



# Between Policy and Paychecks: A Socio-Legal Study of Wage Practices in Micro and Small Enterprises

<sup>1</sup> Mr. Amit Kumar PhD

Research Scholar, Department of Law, University of Jammu, Jammu City, Jammu and Kashmir, (U.T),  
India

*Abstract :* The Micro and Small Enterprises (MSE) sector forms the backbone of India's informal economy, providing employment to millions. Despite their economic significance, wage practices within MSEs often fall short of statutory and constitutional guarantees, resulting in widespread underpayment and labour exploitation. This paper undertakes a socio-legal analysis of wage structures in Indian MSEs, examining the interplay of labour legislation, enforcement mechanisms, and the lived realities of workers. It explores the gaps between law and practice, focusing on the efficacy of the wage laws, and suggests policy interventions to ensure decent remuneration for the invisible workforce sustaining India's grassroots economy.

*IndexTerms* - Socio-legal, wages, Labour, Economy, Micro and small enterprises, Significance study, Mechanisms, workers, Industry.

## I. INTRODUCTION

Micro and Small Enterprises (MSEs) form the cornerstone of India's non-agricultural employment sector, particularly in rural and semi-urban areas. They serve as critical engines of inclusive growth, self-employment, and grassroots industrialisation. As per the Annual Report of the Ministry of MSME (2022–23), the MSE sector contributes nearly 30% of India's Gross Domestic Product (GDP) and employs over 111 million people across approximately 63 million enterprises, making it the second-largest source of employment after agriculture.<sup>1</sup> Despite their pivotal economic role, these enterprises operate largely within the informal sector, where working conditions often escape the purview of regulatory oversight and statutory protections. A substantial share of MSEs function without registration under the Udyam platform or any State government mechanism. According to the Periodic Labour Force Survey (PLFS) 2021–22, over 88% of the total workforce in India is engaged in informal employment, with MSEs constituting a significant portion of this demographic.<sup>2</sup> This means that a majority of workers in this sector lack written employment contracts, are paid wages below statutory thresholds, and remain outside the coverage of social security schemes such as Employees' Provident Fund (EPF) and Employees' State Insurance (ESI).<sup>3</sup> This raises fundamental questions regarding the reach and relevance of India's wage laws—such as The Minimum Wages Act, 1948, The Payment of Wages Act, 1936, The Payment of Bonus Act, 1965, The Equal Remuneration Act, 1976 and the newly enacted Code on Wages, 2019—in delivering economic justice, as envisioned under the Constitution.

The term “invisible labour” refers to the vast segment of the workforce—predominantly informal, precarious, and unregistered—whose contributions to the economy remain unrecognised, undocumented, and undervalued.<sup>4</sup> In the context of Micro and Small Enterprises (MSEs), this invisibility is not merely a reflection of informality, but a structural marginalisation where workers are denied the most basic markers of formal employment—such as contracts, wage slips, and social security.<sup>5</sup> Within such informal setups, wage inequality and persistent non-compliance with statutory wage norms—especially the The Minimum Wages Act, 1948 and The Payment of Wages Act, 1936—emerge not simply as administrative oversights, but as

<sup>1</sup> Government of India, Annual Report 2022–23, Ministry of Micro, Small and Medium Enterprises, at 5.

<sup>2</sup> Ministry of Statistics and Programme Implementation, *Periodic Labour Force Survey Annual Report 2021–22*, NSSO, at 18

<sup>3</sup> K.R. Shyam Sundar, “Social Security for Informal Workers: Emerging Issues and Challenges,” (2021) 56(1) Economic and Political Weekly 31, at 34.

<sup>4</sup> Diane Elson, “The Recognition and Valuation of Invisible Labour,” in *Feminist Economics* (1999), 5(2): 1–8.

<sup>5</sup> Jan Breman, *At Work in the Informal Economy of India* (Oxford University Press, 2013), at 87

systemic injustices rooted in socio-economic hierarchies, gender biases, and regulatory apathy.<sup>6</sup> These injustices are further exacerbated by the absence of robust enforcement mechanisms, limited labour inspections, and low levels of legal literacy among both employers and employees.<sup>7</sup>

This creates a fertile ground for the emergence of a parallel labour economy—an unregulated, opaque system in which exploitative labour practices are normalised and perpetuated under the guise of financial constraints, heightened market competition, or the need for operational flexibility. Within such a framework, employers often rationalise non-payment of minimum wages, denial of social security benefits, and imposition of excessive working hours as inevitable trade-offs for business survival. This shadow economy operates beyond the reach of formal legal mechanisms, systematically bypassing statutory obligations laid down under the present wage laws and other labour welfare legislations.

Consequently, informalisation is not merely a by-product of economic liberalisation but a structurally embedded feature of industrial relations in Micro and Small Enterprises (MSEs), where legal invisibility enables the persistence of precarity and reinforces socio-economic hierarchies. Workers, especially women, migrants, and Dalits, often find themselves trapped in cycles of underpayment, job insecurity, and voicelessness, with limited access to grievance redressal or legal recourse.<sup>8</sup> Consequently, informality in MSEs becomes not just an economic phenomenon but a normative failure of the rule of law in delivering labour justice to the most vulnerable.

From a constitutional perspective, the failure to ensure fair remuneration and decent work conditions violates several Fundamental Rights and Directive Principles of State Policy (DPSPs) enshrined in the Indian Constitution. Articles 14 (equality before law), 21 (right to life and dignity), and 23 (prohibition of forced labour) directly connect with wage-related entitlements, while Articles 38, 39, and 43 call upon the State to secure a living wage and promote the welfare of workers.<sup>9</sup> These provisions form the ethical and legal foundation for a just wage regime in India.

Furthermore, India is a signatory to international conventions of the International Labour Organization (ILO), including Convention No. 131 on Minimum Wage Fixing and Convention No. 100 on Equal Remuneration. Yet, these global commitments often remain symbolic in the absence of domestic enforcement.<sup>10</sup> The disconnect between India's legislative intentions and the actual working conditions in MSEs signals an urgent need for a socio-legal examination of the wage ecosystem governing this sector.

Hence, this paper aims to critically examine the existing legal framework, practical challenges, and enforcement gaps in the wage structure of Micro and Small Enterprises in India. It will explore the sociological realities of informal labour within MSEs and interrogate whether current wage laws adequately address the lived vulnerabilities of this significant yet under-protected workforce.

## II. LEGAL FRAMEWORK GOVERNING WAGES IN MSEs

The **Minimum Wages Act, 1948**, the **Payment of Wages Act, 1936**, the **Payment of Bonus Act, 1965**, and the **Equal Remuneration Act, 1976** are foundational labor welfare legislations in India aimed at protecting the rights and dignity of workers. The *Minimum Wages Act* mandates the fixation of minimum rates of wages to prevent exploitation of labor, particularly in unorganized sectors. The *Payment of Wages Act* ensures timely and full payment of wages to employees without unauthorized deductions. The *Payment of Bonus Act* provides for the annual payment of bonuses to employees based on profits or productivity, thereby sharing the prosperity of the industry with its workforce. The *Equal Remuneration Act* promotes gender equality by requiring employers to pay equal wages to men and women for performing the same or similar work. Collectively, these laws aim to promote fairness, economic justice, and improved labor standards across industries

In the Year 2019 the enactment of the Code on Wages, 2019 marked a major step in the reform of India's labour law regime. As part of the labour codes consolidation initiative, this legislation subsumes and replaces four previously scattered statutes:

- The Minimum Wages Act, 1948
- The Payment of Wages Act, 1936
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976

<sup>6</sup> K.R. Shyam Sundar, "Wage Inequality and Labour Codes in India," (2021) 56(1) Economic & Political Weekly 34.

<sup>7</sup> V.V. Giri National Labour Institute, Report on Legal Literacy and Informal Sector Workers, (2022), at 11.

<sup>8</sup> Renana Jhabvala and Ravi Srivastava, "Informal Labour, Economic Constraints and Legal Voids," (2017) 4 Indian Journal of Labour Economics 193

<sup>9</sup> INDIA CONST. arts. 14, 21, 23, 38, 39, 43.

<sup>10</sup> ILO, "Ratifications for India,"

<[www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102691](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102691)> (last accessed July 2025).

The Code seeks to simplify, rationalise, and unify wage-related provisions to ensure wider compliance, legal clarity, and access to justice for employees across organised and unorganised sectors.<sup>11</sup> It introduces a uniform definition of “wages” and extends the minimum wage regime to all categories of employees, irrespective of sector or skill level—thus removing the earlier distinction between “*scheduled*” and “*non-scheduled*” employments.<sup>12</sup>

However, despite these progressive intentions, the Code has not been fully implemented so far. Currently, only some provisions related to the Central Advisory Board have been notified and most of the Code's provisions have not yet been implemented. Currently MSEs operate under the previously enacted wage laws. Moreover wage law application is weakened by low legal literacy among employers, poor access to labour administration by workers, and the financial constraints of small enterprises that often perceive compliance as an economic burden rather than a statutory obligation.<sup>13</sup>

## Key Highlights of the Code

### 1. *Ambiguities in Definitions and Coverage*

The Code defines “employee” in Section 2(k) as “any person employed... in any industry, to do any skilled, semi-skilled or unskilled... work... for hire or reward,” and “employer” in Section 2(l) as any person who employs one or more employees.<sup>14</sup> While these broad definitions are intended to promote inclusiveness, they also create interpretative challenges in the informal sector where employment contracts are unwritten, casual, or disguised as apprenticeships.

In many MSEs, particularly those in textiles, handicrafts, construction, and food processing, informality is entrenched, and even basic employment records like attendance registers or wage slips are absent.<sup>15</sup> This undermines the Code's enforceability, as the lack of documentary evidence restricts the ability of workers to claim statutory entitlements or file legal complaints under Section 45 (claims under wage payment).<sup>16</sup>

### 2. *Minimum Wages and Lack of Localised Thresholds*

Section 6 of the Code empowers the Central and State Governments to fix minimum wages based on factors such as skill level, geography, and industry. Yet, the absence of region-specific thresholds tailored to MSE-dominant districts results in wage floors that may not reflect the local cost of living.<sup>17</sup>

Moreover, enforcement is hindered by the non-notification of rules in several states, despite the Code having received Presidential assent in August 2019.<sup>18</sup>

### 3. *Bonus and Equal Pay Provisions*

The provisions on bonus and equal remuneration under the Code mirror the earlier statutes but lack innovation to address ground realities in the MSE sector. Section 29 mandates the payment of bonus where applicable, but compliance is awaited. Gender-based wage disparity remains high in informal units, particularly where piece-rate systems or home-based work models exist, which are not easily measurable or regulated under the Code.<sup>19</sup>

### 4. *Compliance Mechanisms and Penalties*

The Code provides for digital registers, randomised inspections, and grievance redressal under a newly designated authority. However, the Inspector-cum-Facilitator model has drawn criticism for diluting enforcement in favour of conciliation.<sup>20</sup> MSEs are rarely inspected due to manpower shortages in state labour departments, leading to low prosecution rates and ineffective deterrence.

<sup>11</sup> Ministry of Labour and Employment, Report on the Code on Wages, 2019, Government of India, at 3.

<sup>12</sup> Code on Wages, 2019, § 6

<sup>13</sup> K.R. Shyam Sundar, “*Understanding Labour Law Reforms in India: Towards a Holistic Framework*,” (2020) 55(4) Economic & Political Weekly 34.

<sup>14</sup> Code on Wages, 2019, §§ 2(k), 2(l).

<sup>15</sup> Rani D. Mullen and Sumit Mishra, “*Informality and Social Protection: Labour Rights in Indian MSMEs*,” (2019) Centre for Policy Research Working Paper, at 9.

<sup>16</sup> Supra note 14.

<sup>17</sup> Deb Kusum Das, “*Are Minimum Wages in India Too Low?*,” (2022) 57(3) EPW 20.

<sup>18</sup> PRS Legislative Research, “*Status of Implementation of Labour Codes (2023)*,” <www.prsindia.org> (last accessed July 2025).

<sup>19</sup> Renana Jhabvala, “*Women and Work in the Informal Sector*,” (2017) 4 Indian Journal of Gender Studies 109.

<sup>20</sup> M.S. Swaminathan, “*Balancing Compliance and Facilitation: A Critique of the Inspector-cum-Facilitator Role*,” (2021) 12 Labour Law Journal 55

According to data from the Labour Bureau, less than 8% of registered MSEs were inspected in states like Bihar, Uttar Pradesh, and Jharkhand between 2020–2022.<sup>21</sup> This administrative gap contributes to a culture of non-compliance, where the law exists more in form than in function.

### III. CONSTITUTIONAL AND INTERNATIONAL DIMENSIONS

The constitutional mandate of wage justice in India is embedded in the Fundamental Rights and the Directive Principles of State Policy (DPSPs) of the Constitution of India. Together, they provide both a moral vision and legal architecture for ensuring fair wages, dignified working conditions, and the elimination of exploitative labour practices, especially in vulnerable sectors such as Micro and Small Enterprises (MSEs).

#### 1. Fundamental Rights and Wage Protection

Article 14 of the Constitution guarantees equality before the law and equal protection of the laws, which prohibits arbitrary wage differentials or discrimination among workers employed in similar conditions.<sup>22</sup> This has particular relevance in MSEs, where gender, caste, and region-based wage disparities are rampant.

Article 21, which guarantees the right to life and personal liberty, has been interpreted by the Supreme Court to include the right to live with dignity, which is inseparable from the right to a livelihood and fair wages. In *Olga Tellis v. Bombay Municipal Corporation*, the Court held that the right to livelihood is an integral part of Article 21.<sup>23</sup> The jurisprudence has since evolved to treat non-payment or underpayment of minimum wages as a denial of basic human dignity.

Article 23 prohibits forced labour, including situations where workers are paid less than the legally mandated minimum wage. The landmark judgment in *People's Union for Democratic Rights v. Union of India* clarified that any form of labour that is extracted involuntarily or paid below subsistence levels qualifies as forced labour under Article 23.<sup>24</sup> This is particularly relevant to the MSE sector, where informalisation often leads to coercive or exploitative wage practices under the guise of economic necessity.

#### 2. Directive Principles of State Policy

Although non-justiciable, the DPSPs provide crucial interpretive guidance to courts and policy-makers. Article 38 calls upon the State to secure a social order based on justice—social, economic and political. Article 39(e) directs the State to ensure that workers are not forced by economic necessity to undertake tasks unsuited to their age or strength. Article 43 specifically mandates that the State shall endeavour to secure, by suitable legislation or economic organisation, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social opportunities.<sup>25</sup>

The phrase “living wage,” as distinct from minimum wage, implies remuneration adequate not only for subsistence but also for family welfare, health, and dignity.<sup>26</sup> In the MSE context, however, the overwhelming majority of workers continue to receive wages below both minimum and living wage thresholds, violating the spirit and substance of these constitutional ideals.

#### 3. Judicial Affirmation of Wage Rights

Indian courts have consistently reaffirmed the centrality of wage justice to constitutional governance. In *Santhosh Mehta v. State of U.P.*, the Supreme Court underscored the right of workers to be paid wages in accordance with the law as a basic tenet of justice.<sup>27</sup>

In *Sanjit Roy v. State of Rajasthan*, the Court held that non-payment of minimum wages, even in government employment schemes, was unconstitutional.<sup>28</sup> Such judicial pronouncements expand the understanding of forced labour and provide a constitutional foundation for wage entitlements.

#### 4. International Labour Standards and India's Commitments

India's wage regulation framework is also shaped by its commitments to international labour standards, particularly those established by the International Labour Organization (ILO). As a founding member of the ILO, India has ratified numerous conventions, including:

- ILO Convention No. 131 (Minimum Wage Fixing, 1970), which mandates countries to establish systems for minimum wage fixing, especially in sectors with weak collective bargaining.<sup>29</sup>
- ILO Convention No. 100 (Equal Remuneration, 1951), which obligates equal pay for work of equal value, irrespective of gender.<sup>30</sup>

<sup>21</sup> Labour Bureau, *All India Survey on Employment in MSMEs (2022)*, Ministry of Labour & Employment, at 23.

<sup>22</sup> INDIA CONST. art. 14.

<sup>23</sup> (1985) 3 SCC 545.

<sup>24</sup> (1982) 3 SCC 235.

<sup>25</sup> INDIA CONST. arts. 38, 39(e), 43.

<sup>26</sup> B.P. Adarkar, “*Report on Health Insurance for Industrial Workers*,” Government of India (1942), at 42.

<sup>27</sup> (1975) 3 SCC 120.

<sup>28</sup> AIR 1983 SC 328.

<sup>29</sup> ILO, Convention No. 131: *Minimum Wage Fixing, with Special Reference to Developing Countries* (1970).

<sup>30</sup> ILO, Convention No. 100: *Equal Remuneration for Men and Women Workers for Work of Equal Value* (1951).

While these conventions offer a robust framework for wage justice, the lack of domestic institutional enforcement, especially in the MSE sector, renders these commitments largely aspirational. Several critical conventions, such as ILO Convention No. 87 (Freedom of Association) and Convention No. 98 (Right to Organise and Bargain Collectively) remain unratified by India, further limiting the efficacy of wage negotiations in informal settings.<sup>31</sup>

Moreover, the Global Wage Report 2022–23 by the ILO observed that real wages in India declined post-COVID, particularly in small-scale units and informal enterprises, underscoring the urgency of reforming wage enforcement mechanisms.<sup>32</sup>

#### IV. SOCIO-LEGAL ISSUES IN WAGE PRACTICES OF MSEs

Despite the existence of statutory frameworks, wage-related violations in Micro and Small Enterprises (MSEs) remain deeply entrenched. The issues faced by workers in MSEs stem not merely from regulatory shortcomings but also from structural inequalities, entrenched informality, and power imbalances between employers and workers. This section discusses the key socio-legal challenges that undermine wage justice in the MSE sector in India.

##### 1. *Lack of Written Contracts*

A majority of workers employed in MSEs are hired without formal employment contracts. This informal hiring practice makes it difficult for employees to prove their employment relationship, claim minimum wages, bonuses, or seek redress for wage disputes.<sup>33</sup>

Under the wage laws, documentation of employment terms is essential to ascertain the payment of minimum wages, working hours, and bonus eligibility. However, the absence of written contracts not only deprives workers of their statutory entitlements but also exposes them to arbitrary termination, wage theft, and unregulated working hours.<sup>34</sup>

This legal invisibility violates Section 17 of the newly enacted Wage Code, which mandates wage slips and records, and hinders enforcement under Section 45, which provides the grievance mechanism for unpaid or underpaid wages.<sup>35</sup>

##### 2. *Wage Disparities and Gender Bias*

Gender-based wage discrimination is pervasive in MSEs, particularly in sectors such as garments, food processing, handicrafts, and home-based work. Women are often assigned low-paid, repetitive, or piece-rated tasks and are paid 20–30% less than their male counterparts for similar work.<sup>36</sup>

This practice directly contravenes Section 3(1) of the new Code on Wages, which mandates equal remuneration for work of equal value. It also violates Article 39(d) of the Constitution and ILO Convention No. 100, both of which mandate gender wage parity.<sup>37</sup> However, the challenge lies in enforcement. Gender wage disparities often go unchallenged due to women's limited access to legal aid, social stigma, and lack of collective bargaining platforms in MSEs.<sup>38</sup>

Additionally, intersectional discrimination based on caste, marital status, or migration status compounds wage gaps. Women from Scheduled Castes or migrant backgrounds are often offered the lowest-paid, least secure jobs within informal MSE clusters.<sup>39</sup>

##### 3. *Non-payment or Delay in Wages*

One of the most frequent wage-related violations in MSEs is the non-payment or delayed payment of wages. This issue has been documented widely in studies by the V.V. Giri National Labour Institute and ILO country reports.<sup>40</sup> Although Section 17 of the Code mandates that wages be paid within the stipulated wage period (monthly, weekly, etc.), many employers in MSEs flout these

<sup>31</sup> International Labour Organization, “*Ratifications for India*,” <www.ilo.org/dyn/normlex>.

<sup>32</sup> ILO, *Global Wage Report 2022–23: The Impact of Inflation and COVID-19 on Real Wages* (2023), at 52.

<sup>33</sup> Jan Breman, “*Footloose Labour: Working in India’s Informal Economy*,” (Oxford University Press, 2013), at 89.

<sup>34</sup> Code on Wages, 2019, § 17

<sup>35</sup> *Ibid*,

<sup>36</sup> ILO, “*India Wage Report: Wage Policies for Decent Work and Inclusive Growth*,” (2018), at 36–37.

<sup>37</sup> INDIA CONST. art. 39(d); ILO Convention No. 100 (1951).

<sup>38</sup> Renana Jhabvala and Ravi Srivastava, “*Women, Work and Social Protection in the Informal Economy*,” (2009) 4 *Indian Journal of Labour Economics* 231.

<sup>39</sup> Neetha N., “*Gender and Informality in the Indian Economy*,” (2020) 55(2) *EPW* 42.

<sup>40</sup> V.V. Giri National Labour Institute, “*Conditions of Work and Wages in Informal Sector*,” (2021), at 11

provisions due to liquidity constraints, seasonal business cycles, or outright exploitation. Workers often lack the bargaining power or procedural knowledge to assert their claims.<sup>41</sup>

The Supreme Court, in *Regional Manager, SBI v. Rakesh Kumar Tewari*, stressed the importance of timely wage payment as a basic right under Article 21, and a condition of “just and humane” employment.<sup>42</sup> However, the lack of functional grievance redressal systems and fear of retaliation often deters workers from approaching legal forums.

#### 4. Limited Inspections and Enforcement

Labour law enforcement in India has historically been compliance-oriented but inspection-deficient, especially in the informal economy. Most State Labour Departments are severely understaffed. In states such as Uttar Pradesh, Bihar, and Madhya Pradesh, a single labour inspector is often assigned over 1,000 industrial units, making meaningful inspections virtually impossible.<sup>43</sup> The Inspector-cum-Facilitator model introduced in the labour codes has further weakened enforcement. While intended to shift from adversarial inspections to a facilitative approach, in practice, it has reduced accountability and legal deterrence, particularly for MSEs.<sup>44</sup>

Moreover, inspection reports are rarely digitised or followed up with prosecution, leading to a culture of impunity among defaulting employers.<sup>45</sup> This undermines the regulatory objectives of wage legislation and discourages worker complaints.

#### 5. COVID-19 and Wage Crisis

The COVID-19 pandemic brought wage insecurity in MSEs to the forefront. During the national lockdown (March–May 2020), millions of informal workers—especially daily wage earners and seasonal employees in MSEs—were laid off without notice, unpaid, or sent back to their home states.<sup>46</sup> Although the Ministry of Home Affairs, via circulars dated March 29, 2020, directed all employers to pay full wages during the lockdown period, compliance was dismal.<sup>47</sup> A PIL in *In Re: Problems and Miseries of Migrant Labourers* (2020) revealed that wage theft had become rampant across sectors, and state mechanisms were unprepared to enforce statutory wage protections.<sup>48</sup>

The Supreme Court observed that the State has a constitutional obligation to protect the right to livelihood under Article 21, and recommended compensation for wage denial, though no uniform implementation followed.<sup>49</sup> The episode exposed the structural fragility of wage enforcement in India’s informal economy.

### V. JUDICIAL RESPONSES

The Indian judiciary has played a critical role in interpreting the right to fair wages as integral to the right to life, dignity, and equality under the Constitution. Through a series of landmark judgments, the Supreme Court and High Courts have laid down progressive jurisprudence on minimum wage entitlement, prohibition of forced labour, and the State’s obligation to protect labour rights. However, the impact of these judicial pronouncements remains limited in the context of Micro and Small Enterprises (MSEs) due to persistent gaps in enforcement, outreach, and access to legal remedies.

#### 1. *People’s Union for Democratic Rights v. Union of India*

In this landmark case, popularly known as the *Asiad Workers’ Case*, the Supreme Court examined the employment conditions of construction workers hired for the 1982 Asian Games. It held that non-payment of minimum wages amounts to “forced labour” under Article 23 of the Constitution.<sup>50</sup> The Court observed:

*“Where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words ‘forced labour.’”<sup>51</sup>*

<sup>41</sup> Code on Wages, 2019, s- 17.

<sup>42</sup> (2006) 1 SCC 530.

<sup>43</sup> Labour Bureau, “All India Survey on Employment in MSMEs” (2022), at 25.

<sup>44</sup> M.S. Swaminathan, “Balancing Compliance and Facilitation: A Critique of the Inspector-cum-Facilitator Role,” (2021) 12 Labour Law Journal 55

<sup>45</sup> Centre for Policy Research, “Labour Reforms and Informality in India,” (2020), at 21.

<sup>46</sup> ILO, “Impact of COVID-19 on India’s Informal Sector,” (2020), at 9.

<sup>47</sup> Ministry of Home Affairs, Order No. 40-3/2020-DM-I(A), dated 29 March 2020

<sup>48</sup> Supreme Court of India, *Suo Motu W.P. (C) No. 6 of 2020*.

<sup>49</sup> *ibid*

<sup>50</sup> *People’s Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.

This judgment significantly broadened the interpretation of Article 23, linking minimum wage non-compliance to a fundamental rights violation. It also shifted the onus of ensuring wage compliance on the State and employers, irrespective of the worker's consent to work at lower rates.

## 2. *Sanjit Roy v. State of Rajasthan*

In *Sanjit Roy*, the petitioner challenged the employment of labourers under the Famine Relief Works Programme, where they were paid less than the statutory minimum wage. The Supreme Court held that the State cannot invoke poverty or emergency schemes as justification for wage violations.<sup>52</sup> Justice Bhagwati observed that the dignity of labour is non-negotiable, even in the context of public employment or relief work.

This case established that economic status or the State's financial incapacity cannot be an excuse to deviate from minimum wage laws, reinforcing the constitutional floor for wages applicable to all categories of employment—including informal and contractual workers, many of whom are engaged by MSEs directly or through intermediaries.

## 3. *Bandhua Mukti Morcha v. Union of India*

In this PIL, the Court emphasized the State's affirmative duty to identify, release, and rehabilitate bonded labourers, many of whom were subjected to wage denial and coercive practices under informal employment settings.<sup>53</sup> The Court also reiterated that informal or oral employment contracts do not exempt employers from complying with labour laws, including minimum wage statutes.<sup>54</sup>

This case is particularly significant in the MSE context, where unregistered workers often endure conditions akin to economic coercion, in the absence of bargaining power or formal grievance mechanisms.

## 4. *MCD v. Female Workers (Muster Roll)*

In this case, the Court extended maternity benefits to daily wage and casual workers, stating that constitutional protections and labour entitlements must apply universally, not selectively.<sup>55</sup> This principle has broader implications for social wage entitlements, such as bonuses, overtime, and leave benefits, all of which are often denied in MSE employment structures.<sup>56</sup>

The Court held: "*Just because the workers are engaged on casual basis or on muster roll, it does not mean that they are not entitled to benefits otherwise available to regular employees.*"<sup>57</sup>

## 5. *Limitations of Judicial Impact in MSE Sector*

While the Indian judiciary has consistently ruled in favour of wage justice and dignified employment, the impact of these decisions is minimal in the MSE sector due to:

- Lack of awareness among workers about their rights;
- Inaccessibility of legal aid, especially for rural and migrant MSE labourers;
- Absence of formal documentation, making litigation difficult;
- State inaction or delayed response in enforcement of labour judgments.

Even when courts issue favourable decisions, implementation remains weak. Labour commissioners and inspectors rarely act suo motu, and legal remedies are too time-consuming and expensive for informal workers to pursue individually.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Sanjit Roy v. State of Rajasthan*, AIR 1983 SC 328.

<sup>53</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.

<sup>56</sup> Code on Wages, 2019, 29.

<sup>57</sup> (2000) 3 SCC 224, at 231.

## VI. POLICY RECOMMENDATIONS

To address the deep-rooted socio-legal challenges plaguing the wage ecosystem in Micro and Small Enterprises (MSEs), a multi-pronged and context-sensitive reform approach is essential. The following policy recommendations aim to bridge the gap between legal norms and labour realities, particularly for informal and vulnerable workers employed in MSEs:

### 1. Awareness Campaigns for Employers and Workers

One of the foremost challenges in enforcing wage laws in the MSE sector is lack of legal awareness. Many small employers are unaware of their obligations under the present wage laws and the newly enacted Code on Wages, 2019, while workers—especially migrants, women, and Dalits—lack knowledge of their basic entitlements. Targeted legal literacy campaigns must be conducted through panchayats, local trade bodies, and NGOs, especially in rural and peri-urban areas where informal MSE clusters are concentrated. Legal awareness materials should be developed in regional languages, and audiovisual content should be disseminated through mobile vans, community radio, and digital kiosks.<sup>58</sup> Further, Udyam-registered enterprises should be required to undergo periodic compliance training as a condition for maintaining registration.<sup>59</sup>

### 2. Digital Wage Platforms and Transparent Payment Systems

The government should institutionalise digital wage payment systems for all enterprises above a specified threshold, ensuring real-time wage transfer into Aadhaar-linked bank accounts. This would enable data-backed monitoring, improve transparency, and reduce wage theft.<sup>60</sup>

Pilot models like the Shram Suvidha Portal, National Career Service (NCS), and e-Shram database can be scaled up and integrated with state-level labour dashboards to track wage compliance, hours worked, and employment history.<sup>61</sup>

Additionally, employers should be encouraged or mandated to generate monthly digital payslips accessible via SMS or mobile apps, especially in states with high MSE concentration like Gujarat, Tamil Nadu, and Uttar Pradesh.

### 3. Strengthening Labour Inspections and Enforcement

The capacity of State Labour Departments must be augmented by increasing recruitment of inspectors, auditors, and grievance redress officers. Risk-based and tech-enabled inspections, using AI-powered analytics and geotagging, should be introduced to identify non-compliant units.<sup>62</sup>

The current Inspector-cum-Facilitator model under the Code on Wages must be redesigned to avoid over-emphasis on “*facilitation*” at the cost of enforcement. Labour dashboards should integrate inspection histories, anonymous complaints, and audit records to allow proactive targeting of habitual defaulters.<sup>63</sup>

Further, collaboration with worker cooperatives and civil society organisations can help in community-level monitoring of compliance.

### 4. Incentivised Compliance for MSEs

Given the genuine financial and infrastructural limitations of many small businesses, a compliance-linked incentive model should be introduced. This can include:

- Tax rebates or GST relief for verified wage law compliance;
- Priority in government procurement and MSME tenders;
- Access to low-interest credit via SIDBI and Mudra loans, conditional on timely wage payments and employee registration in EPFO/ESIC.<sup>64</sup>

<sup>58</sup> V.V. Giri National Labour Institute, *Legal Awareness Campaigns for Informal Workers: A Pilot Study*, (2022), at 11.

<sup>59</sup> Ministry of MSME, *Udyam Registration Guidelines*, Government of India (2021).

<sup>60</sup> Code on Wages, 2019, § 17.

<sup>61</sup> Ministry of Labour and Employment, *Integration of Labour Codes with e-Shram and NCS*, Press Note (2022).

<sup>62</sup> PRS Legislative Research, “*Labour Inspection and Compliance Framework in India: Challenges and Reform*,” (2023).

<sup>63</sup> M.S. Swaminathan, “*Balancing Enforcement and Facilitation in Labour Governance*,” (2021) 12 *Labour Law Journal* 55.

Such measures would shift the regulatory narrative from punitive enforcement to cooperative compliance, thus improving both legal adherence and industrial relations.

### 5. Access to Legal Aid and Grievance Redressal

For informal MSE workers, access to justice remains largely illusory due to legal illiteracy, fear of retaliation, and procedural complexities. Establishing labour helplines, mobile labour courts, and district-level grievance redress centres under the District Legal Services Authorities (DLSAs) would significantly bridge this gap.<sup>65</sup>

The Legal Services Authorities Act, 1987, already empowers DLSAs to conduct Lok Adalats and provide free legal aid to workers. These mandates should be operationalised specifically for wage claims, with dedicated labour benches and paralegal volunteers trained in wage law and social protection. Special fast-track tribunals for wage disputes involving unorganised sector workers could be established, with simplified evidentiary rules to address the absence of formal contracts.

## VII. CONCLUSION

Micro and Small Enterprises (MSEs) may be modest in scale, but they hold a monumental place in India's labour economy. Their cumulative impact on employment generation, industrial decentralisation, and poverty alleviation is undeniable. Yet, the paradox lies in the fact that while MSEs serve as lifelines for millions of workers, they often operate outside the boundaries of formal labour law enforcement—perpetuating wage violations, informality, and socio-economic exclusion. Ensuring fair and adequate wages in this sector is not merely an issue of labour regulation; it is a constitutional commitment rooted in Articles 14, 21, and 23, and animated by Directive Principles of State Policy like Articles 38 and 43. The judiciary has repeatedly upheld wage justice as integral to human dignity, but without operational reach, judicial pronouncements remain symbolic victories. Legislation such as The Minimum Wages Act, 1948, The Payment of Wages Act, 1936, The Payment of Bonus Act, 1965, The Equal Remuneration Act, 1976 and the Code on Wages, 2019 provide a promising framework for universalising wage protections. However, as the lived realities of MSE workers illustrate, laws alone are insufficient. Their efficacy depends on implementation fidelity, policy responsiveness, and the creation of institutional ecosystems that enable enforcement without stifling entrepreneurship.

Moving forward, India must adopt a people-centric regulatory model that balances the economic fragility of MSEs with the constitutional rights of workers. This requires not just inspection reform and digitisation but also a cultural shift in how we recognise, document, and value labour, especially at the margins. Policy tools like compliance-linked incentives, local legal aid centres, and public-private partnerships for worker education can make wage rights both accessible and actionable. Ultimately, building a fair wage system in the MSE sector is about more than correcting income disparities—it is about realising the vision of social justice enshrined in the Preamble to the Constitution. Invisible labour must no longer remain invisible. Recognising their contribution is the first step toward constructing an India that is not only economically vibrant but also morally equitable and socially inclusive.

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<sup>64</sup> Small Industries Development Bank of India (SIDBI), MSME Incentive Schemes and Credit Flow Report, (2022), at 14.

<sup>65</sup> Legal Services Authorities Act, 1987, § 12(c); see also NALSA, Annual Report 2023, at 61.

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