

## **IMPLEMENTATION OF MINIMUM WAGES ACT IN AGRICULTURAL SECTOR**

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### **Abstract**

The Minimum Wages Act was enacted in 1948 and it is one of the oldest labour legislation enacted in India. But still today a very large segment of the workforce left outside the purview of the Act. The Minimum Wages Act is one of the most important strategies in India to improve the living conditions of the poor by giving them minimum wages. This is also helpful for the economic development of the country. Minimum Wages are not equal to all sectors, mainly; the minimum wages for the agricultural sector is not the same to be given at all the regions of the country. The same occupation with the same labour has variable minimum wages. Women mainly get less pay than men for the same work, also women get differential treatment at work and are perceived less able in work than men. There is a need for economic empowerment for women, this can reduce poverty for everyone, and this could also help in undermining gender equality because no woman in the world enjoys absolute equality with men. Everywhere women are exploited, discriminated, and face inequality. This paper examines the enactments made by the Government of India to improve minimum wages and other conditions of work at the workplace; the paper also throws light on problems faced by women working in the agricultural sector and includes opinion of experts of law on the same

**Key words:** Minimum Wages, Agricultural Sector, Gender Pay Gap, Women Worker

### **Introduction**

Women make important contributions to the agricultural sector in developing countries; women make up about 43 percent of the agricultural labour-force ( Croppenstedt, A., Goldstein, M., & Rosas, N., 2013). In the Asian Countries amount of women employed in agriculture is higher, many women in developing countries are occupied in the agricultural sector. Women are involved in all agricultural work like, Selection of crops, preparation of land, seed collection, weeding, harvesting, planting, handling, stockpiling, processing, and marketing.

The gap is high by international standards, in each employment category, the female workers are paid lower wage rates than male. 'According to the National Minimum Wage Floor was introduced in the 1990s, which has increased to Indian rupee 176 per day in 2017, but at the same time it is not legally binding, despite persistent discussion since the 1970s.' In 2009-10 closely 41% casual workers and 15% of salaried workers earn not as much of National Minimum Wage. Nearly 62 million labors are paid a smaller amount than suggestive National Minimum Wage with a rate of the small amount of pay. (ILO, 2018) The Central Government has passed a number of legislation regarding this, but the coverage of these laws and rules regarding their implementation needs to frame by the State Government. It has been seen in many legislations that, agricultural workers are covered in a piecemeal fashion, and minimum protection and condition of work have been given to them.

According to the Census of India, 1991, nearly 75% of the Indian Women are from rural families, that belonged to the small and marginal farmers and laborers who don't have land, and these women are regarded as the backbone of the rural landscape. In the Agriculture Sector, 4/5<sup>th</sup> of economically active women get employment, also it has been seen that almost 48% of India's self-employed farmers are women (Dr. Mun Mun Ghosh, Dr. Arindam Ghosh, 2014).

### **Reasons Why Women Paid Less**

The Bargaining Power of women in the labour market is affected by perception. According to Bina Agarwal women merely on account of her gender observed having lesser capacity or commitment and observed only as a complementary earner. Sex as a race; was known to characterize capacity expectations, and to contribute to discriminatory contracting and payment practices. Rural women are paid less than men in many parts of South Asia even for the same jobs, believing they are less active, but few studies have been conducted and show the opposite (Bina Agarwal, 1997).

Incorrect anticipations can thus reduce the bargaining power of women in family subsistence not only by underestimating their needs and undervaluing their wage contributions but also by affecting their importance on the labor market, thereby reducing the claimed potential profit of their pursuing wage labor. Incorrect assumptions may become institutionalized as social norms, for example in systematically lower wage rates or lower allocations of subsistence for women than men.

### **Research Methodology**

Doctrinal and non-doctrinal methods of research will be used. Empirical data will be collected by the Interview Method. Interviews of Victims and Legal Experts will be taken in this research. The Doctrinal part of the research will include an analysis of all the statutes dealing with employment laws and the study of International Documents.

### **Lacunae In Law and Solutions Proposed**

The Principle of Equal Pay for Equal Work has been recognized by the Indian Constitution, for both men and women, it also recognized the Right to work through Article 39 (d) and 41. The articles put as directive principles of state policy, these give guidelines and recommendations to Centre and State Government, to bear in mind while rules and policies framing.

Efforts made to bring legislation, like the Equal Remuneration Act, 1976. Minimum wages Act, but still Implementation of these legislation at the State Level is a big issue and needs special attention. The provision of an Adequate Living Wage has been given in the Preamble to the ILO Constitution. 'Directive Principles of State Policy in Part IV of the Constitution of India aims to work towards the welfare of its citizens.' Directive Principles of State Policy cannot be enforced in the court of law, but it provides guidelines to the legislature for making Labor Laws in India.

In *Randhir Singh v. Union of India* (AIR 1982 SC 879), the Supreme Court held that while our Constitution does not expressly declare the concept of similar pay for similar work as a Fundamental Right, it is, however, aim of Constitution under Articles 14, 16 and 39(c).

In *Dhirendra Chamoli v. State of U.P* (AIR 1986 SC 172), it was held that the employees who are casual workers working on a daily wage basis, comes under the umbrella provision of equal pay for equal work under the Constitution of India (DR. MINAL H. UPADHYAY, 2014).

### **Minimum Wages Act, 1948 and Agricultural workers**

Minimum Wage can be considered as very important legislative protection for workers working in any liberal nation. In India, Sec. 3 of the Minimum Wages Act, 1948 fix and implement the minimum wage by the appropriate government in respect of scheduled employments (K. D. Shrivastava, 1995). The Minimum Wage Act prevents the exploitation of workers and makes the employer pay minimum rates of wages. Protection for agricultural labour about minimum bare wage was not there in the earlier Act. The new bill on Minimum Wages obtained the President's assent on August 8, 2019, after which the law and justice ministry released it in the gazette (Yogima seth sharma, 2019). The Centre's Minimum Wage is no longer based on employment but geography and expertise. The code guarantees minimum salaries for both employers and contractors, with prompt payment of wages. Unorganized sector employees such as farmworkers can now gain statutory defense of Minimum Wages.

### **Maternity Benefit Act, 1961 and Agricultural workers**

This Act aims to promote the welfare of working women. The Act is applied to the establishment who employing women and provides maternity leave, it also applicable when women are out of employment because of their pregnancy or illness arising out of pregnancy, these kinds of women get payment of certain monetary benefits.

It is the responsibility of the State Government to implement the Act in agriculture and plantation. While section 2 provides that the Act applies to the plantation workers (J.P Sharma, 2011) and also meets some obligations Under ILO Convention No. 110 for Plantation workers, though other women agricultural women remain outside the purview of this Act. The Minimum Wage is payable even though there is only one employee. The Minimum Wage Act extends to all businesses with 10 or more employees in which an establishment registered under the Societies Registration Act, 1860, and charitable or other trust are included.

### **Equal Remuneration Act, 1976 and Agricultural Workers**

Section 4 of the Equal Remuneration Act provides for provisions relating to fair wages for men and women workers and the prohibition of discrimination based on sex against women in jobs matters and in matters related to that.

Equal Pay for men and women is a very important subject in society and needs special care, the disparity in wage payment indicates inequality. However, labour welfare policies have put efforts to protect working women in our country. Legislators tried to protect the rights of women, but still, there is a need to provide more safeguards to women workers who are distinguished in occupation and wages.

According to data, Kerala is paying the highest wage to field labour (Male) Rupees. 582 per day, whereas Maharashtra reckoned as the lowest wage-paying state in all other states with Rupees, 123 per day, while the Annual Average Wage Rate of India for field labour (male) in 2016-17 was rupees 296 per day. The daily average wage rate for field labour (female) in India and at the state level as well showed that Kerala is the highest wage payer to field labour (female) which is 454 per day. While the State of Maharashtra pays the lowest wage i.e. 87 per day. The disparity between wages of men and women agricultural laborer for the same types of work has been observed which 23% is at all India level. The Gender Gap in wage rate in males and females for field labour is observed 296 and 228 respectively. However, the male workers were paid 30% more than female workers (eands.dacnet, 2016-17).

World Economic Forum in 2006 has introduced the first Global Index to examine the extent of gender-based inconsistencies and to track time to time progress. In 2020 the Global Gender Gap score on the basis of the population stands at 68.6%. This indicated that on average the gap is a narrower and remaining gap to close is now 31.4% (Ms. A. Sirja, 2014)

In most states, unskillful female labour salaries are lower than the minimum salaries, while unskillful male workers pay more than the minimum wages. The employer's explanation for this discrepancy is the gap in the essence of work undertaken by both the male and female workers.

It is because of the societal mindset in which the role of women is regarded as domestic work and thus pays fewer wages, and in female-dominated professions such as domestic work it may be due to poor bargaining skills, lack of alternative job opportunities, and many other factors.

In a Survey conducted in 2017, the Pew Research Center found that 42 percent of women reported experiencing Gender Discrimination at work compared with 20 percent of men who said the same. Earning inequality is among the most widely reported forms of discrimination (payscale.com, 2020).

Estimates from the World Bank indicate that 90 percent of women working in the informal sector are not counted in the official statistics and their work is undocumented and perceived as disguised wage work and low pay. Compared to men they work around twice hours. The woman has to work after working hours, even

throughout the pregnancy, and there is no provision for her leave. The notion of gender discrimination as perpetuated by patriarchy prohibits them to come par with their male counterparts at the workplace.

According to findings, 72.5 percent of men have felt that women are not equal to men. Women are not treated as more intelligent than males in the workplace. There was 56.5 percent, 52.5 percent and 62.1 percent of the women reported that they were treated inferior to males at the workplace respectively. Improvements in Economics to make women equal to men are slow and women are much more likely to live in poverty than men. Women typically earn low across the globe and are based on the lowest-paid and least-secure types of employment. Globally, there is an overall gender wage disparity of 23 percent and 700 million fewer women in paid jobs than men (oxfamindia, 2017).

### **Mahatma Gandhi National Rural Employment Guarantee Act, 2005 [MGNREGA]**

The Act aimed to improve the buying power of rural communities, by showing them semi or un-skilled work, whether they are or not below the poverty line. Labourers are now bargaining with farmers for wages prescribed by MGNREGA. If farmers don't give them minimum wages then workers deny from work especially in peak season when labour demand is high.

Labour Markets in India are recognized as gender-based disparities. According to NSSO data daily wages of women have increased more speedily than men, particularly in (2004-05 to 2011-12). The wages have been raised rapidly because of the implementation of MGNREGA that now safeguards employment as well as Minimum Wages for all workers. The agricultural sector also pushed up gradually closer to the Minimum Wages stated in MGNREGA (ILO, 2018).

The National Commission of Women Act, 1990 talks about functions of the commission, in that, the National Commission examines all the matters relating to the protection of women under constitution and other laws and shall Review exiting Constitutional provisions and other laws affecting women, and propose amendments and suggest corrective legislative steps to remove any lacunae or inadequacy in-laws.

National Policy for Women's Empowerment (2001) refers to women workers in agriculture as a critical position for women in agriculture and related sectors will be made a major effort to ensure that the benefits of training, extension, and other programs meet them in proportion to their numbers. Women's training program in soil conservation, dairy production, social forestry, and other agricultural-related occupations such as livestock, horticulture, poultry animal husbandry, fisheries, and so on would support women workers in the agricultural sector (Poshan Abhiyan, 2001).

The Government of India in the Economic Survey in 2017-2018 stated that the Agricultural Sector in India is undergoing feminization (Ishita mehrotra, 2020). In the face of decreased employment opportunities in agriculture, men diversified into the rural non-farm sector.

Subsequently, women did not feature predominantly in either of these trends; most women in the rural area are still involved in agriculture, mostly as labourers and cultivators. Women make milk products livestock rearing but men sell these products in the market therefore they get recognition and income. Eventually, farm jobs keep women limited to low paid, insecure, and oppressive labour relations.

### **Data Analysis**

#### **Respondent No. 1**

Respondent is living in a small village called Shiroli, Tal. Junnar, District Pune, Maharashtra. She is 43-year-old lady. She is basically from Village, Pathardi, District, Nagar. She came to this village around 24 years ago. She has shifted here with her husband to earn money for their daily needs. Her husband has very less land at pathardi and there was no water for the farm, so they have shifted to this particular village. Every day she goes to work,

she is doing weeding, planting, harvesting, etc. she gets Rs. 250 per day (which is not according to the Minimum Wages Act). She doesn't have a weekly holiday, and she never thought of the paid holiday.

When asked her about the Minimum Wages Act, so she was not aware of the legislation and rights existing to protect her. Her husband also goes for agriculture work, sometimes they go in the same field. When I ask about his type of work, got to know that sometimes both are doing the same work but paid differently, as the employer says that Men have more physical power than women. She has joined the women Self-Help Group to save money as well as she can take a loan for her children for education purpose, otherwise, she said that we don't have land to show, and because of unavailability of property, Bank doesn't give them a loan. Also in the rainy season, there is no work. So she has to save money for the future, because of seasonal employment.

## **Respondent No. 2**

Respondent is living in the village Called Shirol, Tal. Junnar, Dist. Pune, Maharashtra. Anita is 29 years old. She is from Village Chas, Tal. Ambegaon, Dist. Pune. She has shifted in this village 8 years ago, since then she is going as a labour for agriculture work. She is doing weeding, plantation, harvesting, etc. she gets 200 to 250 rupees per day. Her husband also doing the same kind of work and sometimes he goes for land preparation, etc. she said women are not allowed to some type of work like land preparation because women are not skilled in that work. Anita also has joined the self-help group for her financial needs. Before five years she gave birth to a girl. She was going for work when she was pregnant; to fulfill the daily needs, because only her husband's income was not sufficient. When asked about Maternity Leave, she did not have any idea about that. Despite health problems she used to go work in pregnancy and because of that her baby was low in weight and the doctor has told her to take extra care for the baby. Her pregnancy was complicated because she did not have enough nutritious food and was not eating on time because of work. There is generally only lunch break for laborers.

## **Interviews of experts of law**

According to Human Rights Expert, the Constitutional Provisions of equality before the law and Equal pay for equal work. According to her, many homes are run by women, specifically in the Northeastern states. Women have bank accounts, but still; participation in decision making is not satisfactory. She said the implementation of laws is the problem in India. In rural India laws passed by the center are not proportionately implemented at the Taluka and village level. She has suggested that there should be Help Centre at every Taluka or village level to keep watch on whether the laws are being implemented. The Head of that Center should not be anyone from the village but someone from outside. This way the Centre Head can help in providing the women minimum wages and equal pay.

Other Human Rights Expert said that, while talking about women labour in the agriculture sector, he thought that, women are not paid minimum wages because, It is believed that Women cannot contribute or give output like men as the agricultural field is male-dominated, In the agriculture sector, women play a secondary role. He said that the contribution of women is undermined. Women are not aware of their rights relating to wages. The Central Government decides minimum wages but it is not keen to enforce it vigorously. Women rarely demand equal pay for equal work. Women are engaged in seasonal work, so women rather than demanding minimum wages they start doing work on the field because otherwise, they could get nothing. The availability of cheap labour and Lack of strong enforcement mechanisms are also the reasons for not getting minimum wages. He said that there are measures taken to protect Human right, there are International Bill of Rights, The ILO Conventions, CEDAW, Regional Documents like ECHR, ACHR, Arab Charter, African Charter, Municipal laws, but Strict implementations of laws are needed to solve this problem that can achieve gender equity as well as poverty eradication.

## **Analysis of Interview and Legislation**

From the above interviews and expert opinion, it has been clear that the conditions of women labour in the agricultural sector is not satisfactory. Some legislations provide a rule of equal pay for equal work. Some

legislation talks about employee protection but unfortunately, agricultural workers are not covered under any specific Act and that is the reason why labourers in the agricultural sector are still living and working in terrible conditions. Now newly amended Minimum Wages Act has the provisions for agriculture labour, but still, women are out of the purview of the Act. There is a lack of implementation of these laws at the State and District level. Legislations are falling short to cover many areas regarding employee protection specifically women related issues.

There are two features in the Agricultural Sector, first is seasonal employment and second is it is an Unorganized Sector. Women labors in the agricultural sector don't have representative and that is why these women get paid at exploitative rates. Another issue is the vast Gender Pay Gap in the agriculture sector; women get less payment than men for the same work done by both. There are irregular payments to labours, because there is no system or structure to regulate this sector and money is not given by depositing in the bank account but directly by the farmer to labour, so the record of payment cannot be maintained. Women in rural areas are illiterate they have a lack of knowledge about minimum wages, so they are not asking their employees to give minimum wages. While suggesting some solutions to these problems, there should be recognition of women as farmers. Awareness should be created by State-level departments, regarding Equal pay and minimum wages, and shall give knowledge about the Equal Remuneration Act, Minimum Wages Act. The agriculture sector should be recognized as Occupation and farmers shall get good money for their products in the market, so that they will pay a good minimum amount to their labours. The agriculture sector itself should be more organized and that can solve many problems.

### **Reform**

Based on the analysis, the researcher gives the following suggestions to improve the current situation in the form of legislation.

The Minimum Wages Act should be amended and take into consideration the following measures:

1. All employees working in agriculture shall give legal coverage, and the Right of Minimum Wages shall be protected.
2. The employer who is not giving minimum wages to labour shall be fined and punish by Labour Court.
3. Participation of Social Partners like NGOs shall consult and shall contribute to better establishment and Implementation of the Minimum Wages Act in their area by taking awareness sessions in villages. For example Staff in the United Republic of Tanzania who recognized their rights and legitimate entitlements was found to have been compensated accordingly. In Costa Rica, in the year 2010 National Minimum Wage Campaign generated awareness and shared knowledge about complaint procedures. The campaign's key innovation was a new telephone hotline empowering employees to investigate wage violations in a straightforward manner and radio as it is undertaken by social partners ad governments. This will broadcast on the Internet, television, and radio as it is performed by the ad governments of the social partner (ILO, 2015)
4. The Government should progressively consolidate and simplify Minimum Wage structures.
5. The Government shall take measures at all the level from the center to local village level, to make sure a more effective application of the law on minimum wages. Central and State Government should conduct regular inspections to enforce the Act, and then only rules and regulations can bridge the gender gap.
6. Workers shall be able to assert rights by making individual grievances as well as collective actions; Philippine legislation specifies that the concerns of employees or trade union members should always accompany labor inspectors during inspections. Countries other than this, employers' unions, on behalf of the individual worker, will put in court cases for unpaid wages.
7. Equal Remuneration Act shall amend the provisions for agriculture women labour for equal pay.
8. Legislatures shall include laws relating to women's sanitation and maternity illness and maternity leave those are working in agriculture.

9. The Convention on the Setting of Minimum Wages, 1970 (No. 131), (ILO, 2015) Article 3 states that certain factors should be taken into account when determining the level of minimum wages, national practices and conditions, including;
- i. Requirements of employees and their families, taking into account the general level of salaries in the country, living costs, living standards, social security benefits of other classes,
  - ii. Economic factors like sustainable growth needs, productivity levels, and the desirability of achieving and maintaining a high level of employment.

All levels of Governments and Social Partners should have the right to studies on the effects of Minimum Wages on employment, informality, gender pay gaps, hours of work, poverty. The study should be conducted to see effects on prices, household consumptions, investments, etc. A good methodology should be used to make sure that conclusions are not determined by biases in the choice of methodologies (Dale Belman, Paul Wolfson, 2016).

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