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## COMPARATIVE STUDY OF IMPLEMENTATION OF MINIMUM WAGES LAWS IN INDIA AND U.S.A

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### ABSTRACT:

**"A job should lift workers out of poverty, not keep them in it."**

**–Bernie Sanders**

Minimum wage laws constitute a foundational element of labour welfare policy, aimed at ensuring fair remuneration and protecting workers from exploitation. In India, the significance of minimum wage regulation is amplified by the predominance of the informal sector, regional economic disparities, and varying levels of enforcement. This paper examines the evolution, framework, and impact of minimum wage laws, particularly under the *Minimum Wages Act, 1948*, and its transition into the contemporary wage regime.

The study critically analyses the role of minimum wage legislation in addressing poverty, reducing income inequality, and influencing employment patterns. It further explores the challenges associated with implementation, including lack of uniformity across states, weak enforcement mechanisms, and the persistence of informal employment relationships. The research also considers recent reforms, such as the consolidation of wage-related laws under the *Code on Wages, 2019*, and evaluates their potential to streamline wage determination and improve compliance.

**KEYWORDS:** Minimum Wage, Labour, Informality, Inequality, Poverty, Employment, Regulation, Enforcement, Justice, Equity, Governance, Compliance.

### CHAPTER I

Chapter I of the study introduces the concept of minimum wage regulation and establishes the analytical framework for a comparative examination of minimum wage laws in India and the United States. It explains the legal and socio-economic relevance of the study in light of income inequality, changing employment structures, and constitutional commitments to wage protection. The chapter sets out the objectives of the research and formulates research questions focusing on the constitutional foundations, statutory mechanisms, enforcement structures, and contemporary labour challenges associated

with minimum wage regulation in both jurisdictions. It further outlines the doctrinal research methodology adopted for the study, involving an analysis of constitutional provisions, labour statutes, judicial decisions, and scholarly writings. The chapter concludes with a review of relevant literature, drawing upon leading academic works, international reports, and policy analyses that inform the comparative evaluation undertaken in the subsequent chapters.

### INTRODUCTION:

Minimum wage legislation is primarily intended to safeguard low-income workers by

ensuring a basic standard of living. However, its economic and legal consequences have long been the subject of debate. Classical economic theory posits that in a perfectly competitive labour market, an increase in statutory wage floors may lead to a reduction in labour demand. As a result, employment opportunities may diminish, certain low-skilled workers may be excluded from the workforce, while those who remain employed benefit from higher wages. These effects are often more pronounced in developing economies where large segments of the workforce operate within informal and unregulated sectors. Critics of minimum wage regulation argue that mandatory wage increases substantially raise production costs for employers, leading to job losses, particularly among vulnerable workers.<sup>646</sup> In many developing countries, a significant portion of employment exists outside formal legal frameworks, characterised by the absence of written contracts, collective bargaining mechanisms, or effective union representation.

In India, the constitutional commitment to social and economic justice is reflected in Article 43 of the Constitution<sup>647</sup>, which emphasises the State's responsibility to secure just and humane conditions of work and a decent standard of life for all workers. This constitutional mandate culminated in the enactment of the Minimum Wages Act, 1948, which provides a statutory mechanism for fixing and revising minimum rates of wages across different scheduled employments. Sections 3 and 4 of the Act empower the appropriate government to determine wage rates based on prevailing economic conditions and occupational classifications. The legislation was designed not only to reduce income disparities between socio-economic classes but also to strengthen the bargaining position of wage earners against exploitative labour practices.

In contrast, the United States has developed its minimum wage framework through a combination of federal and state legislation, most notably under the Fair Labor Standards Act, 1938. Empirical studies conducted over several decades have examined the impact of minimum wage increases on employment levels, particularly among low-wage workers, yielding varied and often contested conclusions<sup>648</sup>. Unlike India, where informality poses a major challenge to enforcement, the U.S. system reflects a more institutionalised approach, with states exercising discretion to prescribe wage rates exceeding the federal minimum.

This paper undertakes a comparative analysis of minimum wage laws in India and the United States, examining their legislative foundations, enforcement mechanisms, and socio-economic implications. By analysing both jurisdictions, the study seeks to assess how differing labour market structures and regulatory approaches influence the effectiveness of minimum wage legislation in achieving worker protection without undermining employment opportunities.

#### OBJECTIVES OF THE STUDY:

1. To examine the constitutional and statutory bases of minimum wage legislation in India and the United States, with particular reference to legislative intent and foundational legal principles.
2. To analyse the role of minimum wage regulation in promoting labour protection and its impact on employment in both jurisdictions, with reference to judicial pronouncements and relevant empirical legal studies.
3. To compare the institutional structures and enforcement mechanisms governing minimum wage compliance in India and the United States.

<sup>646</sup> Card and Krueger (1995); Belman and Wolfson (2014); and Neumark, Salas, and Wascher (2014).

<sup>647</sup> <https://legislative.gov.in/sites/default/files/COI-updated-as-31072018.pdf>

<sup>648</sup> Card, David, and Alan B. Krueger. "Time-Series Minimum-Wage Studies: A Meta-Analysis." *The American Economic Review* 85, no. 2 (1995): 238–43. <http://www.jstor.org/stable/2117925>.

4. To assess the effectiveness of minimum wage laws in addressing present-day labour challenges, including informal employment, wage inequality, and emerging forms of work.

#### RESEARCH QUESTIONS:

1. In what manner do constitutional principles in India and the United States shape their respective statutory frameworks on minimum wages, with specific reference to Article 43 of the Constitution of India and the Fair Labor Standards Act, 1938 in the United States?
2. To what degree do the legislative mechanisms provided under the Minimum Wages Act, 1948 in India and the Fair Labor Standards Act, 1938 in the United States succeed in securing wage protection for low-income workers, and how have these provisions been interpreted and applied by the judiciary?
3. What are the points of convergence and divergence in the enforcement and compliance structures under Indian and U.S. minimum wage laws, particularly in relation to inspection procedures, penal consequences, and remedies available for wage violations?
4. How adequately do existing minimum wage statutes in India and the United States respond to contemporary labour market challenges, such as informal employment and regulatory compliance issues in India, and wage stagnation and inter-state disparities in the United States, within their respective constitutional and legal frameworks?

#### REVIEW OF LITERATURE:

1. **David Neumark and William L. Wascher**<sup>649</sup>, in their authoritative work *Minimum Wages*, provide an extensive examination of minimum wage policies with particular emphasis on the United States framework. The authors

undertake a critical evaluation of empirical studies assessing the employment effects of minimum wage increases and contend that such policies may have unintended adverse consequences for low-skilled and entry-level workers. Their analysis has significantly influenced academic discourse, judicial reasoning, and policy debates concerning minimum wage regulation in the United States.

2. **Richard B. Freeman**, in his article **“The Minimum Wage as a Redistributive Tool”**, approaches minimum wage legislation from a redistributive perspective rather than viewing it solely as a labour market intervention. He argues that minimum wage laws serve an important social justice function by redistributing income, while also acknowledging their limited capacity to eradicate poverty in isolation. Freeman’s work provides a valuable theoretical framework for understanding minimum wage regulation beyond conventional market-based assumptions.<sup>650</sup>
3. **The International Labour Organization (ILO)**, through its Global Wage Reports, offers a comprehensive analysis of international wage trends and regulatory practices. These reports underscore the role of minimum wages in addressing income inequality and promoting decent work across both developed and developing economies<sup>651</sup>. The comparative data and policy insights contained in these reports are particularly relevant for analysing differences in wage regulation and enforcement between India and the United States.
4. **Surya Deva**, in his article **“Constitutional Foundations of Labour Law in India”**, examines the constitutional underpinnings of labour welfare

<sup>649</sup> David Neumark & William L. Wascher, *Minimum Wages* (MIT Press 2008)

<sup>650</sup> Richard B. Freeman, “The Minimum Wage as a Redistributive Tool” (1996) 106 *Economic Journal* 639

<sup>651</sup> International Labour Organization, *Global Wage Report* (various editions).

legislation in India, with particular emphasis on the Directive Principles of State Policy. The author explains how Article 43 of the Constitution has shaped judicial interpretations and legislative approaches to minimum wage regulation, reinforcing the welfare-oriented nature of Indian labour law<sup>652</sup>. This work is crucial in understanding the constitutional philosophy that informs India's minimum wage framework.

5. **Babu P. Remesh**<sup>653</sup>, in *Labour Regulations and Growth in India*, critically analyses India's labour regulatory regime, including minimum wage legislation, within the broader context of economic development and labour market informality. The author highlights persistent enforcement challenges and the limited reach of statutory wage protection in the unorganised sector, thereby drawing attention to structural weaknesses in the implementation of minimum wage laws in India.
6. **Cynthia Estlund, in Re-governing the Workplace**, explores the transformation of labour regulation in the United States amid the decline of trade unions and collective bargaining. She emphasises the growing reliance on statutory mechanisms, including minimum wage enforcement, as central instruments of state intervention in contemporary employment relations. Her analysis is particularly relevant to understanding minimum wage regulation in the context of subcontracting, fragmented workplaces, and evolving labour arrangements.
7. **The Organisation for Economic Co-operation and Development (OECD)**, in its report **Minimum Wages After the Crisis**, examines minimum wage

reforms undertaken by developed economies in the aftermath of economic downturns. The report provides comparative insights into wage adequacy, enforcement mechanisms, and coordination between federal and sub-national authorities, offering valuable perspectives for analysing the U.S. minimum wage system and its regulatory complexities.

#### RESEARCH METHODOLOGY:

##### Doctrinal Research Method

The present study adopts a doctrinal method of legal research, which involves a systematic analysis of existing legal principles, statutes, judicial decisions, and scholarly interpretations relating to minimum wage laws in India and the United States. This method is appropriate as the research primarily focuses on examining and comparing legal frameworks, constitutional mandates, and statutory provisions governing minimum wages, rather than undertaking empirical or field-based analysis.

#### SIGNIFICANCE OF THE STUDY:

In the present labour landscape, minimum wage regulation has acquired heightened importance in light of widening income disparities, rising costs of living, and the increasing prevalence of non-traditional employment arrangements such as gig work, contract-based labour, and digital platform services. Both India and the United States are currently reassessing their wage policies to address economic pressures and evolving employment patterns. Against this backdrop, a comparative examination of minimum wage laws in these two jurisdictions assumes considerable legal and social relevance, as it facilitates an evaluation of how statutory wage protection functions within distinct constitutional settings, economic environments, and enforcement structures.

The study is significant in bringing out the contrast between India's welfare-driven constitutional framework and the United States'

<sup>652</sup> Surya Deva, "Constitutional Foundations of Labour Law in India" *Indian Journal of Labour Economics*

<sup>653</sup> Babu P. Remesh, *Labour Regulations and Growth in India* (Oxford University Press 2019)

predominantly market-oriented federal model. In India, minimum wage legislation is closely linked to the Directive Principles of State Policy and the broader objective of social justice, whereas in the United States, wage regulation reflects a calibrated distribution of powers between the federal government and individual states. An analysis of these differing approaches offers valuable insight into the manner in which constitutional values, legislative objectives, and judicial interpretations influence the design and operation of minimum wage regimes.

Additionally, the research contributes to contemporary legal scholarship by examining the effectiveness of enforcement mechanisms in a period marked by increasing labour informalisation. While India continues to face challenges in ensuring compliance within the unorganised sector, the United States encounters issues related to stagnant wage growth and inconsistencies in state-level implementation. Through a comparative assessment of regulatory authorities, inspection systems, and penalties for non-compliance, the study highlights both the practical constraints and institutional strengths of each legal framework in securing wage protection.

Finally, the study carries policy significance by offering comparative perspectives that may guide future legislative and regulatory reforms. At a time when India is moving towards a unified wage framework under the Code on Wages, 2019, and the United States is engaged in ongoing debates regarding revisions to the federal minimum wage, this research provides a timely legal analysis that may assist lawmakers, courts, and policymakers in formulating more effective and equitable wage regulation mechanisms responsive to contemporary labour realities.

## CHAPTER 2

Chapter 2 deals with the elaborated study of the applicability and extent of enforcement of Minimum wages law in India.

## COUNTRY I- INDIA

### HISTORY:

Labour welfare legislation in India has evolved as a response to industrialisation, economic inequality, and exploitative employment practices prevalent during the colonial period. Prior to Independence, wage regulation was largely absent, resulting in widespread underpayment and poor working conditions. The need for statutory intervention was recognised by various labour commissions, particularly the Royal Commission on Labour (1931), which emphasised the necessity of fixing minimum wages to ensure subsistence and dignity for workers.<sup>654</sup> Post-Independence, the framers of the Constitution envisaged social and economic justice as core constitutional values. This vision culminated in the enactment of the Minimum Wages Act, 1948, one of the earliest social welfare legislations enacted by the Indian Parliament, aimed at preventing exploitation of labour and guaranteeing a basic standard of living for workers.<sup>655</sup>

### CONSTITUTIONAL AUTHORITY:

The constitutional authority for labour legislation flows from **Article 246** read with the Seventh Schedule of the Constitution of India. Matters relating to labour welfare, including wage regulation, fall under **Entry 22** of the Concurrent List, thereby empowering both the Union and State Governments to legislate on the subject.<sup>656</sup>

### DIRECTIVE PRINCIPLES OF STATE POLICY:

Additionally, the principles of minimum wage fixation draw support from the Directive Principles of State Policy, particularly Articles 38, 39, and 43, which mandate the State to ensure social order, adequate means of livelihood, and living wages for workers. Though non-justiciable, these provisions guide legislative and judicial interpretation of labour laws.<sup>657</sup>

<sup>654</sup> Royal Commission on Labour in India, Report (1931)

<sup>655</sup> Minimum Wages Act, No. 11 of 1948, Statement of Objects and Reasons (India).

<sup>656</sup> Constitution of India, Seventh Schedule, List III, Entry 22

<sup>657</sup> Constitution of India, arts. 38, 39, 43

### **ILO Convention 131 (Minimum Wage Fixing Convention, 1970)**

It was adopted by the International Labour Organization represents a modern framework for regulating minimum wages with the objective of protecting workers from unduly low pay while maintaining economic balance. It requires ratifying member states to establish a system of minimum wages that takes into account the needs of workers and their families, alongside economic factors. Its significance lies in establishing an international framework that recognizes the social function of wages beyond purely economic considerations.

A defining feature of Convention 131 lies in the principles governing wage determination. It requires states to consider both social and economic dimensions. On the social side, factors such as the needs of workers and their families, cost of living, and general wage levels must be assessed. On the economic side, the Convention recognizes productivity, economic development, and employment considerations. This dual framework reflects a conscious attempt to strike a balance between social justice and economic feasibility, avoiding both exploitative wages and economically unsustainable standards. Another central aspect is the requirement of tripartite consultation, a hallmark of the International Labour Organization's structure. Governments are not permitted to act unilaterally; instead, they must consult representative organizations of employers and workers. This ensures that wage fixation is participatory and reflects industrial realities rather than abstract policymaking.

The Convention further mandates the creation of institutional mechanisms for fixing and periodically revising minimum wages. It does not treat wage determination as a one-time exercise but as a dynamic process that must adapt to inflation, changing living conditions, and economic shifts. In addition, effective enforcement systems, including

inspection and compliance frameworks, are required to give practical effect to the law.

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

The Act was enacted to secure fair remuneration for workers employed in scheduled employments and to curb exploitative wage practices. The Act authorises both Central and State Governments to fix, revise, and enforce minimum wage rates for employments listed under the Schedule.<sup>658</sup> Minimum wages under the Act are determined based on factors such as skill level (unskilled, semi-skilled, skilled, and highly skilled), nature of employment, geographical location, and prevailing economic conditions. The wages comprise a basic wage and a Variable Dearness Allowance (VDA), which is linked to fluctuations in the Consumer Price Index to offset inflation. The Act mandates periodic revision of minimum wages at intervals not exceeding five years, ensuring that wage rates remain responsive to changing living costs. It also enshrines the principle of non-discrimination, guaranteeing equal remuneration for men and women performing identical work.

### **CODE ON WAGES 2019**

In an effort to simplify and consolidate India's complex labour law framework, Parliament enacted the subsuming four major legislations, namely **The Minimum Wages Act, 1948; The Payment of Wages Act, 1936; The Payment of Bonus Act, 1965; The Equal Remuneration Act, 1976**<sup>7</sup>. The Code extends minimum wage protection to nearly all categories of workers, including those in unorganised and informal sectors, thereby covering approximately 60% of India's workforce, who were previously excluded due to the scheduled employment limitation under the 1948 Act. The Code introduces provisions for overtime wages, payable even for work exceeding normal hours by as little as thirty minutes. It also empowers the government to

<sup>658</sup> Minimum Wages Act, 1948, ss. 3–5

notify a national floor wage, ensuring a baseline below which no state may fix minimum wages<sup>659</sup>.

Despite central oversight, significant inter-state disparities persist in minimum wage fixation. For instance, minimum wages for the same industry may be substantially higher in Delhi than in Gujarat, reflecting differences in cost of living and regional economic conditions. Wage rates further vary based on skill classification and sectoral requirements. Some State Governments, such as Andhra Pradesh, have introduced incentive-based employment policies, including tax concessions to enterprises that prioritise local recruitment, thereby linking wage regulation with regional economic development. The Code on Wages strengthens enforcement by appointing Inspectors-cum-Facilitators, who are entrusted not only with inspection and compliance functions but also with guiding employers to ensure voluntary adherence to legal standards. This represents a marked improvement over the earlier enforcement mechanism under Section 19 of the Minimum Wages Act, 1948.

#### **PENALTIES FOR NON-COMPLIANCE:**

Non-compliance with minimum wage provisions attracts stringent penalties, including imprisonment up to three months and fines extending to ₹10,00,000, reflecting the legislature's intent to treat wage violations as serious socio-economic offences.<sup>660</sup>

#### **JUDICIAL ACTIVISM:**

Indian courts have consistently upheld the constitutional and social significance of minimum wage laws.

In **Unichoyi v. State of Kerala**<sup>661</sup>, the Supreme Court held that fixation of minimum wages does not violate the freedom of trade under Article 19(1)(g), as it constitutes a reasonable restriction in the interest of social justice.

In **Bijay Cotton Mills Ltd. v. State of Ajmer**<sup>662</sup>, the Court affirmed that employers cannot plead financial incapacity as a defence against payment of minimum wages. Further, In **People's Union for Democratic Rights v. Union of India**<sup>663</sup>, the Supreme Court recognised non-payment of minimum wages as a violation of Article 23, treating it as a form of forced labour. These judicial interpretations reinforce the idea that minimum wages are not merely statutory entitlements but are intrinsic to constitutional guarantees of dignity and equality.

#### **State of Maharashtra v. Bajaj Electricals Ltd**

The court reviewed the procedure specified in Section 5 of the Act regarding the establishment and adjustment of minimum wages. It determined that the government is required to implement a genuinely consultative method by involving relevant committees and gathering data on the cost-of-living index. The court instructed the appropriate Government to guarantee that the wage revision process is both transparent and responsive to economic fluctuations.

This ruling highlighted the necessity for regular and authentic adjustments of minimum wage rates. It emphasized that fixed wage rates result in the diminishing purchasing power of workers and advocated for stricter compliance with the consultation process. This case serves as a standard in ensuring that wage revision mechanisms accurately reflect prevailing economic conditions.

#### **INFORMAL SECTOR & ENFORCEMENT CRISIS IN INDIA**

The informal sector, while predominantly unregulated and often overlooked, constitutes the foundation of numerous emerging economies, including India. It employs a substantial majority estimated to exceed 90% of the workforce and makes a significant contribution to the nation's GDP. However, those who drive this sector frequently exist outside the

<sup>659</sup> Code on Wages, 2019, ss. 51–54

<sup>660</sup> Code on Wages, 2019, ss. 51–54

<sup>661</sup> Unichoyi v. State of Kerala, AIR 1962 SC 12

<sup>662</sup> Bijay Cotton Mills Ltd. v. State of Ajmer, AIR 1955 SC 33

<sup>663</sup> People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473

safeguarding framework of formal legal systems. These individuals consistently encounter precarious employment conditions, insufficient or non-existent social security, absence of written contracts, low and fluctuating wages, and a lack of occupational safety all of which collectively define what is increasingly recognized as precarious work.

Despite a multitude of legislative and policy efforts—such as India’s Labour Codes, the Unorganized Workers Social Security Act (2008), and various state-level welfare initiatives—informal workers continue to face challenges in accessing fundamental entitlements such as healthcare, pensions, maternity benefits, and safe working conditions. Their contributions are vital, yet their rights are frequently disregarded. This contradiction of being prominent in labour while remaining invisible in legal terms raises critical questions regarding equality, justice, and the true extent of legal protection within democratic societies.

Research conducted by **Belser and Rani (2011)**<sup>664</sup> revealed that in states where minimum wage laws are effectively enforced, wages rose without a significant reduction in formal employment. However, Employers operating in the informal sector might react to increases in the minimum wage by either decreasing their workforce or employing wage suppression strategies, which may include the hiring of part-time or casual laborers. Numerous studies have investigated the impact of minimum wage legislation on both formal and informal sector employment.

**GIG ECONOMY AND PLATFORM WORKERS**

**The Code on Social Security (CoSS) 2020**

It represents a significant policy transformation by officially acknowledging and broadening a social safety net for millions of Gig and Platform Workers, who had previously been left out of statutory frameworks.

**Core Policy Components:**

**Universal Coverage:** The CoSS requires universal social security coverage for all workers, which includes gig and platform workers.

**Benefits:** The coverage includes provident fund (PF), Employee State Insurance Corporation (ESIC), along with various insurance and welfare benefits.

**Financing:** The Code introduces a distinct financing framework that necessitates specific financial contributions from 'Aggregators' (online platforms).

**Legal Status:** This inclusion is accomplished without reclassifying gig workers as full-time employees, thereby maintaining the flexibility inherent in the gig economy.

The CoSS, 2020, provides the first statutory definitions for the key entities within the digital economy, which is the prerequisite for extending social security coverage.

Category	Statutory Definition (CoSS, 2020)	Operational Focus
<b>Gig Worker</b>	A person who performs work or participates in a work arrangement and earns income from such activities <b>outside of the traditional employer-employee relationship.</b>	Defines work that is transactional, project-based, or intermittent.
<b>Platform</b>	A person engaged in	Defined by the method of

<sup>664</sup> Labour Markets, Institutions and Inequality (pp.123-146)

<p><b>Worker</b></p>	<p>or undertaking "Platform Work."</p>	<p>engagement: utilizes an online platform to access individuals to provide specific services in exchange for payment.</p>
<p><b>Aggregator</b></p>	<p>A legally defined entity (listed in Schedule 7 of the CoSS) that utilizes the services of gig and platform workers.</p>	<p>Includes companies in ride-sharing, food/grocery delivery, e-marketplaces, and content/media services.</p>

platform, yet it also results in inherent structural weaknesses for workers.

**THE ABSENCE OF ESSENTIAL CORE PROTECTIONS**

The Code fails to require vital statutory protections that are afforded to traditional employees. One such impediment is statutorily recognized minimum wages.

- **Statutory Minimum Wages:** In India in contrast to formal employees, gig workers do not have a guaranteed minimum wage.

U.K:

The United Kingdom has created a third classification of "workers", providing them with rights such as minimum wage and paid leave, acknowledging that control over platforms carries with it a degree of responsibility.

EUROPEAN UNION:

In contrast, the European Union is promoting a cohesive legal framework via its proposed Directive on Platform Work, which assumes that platform workers are classified as employees unless the company can demonstrate otherwise. Additionally, the directive requires algorithmic transparency and provides collective bargaining rights, irrespective of employment status.

SPAIN:

Spain has taken additional steps by implementing the Rider Law following a ruling from **Glovo App 23 SL v. Rider**<sup>666</sup> which determined that food delivery workers are classified as employees rather than independent contractors.

Indian courts persist in utilizing established criteria for employment that hinge on "control and supervision." In the case of **Balwant Rai Saluja v Air India Ltd**<sup>665</sup>, the Supreme Court elucidated that when a company prescribes tasks, schedules, and remuneration, the nature of the relationship mirrors that of employment, irrespective of the contractual terminology used. Should this rationale be extended to platforms such as Uber, Zomato, or Urban Company which allocate tasks, oversee performance, and possess the authority to deactivate accounts it could significantly alter the classification of gig workers in India.

**CRITICAL ANALYSIS:**

The CoSS provides a necessary safety net via welfare programs while intentionally refraining from enforcing legal responsibilities linked to the employer–employee dynamic. This approach preserves the flexibility of the

**REGIONAL AND SECTORAL DISPARITIES:**

The minimum wages mandate can be implemented by the manufacturing sector more than the agricultural sector. Because the former can compensate with high productivity and with their ability to push it to the consumers through high prices. But, the latter struggles to

<sup>665</sup> (2014) 9 SCC 407

<sup>666</sup> ECLI:ES:JSO:2022:693

do so as it operates with small capital and upon venture they end up contracting the labour force as a result becoming more sensitive to wage increase.

There are also regional differences where economically strong states like Tamilnadu, Maharashtra and Gujarat which can most probably implement the minimum wage mandate without parallel impact in its economy. But weaker states like Bihar and U.P drastically loses its potential of the working of its economy.

### CHAPTER 3:

#### COUNTRY II – UNITED STATES OF AMERICA

#### MINIMUM WAGE REGULATION IN THE UNITED STATES:

##### HISTORICAL DEVELOPMENT:

The regulation of minimum wages in the United States emerged as a response to the economic instability and widespread unemployment witnessed during the Great Depression of the 1930s. Prior to federal intervention, wage regulation was largely left to market forces and state-level initiatives, resulting in inconsistent protection for workers. The turning point came with the enactment of the Fair Labor Standards Act, 1938 (FLSA), which introduced the first federally mandated minimum wage, maximum working hours, and restrictions on child labour. The primary objective of the legislation was to protect workers from substandard wages and oppressive working conditions while stabilising the national economy. Unlike India, where minimum wages evolved as a welfare-oriented post-independence measure, the U.S. framework was primarily driven by economic recovery and labour market regulation.

The United States follows a federal system in which both the federal government and individual states possess authority over labour regulation. Minimum wage laws derive constitutional legitimacy from the Commerce Clause of the U.S. Constitution, which empowers Congress to regulate interstate commerce. Unlike India, where labour legislation falls under

the Concurrent List and is frequently revised through statutory mandates, the U.S. Constitution does not impose a positive obligation on the legislature to periodically revise minimum wages<sup>667</sup>. Consequently, revisions depend largely on political consensus and economic considerations rather than constitutional compulsion.

##### LEGAL FRAMEWORK:

The Fair Labor Standards Act, 1938 remains the principal federal legislation governing minimum wages in the United States. Under the Act, the current federal minimum wage<sup>668</sup> is fixed at \$7.25 per hour, a rate that has remained unchanged since 2009. The U.S. adopts an hourly wage model as the standard method of wage calculation, in contrast to India's daily wage-based system. The Act permits states, counties, and municipalities to prescribe higher minimum wages, provided that such rates do not fall below the federal floor. Where state and federal laws conflict, the higher wage prevails. Certain categories of workers, including tipped employees, youth workers, and persons with disabilities, are subject to special wage provisions. For instance, tipped workers may be paid a base wage as low as \$2.13 per hour, provided that tips received raise total earnings to at least the federal minimum wage. This exception has been widely criticised for failing to reflect contemporary living costs.

Consistent with International Labour Organization (ILO) observations, countries with large populations and diverse economies, such as the United States, often maintain a national minimum wage floor while allowing higher regional rates based on economic productivity and cost of living.<sup>669</sup> As a result, states with high levels of industrialisation and urbanisation—such as California and Washington, D.C. have

<sup>667</sup> <https://www.ilo.org/global/topics/wages/minimum-wages/lang-en/index.htm>

<sup>668</sup> U.S. Dep't of Labor, Minimum Wage, <https://www.dol.gov/general/topic/wages/minimumwage>.

<sup>669</sup> Pew Research Ctr., The U.S. differs from most other countries in how it sets its minimum wage (May 20, 2021), <https://www.pewresearch.org/fact-tank/2021/05/20/the-u-s-differs-from-most-other-countries-in-how-it-sets-its-minimum-wage/>.

enacted substantially higher minimum wages, reaching approximately \$15 to \$15.50 per hour. In contrast, several southern states, including Alabama, Louisiana, Mississippi, South Carolina, and Tennessee, have not enacted independent state minimum wage laws and therefore rely exclusively on the federal minimum wage.

Additionally, Georgia and Wyoming have statutory minimum wages below the federal rate; however, the federal minimum wage of \$7.25 per hour applies in practice. At present, the minimum wage exceeds the federal level in over 30 states and Washington, D.C., highlighting significant regional disparities. A critical distinction between the U.S. and Indian minimum wage regimes lies in the absence of a statutory requirement for periodic wage revision in the United States. While India mandates revision at intervals not exceeding five years, the U.S. has no comparable obligation under federal law. As a result, minimum wage adjustments in the U.S. are often delayed and subject to political deadlock, leading to concerns that the federal minimum wage has failed to keep pace with inflation, rising living costs, and productivity growth.

#### JUDICIAL ACTIVISM:

The U.S. Supreme Court has played a pivotal role in shaping minimum wage jurisprudence.

In **West Coast Hotel Co. v. Parrish**<sup>670</sup>, the Court upheld the constitutionality of minimum wage legislation, rejecting earlier decisions that viewed such laws as violations of freedom of contract. This judgment marked a significant shift towards recognising the State's authority to regulate wages in the interest of social welfare.

In **United States v. Darby**, the Supreme Court reaffirmed the validity of the Fair Labor Standards Act, holding that Congress possessed the authority under the Commerce Clause to regulate wages and working conditions affecting interstate commerce.<sup>671</sup> These decisions collectively

established minimum wage regulation as a legitimate exercise of governmental power, balancing economic freedom with social protection.

#### DECENTRALIZED WAGE REFORMS:

Although the federal minimum wage has not been revised since 2009, several legislative proposals have sought to address this stagnation. The most prominent among them is the **"Raise the Wage Act"**, which proposes a gradual increase of the federal minimum wage to \$15 per hour, along with the phased elimination of the tipped minimum wage<sup>672</sup>. While the proposal has garnered significant public and political support, it has yet to be enacted due to partisan divisions in Congress. In response, several states and cities have independently raised their minimum wages, reflecting a decentralised approach to wage reform.

#### GIG WORKERS AND PLATFORM WORKERS:

##### CALIFORNIA ASSEMBLY BILL 5 (AB5)

California's gig-worker law, Assembly Bill 5 (**AB5**), dramatically changed the longstanding rules employers must use to determine whether workers are employees or independent contractors (ICs) in the state. Despite a legal challenge, the law remains in full effect.

The "ABC Test" Must Be Utilized to Classify Non-Exempt Workers:

Under AB5, a pro-worker ABC test is required to ascertain whether non-exempt workers in California are classified as employees or independent contractors for the majority of California employment law applications. According to this test, all workers are initially assumed to be employees. A worker can only be deemed an independent contractor if they fulfil the criteria of the new ABC test.

In accordance with this test, a worker qualifies as an independent contractor only if they:

<sup>670</sup> West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937)

<sup>671</sup> United States v. Darby, 312 U.S. 100 (1941)

<sup>672</sup> Raise the Wage Act, U.S. Congress (latest bill text)

(A) are free from the control and direction of the hiring entity while performing their work, both as per the contract between the parties and in practice.

(B) engage in work that is outside the typical scope of the hiring entity's business, and

(C) typically operate in an independently established trade, occupation, or business that pertains to the work they are currently undertaking.

Non-exempt workers are required to satisfy all three components of the ABC test to be classified as independent contractors. In summary, for a non-exempt worker to be considered an independent contractor, they must: be free from control + perform work outside the usual business of the hiring firm + possess an independent business.

#### PROPOSITION 22

Less than a year following the enactment of AB5, California voters ratified Proposition 22 ("Prop. 22"), which established an exemption to AB5 specifically for Uber, Lyft, and various other app-based ride-hailing services.

In **Castellanos v. State of California** (2021), a judge in California declared Prop. 22 unconstitutional; however, in 2023, a California appeals court reversed the majority of that ruling.

While additional legal challenges are anticipated, as of 2023, Uber drivers and other rideshare drivers in California are classified as independent contractors rather than employees.

#### CHAPTER IV

### COMPARATIVE ANALYSIS OF MINIMUM WAGE LAWS IN INDIA AND THE UNITED STATES

#### ECONOMIC THEORIES ON MINIMUM WAGE:

##### 1. Wages Fund Theory:

This theory was formulated by Adam Smith (1723-1790). It is founded on the fundamental premise that employees receive wages from a

pre-established pool of wealth. This pool, which he referred to as the wages fund, is generated through savings. Adam Smith posited that the demand for labour and the wage rate are influenced by the magnitude of the wages fund. Therefore, if the wages fund is substantial, wages will be elevated, and conversely, if it is small, wages will be lower.

##### 1. Subsistence Theory:

This theory was introduced by David Ricardo (1772-1823). According to this theory, "The laborers are compensated to allow them to survive and continue the population without increase or decrease." This compensation is also referred to as 'subsistence wages'. The fundamental assumption of this theory is that if workers receive wages exceeding the subsistence level, the number of workers will rise, leading to a decrease in wages back to the subsistence level. Conversely, if workers earn less than subsistence wages, the workforce will diminish due to starvation, malnutrition, disease, etc., and many individuals may choose not to marry. Consequently, wage rates would increase again to the subsistence level. Since wage rates tend to stabilize at the subsistence level in all scenarios, this theory is also known as the 'Iron Law of Wages'. Subsistence wages refer to the minimum wages.

##### 2. The Surplus Value Theory of Wages:

This theory was formulated by Karl Marx (1849-1883). It is founded on the fundamental premise that, similar to other commodities, labor is also a commodity that can be acquired through the payment of its price, namely wages. According to Karl Marx, this payment is at a subsistence level, which is disproportionately lower than the time required for labor to produce goods. The surplus, as he posits, is appropriated by the owner. Karl Marx is widely recognized for his advocacy on behalf of labour.

##### 3. Residual Claimant Theory:

This theory owes its development to Francis A. Walker (1840-1897). According to Walker, there are four factors of production or business

activity, viz., land, labour, capital, and entrepreneurship. He views that once all other three factors are rewarded what remains left is paid as wages to workers. Thus, according to this theory, worker is the residual claimant.

#### 4. Taussig's Theory of Wages:

Taussig, an American economist, made modifications to the marginal productivity theory. He posits that the marginal output produced by a worker is not entirely allocated to them in the form of wages. This occurs because the production of a product requires time, and labor must receive wages throughout the manufacturing process. In this scenario, the employer compensates labor from their own capital. Consequently, the employer does not deliver the full amount of the marginal product to the labour force. A certain percentage is deducted from the total output to offset the wages paid to labour during production. This deduction is made from the total output at the current interest rate.

#### Constitutional and Statutory Foundations:

The constitutional underpinnings of minimum wage regulation in India and the United States reveal distinct normative orientations. In India, minimum wage legislation is anchored in the constitutional vision of social justice embodied in the Directive Principles of State Policy. Article 43 of the Constitution of India mandates the State to secure a living wage ensuring a decent standard of life and social security for workers. Although not enforceable in a court of law, this provision has played a significant role in shaping legislative intent and judicial interpretation of wage-related statutes<sup>673</sup>. Indian courts have consistently relied on these principles to justify statutory wage regulation as an essential component of socio-economic justice.

In contrast, the United States Constitution does not expressly recognise wage protection as a social or economic right. Minimum wage regulation in the U.S. derives its

constitutional legitimacy from the Commerce Clause, which empowers Congress to regulate activities affecting interstate commerce<sup>674</sup>. The Fair Labor Standards Act, 1938 (FLSA) was enacted primarily as an economic regulatory measure to address exploitative labour practices during the Great Depression rather than as a manifestation of a constitutional commitment to distributive justice. This distinction highlights a fundamental difference: while India adopts a rights-oriented and welfare-driven approach, the U.S. framework is grounded in market regulation and economic federalism.

#### Legislative Mechanisms and Judicial Interpretation:

Both jurisdictions employ statutory mechanisms aimed at safeguarding low-income workers; however, their scope and judicial treatment differ considerably. In India, the Minimum Wages Act, 1948 and its successor legislation under the Code on Wages, 2019 provide for statutory fixation and periodic revision of minimum wages<sup>675</sup>. The Indian judiciary has adopted a purposive interpretation of these provisions, emphasising that minimum wages are not merely a matter of contractual freedom but a statutory entitlement essential for ensuring human dignity. In *Bijay Cotton Mills Ltd. v. State of Ajmer*, the Supreme Court categorically held that an employer's financial incapacity cannot justify non-payment of minimum wages<sup>676</sup>.

In the United States, the Fair Labor Standards Act, 1938 establishes a uniform federal minimum wage floor while allowing states to prescribe higher wages. Judicial scrutiny has largely focused on the constitutionality of federal intervention rather than the adequacy of wages. In *United States v. Darby*, the Supreme Court upheld the validity of the FLSA, affirming Congress's power to regulate

<sup>673</sup> INDIA CONST. art. 43.

<sup>674</sup> U.S. CONST. art. I, § 8, cl. 3.

<sup>675</sup> Minimum Wages Act, No. 11 of 1948, INDIA CODE (1948); Code on Wages, No. 29 of 2019, INDIA CODE (2019).

<sup>676</sup> *Bijay Cotton Mills Ltd. v. State of Ajmer*, A.I.R. 1955 S.C. 33, 36 (India)

wages under the Commerce Clause<sup>677</sup>. Unlike Indian courts, U.S. courts have refrained from recognising minimum wage as a component of fundamental rights, thereby limiting judicial intervention to questions of statutory compliance.

### Enforcement and Compliance Structures:

A comparative examination of enforcement mechanisms reveals both convergence and divergence. In India, enforcement under the Code on Wages, 2019 is facilitated through the appointment of Inspectors-cum-Facilitators, reflecting a hybrid model that combines compliance monitoring with advisory functions<sup>678</sup>. The statute prescribes stringent penalties, including imprisonment and substantial fines, for violations of minimum wage provisions, signalling a deterrence-based approach to enforcement.

In the United States, enforcement responsibility lies primarily with the Wage and Hour Division of the Department of Labor. The U.S. system relies predominantly on civil remedies, including back wages and liquidated damages, with criminal penalties being rarely invoked<sup>679</sup>. While this administrative model promotes flexibility, its effectiveness varies significantly across states. States with higher minimum wages often demonstrate stronger enforcement mechanisms, whereas states adhering solely to the federal minimum wage exhibit weaker compliance outcomes.

### Contemporary Labour Market Challenge

The effectiveness of minimum wage laws in addressing present-day labour challenges differs markedly between the two countries. In India, despite the expansion of statutory coverage to include unorganised and informal workers under the Code on Wages, enforcement remains constrained by the sheer size of the informal economy. Empirical studies indicate that regulatory compliance in informal

sectors continues to be low, limiting the practical impact of statutory wage guarantees.<sup>680</sup>

In the United States, the principal challenge lies in wage stagnation and inter-state disparities. The federal minimum wage has remained unchanged since 2009, resulting in a significant decline in real wage value due to inflation<sup>681</sup>. Although several states and municipalities have independently increased minimum wages, the absence of a statutory requirement for periodic revision at the federal level has led to uneven labour protection across regions. These structural limitations underscore the need for legislative reform to ensure wage adequacy in a changing economic landscape.

The foregoing comparison demonstrates that India and the United States represent two distinct models of minimum wage governance. India's approach is constitutionally inspired and welfare-oriented, characterised by statutory mandates for wage revision and judicial emphasis on social justice. However, challenges persist in effective enforcement, particularly within the informal sector. The United States adopts a decentralised and market-oriented model, offering regional flexibility but lacking a normative commitment to periodic wage revision. Both systems face contemporary labour challenges that necessitate continuous legal and policy adaptation to ensure equitable wage protection.

### CHAPTER V

This chapter concludes the paper by viable suggestions and conclusion

#### SUGGESTIONS:

##### INDIA

- Strengthen the enforcement and compliance mechanisms.
- Expanding the capacity of labour inspectors and adopting technological tools can improve monitoring of wage

<sup>677</sup> United States v. Darby, 312 U.S. 100, 115–17 (1941)

<sup>678</sup> Code on Wages, No. 29 of 2019, § 51, INDIA CODE (2019)

<sup>679</sup> Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201–219 (2018)

<sup>680</sup> Wage Policies for Decent Work and Inclusive Growth 78–82 (2018)

<sup>681</sup> U.S. Dep't of Labor, History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938–2009

payments, especially in informal and unorganized sectors.

- Periodic, formula-based revisions of the national floor wage are necessary to account for regional cost-of-living differences and inflation.
- Public awareness campaigns and accessible grievance redressal mechanisms should empower workers to claim their rightful wages and resolve disputes efficiently.

### U.S

- Strengthening intergovernmental coordination can harmonize federal and state wage frameworks.
- Increased oversight and resources for enforcement agencies like the Wage and Hour Division will help ensure compliance in sectors with high concentrations of low-wage and precarious work
- Strengthen labor protections under the National Labour Relations Act to encourage unionization and improve wage-setting through collective negotiations.

### CONCLUSION

Despite resistance from the central government, many argue that India needs a national minimum wage framework. Determining minimum wages is already complex due to factors like skill levels, state populations, and sectoral differences, and the introduction of GST has further complicated calculations. In January 2021, nationwide union strikes highlighted worker dissatisfaction with the government's failure to implement recommended wage increases. Although the Supreme Court issued temporary rulings during 2020–21 mandating firms to pay unpaid salaries, these measures did not address the broader issue of raising minimum wages during the pandemic. The Inter-State Migrant Workmen Act of 1979, though partially outdated, could have inspired special minimum wage protections for migrant workers during the health crisis. Similarly, despite constitutional

guarantees under Articles 39(a) and (c) and the Equal Remuneration Act of 1976, gender pay disparities persist, particularly affecting women in the unorganized sector.

### REFERENCES:

#### BIBLIOGRAPHY:

##### Primary Sources:

1. Code on Wages, No. 29 of 2019 (India).
2. Minimum Wages Act, 1948 (repealed but subsumed under Code on Wages, 2019)
3. Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201–219.
4. People's Union for Democratic Rights v. Union of India, (1982) 3 S.C.C. 235 .
5. United States v. Darby, 312 U.S. 100 (1941).
6. Encino Motorcars, LLC v. Navarro, 138 S. Ct. 1134 (2018).

##### Secondary Sources:

1. David Neumark & William L. Wascher, Minimum Wages (MIT Press 2008).
2. Babu P. Remesh, Labour Regulations and Growth in India (Oxford Univ. Press 2019).
3. Surya Deva, "Constitutional Foundations of Labour Law in India", 52 Indian J. Labour Econ. 87 (2010).
4. Richard B. Freeman, "The Minimum Wage as a Redistributive Tool", 106 Econ. J. 639 (1996).
5. Cynthia Estlund, Re-governing the Workplace (Yale Univ. Press 2010).

#### WEBLIOGRAPHY:

##### Indian Sources:

1. Code on Wages, 2019, Ministry of Labour & Employment, India, available at <https://labour.gov.in/en/code-wages> (last visited Jan. 14, 2026).
2. Code on Wages, 2019, India Code, available at <https://india-code.nic.in/handle/123456789/1730> (last visited Jan. 14, 2026).
3. FAQs – Code on Wages, 2019, Ministry of Labour & Employment, India, available at <https://labour.gov.in/en/faqs-code-wages-2019> (last visited Jan. 14, 2026).

##### United States Sources:

1. Fair Labor Standards Act – Data Charts, U.S. Dept. of Labor, available at <https://www.dol.gov/agencies/whd/data/charts/fair-labor-standards-act> (last visited Jan. 15, 2026).
2. Wages, U.S. Dept. of Labor, available at <https://www.dol.gov/general/topic/wages> (last visited Jan. 15, 2026).
3. Fair Labor Standards Act (FLSA), Wage and Hour Division, U.S. Dept. of Labor, available at <https://www.dol.gov/agencies/whd/flsa> (last visited Jan. 15, 2026)

