importance of a wide-ranging safeguarding of domestic employees. The human rights approaches also lay stress on the aspect of empowerment and participation. An important solution in dealing with systemic inequalities is ensuring that domestic workers can exercise some influence in the formulation of policies and be able to seek redress to the courts. Moreover, making domestic work an acceptable form of employment is essential to dignity and respect. Finally, a human rights approach will change the emphasis to other matters of justice and equality beyond economic issues. It highlights a necessity of holistic policies that not only consider the material aspect of domestic work but also reflect on its social aspects in such a way that all the workers should be treated with dignity and fairness.

## Chapter 9: Comparative and International Perspectives

### 9.1 Wage Regulation Models in Other Countries

The labour market and regulating wage policies among countries differ widely in terms of economic systems, the abilities of institutions as well as the nature of labour markets. These models can generally be divided into statutory minimum wages systems, collective bargaining systems, as well as any systems that involve a combination of both systems. In most of the developed economies, the statutory minimum wage is also added to the high presence of collective bargaining institutions through which workers are able to negotiate higher salaries beyond legal minimum<sup>54</sup>. As an example, other countries such as the United Kingdom and Australia have implemented national minimum wage frameworks which are reviewed periodically with reference to economic variables like inflation, productivity and cost of living. The independent wage-setting bodies support these systems and guarantee evidence-based decision-making and transparency. Conversely, countries like Germany have been more dependent on sectoral collective agreements of bargaining but a statutory minimum wage has more recently been introduced to fill in the coverage gaps. Informality and enforcement: in many developing economies wage regulation is plagued by issues of informality and enforcement. The national minimum wage structures have been implemented in such countries as Brazil and South Africa in a bid to curb the exercise of inequality and enhance the welfare of the workers. Such models are more inclusive by applying wage protection to

<sup>53</sup> Basu, D. D. (2021). *Introduction to the Constitution of India* (26th ed.). LexisNexis.

<sup>54</sup> Organisation for Economic Co-operation and Development. (2020). *Minimum wages in times of COVID-19*. OECD Publishing.

informal sector employees, yet it is not universally applied<sup>55</sup>. Wage floor, being proposed in India with the use of the Code on Wages, 2019, is similar to the national minimum wage systems in other nations. The success of such models however hinges on proper wage determination and frequent revisions and strong enforcement tools. Statutory wage floors with an institutional standard, including both labour inspections and labour representation, have been shown to improve compliance and effectiveness in theory and practice in international experiences. In the case of India, whereby informal employment prevails, it is essential to adapt best practices of other countries. Although the regulation of statutory wages is necessary, efforts should be supplemented by measures that focus on informality, awareness, and enforcement issues to produce significant effects.

### **9.2 Domestic Worker Protection Frameworks Globally**

Domestically, the situation has never been any different and historically, domestic workers in India have not been covered under labour protections. But over the past few decades, a few nations have enacted new legal networks that have made concessions to the domestic workers as regular employees. The frameworks can be used to tackle problems like regulation of wages, labour hours, social security, and safeguarding against oppression. The International Labour Organization has been a major contributor towards promotion of the rights of domestic workers under the Convention No. 189 that prescribes the minimum standards of decent working conditions. Other countries, including the Philippines, South Africa, and Uruguay, that have ratified this Convention, have adopted extensive laws that protect domestic workers. To illustrate, the Philippines has passed the Domestic Workers Act establishing minimum wages, written contracts, social security-benefits and grievance redressal provisions. Likewise, the domestic workers are equally provided in South Africa through their Basic Conditions of Employment Act, which guarantees the minimum wages, controlled working hours, and allowances on unemployment insurance. Formalizing domestic work has been achieved in countries in Latin America such as Brazil and Uruguay, which have begun to expand labour rights and social protection to the sector. These reforms have seen the creation of better working conditions and the fact that domestic workers are better recognized as a formal workforce. Although this has been improved, there are still difficulties in implementation with regard to accountability of compliance in independent households. Nonetheless, global practices have shown that special legal frameworks coupled with awareness campaigns and institutional assistance can contribute to the enhancement of the situation of domestic workers to such an extent. In the case of India, these world systems are beneficial in offering insights on how domestic work can be formalized and regulated in a way that is beneficial. They emphasize the need to identify the status of domestic workers as employees and provide a comprehensive protection in various aspects of labour rights.

### **9.3 Lessons for India from Comparative Jurisdictions**

The comparative analysis of both international regulation of wages as well as domestic regulations of worker protection frameworks in India is educative in that it can teach a number of lessons to India. This is one of the primary lessons that one gains: a necessity of universal coverage, but there should be industry-specific provisions. Although the Code on Wages, 2019 chooses a more universal approach to regulation of wages, international experience indicates that sector-differentiated legislation to cover domestic workers would be more efficient in considering sector-specific issues. The other important lesson is the importance of institutional mechanisms in regard to facilitating compliance. A higher success rate of wage laws has been championed by countries that possess efficient labour inspection systems, labour worker

---

<sup>55</sup> International Labour Organization. (2014). *Decent work and the informal economy*. Geneva: ILO.

registration procedures and grievance redress procedures. As an example, the adoption of digital solutions to wage payments and registration of workers by the government in such nations as Brazil has enhanced accountability and transparency. Capacity building and awareness is also another important aspect of success in labour reforms. The experiences of the international world have led to various aspects of identifying that educating workers and employers is important, both in terms of rights and liabilities. Laws may not necessarily translate to show benefits without awareness. Another lesson is the importance of integrating social security with wage regulation. Those countries with a wide-ranging social protection such as health insurance and pensions, have managed to promote the general well-being of domestic workers. In India, attention to wage regulation should be supplemented with a greater number of social security measures to eliminate the vulnerability of domestic workers. Lastly, there should be no overemphasis on the significance of national policy-meeting international standards. Embracing the values of the frameworks formulated by the International Labour Organization can assist India in tightening its labour laws and in adherence to the international best practices.

## Chapter 10: Challenges in Implementation

### 10.1 Administrative and Institutional Barriers

There is a strong barrier of administrative and institutional challenges that curtail the implementation of the wage reform under the Code on Wages, 2019, especially in the informal sector. The ability limitations of both central and state labour administration systems is among the main issues. Labour ministries are sometimes lacked in staff numbers and resources, and compliance monitoring and enforcement of the statutory provisions in a large, heterogeneous workforce are challenging<sup>56</sup>. Distributing labour governance also makes implementation challenging. The implementation of the Code is highly varied, although it will rely on state governments to which divisions have different degrees of administrative effectiveness, policy priorities, and institutional capacity. This prompts irregularities in the implementation and unequal results in the regions<sup>57</sup>. The central and state authorities do not always communicate with one another, and the functions performed by the authorities are frequently duplicated and the gaps in implementation occur. The other great obstacle is the untrustworthy information about informal workers, such as domestic workers. In the absence of the right data on the amount of workers, their conditions of employment, and the level of wages, achieving specific policies and monitoring their effectiveness becomes difficult. This is also brought down due to the lack of comprehensive databases that assist in identification of beneficiaries and provision of welfare schemes. Another problem is institutional fragmentation, where various agencies are taken up with the labour regulation, each having its own mandate. This may result in duplication of duties, and irresponsibility. Also, red tape and bureaucracy will take long adhering to the principles of reforms and will deter the adherence to the rules by employers. The Code tries to solve part of such challenges by introducing the simplified compliance mechanisms and the introduction of Inspector-cum-Facilitators. The success of these measures, however, is dependent on the ability of the institutions to change and adopt reforms effectively. To overcome such obstacles and guarantee effective winding up of wage policies, strengthening of administrative infrastructure, improvement of coordination, and taking advantage of technology are needed.

---

<sup>56</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

<sup>57</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press

## 10.2 Informality and Lack of Documentation

One of the prominent barriers to introduction of wage regulations in India remains informality. A big percentage of employees, especially the domestic workers are in informal work where they lack written contract, job security and records. This laxity compromises the application and implementation of stipulations in the Code on Wages, 2019. Verbal contracts are usually signed by domestic workers according to which they do not have a clear answer to such issues as wages, working hours and job duties. This lack of documentation makes it hard to make legal claims in the event of contention and restricts the power of authorities to keep compliance. Without documents, it is difficult to check whether workers are paid according to the statutory wage norms. It is also due to the fact that lack of documentation impacts on access to social security and welfare schemes. Most domestic employees lack IDs, bank accounts and work records, which are frequently noted to get benefits. This exclusion continues to make them vulnerable and restricts the effect of labour reforms. The Code on Wages ensures applications of digital payment and keeping records as a way of enhancing accountability and transparency. Nevertheless, the implementation of such practices in the domestic work field is not so active even because of technological impediments and ignorance amongst the workers and employers. The informality problem needs a multi-pronged approach that entails formalization of employment ties, ease of registration, and sensitisation. The use of standardized contracts and online platforms can be encouraged to enhance documentation and ease enforcement. Finally, informality also needs to be reduced to ensure that wage laws are properly implemented and that employees are afforded benefits that they have the right to under the law.

## 10.3 Weak Enforcement Machinery

The success of any labour law is paramount on how well its enforcement machineries are. With the Code on Wages, 2019, enforcement issues are especially acute in the area of the informal sector, where it is also intrinsically complicated to monitor and enforce. The traditional labour inspection system has since been criticized as being understaffed, inefficient and in some instances corrupt<sup>58</sup>. The Code provides a reforming enforcement model by introducing the Inspector-cum-Facilitators that will be declined to play a regulatory and informative role. Although this method has the advantage of encouraging compliance by acting as a guide instead of being punitive, it can also weaken the effectiveness of enforcing actions against non-compliance when it is not applied effectively. In domestic work, the workplace is private and thus making enforcement even more difficult. Labour inspectors can hardly enter individual homes and hence it is hard to check that they are adhering to the wage provisions. Consequently, infractions are very likely to remain unexamined and unreported. Also, the grievance redressal mechanisms are not readily available to the domestic workers who might not be well informed about their rights or be afraid of being retaliated upon, by the defendants. This restricts the reporting of violations and the measures of enforcement are also weakened. Enforcement can be even better with the use of technology, including digital inspections and online complaint systems. This, however, needs proper infrastructure and training that may not be equally spread across regions. Enhancing enforcement machinery needs more investments in labour administration, capacity building and designing new monitoring machineries. In areas where the traditional enforcement mechanisms cannot work, collaboration with civil society organizations and community-based initiatives can also provide a stronger enforcement<sup>59</sup>.

<sup>58</sup> Srivastava, R. (2020). Labour reforms in India: Issues and challenges. *Indian Journal of Labour Economics*, 63(2), 317–336.

<sup>59</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

#### 10.4 Resistance from Employers

One of the major obstacles to wage reforms implementation is the resistance to change by the employers, especially in areas with informal jobs like household work. The attitudes of most employers towards the statutory wage provisions as prescribed under the Code on Wages, 2019 are determined by the perception of domestic workers as informal workers, as opposed to formal employees. This view is based on the socio-cultural values that underestimate the domestic work and see it as the protraction of household duties. Consequently, an employer might not want to comply with the minimum wage, offer a written contract or adhere to other legal obligations. The fact that there is no enforcement and the threat of punishment is also minimal, which supports this resistance even more. Economic factors also contribute towards employer resistance. In low-income households, an increase in wage demands can be viewed as an extra burden and as a result, work or be reduced. At other times, the employers can wish to hire workers in an informal manner to escape regulation. The code also establishes penalties whenever there is non-compliance although their efficiency relies with chances of detection and enforcement. Penalties may not be a strong deterrent in the absence of good monitoring mechanisms. The solution to the problem of employer resistance needs to be awareness, incentives, and enforcement strategies. Compliance can be encouraged by informing employers of their legal requirements, as well as the advantages of fair labour practices. Moreover, it can be simplified by streamlining the compliance processes and by supporting the employers, which can minimize the resistance. Finally, the attitude of employers needs to be changed to successfully implement the wage reforms. It must be enforced by the law but also the change in societal approaches toward the worth of domestic work is needed.

#### 10.5 Lack of Unionization among Domestic Workers

The absence of unionisation of domestic workers is one of the significant structural challenges to the successful implementation of labour rights. Collective bargaining and trade unions are essential in the causes of employers and workers rights as well as arranging superior wages and adhering to employees law. But the Indian workers in the domestic sphere remain mostly unorganised and unrepresented. The low unionization of this sector can be attributed to a number of reasons. This is due to the scattered nature of the domestic work with workers working in separate homes, which makes it hard to form collectives. Also, there are no formal relations of employment and workers are afraid of losing their jobs so they are not willing to engage in union activities<sup>60</sup>. This inability to obtain representation in groups dilutes the bargaining power of domestic workers, which means that they are prone to exploitation and cannot affect the demand of just wages and working conditions. In the absence of unions or worker associations, domestic workers do not have a lot of access to information, legal aid and redress to grievance. In its current form, the Code on Wages, 2019 offers a legal scheme on wage protection which is, however, limited based on the lack of collective enforcement mechanisms. Where the unions are well-developed, there is usually a greater level of adherence to labour laws as employees are able to exercise their rights en masse and even to hold employers responsible. It is possible to eliminate this gap by encouraging the establishment of worker collectives, self-help groups, and associations. Non governmental projects and civil society have a significant role in mobilizing domestic workers and services. Enhancing such initiatives will enable workers to have better problem-solution interaction with the laws and also to have a better socio-economic status.

---

<sup>60</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

## Chapter 11: Findings, Suggestions, and Policy Recommendations

### 11.1 Summary of Key Findings

The Code on Wages, 2019, analysis on wage reforms indicates a dual behaviour of positive and negative impacts on female domestic labour in India. Among the key conclusions made is that the national floor wage is a progressive move towards uniformity and inclusiveness in wage production. The Code seeks to fill historical loopholes in the coverage of all employees by the provision of wage protection, as it did not cover all employees in the past legislation like the Minimum Wages Act, <sup>61</sup>1948. This general method is theoretically advantageous as it has previously failed to cover domestic workers, who have been inconsistently covered. Nevertheless, the analysis concludes that the practical effect of the Code on female domestic workers is not as significant as possible because of the structural constraints. The informality has still prevailed in the sector, and the relationship of employment between employees is marked with verbal contracts, undocumented employment, and non-streamlined wage practices. Consequently, there has not been a considerable change in the determination of wages in the grassroots level with the shift in minimum wages to floor wages. The other important discovery is the continuance of gender-based inequities. Although with this factor of equal remuneration provisions, female domestic workers still face less pay, less bargaining power, and inappropriate working conditions. These inequalities get further enhanced by intersectional elements of caste, class and migration. Another aspect brought out in the research is the regional differences in implementation that are portrayed by differences in the capacity and policy priorities on the state level. Domestic workers are usually not aware of their rights under the Code which restricts them when they seek to claim statutory benefits. Also, enforcement mechanisms, though reformed, have serious problems in regard to the individual homes.

### 11.2 Policy Gaps Identified

The Code on Wages, 2019, despite its progressive nature, has a number of policy gaps, which deter its efficiency in meeting the needs of domestic workers. The lack of sector-specific provisions of domestic work is one of the most crucial gaps. Although the Code is based on a universal understanding of what it means to be an employee, it makes no specific statement about the specifics and difficulties that come with domestic employment, such as informality, contractlessness, and the privacy of the workplace. The other key loophole is on enforcement mechanisms. The implementation of Inspector-cum-Facilitators is a move towards a facilitative method, but this model might not be effective in achieving compliance in sectors where inspecting in most cases is challenging. Home employment, the job done in households is so far out of the scope of traditional inspection. This is another significant limitation by the fact that wage regulation is not integrated with social security. Although the Code is concerned with wage protection, it does not equate with full-fledged social security benefits that would protect the domestic workers who may fall prey to risks like illness, joblessness and old age. This gap highlights the importance of a more holistic approach to labour protection. Accessibility and awareness are also policy gaps that are important. Numerous domestic workers do not realize the fact that they have certain rights under the Code, and are not provided with the opportunity of redressing their grievances. Unless there are specific outreach efforts and support mechanisms the advantages of the Code are not very likely to be delivered to this marginal group<sup>62</sup>. Last but certainly not the least, lack of good data about domestic workers is a limitation to the effective design and evaluation of policies. The need to fill these gaps, involves co-ordinated responses

<sup>61</sup> Government of India. (1948). *The Minimum Wages Act, 1948*. Ministry of Labour and Employment.

<sup>62</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

on the part of both the central and state governments and also to include the domestic workers within greater frameworks of labour policies.

### **11.3 Recommendations for Strengthening Enforcement**

There is a need to reinforce enforcement mechanisms to get the provisions of the Code on Wages, 2019 to translate into real benefits to the female domestic workers. Among the main advice suggestions is to strengthen the labour administration systems in capacity building to expand the number of staffing, training, and resources. This would also allow better tracking and control of the salary requirements in sectors. Considering the weaknesses of conventional inspection mechanisms in the domestic work industry, new methods of enforcement are needed. Local organizations and worker collectives can be involved in community-based monitoring, which will assist in detecting violations to encourage compliance. Moreover, transparency and accountability can be enhanced by technological applications (e.g. using digital platforms to pay salaries<sup>63</sup> and to allow employees to register complaints). The other recommendation that needs to be given is coming up with standard employment contracts to the domestic workers. Wages, working hours, and job responsibilities can be specified in these contracts and therefore be less ambiguous and easier to enforce. Such contracts can be encouraged by governments by carrying out sensitization exercises and providing incentives to employers. It is also important to fortify grievance redressal mechanisms. Access to justice can be improved by simplifying the process of complaints and legal assistance of domestic workers. This can be supported by having special helplines and support units to enhance accessibility. Lastly, tougher fines on non compliance coupled with good monitoring can serve as a scourge to non adherence. Enforcement, however, must be at a level that achieves both punitive and simplistic means of encouraging voluntary compliance.

### **11.4 Recommendations for Inclusion of Domestic Workers**

It is essential to make sure that domestic workers are included in a formal labour system to achieve the goals of Code on Wages, 2019. The identification of domestic workers as a specific group of employees in labour legislation is among the crucial recommendations. That would yield some sanity regarding coverage and allow the creation of policies specific to this sector. Another significant move is the introduction of domestic work in the wage notifications in all states. State Governments ought to make sure that the domestic workers are on min wage scales and the wage amounts are adjusted in accordance with the national floor wage. It would assist in harmonizing wage actions and minimizing inequalities. Formalization also requires the registration of domestic workers and employers. Established databases could help in presenting the benefits offered, checking employment conditions, and labour laws. Easy registration types and online tools have the power to promote participation and enhance coverage. Moreover, there is a need to expand social security benefits to domestic workers to improve the concerns of domestic workers economically. Wage regulation can be combined with social protection measures, e.g. health insurance and pensions to provide comprehensive coverage. We should carry out awareness campaigns to the workers and employers to encourage inclusion and compliance. Outreach and efficacy can be improved by partnering with local organizations and community groups. These measures can assist the policymakers in ensuring that the domestic workers are not just represented in the legal system but can access and enjoy the benefits that the Code will offer them.

### **11.5 Recommendations for Gender-Sensitive Wage Policies**

The structural inequalities experienced by the female domestic workers require gender sensitive wage po-

---

<sup>63</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

licies. Although the Code on Wages, 2019 includes provisions on equal remuneration, further actions have to be taken to provide substantive equality<sup>64</sup>. The inclusion of data that are gender-disaggregated in wage analysis and policy formulation is one of the recommendations. This would allow policy makers to detect inequalities to establish specific interventions. Follow-up of wage patterns periodically can help to measure success in gender equality provisions. Skills and training programs on the domestic workers will help increase their productivity and bargaining power resulting in improved salary. The acknowledgement of domestic work as skilled labour and offering certification can help in enhanced wage outcomes as well. Another significant factor is having to deal with occupational segregation. By fostering the need among women to be engaged in various sectors and positions, there would be fewer women involved in the low-paid domestic areas and overall better results in the labour market. Awareness campaigns should complement legal provisions and break gender stereotypes and teach the importance of domestic work. To make such changes, particularly in fostering fair wage practices, having employers involved in these initiatives may prove useful. Lastly, inclusion of gender factors to wider labour policies and development programmes is the key to realisation of inclusive growth. Gender inequality in the domestic workforce can be resolved with a comprehensive intervention involving legal, economic, and social intervention.

### **11.6 Recommendations for Awareness and Legal Literacy**

Strengthening awareness and legal literacy of domestic workers is essential to the successful enforcement of wage provisions by the Framework on Wages, 2019. Most domestic workers do not know their rights and entitlements and thus they are unable to claim their rights to receive fair wages and pursue redress in case of breach<sup>65</sup>. Among the main suggestions is the introduction of a specific awareness campaign via various media channels whether it is via community events, mass media, and online platforms. These campaigns must be done using local language and to the needs of domestic workers. Outreach and effectiveness can be improved with cooperation with non-governmental organizations and community-based groups. These organizations are often close to domestic workers and can be very instrumental in spreading information and offering assistance. Awareness can also be enhanced by including legal literacy programs in the existing skill development and training programs. By availing some information about labour rights, wages and grievance procedures, the workers may be empowered to claim their rights. Another way of assisting domestic workers to learn and navigate the legal processes is to have ready information centers and helplines. Access to justice can be improved by simplifying the legal processes and offering aid in filing complaints. On the whole, the increase in awareness and legal literacy is a pre-conventional measure towards puberty, the gap between legislation and performance. The benefits of labour reforms cannot possibly be fully achieved without empowered and informed workers<sup>66</sup>.

### **11.7 Role of Government, NGOs, and Civil Society**

To successfully carry out the wage reforms and safeguard the domestic workers, both the non-governmental organizations and the government agencies in conjunction with civil society must work together. All these stakeholders have a different but a supporting role in attaining the problems of the female domestic workers. It is the role of the government to provide policies, enact laws and make sure those laws are followed. According to the Code on Wages, 2019, the government should enhance

---

<sup>64</sup> Kabeer, N. (2012). Women's economic empowerment and inclusive growth: Labour markets and enterprise development. *International Development Research Centre*.

<sup>65</sup> Neetha, N. (2015). Making of female breadwinners: Migration and social networking of domestic workers in Delhi. *Economic and Political Weekly*, 50(45), 37–45.

<sup>66</sup> Bhattacharya, S. (2018). *Domestic workers in India: Legal and policy perspectives*. Oxford University Press.

institutional strengthening, capacity building, and coordination of bodies between the central and state authorities to ensure proper implementation. NGOs have an important role in advocacy, education and service provision. They can be in direct contact with domestic workers and assist them in the domains of providing legal support, training skills and enrollment in social security. They are connected to their grassroots, which allows them to create the gap between policy and practice<sup>67</sup>. Civil society such as community organizations and worker groups help mobilize and act in groups. These organizations are free to lobby for change in policy, oversee it, and avenue workers to express their grievances. The bargaining strength and collective representation can be improved by encouraging the development of domestic worker associations. The key to resolving the multidimensional issues of domestic work is collaboration between these stakeholders. Effectiveness may be improved and reach can be achieved through joint efforts, e.g., awareness campaigns and capacity-building programs.

#### Chapter 12: Conclusion

Evaluation of the overall performance, efficacy of floor wage, future reforms, and concluding remarks.

- The Code on Wages, 2019 is a crucial legislation in the Indian labour law regime due to its comprehensive consolidations of scattered wage Acts, a singular definition of wages, which in turn increases clarity and curbs legal uncertainties.
- The fact that the Code covers all employees including the informal sector who never enjoyed the same privileges, considering that other legislations such as the Minimum Wages Act, <sup>68</sup>1948 only dealt with the formal sectors.
- The proposal of an idea of the floor wage sets a national level of wage setting to in order to decrease inter-state inequality and create a certain level of living in the territory.
- Grounded in inaccurate determination, periodic renewal and vigorous execution, however, the success of floor<sup>69</sup> wages will also be conditional; otherwise, the idea will be turned into a show-piece instead of a revolution.
- In female domestic labour: Structural informality, non-documentation and the absence of standard employment relationships limit the applicability of the Code, and limit the practicability of its enforcement.
- Sustained challenges like pay difference based on gender, intersectional discrimination and bargaining power remain the hurdles to the dividend of wage changes.
- The enforcement mechanisms of the Code, i.e. the model of an Inspector-cum-Facilitator, is a form of modernization but is practically limited in relation to the real conditions of the domestic household where the work at home is produced.
- A lack of awareness and legal literacy among domestic workers: a major factor that diminishes the chance of access and exercise of rights under the Code.
- The reform emphasizes the necessity of complementary policies, especially regarding the social security sphere, formalization of jobs and protection of domestic workers by specific acts.
- The way forward of labour reforms in India is to have a holistic and inclusive reform, one that incorporates both wage control, social protection, on-line governance, and institutional reinforcement.
- By facilitating national policies to blend with international ones promoted by the International Labour Organization, the labour rights and decent working conditions would also be improved.

<sup>67</sup> Chen, M. A. (2012). The informal economy: Definitions, theories and policies. *WIEGO Working Paper*, No. 1.

<sup>68</sup> Government of India. (1948). *The Minimum Wages Act, 1948*. Ministry of Labour and Employment.

<sup>69</sup> Mehrotra, S. (2021). *Labour reforms in India: Issues and challenges*. Cambridge University Press.

- There is urgent necessity to have more coordination between the central and state government as well as the active involvement of the civil society and worker organizations in order to have a good implementation process.
- Finally, although the Code on Wages, <sup>70</sup>2019 is a positive change in legislation, its effectiveness relies on closing the gap between legal considerations and real-world aspects, especially concerning such vulnerable populations as female domestic workers.
- The researchers conclude that legal change alone will not ensure much change, the institutional capacity, social change, and political commitment to equity and justice are needed to bring about change.

---

<sup>70</sup> Ministry of Labour and Employment. (2019). *The Code on Wages, 2019*. Government of India.