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Transforming Aspirations into Rights: The Case for Living Wages as a Constitutional Liberty

SUHANI GUPTA¹ AND PIYUSH VISHWANATH SHETTI²

ABSTRACT

This legal article explores the foundation of India's lawscape, forming the basis for the world's most populated country. It is an all-encompassing exploration towards Article 43 of the Indian Constitution which advises states to undertake initiatives to provide good living wage conditions in every sphere of employability. It includes a brief analysis of what falls under the ambit of Article 43 and retrospects the DPSP head under which it is placed. This article tries to question the ongoing trend which supports the provision of minimum wages, rather advocate for the adaptation of the variable of living wages which would also help achieve a decent lifestyle in the long run and results in alignment with India's international commitments i.e. Sustainable Development Goals. It also takes the help of a hypothetical ideal state model to act as a reference point for highlighting the advantages of adapting living wages. Thus, aiming a shift from short-term temporary arrangements to long-term sustained arrangements. The aim of the article is to propose a concept that will help India create a wage environment that would be sustainable enough to support not only sustenance but also to live a life independent of economic burdens. It uses doctrinal and observation-driven analysis to draw in favourable results in the form of data, collected and represented to create acceptability for living wages. The article also suggests a realistic solution through the Anker Methodology and its aid in India's shift towards creating and fostering an environment promoting living wages. To sum up, this research offers an alternative perspective, aiming to persuade readers that the concept of living wages represents a promising and independent future, diverging from conventional norms and fostering a brighter economic landscape.

Keywords: Article 43, Living Wages, Minimum Wages, Anker Methodology, Sustainable Development Goals, Directive Principles of State Policy, Fundamental Rights.

I. INTRODUCTION

Recently, the United Nations Development Programme and Oxford Poverty and Human

¹ Author is a student at Shankarrao Chavan Law College, India.

² Author is a student at Shankarrao Chavan Law College, India.

Development Initiative released the Global Multidimensional Poverty Index (MPI) pressing figures which indicate that globally out of 6.1 billion³ people, 1.1 billion⁴ people are acutely multidimensionally poor and live in drastic conditions across 110 countries⁵. According to the report, multidimensional poverty measures interlinked deprivations in areas including health, education and standard of living, which directly affects a person's life and well-being. Taking this as a reference it can be concluded that approximately 18%⁶ of the world's population lives in poverty, poverty: is acute, inalienable and devastating in nature. Living in a world where other things if kept aside, surviving itself is a huge task, having money in hand makes it a bit easy. With the changing world conditions, what actor Manoj Kumar said in 1974 stands inadequate. To stay alive in this world, there is a lot more needed than just "Roti, Kapda, Makaan". There is no doubt that these constitute an important element, but something more is always expected, that's just basic human nature. Good education, healthy food, proper sanitation, proper pucca roof, future savings and many more are now being considered important aspects for human survival. India as mentioned in the Global Multidimensional Poverty Index still consists of more than 230 million⁷ people who are multidimensionally poor. With numerous schemes being run by India's welfare government to eradicate poverty, the question herein lies is what could be the possible reasons to explain the current state of dearth? Various Schemes including MGNREGA are run by the government focusing on the fulfilment of minimum wages. The possible solution to every issue lying here could be 'money', and not just any money but money which would be sustainable and which could be used to upgrade the living standards to a decent one. The variable of 'living wages' herein comes as a messiah; a name for sustained income. Living wages in the current context would act as a means to bridge the gap between what we presently hold and what is the zeitgeist of this fast-paced world.

II. WHAT THE CONSTITUTION SAYS: ARTICLE 43!

Article 43: 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 and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.]

³ Human Development Reports, *2023 Global Multidimensional Poverty Index (MPI)*, United Nations Development Program (May 12, 2024, 10:04 AM), <https://hdr.undp.org/content/2023-global-multidimensional-poverty-index-mpi> (last visited May 12, 2024).

⁴ *ibid*

⁵ *ibid*

⁶ *ibid*

⁷ *ibid*

Article 43 of the Indian Constitution⁸ lies under the ambit of Directive Principles of State Policy or simply DPSP. The following guidelines capture key principles that are intended to shape and inform policymaking and lawmaking in India according to non-binding governance norms. While not judicially enforceable, the objectives outlined in these directives are regarded as fundamentally important to shaping an equitable and just societal framework. As such, there exists an expectation that the State will aim to uphold the spirit of these aspirations when drafting legislation and regulations in order to establish a system of governance that reasonably and fairly serves all citizens of the nation.

This article makes an attempt to provide the government with suggestions for undertaking legislation which would try to incorporate every working individual under the provision of living wages, which would help ensure a decent living along with enjoyment of life and leisure.

III. A COMPARATIVE DANCE: MINIMUM WAGE & LIVING WAGE

As per the Indian Constitution⁹ ‘Minimum Wage’ is defined as the minimum amount of remuneration given to skilled and unskilled workers by their employers which ensures a sustaining standard of living. The employer is required to pay wage earners the minimum decided amount for the work performed during a given period, which cannot be reduced by collective agreement or individual contract.

As per the World Economic Forum, ‘Living Wage’ is the local remuneration received for a standard workweek which would be sufficient to afford a decent standard of living for both workers and their families. Such an amount of money would be enough to provide for all basic needs as well as some discretionary or additional income and provisions to cover unexpected tragedies. Elements of a decent standard of living include clothing, food, water, housing, education, health care, transportation and also provisions for covering situations of emergency. The very difference between minimum wage and living wage arises from the fact that minimum wages cover the concept of standard of living while living wages encompasses the concept of decent standard of living. The word ‘decent’ acts as ‘plus one’ to the concept of minimum wages which incorporates the present-day requisite for sustenance. The concept of living wages revolves around the theories of Amartya Sen, who believed in equality of capabilities which promises enhancement of capabilities forming the basis for the ‘plus one’ income apart from the minimum wage. Equality of capabilities believes though everybody has a different set of abilities and talents, they all should be given opportunities to utilize their unique talents to the

⁸ INDIA CONST. art. 43, cl. 1.

⁹ INDIA CONST. art. 43, cl. 1.

fullest and enhance their capabilities to sustain themselves.

IV. WHY MINIMUM WAGE IS NOT SUFFICIENT: THE GREAT WAGE DEBATE

The structural framework of India's compensation structure, woven through the Minimum Wages Act of 1948¹⁰ and anchored to the constitutional principles of Article 43 unravels a multifaceted narrative account. Within this tapestry exist three distinct levels of remuneration: the baseline of minimum wage, the aspirational fair wage, and the transformative living wage. While the minimum wage aims to elevate those dwelling below the poverty line by providing a fixed amount to meet fundamental needs, it inherently bears the constraints of a narrow economic perspective, a perspective which tends to believe that a few hundred is enough to suffice for a person's lifetime.

India has considered itself a welfare state which has motivated the government to run programs like Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). Laudable for offering 100 days of guaranteed wage employment, it unravels a bare reality — a mere 100 days of subsistence. Beyond this temporary support, it leaves us to retrospect: What follows the stipulated 100 days? The National Floor Level Minimum Wage (NFLMW) which was increased from Rs. 115 in 2011¹¹ to the current Rs. 178 in 2023,¹² stands as evidence of this incremental rise, but is it enough for sustenance? A difference of 12 years on the calendar, but the rise in the minimum wage is still a mere Rs 63. The 5 litre can of cooking oil which was costing around Rs 935 has now risen up to Rs 1138 in a single year, bringing in an increment of Rs 203.¹³ A rise which is approximately thrice the rise in the minimum wage from the past 12 years. A rise which is lower than the inflation happening every year. Lingering and unyielding, the questions continue to persist.

As we navigate through these economic complexities, a focus on individual survival and basic necessities, while undeniably critical, proves inadequate when viewed through the expansive lens of Sustainable Development Goals (SDGs). A mid-line assessment of India's SDG progress, conducted by researchers from Harvard University and Korea University, unfolds a sobering truth, "India finds itself adrift, off-course on 19 of the 33 indicators related to health and social determinants of health, as revealed by the National Family Health Survey in 2016

¹⁰ Minimum Wages Act, 1948, No. 11, Acts of Parliament, 1948 (India)

¹¹ Ministry of Labour and Employment, *National Minimum Wages*, PRESS INFORMATION BUREAU (May 13, 2024, 02:25 PM), National Minimum Wages (pib.gov.in)

¹² Manya Rathore, *Minimum Daily Wages in India 2012-2023*, STATISTA (May 12, 2024, 11:24 PM) <https://www.statista.com/statistics/1284710/india-national-floor-level-minimum-wage/>

¹³ Bella Jaisinghani, *Edible oil rises from Rs 80 to Rs 180 in 11-year high*, THE TIMES OF INDIA (May 10, 2024, 10:05 PM) <https://timesofindia.indiatimes.com/city/mumbai/edible-oil-rises-from-rs-80-to-rs-180-in-11-year-high/articleshow/82983155.cms>

and 2021. The trajectory, far from a course correction, hints at a potential failure to meet SDG targets well past 2030.”

In the words of S.V. Subramanian, a co-author of the study conducted at Harvard and Korea University, the Call Echoes: “India needs to increase the pace and momentum on four SDG goals: No Poverty (SDG 1), Zero Hunger (SDG 2), Good Health and Well-Being (SDG 3), and Gender Equality (SDG 5).”¹⁴ This summons us to re-evaluate our trajectory, for it is evident that a short-term focus on minimum wages is insufficient to cope with the current changing trends and will inevitably steer India away from the compass of its long-term SDG aspirations. Spoon feeding of minimum wages to a huge population is certainly not the way to handle the situation, rather, making the people self-sufficient might be. The essence of the issue lies in transcending the current discourse around minimum wages. It beckons us to traverse the path less travelled and embrace the variable of living wages. Beyond mere subsistence, living wages aspire to forge a profound transformation in the quality of life for individuals, reaching beyond survival to encompass the essentials of clothing, food, water, housing, education, healthcare, transportation, and provisions for emergencies. This may sound utopian, a lofty ideal weaving itself into the intricate fabric of economic progress but it is what is the need of the hour.

V. CASE STUDY ANALYSIS AND FINDINGS: HYPOTHETICAL IDEAL STATE MODEL

A case study with the presentation of an ideal state along with two real states i.e. Bihar and Gujrat are undertaken to represent the credibility of the living wage.

1. Heeram: The Utopia of Living Wages

Heeram is a hypothetical ideal state that has placed a significant emphasis on the implementation of living wages as opposed to minimum wages. This commitment has resulted in a series of qualitative advancements, which are crucial to understanding the state’s progress. Central to this progress are key indicators demonstrating social and economic development. Notably, the state of Heeram has demonstrated remarkable achievements across various domains. It boasts an exceptional literacy rate of 96%¹⁵ and above, signifying the people’s capability to access education, thereby contributing to the state’s overall progress. It has achieved a commendable death rate of below 10 per thousand¹⁶, a notable life expectancy of

¹⁴ S.V. Subramanian, *India off-track on achieving SDGs, says mid-line assessment*, NATURE INDIA (Jan. 04, 2024, 09:30 AM), India off-track on achieving SDGs, says mid-line assessment (nature.com)

¹⁵ Reserve Bank of India, *Handbook of Statistics on Indian States*, RESERVE BANK OF INDIA (May 06, 2024 01:30 PM), Reserve Bank of India - Handbook of Statistics on Indian States (rbi.org.in)

¹⁶ *ibid*

63.5 years¹⁷ and a maternal mortality ratio of less than 70¹⁸, indicating effective access to healthcare services, socio-economic development and improved quality of life. Both urban and rural areas in Heeram portray remarkably low unemployment rates i.e. between 3% to 5%,¹⁹ indicating the success of Heeram's living wage policies in generating employment opportunities. Heeram's commitment to living wages has had a clear and visible impact on the state's well-being and prosperity, as evidenced by the indicators mentioned above.

2. The Gujarat Model: Living Wages and Economic Growth

The state of Gujarat in India has seen a trend of high capital expenditure impliedly meaning that people are earning well which has led to notable advancements. Gujarat has a literacy rate of 78.03%²⁰, reflecting its emphasis on education. Maternal mortality is relatively low at 70 deaths per thousand births (2018-20)²¹, indicating positive health outcomes for women and children. The overall death rate of 6.7 per thousand²² people suggests good health and longevity for citizens. Life expectancy in the state is 70.5 years²³, further corroborating this finding. Unemployment rates in Gujarat are also quite low. In urban areas, only 2.2%²⁴ of the population is unemployed. In rural regions, the unemployment rate is at 1.4%²⁵. These figures imply that Gujarat allows most of its citizens to find stable work. Overall, its commitment to high capital expenditure appears correlated with improvements in health, education, and employment outcomes for its residents.

3. The Bihar Model: The Case for Living Wages

The state of Bihar has been taken into consideration to put forward some data which may help support the acceptance of living wages. Bihar's literacy rate stands at 61.80%²⁶, indicating that a considerable portion of the population lacks basic education, hindering the state's economic development. The maternal mortality ratio of 118 (2018-20) in Bihar²⁷ is indicative of challenges in providing adequate healthcare resources for expectant mothers. At 6.8 per thousand,²⁸ Bihar's death rate suggests good overall health of its people. A life expectancy of

¹⁷ *ibid*

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid*

²² *ibid*

²³ *ibid*

²⁴ *ibid*

²⁵ *ibid*

²⁶ *ibid*

²⁷ *ibid*

²⁸ *ibid*

69.5 years²⁹ indicates prioritisation of healthcare infrastructure. With urban and rural unemployment rates of 7.7% and 3.6% respectively,³⁰ the state faces challenges in providing adequate employment opportunities for its residents. The low capital expenditure of ₹17928 crores³¹ impliedly may indicate less income of its residents. This limited investment may have contributed to the challenges reflected in the aforementioned indicators. The statistical data portrays a complex socio-economic landscape in Bihar characterized by challenges in education, healthcare, employment, and infrastructure.

4. Reflections: The Wage Gap — Insights from Heeram, Gujarat and Bihar

With reference to the data presented, taking the ideal state's credentials as a benchmark of economic and personal prosperity, the credentials displayed by the state of Gujarat are closer to the ideal indicators while the credentials displayed by the state of Bihar are farther from the ideal indicators. It can be said that since the state of Gujarat has more favourable conditions, it may in the near future fulfil the requirements of an ideal state. Gujarat's people are able to afford good healthcare facilities, educational opportunities, employment opportunities, etc., allowing them to have a decent standard of living. To attain 'this' decent standard of living a go-to solution for the ideal state 'Heeram' was living wages, and so was for Gujarat. Thus, proving the credibility of living wages as a better alternative than minimum wages which would only help suffice basic needs.

VI. CONCLUSION: A CONSTITUTIONAL SHIFT — CHARTING THE FUTURE

The Anker Methodology, a method produced by the Anker Research Institute, is a method to calculate living wages based on estimating the cost of a decent standard of living for workers and their families along with an estimation of whether it is being paid in actuality to them.³² This methodology is employed in practice by the Global Living Wage Coalition (GLWC), an organisation that focuses on finding the living wages for different cities globally, stretched across 55+ countries. The methodology takes into consideration an estimated amount that would be required to afford decent housing and helps enhance the credibility of the living wage estimate through detailed documentation. It also tries to stay on track with the everchanging information through observations and upgradations, taking into account other factors like education, health care, and transportation costs, keeping the data as accurate as possible. Hence,

²⁹ *ibid*

³⁰ *ibid*

³¹ *ibid*

³² Global Living Wage Coalition, *The Anker Methodology for Estimating a Living Wage*, GLOBAL LIVING WAGE COALITION (May 09, 2024, 05:34 PM), <https://www.globallivingwage.org/about/anker-methodology/>

it is not a standardised, uniform figure that is paid to all but is dynamic and is in accordance with the local conditions.

Recently, the Anker Methodology was applied by the GLWC to the city of Tiruppur, Tamil Nadu, India where it estimated Rs. 18,482 as net living wage per month and Rs. 27,355³³ as the basic but decent income required for a family in the city. In India, the GLWC has completed 6 studies so far, namely in: Tiruppur City of Urban Tamil Nadu, Nilgiris District for Rural Tamil Nadu, Chhindwara District of Rural Madhya Pradesh, Ratlam District for Rural Madhya Pradesh, Bhadohi City of Rural Uttar Pradesh and finally Prakasam District of Rural Andhra Pradesh³⁴ showing a positive response towards the applicability of living wages in India. Since all of these places are a part of the Indian hemisphere where living wages have been calculated and factored in, then why not do the same for the whole of India?

There is already a method in practice in the existing states of India so there is no need for the government to start from scratch when it comes to building a culture of living wages in the country. The reference to numerous studies in the states of India stands as a testament to the practical applications of the Anker Methodology in the Indian landscape and calls for further research and development into the same. Obviously, the initial expenses in survey and calculation would be huge. But keeping in mind what it brings to the table; it tends to motivate the shift from minimum wages to living wages. It would not only help to alleviate the existing economic conditions but would also accelerate the pace at which India is approaching the Sustainable Development Goals (SDGs).

Through the course of this exhaustive article, a meticulous attempt at unravelling the intricacies surrounding Article 43 of the Indian Constitution, thus, offering a comprehensive analysis of the concept of living wages and its implications for India has been made. Through a critical assessment of the existing framework, the limitations of minimum wages in addressing the holistic development and well-being of wage earners has been underscored. Examination of the difference between minimum wage and living wage has shed light on the encompassing nature of the latter, which seeks to ensure a decent standard of living rather than just mere subsistence. The insufficiency of the current minimum wage system has been vividly illustrated, emphasising its incapacity to sustain a livelihood in a rapidly evolving economic landscape. The hypothetical ideal state of 'Heeram' and the case study of Gujarat and Bihar showcase the

³³ Global Living Wage Coalition, *Benchmark Study, Living Wage for Tiruppur, Tamil Nadu, India*, GLOBAL LIVING WAGE COALITION (May 09, 2024, 06:00 PM) (<https://www.globallivingwage.org/living-wage-benchmarks/urban-india/>)

³⁴ Global Living Wage Coalition, *Regional Benchmarks, India*, GLOBAL LIVING WAGE COALITION (May 10, 2024, 09:20 AM), (<https://www.globallivingwage.org/countries/india/>)

significant qualitative advancements that arise from prioritising living wages over minimum wages, spanning literacy rates, healthcare access, and employment opportunities.

Comprehensively, this research advocates for a paradigm shift towards living wages, positing them as a promising departure from the confines of minimum wages. Embracing the concept of living wages is not only crucial for addressing the immediate needs of individuals but also indispensable for advancing holistic societal development in India. Consequently, this article also proposes a conceptual and systemic transition to living wages, one bolstered by its potential to uplift individuals beyond mere subsistence and cultivate sustained and overall societal progress for its citizens. Living wages are something that helps us attain our housing, food, education, healthcare, future savings and many other needs that are fundamental in nature. Despite its integral role in supporting our fundamental needs, why does it find itself categorised as optional? Why is it relegated to the Directive Principles of State Policy (DPSP) rather than being elevated to the status of Fundamental Rights? Keeping all of the above considerations in mind, with reference to the evolving Indian landscape, this research makes a case for the inclusion of Article 43 of the Indian Constitution into the Fundamental Rights.
