

**New Labour Codes of India**  
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**Lecture No: 26**  
**C.131 – Minimum Wage Fixing Convention, 1970**

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Dear students, this week we are going to discuss about the ILO conventions and different ILO conventions on wages. And the first one, we are going to talk about the minimum wage and the minimum wage fixing convention 1970. So, convention number 131 is one of the very important conventions with regard to fixing minimum wages. So, we talked in the last classes also about the Minimum Wages Act. So, the minimum wages convention or the leadership of ILO has come out with the international agreement which talk about elaborate provisions for minimum wages. So, in this week's classes, we are going to discuss the ILO and different conventions on wages.

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### CONCEPTS COVERED

- ILO on Minimum Wage Fixation

### KEYWORDS

- Minimum Wage Fixation
- International Labour Organisation(ILO)

### International Labour Organisation(ILO)

- ❑ Although at the time when the International Labour Organization was established, minimum wages had only been set in a few countries, including Australia, France, New Zealand, Norway and the United Kingdom, and only covered certain categories of workers.
- ❑ Article 427 of the Treaty of Versailles referred to “the payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country” among the general principles guiding the policy of the future ILO.

So, we know that the minimum fixing the minimum wage is very important for implementing social security as well as equal remuneration for men and women. And also, we can say that it is very important for equal distribution of economic powers and also the people who are the different levels of economic development will be benefited from the minimum wages, which are fixed in different industries. But again, the question is, well there should be a uniform minimum wage to be fixed all over the world? The answer is no.

The Labour Organization, International Labour Organization also discussed about this particular concept. So, we can see that very few countries implemented minimum wages from the very beginning like Australia, France, New Zealand, Norway and UK. And also there, it is all these countries also we can say all of the more developed countries, but even to develop countries they made applicable to only certain categories of workers. And when the ILO was formed, the Treaty of Versailles very specifically mentioning about Article 427 which talks about the payment to the employee of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

So, the ILO policy with regard to minimum wages is very clear from 1990 onwards. So, it clearly says, a reasonable standard of life, which is understood in the time and in their own countries. So, even though the 188 members in ILO or we can say that based on the policy on minimum wages the standard of life is different from country to country. So, that has to be respected.

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### International Labour Organisation(ILO)

- ❑ Second World War, the 1944 Declaration concerning the aims and purposes of the International Labour Organisation (known as the ***“Declaration of Philadelphia”***, which forms an integral part of the ILO Constitution), reaffirmed that **“poverty anywhere constitutes a danger to prosperity everywhere”** (Part I(c)).
- ❑ Based on this principle, the Declaration recognizes the solemn obligation of the ILO to further among the nations of the world, programmes that will achieve, inter alia,
- ❑ **“policies in regard to wages and earnings ... calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection”**

So, you cannot implement a uniform minimum wage. So, again, the ILO talks about the 1944 declaration, which is popularly known as the declaration of Philadelphia, which formed an integral part of the ILO constitution, which talks about poverty anywhere constitutes a danger to prosperity everywhere. So, we saw in African countries, poverty is the prime component or enemy of development. So, very recently we saw that our neighbouring country Sri Lanka has almost double per capita income when compared to India. So, we saw that there are economic problems. So, economic problems always start from disparity.

So, the Philadelphia declaration very clearly talks about the connection between poverty and prosperity. So, poverty is to be eliminated for the poor through minimum wages. So, this particular declaration recognizes the obligation of the ILO to work with the nations and programmes for eliminating poverty throughout the world. So, this is calculated to ensure its just share of the fruits of progress to all and the minimum living wage to all employed and the need for such protection. So, ILO in 1944 itself talks about a minimum living wage, why emphasise the word living wage? Now, through the new amendment, this particular terminology is incorporated into the wages code living wage, and the central government is going to introduce a universal living wage for the Indian state.

So, where the component states cannot discriminate or communist states cannot fix below this living wage, the minimum wage. So, thus the regional disparity can be eliminated.

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#### International Labour Organisation(ILO)

- ❑ 1945, the International Labour Conference recommended “the establishment of appropriate minimum wage standards, adequate for satisfying reasonable human needs” in order to “assist the progressive raising of the standard of living of all workers”.
- ❑ provisions “with reference to wages paid to young workers should have the objective of assuring that they are paid wages commensurate with the work performed, observing wherever possible the principle **of equal pay for comparable jobs**”

And here, various labour conferences in 1945 itself, says the establishment of appropriate minimum wage standards, appropriate minimum base standards adequate for satisfying

reasonable human needs in order to assist the progressive raising of the standard of living of all workers. So, the standard should differ from country to country or region to region, from place to place and especially with regard to the paid people, lower wages paid to paid people or underpaid workers, but they are doing the same work.

So, the principle of equal pay for comparable jobs that is also very important. So, that there would not be any kind of discrimination based on the quantity of work and the quality of wages. So, the ILO is working on these particular principles from the very beginning.

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#### **International Labour Organisation(ILO)**

- ❑ It gives effect to the principle, set out in the Declaration of Philadelphia of 1944 that “labour is not a commodity”.
- ❑ Convention No. 131 also provides that the price of labour cannot be determined purely and simply through the application of the rules of supply and demand and that minimum wage is to be provided to all employed and in need for such protection.

And also, we can see that, so, in order to give effect to the declaration of Philadelphia of 1944. So, it is very clearly said the ILO considers that labour is not a commodity and convention number 131 reinforces this particular principle that, labour is not a commodity according to the market forces. So, demand according to the market demand, you cannot increase and decrease the wages of employees. So, the price of labour cannot be determined purely by the application of rules of supply and demand. So, the economic theory of supply and demand cannot be applicable to wages and to the labour market. So, the minimum wage is to be provided to all employees and also irrespective of gender discrimination. So, this convention number 131 reinforces the principle that minimum wages have to be paid to all those who are working.

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#### International Labour Organisation(ILO)

- ❑ 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.

And the minimum wage is defined in different ways in many countries. So, it is a minimum amount of remuneration, that an employer is required to pay to the wage earner for the work performed during a given period of time, which cannot be reduced by collective agreements or individual contracts. So, this is the minimum amount in terms of money, the minimum remuneration to be paid to a worker or a workman. So, through agreements or concerted agreements or collective agreements, this cannot be reduced below that particular amount.

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#### International Labour Organisation(ILO)

- ❑ The purpose of minimum wages is to protect workers against unduly low pay.
- ❑ They help ensure a just and equitable share of the fruits of progress to all, and a minimum living wage for all who are employed and in need of such protection.
- ❑ Minimum wages can also be one element of a policy to overcome poverty and reduce inequality, including those between men and women.

The objective of minimum wage is to protect workers against unduly low payments. So, this always helps just an equitable share of progress to all and the minimum living wage for all those who are employed or those who are working or all workmen. So, it is an element of a

policy, this minimum wage policy is a policy to overcome poverty also and this elimination of inequality in society and also the elimination of inequality among are based on gender men and women. So, the objective of imposing minimum wages is many fold. So, there is a social cause, there is an economic cost and there is the noble objective of eliminating poverty and reducing discrimination in this society and reducing inequality, inequality in the society, especially, gender inequality.

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#### International Labour Organisation(ILO)

- Minimum wage systems should be defined and designed in a way to supplement and reinforce other social and employment policies, including collective bargaining, which is used to set terms of employment and working conditions.

So, here it is very clear, that social development policies can be implemented through many of the schemes, but always this minimum wage system can go in to eliminate a majority of classes of employees. So, this is collective bargaining, definitely, all the trade unions have collective bargaining, but a statutory provision is going to help people who do not have collective bargaining. So, people who do not have collective bargaining at the time of employment, do not have any control over the working conditions at the beginning of their work. So, the statutory minimum wages are going to help them in such conditions.

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#### International Labour Organisation(ILO)

- ❑ In defining a minimum wage, it is important to be specific about which components of a wage can be counted in the minimum, the extent, and conditions under which payment-in-kind can be allowed, how the minimum is calculated for workers with piece-rate pay, and if the minimum is an hourly and/or a monthly rate.

So, again, you can see that the components of wages can be different from society to society. So, it can be paid in kind as well, but the minimum is calculated in terms of mainly is nowadays in most of the countries, even in India, with these reforms of labour reforms, we are going to introduce these piece rate, piece rate work. So, there will be a piece rate pay. So, there is going to be hourly work, there is going to be quarterly work there is going to be monthly rates. So, the minimum wage per hour is also to be fixed. So, the people who are working for a few hours are also going to get the minimum wage.

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#### International Labour Organisation(ILO)

- ❑ Collective bargaining can be a means to fix minimum wages.
- ❑ In most countries, the coverage of collective bargaining is insufficient to provide protection of minimum standards to a broad majority of workers.
- ❑ In many countries, governments have therefore adopted statutory minimum wages in addition to those set through collective agreements.

So, even though in most countries, we can see that collective bargaining is a means, to fix the minimum wages, but most countries this is we can say that the hybrid mode is implemented,



collective bargaining plus statutory recognition of minimum wages. So, it means that a minimum statutory amount is protected. So, the minimum standard is fixed by the government and the employees can go on with their collective bargaining power, but they cannot reduce the statutory minimum. So, that is why in most of these states, the governments have prompted the minimum wages. So, that the collective bargaining capacity will increase rather than decrease the wages. So, the majority of the countries in the world have adopted this hybrid method of fixing minimum wages. So, the majority of the countries adopted statutory and also collective bargaining methods.

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#### International Labour Organisation(ILO)

□ In statutory minimum wages, governments should make every effort to ensure the full consultation and, insofar as possible, direct participation, on a basis of equality, of the social partners in the establishment and operation of minimum wage systems.

So, here the government's objective is very clear. So, this is an effort to discriminate is to eliminate discrimination. And also definitely they are going to consult different stakeholders, with employees, employees and also other stakeholders. So, the present system of advisory bodies takes into consideration the difference in the living wages, and differences in the market conditions and they increase the minimum wages from time to time. So, here the operation of minimum wage, the operation of minimum wage is to eliminate inequality in society and inequality in payments, and inequality in work.

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#### International Labour Organisation(ILO)

- ❑ In principle, minimum wages should afford adequate protection to all workers in an employment relationship, including women, youth, and migrant workers, regardless of their contractual arrangements.
- ❑ Exclusions should be kept to a minimum, particularly in relation to vulnerable categories of workers.

So, the minimum wage should afford adequate protection to all workers in employment relationships including women. So, not only women, youth, migrant workers and regardless of their contractual arrangements, we know that in most states migrant workers get a lower salary, lower payment, and lower wages. So, the exclusions should be kept to a minimum. So, the vulnerable sections of society, and vulnerable sections of the workers should be benefited from fixing this particular minimum wage.

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#### International Labour Organisation(ILO)

- ❑ According to the recently adopted [Transition from the Informal to the Formal Economy Recommendation, 2015 \(No. 204\)](#),
- ❑ countries should also progressively extend minimum wage protections, in law and in practice, to workers in the **informal economy** through the process of formalization.

So, in 2015 adopted this transition from the informal to the formal economy recommendation 2015 ILO very clearly says that this minimum wage should be implemented in the informal economy as well. So, we know that in the formal economy the formal sector, it is very easy to

implement minimum wages. So, this particular recommendation very clearly says that the success of the objective of implementing minimum wages will depend upon implementation at the informal economy level or informal. I would say that the unorganized sector as well and India very well irrespective of the formal sector or informal sector or ordinary sector or unorganized sector, the government has implemented the minimum wages and we know that most governments are trying to do that.

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#### International Labour Organisation(ILO)

- Minimum wages should also apply to workers in the non-standard form of employment, including workers on fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties, or part-time work.

So, here it is very clear that irrespective of the nature of their work, whether it is the nonstandard form where it is fixed-term contracts and even the forms of temporary work contractual arrangements and contractual works. So, there may be multiple parties even part-time work. So, minimum wages should be implemented at the domestic level.

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### International Labour Organisation(ILO)

- ❑ The extent of non-compliance can also vary depending on the design of minimum wage policies and the number of rates, and also depends on the effectiveness of the entire process of designing and implementing minimum wage policies, from fixing the right level and rate structure in the first place, in full consultation with employers' and workers' organizations.

And here you can see that the policies for success will depend upon the enforcement of minimum wages. So, here the implementation will be dependent upon how the policies are framed by the governments and also what the rate is fixed by the government from time to time and place to place. So, if consultations are not there, so, compliance with the complaints from the employees so, a full consultation is required before the implementation of any kind of minimum wage anywhere not only in India but also in other poor countries as well.

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### C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

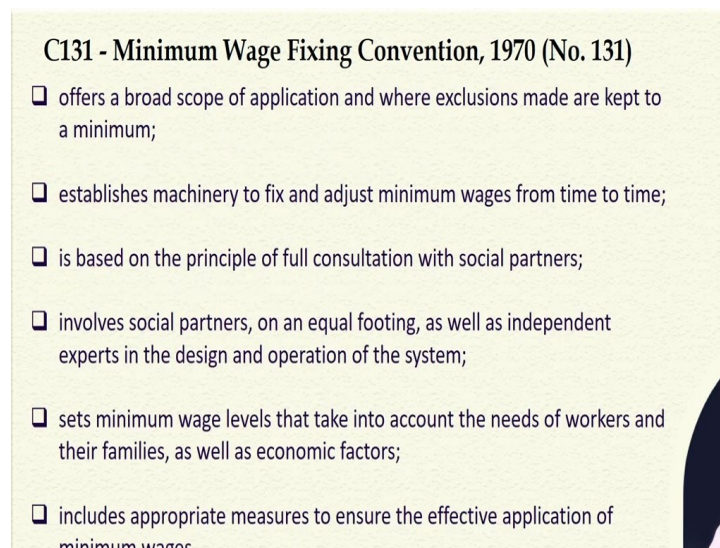
- ❑ Adoption: Geneva, 54th ILC session (22 Jun 1970)
- ❑ Date of Entry into force: 29.04.1972
- ❑ 54 Ratifications
- ❑ 0 Denounced
- ❑ **India** has not ratified this Convention

So, this convention number 131, the minimum wage fixing convention of 1970 was adopted in 1970. And it was entered into force in 1972. But, there are only 54 ratifications so far, of you know, less a number of ratifications of minimum wages, it is very surprising to see in a

developed society, the countries are reluctant to ratify this particular convention, especially when you look into it. India says that they have implemented the minimum wages at the domestic level very well. But they have not ready to ratify this particular convention. So, their argument is that they we have enough provisions in our constitution.

We have enough statutory provision legislations to implement the minimum wages. So, we have not ratified it. So, then the question arises, then why can be ratified? So, it is very clear, once you ratify an international convention, then the obligation of the government of India is to implement it at all levels. So, to implement it at all levels means in letter and spirit and reporting back to the ILO every year the implementation to the different sectors. So, probably India does not want to even do it after 75 years of its independence. So, in the near future, we expect that India is going to this ratify this particular convention.

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Then we come to the provisions of this convention. So, we can see that very clearly the minimum policy level, convention number 131, it says that it is an application. So, the exclusions from the obligation should be kept very minimum. So, minimum wages should be the exclusion should be made minimum and there must be machinery to fix and adjust minimum wages from time to time. So, we already said that we have advisory committees in every state who advise the governments to increase the minimum wages from time to time and then the principle of full consultation with the partners. So, mostly tripartite and other stakeholders, social partners, and, independent experts should be included in the advisory committees like.

And, then the minimum wage levels, it is taking into account the needs of workers and their families, and the economic factors are taken into consideration. So, if inflation is taken as a factor. So, what are the other factors to be taken into consideration for fixing the minimum wages? So, every country has their own standards, but there must be measures for the effective application of minimum wages at the domestic level.

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C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

- ❑ The objective of a generally applicable lower limit under which wages are not permitted to fall reflects the view that all workers – as a matter of right – should receive protection against ***“unduly low wages”***.
- ❑ However, **Convention No. 131** does not prescribe a single national minimum wage.

And what is the objective of this particular convention? The objective of the convention very clearly says that wages cannot fall below certain limits and they should get protection against unduly low wages. But, convention number 131 never prescribes, what is the national minimum wage. It only puts the policy guidelines. So, the national minimum wage should be implemented or fixed by the nations / the member countries.

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**C131 - Minimum Wage Fixing Convention, 1970 (No. 131)**

- ❑ The [Minimum Wage Fixing Recommendation, 1970 \(No. 135\)](#) , which accompanies the Convention, makes clear that broad coverage can be achieved *“either by fixing a single minimum wage of general application or by fixing a series of minimum wages applying to particular groups of workers”*.
- ❑ By not seeking to impose a single model on all ILO member States, [Convention No. 131](#) allows for the existence of different national circumstances and different levels of economic and social development.

So, they can determine their own minimum wages especially, this should be based on the minimum wage fixing recommendation of 1970. So again says that, so, broad coverage can be achieved either by fixing a single minimum wage of general application or by fixing a series of minimum wages applying to particular groups of workers. Most countries adopt the second method and there will be for example, if you take India there is scheduled employment. So, the different state governments publish minimum wages for different groups of workers. So, there would not be a disparity in the same group of workers. So, a single model will be very difficult.

So, national according to the national circumstances, the different levels of economic development, and social development, the national or the member countries ILO member countries can implement this particular convention number 131 according to their social needs.

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### C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

#### *Preamble*

- The General Conference of the International Labour Organisation,
- Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 54<sup>th</sup> Session on 3 June 1970, and
- **Noting the terms of the Minimum Wage-Fixing Machinery Convention, 1928, and the Equal Remuneration Convention, 1951, which have been widely ratified, as well as of the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951, and**
- Considering that these Conventions **have played a valuable part in protecting disadvantaged groups of wage earners, and**
- Considering that the time has come to adopt a further instrument complementing these Conventions and **providing protection for wage earners against unduly low wages, which, while of general application, pays special regard to the needs of developing countries, and**

And, the preamble very clearly says that these two conventions, which we are going to see in the coming classes, the minimum wage fixing machinery convention of 1928 date the first one, the Equal Remuneration convention 1951. And then the minimum wage fixing machinery agriculture convention of 1951. So, here you can see that these conventions are the first conventions to fix the minimum wages. So, the disadvantaged groups are benefited from these conventions. So, the unorganized sector, the agriculture sector and those who are fixing very low wages. So, special regard is given to the developing countries when implementing these provisions, the provisions of this particular convention.

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### C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

#### *Article 1*

1. **Each Member** of the International Labour Organisation **which ratifies** this Convention **undertakes to establish a system of minimum wages which covers all groups of wage earners** whose terms of employment are such that coverage would be appropriate.
2. The competent authority in each country shall, in agreement or **after full consultation with the representative organisations of employers and workers concerned, where such exist, determine the groups of wage earners** to be covered.



So, here, I think probably article 1 itself says that the country to ratify this convention undertakes to establish a system of minimum wage, which covers all groups of wage earners, whose terms of employment as such that coverage would be appropriate. So, in every country, there must be a competent authority with full consultation of organizations, employees, workers and other stakeholders and also determine the groups of business who is to be covered under this particular convention for the minimum wages.

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### C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

#### *Article 1*

**3. Each Member which ratifies** this Convention **shall list in the first report** on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation **any groups of wage earners which may not have been covered** in pursuance of this Article, **giving the reasons for not covering them,** and **shall state in subsequent reports the positions of its law and practice in respect of the groups not covered,** and the extent to which effect has been given or is proposed to be given to the Convention in respect of such groups.

And also, they shall list this particularly long list of different classes of workers, which just means a group of businesses, if anybody is not covered, that also is reported to the ILO but the government to give reasons for not covering them and the position of law and the position of the practice with regard to these particular groups, all these have to be reported back to the ILO probably the Indian government have a problem in this and the governments to give reasons, that why they are excluding certain particular groups from the purview of this particular these convention number 131.

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C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

*Article 2*

1. **Minimum wages shall have the force of law and shall not be subject to abatement, and failure to apply them shall make the person or persons concerned liable to appropriate penal or other sanctions.**
2. Subject to the provisions of paragraph 1 of this Article, the freedom of collective bargaining shall be fully respected.

And the minimum wages shall have the force of law and shall not be subject to abatement, we saw the provision that by mutual agreements, mutual contracts, this provision cannot be there, there cannot be any abatement on minimum wages. And if anybody is entering into such kind of practices must be liable. And penal liability and sanctions should be put on such kinds of people entering into agreements for the abatement of these particular provisions. So, the freedom of collective bargaining should be for a higher wage not for a lower wage than the minimum wage.

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C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

*Article 3*

The **elements to be taken into consideration in determining the level of minimum wages shall**, so far as possible and appropriate in relation to national practice and conditions, include--

- a) **The needs of workers and their families**, taking into account the **general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;**
- b) **Economic factors**, including the **requirements of economic development, levels of productivity** and the **desirability of attaining and maintaining a high level of employment.**

And Article 3, talks about what are the elements to be taken into consideration in determining the level of minimum wages. So, it was very interesting to see the earlier provisions of how

the government of India fixes the minimum wages, even if they have taken into consideration how much cloth is required for a family. So, convection number 131 says the need of workers and their families' general level of wages in the country the cost of living, social security benefits, relative living standards of other social groups, and economic factors. So, the economic development, level of productivity, and, desirability of attaining and maintaining a high level of employment. So, these are some of the factors to be taken into consideration for the determination of minimum wages under this convention.

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#### C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

##### *Article 4*

1. **Each Member which ratifies** this Convention **shall create** and/or maintain **machinery** adapted to national conditions and requirements **whereby minimum wages for groups of wage earners** covered in pursuance of Article 1 thereof **can be fixed and adjusted from time to time.**
2. **Provision shall be made**, in connection with the establishment, operation and modification of such machinery, **for full consultation with representative organisations of employers and workers concerned** or, where no such organisations exist, representatives of employers and workers concerned.

And also, every member should create machinery for fixing wages for a particular group and it can be fixed and adjusted from time to time. And there must be statutory provisions or statutory machinery for full consultation with the representative organizations of employees workman are concerned. So, there must be a statutory provision to fix consultative meetings.

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C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

*Article 4*

3. Wherever it is appropriate to the nature of the minimum wage fixing machinery, **provision shall also be made for the direct participation** in its operation of--

- a) **Representatives of organisations of employers and workers concerned** or, where no such organisations exist, representatives of employers and workers concerned, **on a basis of equality**;
- b) **Persons having recognised competence for representing the general interests of the country** and appointed after full consultation with representative organisations of employers and workers concerned, where such organisations exist and such consultation is in accordance with national law or

So, Article 4 provides that provisions additional provisions should also be made for direct participation of the personalities of organizations of employees and workers and based on equality. Then so, persons having recognized competence for representing the general interest of the country and full consultation of representative organizations. So, we have implemented representative unions in the wage code, in the absence of a representative union. we have included representative councils. So, there was a full consultation for fixing minimum wages.

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C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

*Article 5*

- **Appropriate measures**, such as **adequate inspection** reinforced by **necessary measures, shall be taken to ensure the effective application provisions relating to minimum wages.**

And then, adequate inspection mechanisms to ensure the effective application of all provisions relating to minimum wages. So, now, we have implemented the inspector-cum facilities. So, there must be machinery for the implementation of these minimum wages.

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## CONCLUSIONS

- The Minimum Wage Fixing Convention, 1970(No. 131) has **not** been ratified by India.
- A minimum wage recognizes the economic and social contribution of these workers and is a key means of ensuring the principle of equal pay for work of equal value.

## REFERENCES

- C131 - Minimum Wage Fixing Convention, 1970 (No. 131)
- <https://www.ilo.org/global/topics/wages/minimum-wages/domestic-workers/lang--en/index.htm>

So, we can see that convention number 131 even though it is adopted by 54 members of the ILO, India has not ratified it, but still India implemented most of the provisions of the conventions in its full letter and spirit. So, we have fixed minimum wages all over the country from place to place it may change from state to state. So, we talked about the so-called minimum wages for the country. So, the living wage is implemented through the new code, where the states cannot fix a lower one and also the regional disparities will be eliminated by this living wage. And also, the minimum wage should be considered as a tool for the elimination of poverty, economic and also social discrimination, and gender discrimination in this society and most importantly, it also implements the concept of equal pay for equal work of equal value. Thank you.

