

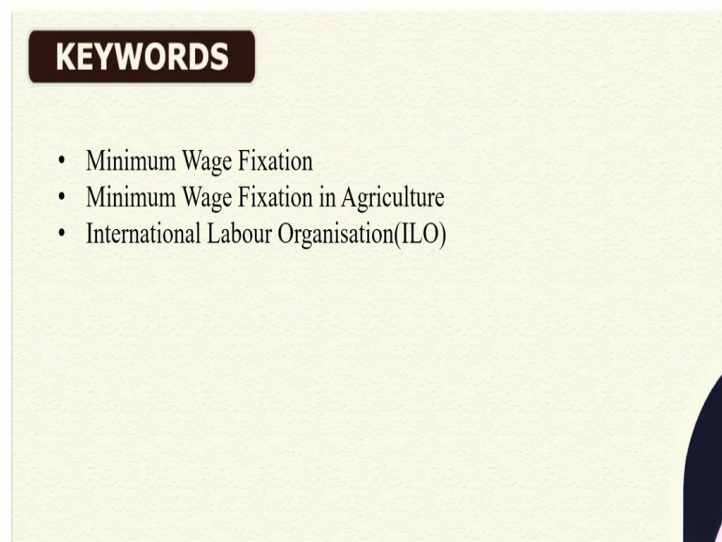
New Labour Codes of India
Professor K D Raju
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Lecture No: 27
C: 26-ILO Minimum Wage-Fixing Machinery Convention, 1928
C-99-Minimum Wage-Fixing Machinery (Agriculture) Convention, 1951

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Dear students in this class we are going to discuss about two ILO conventions the first one is the Minimum Wage-Fixing Machinery Convention, 1928 and the second one is convention number 99 Minimum Wage-Fixing Machinery Agriculture Convention 1951. So, these two conventions are the early conventions to fix minimum wages.

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International Labour Organisation(ILO)

- ❑ The International Labour Organization was established in 1919, after the First World War, following the Treaty of Versailles.
- ❑ 187 Member states
- ❑ The International Labour Office is headed by a Director-General appointed by the Governing Body. Albert Thomas of France was the first Director-General of the ILO.
- ❑ **Guy Ryder** was elected the 10th ILO Director-General and took office in October 2012. In 2016, he was re-elected for another five-year term which started on 1 October 2017.
- ❑ **Gilbert F. Houngho** as the 11th Director General, who will take office in October 2022.

So, we are going to talk about this, how the ILO has come out with this minimum wage fixation through these two conventions and as we already talked about the minimum wage. So, what is the importance of the minimum wage and why should we fix the minimum wage was elaborately discussed in the last class.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

- ❑ Adoption: Geneva, 11st ILC session (16 Jun 1928)
- ❑ Date of Entry into force: 14.06.1930
- ❑ 105 Ratifications
- ❑ 1 Denounced - by *United Kingdom of Great Britain and Northern Ireland* on 25.07.1985
- ❑ **India** has ratified this Convention

And here, this is one of the first conventions which talks about the minimum wage fixing machinery convention is convention number 26. And this convention, one of the largest ratifications by the members of this particular convention has been ratified. So, this is adopted in 1928 and came into force in 1930 remember most countries are so, we know that immediately before the Second World War. And now 105 countries have been ratified one of the highest ratifications and we can see that the United Kingdom and Northern Ireland. So,

they have denounced this convention for their own reasons and India has ratified this convention.

So, we talked about the other convention, India so far has not ratified others, but this convention is ratified by India. So, in minimum wage fixing because India is already fixed the minimum wages.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

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 11th Session on 30 May 1928, and
- Having decided upon the adoption of certain proposals with regard to **minimum wage-fixing machinery**, which is the 1st item on the agenda of the Session.

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Article 1

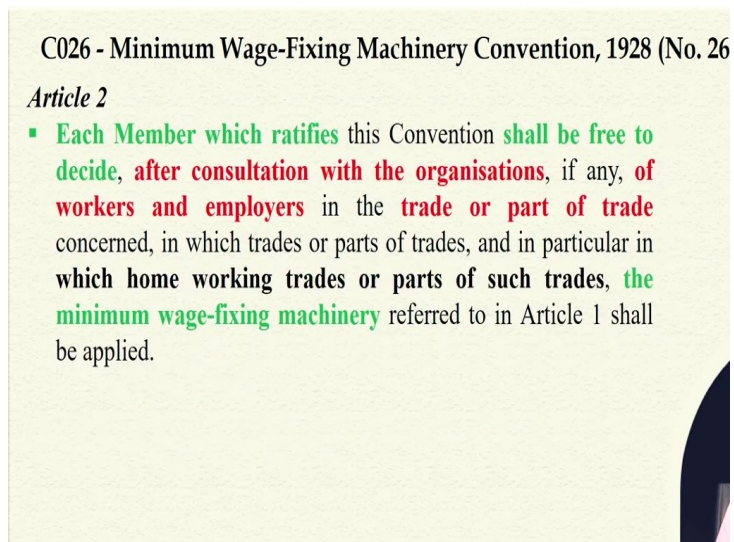
1. **Each Member** of the International Labour Organisation **which ratifies** this Convention **undertakes to create or maintain machinery** whereby **minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades** (and in particular in **home working trades**)
 - **in which no arrangements exist for the effective regulation of wages** by collective agreement or otherwise **and wages are exceptionally low**.
2. For the purpose of this Convention, the term **trades includes manufacture and commerce**.

So, the preamble of this particular convention very clearly says about why we required this particular convention. So, the minimum wage fixing this machinery is required in the member countries and also certain obligations on the countries who adopt this particular convention. So, they cut those who are undertaking this to create and maintain proper machinery whereby the minimum rate of wages can be fixed for workers employed in these

certain trips or parts of trades, especially, home working trades, because, I informed that there is no regulation specifically with regard to the whole workers, home-based workers.

So, there is no arrangement, no legislation, and no policy formulation for effective regulation of wages in this whole working trade. So, the wages are exceptionally very low. So, the explanation says trades include manufacturing and commerce. So, there is no regulation for fixing minimum wages, especially the home working traders. So, the government those who are adopting this particular convention has to adopt policies for fixing minimum wages for home-based traders, and home-based workers, whether they are in manufacturing or it is commerce.

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So, for workers, there will be a multi-party consultation on the trade party consent and which is basically or mainly the homeworking trades. So, a minimum wage fixing machinery is to be implemented. So, India has already implemented this and that is why we can say that India is very well ratified this particular convention.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Article 3

1. Each Member which ratifies this Convention shall be free to decide the nature and form of the minimum wage-fixing machinery, and the methods to be followed in its operation:
2. Provided that
 - 1) Before the machinery is applied in a trade or part of trade, representatives of the employers and workers concerned, including representatives of their respective organisations, if any, shall be consulted as well as any other persons, being specially qualified for the purpose by their trade or functions, whom the competent authority deems it expedient to consult;

And also, here the members shall be free to decide the nature and what type of or what kind of minimum wage fixing machinery they want to implement and for the operation of the implementation of this minimum wage. And also, before the implementation of the representatives of employees and so, we can see that this particular portion is there in all conventions because ILO stands for always the tripartite bodies, organizations and those who are concerned, organizations those who are involved in or consultation is the key for success or successful implementation of all the conventions.

So, the competent authorities in the state should consult all the stakeholders, especially representatives of employees and workers consent before fixing this particular machinery.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Article 3

- 2) The employers and workers concerned shall be associated in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by national laws or regulations;
- 3) Minimum rates of wages which have been fixed shall be binding on the employers and workers concerned so as not to be subject to abatement by them by individual agreement, nor, except with general or particular authorisation of the competent authority, by collective agreement.

And also, we can see that the employees and workers must be associated with the implementation machinery, and the operation of this particular machinery and there must be an equal number of persons to be involved and in equal terms, the environment should be equal in accordance with the national laws. So, the minimum rate of wages should be fixed is binding on the employees and also the workers are concerned. So, once the consultation is over and the minimum wages have been notified by the government. So, then this final and very clear Article 3 says the abatement by individual agreement is not allowed or collective agreements are not allowed by the competent because these international provisions are to be implemented at the domestic level through the National legislation.

So, abatement is should not be allowed either through individual agreements or through collective agreements, or collective bargaining agreements. So, the International provisions cannot be abated through international legislation or national policy legislation.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Article 4

1. **Each Member which ratifies** this Convention shall take the **necessary measures**, by way of a **system of supervision and sanctions, to ensure** that the **employers and workers concerned are informed of the minimum rates of wages in force and that wages are not paid at less than these rates in cases where they are applicable.**
2. **A worker** to whom the minimum rates are applicable and **who has been paid wages at less than these rates shall be entitled to recover, by judicial or other legalised proceedings, the amount by which he has been underpaid**, subject to such limitation of time as may be determined by national laws or regulations.

And also, you can see that the members should take necessary measures by the system of supervision and also sanctions to see that the workers and employees are informed of the minimum rates of wages and the wages if the wages are not paid or less than the minimum wages are paid, there will be a penalty, there must be provisions for penalty and the category of people who score applicable also should be notified and people those who are paid less than the wages that the notified categories also to be is published. And people who are eligible to get the minimum wage there must be machinery for recover, recover in terms of officials, judicial other legalized proceedings to record the minimum wages should be implemented by the respective governments and through national laws and regulations.

So, convention number 26 reinforces the machinery for the implementation of minimum wages. So, minimum wages through maybe through judicial means, other legalized proceedings and also the other proceedings should be implemented.

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C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Article 5

- Each Member which ratifies this Convention shall communicate annually to the International Labour Office a general statement giving a list of the trades or parts of trades in which the minimum wage-fixing machinery has been applied,
- indicating the methods as well as the results of the application of the machinery and, in summary form,
- the approximate numbers of workers covered, the minimum rates of wages fixed, and the more important of the other conditions, if any, established relevant to the minimum rates.

And every member should communicate ideally with the ILO office regarding the general statement and the list of trades or parts of the trades, where minimum wage fixing has been applied. So, that means, for example, in India, there is a State and Central schedule a copy of the state and central schedule has to be submitted to the ILO and also the methods as well as the result of the application of the machinery in a summary form to be submitted. And also, to give the data like the approximate number of workers covered, the minimum rates of wages fixed and other terms and conditions, which is relevant to the minimum rates are also to be submitted to the ILO. So, definitely, this will be as the ILO report, will be published.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention 1951 (No. 99)

- ❑ Adoption: Geneva, 34th ILC session (28 Jun 1951)
- ❑ Date of Entry into force: 23.08.1953
- ❑ 54 Ratifications
- ❑ 1 Denounced - by *United Kingdom of Great Britain and Northern Ireland* on 16.08.1994
- ❑ India **has not** ratified this Convention

So, the second convention which is related to the first one is specifically related to another agriculture sector which is convention number 99. So, fixing this convention again, convention number 131 and convention number 99 have only 54 ratifications and this convention is also denounced by the United Kingdom and Northern Ireland. And India has not ratified this convention, I am not able to understand why India has not ratified this convention, even though it is talking about the machinery for the implementation of minimum wages and the agriculture sector.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention 1951 (No. 99)

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 34th Session on 6 June 1951, and
- Having decided upon the adoption of certain proposals **with regard to minimum wage fixing machinery in agriculture**, which is the 8th item on the agenda of the session, and
- Having determined that these proposals shall take the form of an international Convention,
- adopts this 28th day of June of the year 1951 the following Convention, which may be cited as the Minimum Wage Fixing

So, the government have their own conventions. So, this convention number 99, the minimum wage fixing machinery agriculture convention 1951 talks about regard to the

minimum wage fixing in the agriculture sector, because an agrarian country like India should think of implementing this particular provision. So, because this is very specific with regard to the machinery in the agriculture sector and in 1951 this condition has been the fixing machinery for agriculture is still taken into place.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention,
1951 (No. 99)

Article 1

1. **Each Member** of the International Labour Organisation **which ratifies** this Convention **undertakes to create or maintain adequate machinery** whereby **minimum rates of wages can be fixed for workers employed in agricultural undertakings and related occupations.**
2. **Each Member which ratifies** this Convention **shall be free to determine, after consultation** with the most **representative organisations of employers and workers concerned**, where such exist, to which undertakings, occupations and categories of persons **the minimum wage fixing machinery** referred to in the preceding paragraph shall be applied.

And also, the provisions of this particular convention we will look into, which, the members have to adopt. So, already we said that the members have to make machinery for fixing minimum wages specifically for this particular agriculture undertakings and related occupations. So, this convention number 99 talks about agriculture and related occupations. So, each member who ratifies this convention is free to decide after consultation with the representatives of the employer organizations or employee organizations, they have to fix the category of persons first and the minimum wage fixing machinery should be treated.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention,
1951 (No. 99)

Article 1

3. The competent authority **may exclude** from the application of all or any provisions of this Convention **categories of persons** whose conditions of employment render such provisions inapplicable to them, **such as members of the farmer's family employed by him.**

So, the first class of work then minimum wages applied. So, the government can exclude from the obligation of the implementation of these provisions as well. And so, basically the conditions of employment the provisions inapplicable for example, members of the farmer's family. So, the family members employed by him and, the family members involved in farming activities can be excluded. So, we know that in agriculture family members maybe they will be even children are involved. So, they can be excluded from the category of persons for the implementation for the purpose of this article number 99.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention
1951 (No. 99)

Article 2

1. **National laws or regulations, collective agreements or arbitration awards may authorise the partial payment of minimum wages in the form of allowances in kind** in cases in which payment in the form of **such allowances is customary or desirable.**
2. In cases in which partial payment of minimum wages in the form of allowances in kind is authorised, **appropriate measures shall be taken to ensure that--**
 - a) Such allowances are **appropriate for the personal use and benefit of the worker and his family;** and
 - b) The **value** attributed to such allowances **is fair and**

And here, national laws and regulations to be made for collective agreements or arbitration awards maybe may authorize the partial payment of minimum wages in the form of

allowances in kind or allowances is customary or desirable. So, these are going to be new provisions for India and partial payment of minimum wages in the form of allowances in kind is authorized. So, appropriate measures should be taken for the implementation of this particular provision and appropriate for the personal use and benefit of the workers in his family. So, such elements can be appropriate for personal use and the value attributable to such allowances must be fair and reasonable. So, it will be more complicated than the other convention which may be one of the reasons India has not ratified this particular convention.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention
1951 (No. 99)

Article 3

1. Each Member which ratifies this Convention shall be free to decide, subject to the conditions stated in the following paragraphs, the nature and form of the minimum wage fixing machinery, and the methods to be followed in its operation.
2. Before a decision is taken there shall be full preliminary consultation with the most representative organisations of employers and workers concerned, where such exist, and with any other persons specially qualified by their trade or functions whom the competent authority deems it useful to consult.

And also, the members who ratified this convention shall be definitely they are free to decide on the conditions or the nature and form of minimum wage fixing machinery and methods of its operational implementation. So, definitely before taking any decisions, there must be consultation with the representative organizations of employees and workers and also the other organizations that are involved in that particular trade or function. Otherwise, the competent authorities deem it to be useful to consult so, they are free to consult any persons who are concerned about that particular sector.

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C099 - Minimum Wage Fixing Machinery (Agriculture) Convention
1951 (No. 99)

Article 3

3. **The employers and workers concerned shall take part in the operation of the minimum wage fixing machinery, or be consulted or have the right to be heard,** in such manner and to such extent as may be determined by national laws or regulations but in any case **on a basis of complete equality.**
4. **Minimum rates of wages which have been fixed shall be binding on the employers and workers concerned** so as **not to be subject to abatement.**
5. The competent authority **may permit exceptions** to the minimum wage rates **in individual cases,** where necessary, **to prevent curtailment of the opportunities of employment** of

And other provisions, which we can see. The minimum wage fixing machinery, employees and workers should participate in the minimum wage fixing machinery and they must be consulted. And the minimum rates of wages to be fixed shall be binding on the employers and employees concerned and there must be provisions for non-abatement of this particular provision. But the authorities can permit exemptions to the minimum wages to separate classes of people and they prevent curtailment of the opportunities for employment for physically or mentally handicapped workers. So, a class of people can be exempted from the purview of the implementation of convention number 99.

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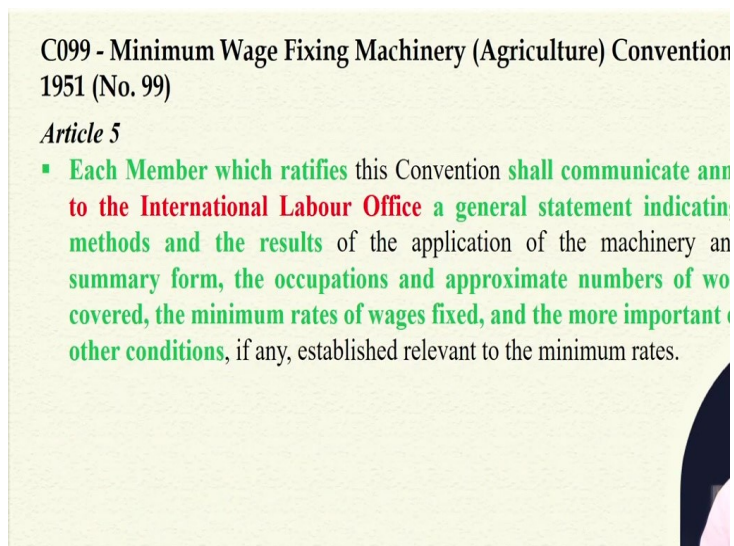
C099 - Minimum Wage Fixing Machinery (Agriculture) Convention,
1951 (No. 99)

Article 4

1. **Each Member which ratifies** this Convention shall take the **necessary measures to ensure** that the **employers and workers concerned** are **informed** of the **minimum rates of wages in force** and that wages **are not paid at less than these rates** in cases where they are applicable; these measures shall include such provision for **supervision, inspection, and sanctions** as may be necessary and appropriate to the conditions obtaining in agriculture in the country concerned.
2. **A worker to whom the minimum rates are applicable** and who **has been paid wages at less** than these rates **shall be entitled to recover,** by judicial or other appropriate proceedings, the amount by which he has been underpaid subject to such limitation of time

Then again, there is an obligation on the employers and workers concerned to be informed of the rates fixed by the wages and the employers must be informed that they must not pay, they should not pay less than this by the particular rate of wages. And also, include there must be provisions in the laws for the supervision inspection and putting sanctions for non-compliance with the provisions. So, if there must be administrative mechanisms, there must be judicial and other appropriate proceedings should be made for non-payment of these wages for the query of this particular wages. These are the provisions same as that of the first one which is the minimum wage fixing machinery convention. So, there must be administrative as well as judicial methods of dispute settlement.

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And also, this especially reporting mechanism Article 5 talks about the reporting mechanism that every member should report back about the class of workers in a summary form and the occupations and the approximate number of workers in each class covered, the minimum rates of wages fixed and other important conditions or other minimum other relevant rates should be fixed should be reported back to the ILO in the summarised form. So, reporting back is mandatory under Article 5 of the convention.

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CONCLUSIONS

- The Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) **has** ratified by India.
- The Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 **not been** ratified by India.

REFERENCES

- Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951

So, we can see that these two conventions fixed the machinery for fixing the minimum wages starting from 1928 and 1951. So, as we already stated, India has ratified the first one they have not ratified the second one and many of the countries have not ratified the second one, only 54 countries are ratified the second one and there is the highest number of ratification of the first convention. Because most of the countries or many countries have problems in ratifying this convention with regard to the agriculture sector because most of the countries are agrarian economies. So, they may fear that it is going to affect them. So, we can very well say that India has implemented the minimum wage fixing machinery convention and maybe some of the provisions.

For example, I would want to say that the government has fixed minimum wages for agricultural workers in the country, even though they have not ratified this particular convention. Agriculture workers are the minimum wages in this schedule, it is included agriculture workers, but the reclassification of agriculture workers is not done. The Government brought the Minimum Wages Act. There are two important conventions of the ILO to be implemented at the domestic level for fixing the minimum wages. Thank you.