

The Impact of Minimum Wage Law on Employment: A Gender-Neutral Perspective

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Abstract- *The minimum wage law has long been an important part of labour law, with the goal of improving the economic situation of low-income workers and reducing income disparities. Speaking of inequality, it is obvious that when it comes to labour relations, it can be seen that women face the most severe forms of discrimination. Discrimination consists in the amount of salary paid to women compared to men. The pay gap between men and women is the source of discrimination. The study examines the effects of minimum wage laws on employment for both men and women, providing insight into how minimum wage changes influence gender income gaps, work attachment, and employment duration. Women's earnings are examined in relation to vertical and horizontal occupational segregation, with a focus on how preconceptions and other factors frequently force women into lower-paying professions. In order to address gender discrimination on wages, the study first contextualizes the gender dynamics within the labour market. It then highlights the importance of minimum wage laws as a viable means of addressing wage discrimination against women by guaranteeing equal compensation for equal work and encouraging pay structure transparency to address unlawful disparities in the workplace. The purpose of this research paper is to determine if minimum wage laws increase or decrease the gender gaps in earnings and employment opportunities that already exist. The results of this study contribute to a better understanding of the gendered effects of minimum wage laws on employment and complementary measures to increase the effectiveness of minimum wage regulations in promoting gender equality and inclusive economic growth.*

Keywords: Minimum Wage, Discrimination, Employment, Gender, Professions

I. INTRODUCTION

Globalization has significant impact on the labour market by increasing real wages and creating new work opportunities. Global integration has benefitted many industrialized nations, but developing nations continue to face challenges in improving labour market conditions, reducing poverty, and promoting gender equality. Many emerging nations are

implementing or raising their national minimum wage to enhance worker lifestyles and reduce income inequality. This measure protects workers at the bottom of the wage spectrum who are either less skilled or less educated, or both.

The Indian labour market is diverse in terms of its type, skill requirements, manner of operation, and other factors, which has an impact on wage rates. Since India's independence, inequality has been the main cause for concern, something that current growth scenarios, globalization, and even several government reforms have failed to eliminate. Many studies conducted in India over the years have reported a marginal increase in worker wage inequality, which has decreased in rural areas but slightly increased in urban areas. These studies have found an increasing pattern of consumption inequality along with income and wealth inequality since the 1990s.

Informality and inequality, two significant aspects of the Indian labour market, have been the intriguing issue that has not received adequate attention up to. Analysis of wage disparities in India's labour markets, where many workers are self-employed or contract workers and operate in the unorganized sector, requires more than just calculating wages and payments. Although wage differences are inherent across industries, geographies, and job types, discrimination is evident when men and women are paid differently for performing the same job at the same skill level. If we also look at other non-wage (such as conditions of employment, such as the different social security benefits offered to workers), we may find that our understanding of inequality based solely on wage does not accurately reflect inequality in the labour market.

Aiming to safeguard workers at the bottom of the wage scale who are either less talented or less educated, or both, many emerging economies have implemented national minimum wages to reduce income disparity,

improve worker livelihoods, and end discrimination. Because they currently have little negotiating power, workers in developing nations like India that have high unemployment rates are vulnerable to exploitation by employers. In such a scenario, the worker's salary will be far less than anticipated, making it impossible for them to meet their basic demands. Considering this, the legislature intervened to control the employer's excesses by passing regulations that prohibit paying salaries below the employee's subsistence level. The 1948 Minimum Wages Act gives the employer the requirements needed to compensate the employee. While some studies indicated that raising the minimum wage could have a detrimental impact on employment and the ability to close the gender pay gap, other studies found that raising minimum wage might not always have this effect.

The purpose of this study is to investigate the persistence of gender differences in employment income and work attachment despite minimum wage rules. Research continuously demonstrates that women typically make less money than men, with several important contributing factors including discrimination, vocational segregation, and caregiving duties. Minimum wage laws, while significant, may not fully address these underlying inequities. The necessity for complementing measures to boost the effectiveness of minimum wage legislation in fostering gender equality and inclusive economic growth is highlighted in the research paper.

This Paper has 5 sections. Section 1 provides with the introduction to the topic. Section 2 provides the gender pay inequality. Section 3 gives a back ground of the Minimum Wages Act, 1948 and the importance of minimum wage laws. Section 4 provides with the impact of minimum wage laws on gender pay gap and section 5 with the conclusion.

II. GENDER PAY INEQUALITY

Around the globe, discrimination and gender inequality are prevalent in many forms across all industries and divisions. Women are denied of chances necessary to build a just, equitable, and prosperous society because of these discriminations (UN in India, 2020; SDG 5: Gender Equality). Despite making up almost half of the population, women in India

contribute significantly less to the economy than males do in terms of paid labour. The Indian labour market is notoriously unfriendly to women. Despite accounting for nearly half of the population, women make up less than one-third of the labour force. Agriculture, which has low productivity and income, employs three-quarters of women labourers. Only a small proportion of women work in higher-paying modern areas of the Indian economy.

Women are particularly marginalized in urban labour marketplaces. Just 18% of workers in metropolitan areas are women, compared to nearly 33% of workers in rural areas. Their percentage is still between 12 and 15 percent in bigger cities. In rural areas, the rates of labour force participation are 29 and 55 percent, respectively, while in urban areas, the percentage is as low as 14 percent for males and 55 percent for women (CSO, 2010). Employers' preference to hire males over women, which reflects discrimination in the labour market, and the lower labour force participation rate—a smaller proportion of women than men—are the two main causes of a lower workforce participation rate.

2.1 Causes of gender pay inequality.

- Occupational segregation: In India, women tend to work in low-wage, unorganized sectors like childcare, domestic labour, hospitality, and education, while males predominate in higher-paying industries like technology, engineering, and finance. Because of this segregation, salaries for men and women are different because traditionally, women have been paid less for jobs than men have.
- Women seen as economic dependents: According to the ideology underlying women's lower salaries (Kessler-Harris 1990, Siltanen 1994, Figart et al. 2002), women are less "needy" than males because of their family responsibilities. Employers, trade unions, and governments all view males as having a "need" for a living wage. In contrast, it is uncommon to connect the earnings of women to the necessity or expense of societal reproduction.
- Inequitable time allocation for paid activity: For most women, performing unpaid care chores like cooking, cleaning, or fetching water is neither affordable nor practical; doing these tasks puts a "double burden" of work on them as their

household's everyday well-being depends on it. Spending on caregiving activities is higher for women "on average by two to ten times." Unpaid care activities are a time-consuming and energy-intensive vocation that restricts women's access to the labour market, relegating them to low-wage, insecure jobs.

- Unequal access to education and training: Women tend to work in low-skilled, lower-paid jobs due to their poor educational attainment. Women's primary responsibility still include raising children, taking care of elderly parents and in-laws, and tending to the needs of the family. Women workers may take sabbaticals or pauses (like after childbirth) to handle these tasks and responsibilities. However, when they return to work, they have already lost a couple of years' worth of experience and wage rises.
- Discrimination and bias: Systemic biasness that disproportionately affect women include attitudes prejudiced toward men and discrimination based on marital status. A noteworthy factor contributing to the gender pay disparity and absence of gender parity in the workplace is the inadequate representation of women, especially in executive roles that carry decision-making power.

2.2 Steps taken by India

India has implemented several legislative measures to reduce the gender pay gap, particularly for those at the lowest end of the pay scale. In this sense, India was among the first nations to pass the Minimum Wages Act in 1948 followed by the Equal Remuneration Act in 1976.

III. MINIMUM WAGES ACT, 1948

3.1 Historical background

The Minimum Wage Act, 1948 derives its principle from living wage, etc., for workers¹ which provides that "The state shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities in particular" to ensure a fair deal to the labour class. Further, certain principles of policy to be followed by state² also reinforces that "The State shall, in

particular, direct its policy towards securing (a) that the citizen, men and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women."

India has used the Minimum Wages Act of 1948 as a lens to operationalize the application of the previously mentioned Articles 39 and 43. The idea to establish boards to determine the minimum wages in each industry was first proposed in 1920, which marked the beginning of the endeavor to determine minimum wages.

The International Labour Organisation adopted in 1928 Convention No.26 and Recommendation No. 30 relating to wage fixing machinery in trades or parts of trades. A Labor Investigation Committee was then established in 1943 to look into the issue of wages as well as other issues including housing, social conditions, and employment, at the suggestion of the Standing Labor Committee and Indian Labor Conference. The Indian Labour Conference considered a draft bill in this regard in 1945. In 1946, the Standing Labor Committee advocated passing separate laws pertaining to the unorganized sector, which would have set minimum pay, paid holidays, and working hours. In order to regulate minimum salaries in specific employments, a Minimum salaries Bill was submitted in the Central Legislative Assembly. This bill was passed in 1946 and went into effect in 1948. Meanwhile, failing labor relations compelled the government to establish a Central Advisory Council to provide guidance on matters pertaining to paying workers a fair salary and receiving a fair return on the capital invested. In order to "determine the principles on which fair wages should be based and to suggest the lines on which these principles should be applied," the Central Advisory Council established a tripartite group known as the "Fair Wages Committee. Given that it defined the terms "minimum wage," "fair wage," and "living wage," the Committee's report was a significant turning point in the history of wage policy creation in India.

"Minimum wages have been defined as "the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective

agreement or an individual contract.”³ In industries without collective bargaining rights or legal support for pay fixing, minimum salaries are typically set for certain jobs. The Committee's recommendation was that the minimum wage should cover not only the necessities of life but also the preservation of an employee's efficiency by covering a portion of their education, medical costs, and other luxuries. The 15th Indian Labor Conference further refined the definition of minimum wages by laying down the guidelines for determining need-based minimum wages. These guidelines stated that a typical working-class family should consist of a wife and two children in addition to the earning worker, a net intake of 2700 calories per day per consumption unit, and an annual per capita consumption of 18 yards. Additionally, the government should charge a minimum housing rent to low-income groups, and other miscellaneous expenses such as fuel and lighting should account for 20% of the minimum wage. However, Dr. Shanta A. Vaidya criticized these standards for being overly idealistic and for not taking into account the industry's ability to pay and the living standards of other comparable groups of individuals in the neighborhood.

The National Commission on Labour, 1969 held that in fixing the need based minimum wages the capacity of the industry to pay will have to be taken into account. “The need-based minimum which is in the range of lower level of the fair wage, attracts in its determination, the employers’ capacity to pay.” The lowest minimum wage that will be applied uniformly across the nation was attempted to be quantified by the Study Group on Wages, Incomes, and Prices (Bhootlingam Committee, 1978). The Committee considered factors such as national per capita income, working class consumption spending per capita, etc. before determining a National Minimum Wage of Rs. 150 per month at 1978 prices by taking into account national per capita income, per capita working-class consumption expenditure, and so on.

3.2 Minimum wage policy in India

In India, the Minimum Wages Act of 1948 serves as a welfare law that protects workers in the unorganised sector from exploitation as they lack the ability to engage in collective bargaining. The Minimum salaries Act of 1948 allows the relevant federal and state governments to set minimum salaries for various

scheduled jobs falling within their respective purviews for varying durations of time.

The Schedule of Employments Where Minimum Wages applicable is outlined in the Act and is notified by the Central and State Governments, respectively. The Schedule is divided into two sections. Part I deals with non-agricultural jobs, while Part II deals with employment in agriculture. The list of industries stated in the schedule of the Act may not be applicable to all states. States are only permitted to announce minimum salaries if a specific job employs more than 1000 people in the state. Every five years, the Act requires the respective governments to revise the wages. The minimum wage consists of two components: the base wage and the variable dearness allowance, which is modified every two years in accordance with the Consumer Prices Index.

The Act also offers overtime allowance, whereby an employee who exceeds the allotted work hours is entitled to extra pay determined in accordance with guidelines established by the State Government. There is no set minimum wage that is applicable across the country in India. The minimum wage is determined by the industry and sector and differs for the same industry and vocation between States. The Minimum Wages Act 1948 does not specify minimum wages or the standards by which they should be set. The basis is the set of standards decided upon during the Indian Labor Conference in 1957. The *Reptakos & Co. v. its Workers*⁴ Supreme Court ruling from 1992 established that other factors such as children's education, health insurance requirements, minimum recreational marriage, etc., should be included in the minimum salary and serve as a benchmark when determining minimum wages.

Additionally, The Minimum Wages Act also entrusts:

- 1) in regard to any schedule employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate government may
 - (a) fix the Number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;
 - (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.⁵

The Minimum Wages Act even fixes the compensation for piece rate labor. The need to develop a National Wage Policy has been voiced repeatedly. It is challenging to keep salaries consistent, though, because wage determination is based on a variety of factors, including local conditions, cost of living, and paying capability, which differ from state to state and through industry. Nonetheless, the Central Government established five Regional Minimum salaries Advisory Committees in an effort to moderate the differences in minimum salaries set for different States and professions. Recent revisions to the Minimum Wages Act of 1948 include making the National Floor Level Minimum Wage (NFLMW) statutory and making the Act applicable to all employments across states, regardless of workforce size. The statutory floor level, which is currently Rs. 115 per day or Rs. 3450 per month, is being ensured for workers in the informal sector by this modification, which is a positive move.

IV. IMPACT OF MINIMUM WAGE LAWS

One important tool in the labour market for raising the standard of living for wage earners and their families is the minimum wage. An instrument for social protection and the fight against poverty, the minimum wage is recognized by the International Labour Organization (ILO) Resolution 2010 (ILO 2014). The protection that minimum wages provide against unjustly low wage payments is best demonstrated in a nation such as India, where the majority of workers—more than 80%—are employed in the unorganized sector (Ministry of Statistics and Programme Implementation [MoSPI] 2012). The most difficult aspect of a nation's minimum wage procedure, nevertheless, may be determining the appropriate level and making frequent adjustments to it.

Key Findings of PLFS, Annual Report 2022- 2023:

1- Increasing Trend in Labour Force Participation Rate (LFPR) for persons of the age 15 years and above
In India, the LFPR for men climbed from 75.8% in 2017–18 to 78.5% in 2022–23, while the similar increase for women was from 23.3% to 37.0%.

2-Increasing Trend in Worker Population Ratio (WPR) for persons of age 15 years and above

In India, the WPR for men went from 71.2% in 2017–18 to 76.0% in 2022–23, while the WPR for women increased from 22.0% to 35.9% in tandem.

3-Decreasing Trend in Unemployment Rate (UR) for persons of age 15 years and above

In India, the UR for men fell from 6.1% in 2017–18 to 3.3% in 2022–23, while the UR for women fell from 5.6% to 2.9% in the same period.

In recent years, there has been a renewed interest in minimum wage issues in several countries. According to recent research on the subject, minimum wages can support the wages of low-paid workers and lessen wage inequality without having a materially detrimental effect on employment if they are set carefully and fairly, taking into account economic factors as well as the needs of workers and their families. number of studies in India have found that the gender wage gap has shrunk over time, not only at the overall average level, but also across states, industries, occupations, and salary quantiles. Bhattacharjee, Hnatkovska, and Lahiri (2015) investigate the gender wage differences from 1983 to 2010 and show that they have dropped across.

India ranked 135th out of 146 nations in the World Economic Forum's gender parity index, which was published in July 2022. This score puts India lower than its neighbors, Bangladesh, Myanmar, Bhutan, China, and Sri Lanka. The World Inequality Report 2022 states that women in India only make up 18% of the labor income, while men make up 82% of it.

Some people believe that boosting minimum wages will diminish the employment of lower-skilled workers. Higher minimum wage encourages firms to replace less competent workers with more productive personnel. Employers hire fewer people when compensation costs rise without equivalent productivity gains. (James Sherk) However, in emerging nations with dual labour markets, an increase in the minimum wage is unlikely to result in an increase in unemployment, but rather a movement in labour from one sector to another (Belser and Rani).

4.1 The other Non-discrimination Law

The Equal Remuneration Convention, 1951 (I.L.O. Convention 100) was created to combat sex-based discrimination against women in the workplace, and the Equal Remuneration Act, 1976 was passed to put Article 39(d) of the Indian Constitution into effect. According to the Act, employers must compensate male and female employees equally for labor for same work or work of a similar nature. "Same work or work of a similar nature" refers to labour that requires the same expertise, effort, and responsibility when performed under similar working conditions. Discrimination against women in "any condition of service subsequent to recruitment, such as promotion, training, or transfer" was outlawed by the Equal Remuneration (Amendment) Act, 1987.

It was alleged before the court in the People's Union for Democratic Rights and Others v. Union of India⁶, that workers in the construction industry were subjected to sex-based wage discrimination, in violation of the Equal Remuneration Act of 1976. The claim in the writ case was that women workers were only paid Rs. 7, while men were given Rs. 9.25 per day, (of which Rs. 1 was appropriated by the contractors, prior to the Court's adjudication) with the remaining amount being taken by contractors and jamadars. The Supreme Court of India ruled in this case that failing to pay equal wages infringed the right to equality guaranteed by Article 14 of the Indian Constitution. The Court further ordered the Union of India and the Delhi Administration to make sure the Equal Remuneration Act, 1976's provisions are not broken.

V. CONCLUSION

The Equal Remuneration Act, 1976, which was passed more than 45 years ago, guaranteed equal pay and treatment, while the Minimum Wages Act, 1948, was passed shortly after independence. Men get paid more than women for doing the same amount of work. Women's work is used to increase profits everywhere, denying women equal rights. Minimum wage laws play a crucial role in improving living standards and reducing poverty, setting appropriate wage levels and ensuring compliance remain major challenges. It's a common argument that minimum wages, if set too low, may have no effect. If the threshold is set too

high, there is a chance of low compliance, unemployment, and inflation (ILO 2016). Lack of inadequate numbers of inspectors for ensuring the implementation of the wage policies, in the unorganised sector, is one of the reasons that the wage policies are constantly violated. Women are exploited even more than the male workers in many jobs get even less wages than the male workers. Strategies must be made for improving compliance with minimum wage laws include raising awareness among workers, strengthening labour inspections, and imposing effective sanctions and penalties. However, issues including weak enforcement protocols and a shortage of inspection personnel are obstacles to effective implementation. In India, efforts to enhance compliance with minimum wage laws have been hindered by insufficient enforcement mechanisms and infrastructure. Addressing these challenges requires concerted efforts from governments, employers, trade unions, and civil society to ensure fair wages and promote gender equality in the workforce.

5.1 Recommendation

Gender pay equality necessitates a diversified approach that addresses various factors that contribute to salary differences between genders. Here are a few essential approaches to achieve gender pay equality:

- **Lifting the wage floor:** According to research, there are less consequences for being at the bottom of the wage hierarchy the less total income inequality there is. Given that women are disproportionately employed in low-paying or status positions, it is crucial that the minimum wage provide a reasonable benchmark when compared to both median earnings and living expenses. It is equally necessary to cover and enforce the legal minimum wage.
- **Improving employment and advancement opportunities:** Increase women's access to job opportunities could have effect of lessening the segregation of occupations based on gender. This may help to reduce gender-based occupational segregation. However, desegregation of occupations is not an automatic method to address the gender pay gap, because the overall pay in the occupation may diminish, or women may become concentrated in lower levels within the occupation.

- Periodic revisions to, and adjustments of, minimum wages: The Minimum Wages Act of 1948 gave the states the authority to establish a broad range of minimum wages and to routinely review them at intervals no more than five years. The purpose of the minimum wage adjustments is to maintain parity with the socio-economic conditions of that specific state.
- Helping women pursue flexible or non-linear careers: The simplest approach to do this is to offer paid maternity and parental leave, preferably paid, together with the right to resume the same or a comparable position after the break has ended. To prevent discrimination against women in recruiting, these rights should be legislative, universal, jointly funded, and available to both parents, including some use-or-lose quotas for dads' parental leave rights.
- Nevertheless, if the job necessitates unduly extended working hours, then even these measures won't address the issue. For the benefit of working parents, both male and female, working hours must thus be restricted. Women may be able to keep their jobs if they have the freedom to work less hours or more flexibly while their children are small.

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