Rights at work will depend on the statutory rights, and contract of employment. The contract of employment cannot take away rights we have by law. So if, for example, we have a contract which states us are only entitled to two weeks' paid holiday per year when, by law, all full-time employees are entitled to 28 days' paid holiday per year, this part of our contract is void and does not apply. The right we have under law (to 28 days' holiday in this case) applies instead.

TERMS AND CONDITIONS OF EMPLOYMENT

All employees, regardless of the number of hours they work per week, are entitled to receive a written statement from their employer, within two months of starting work. The statement describes the main terms of the contract of employment. The statement must give details about:

- Job title
- Wages
- Hours of work
- Holiday entitlement
- Sick pay
- Pension schemes
- Notice
- Grievance, dismissal and disciplinary procedure.

TIME OFF WORK

Almost all employees have a statutory right to take paid time off work
for the following:

- to carry out duties as a trade union official
- to carry out duties as a trade union health and safety representative
- to look for work if faced with redundancy
- to receive ante-natal care
- To have a baby, to take paternity leave, to take adoption leave or to ask for flexible working hours to care for a child.

**EQUAL PAY FOR EQUAL WORK**

Equal pay for equal work is the concept of labour rights that individuals doing the same work should receive the same remuneration. Among international human rights law, the Article 7 of the International Covenant on Economic, Social and Cultural Rights and Article 15 of African Charter on Human and Peoples' Rights ensure the "equal pay for equal work". In America, for example, the law states that "employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed under similar working conditions within the same establishment.’ It is most commonly used in a context of sexual discrimination, as equal pay for women. Equal pay does not simply relate to basic salary but also to the foil range of benefits, non salary payments, bonuses and allowances that are paid.

**Support for Equal Pay for equal work**¹

The U.S. Democratic Party has historically supported legislating equal pay for equal work. The Lilly Ledbetter Fair Pay Act was signed into law in January 2009.

¹ [En.wikipedia.org/wiki/equal_pay_equal_work](En.wikipedia.org/wiki/equal_pay_equal_work)
Opposition to equal pay for equal work

Free market supporters believe that any legislation supporting equal pay for equal work does in fact harm the very groups the legislation aims to protect. It is believed that free market forces discriminative employers to pay for their prejudice whereas an equal pay for equal work legislation would simply allow those same employers to have no consequence for their prejudice. An employer who holds an unfair prejudice against women will always hire the man, given the requirement to pay both equally. However, if the women offers to be compensated slightly less than the man despite having equal talents, the employer will have to pay for the prejudice by still hiring the man. In this case, a competitor now has access to an employee who is both equally skilled and willing to work for less, which will thus put the discriminating employer at a competitive disadvantage.

Free market supporters believe that government actions to correct gender pay disparity serve to interfere with the system of voluntary exchange. They, see the fundamental issue is that the employer is the owner of the job, not the government or the employee. The employer negotiates the job and pays according to performance, not according to job duties. A private business would not want to lose its best performers by compensating them less and can ill afford paying its lower performers higher because the overall productivity will decline.

There are also specific affirmative defenses to the criticism above that government is forcing employers to pay less qualified workers the same as superior workers. The EPA's four affirmative defenses allows unequal pay for equal work when the wages are set “pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (v) … any other factor other than sex.” If an employer can prove that a pay differential exists because of one of these factors, there is no liability.
EQUAL PAY FOR EQUAL WORK PRINCIPLE: CONSTITUTIONAL APPROACH

Article 39 (c) of the Constitution of India provides for Directive Principles of State Policy. This aims to equitable distribution of resources of production among all citizens. It also aims to prevent the concentration of wealth in the hands of few— one such principle is ‘Equal Pay for Equal Work’. As the name itself suggests, its purpose is to ensure that individuals who are doing an equal amount of work shall be entitled to equal remuneration. The term ‘equal pay’ includes basic salary, and also other benefits, such as bonuses and allowances.

Applicability Of The Principle

Based on rulings of courts pertaining to interpretation of Articles from the Constitution of India\(^2\), here are some real life case studies: In a landmark case *Randhir Singh v. Union of India*\(^3\) the Court held that although equal pay for equal work is not regarded as a fundamental right, it is a constitutional goal as per the provisions of Articles 14, 16 and 39(c). Article 14 of the Constitution of India provides citizens with the right to equality before law. Under *Article 16*, a person is entitled to equality of opportunity in matters of public employment. In the above mention case, the court held that the principle of equal pay for equal work can be enforced by courts in cases of unequal pay scales based on unreasonable classifications.

In another significant decision case *P.A I C and C.E.S v. Union of India*\(^4\), it was held by the court that the duties performed by a stenographer of grade I were much higher as compared to a stenographer of subordinate officers. Therefore the different pay scales fixed for them were justified.

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\(^3\) AIR 1982 SO 879
\(^4\) (1998) 3 SCC91
Similarly, in *State of Haryana v. Rajpal Sharma*, the court held that the teachers employed in private schools aided by the State Government are entitled to equal remuneration as that of teachers working in government schools. Another milestone case, *State of Haryana v. Tilak Raj*, the court held that the daily wagers who were employed in Haryana Roadways are not covered under the principle of equal pay for equal work. It was held that this principle is only applicable to a person who is employed at a definite post. The daily wagers are not entitled to the same remuneration as regular and permanent employees, as the wagers hold no definite posts.

The principle of equal pay for equal work has an important place in India. It is read with Article 39(d) and Article 14 of the Constitution of India. During the 1970s and the 1980s, the Supreme Court applied this principle literally without demanding clear proof in the pleadings.

**Equal Pay for Equal Work is Difficult to Prove in Court**

The principle of equal pay for equal work is not going to be easy to establish in a court of law. Imagine you have a job as a teacher in a private school in Delhi and you are stating that you want to be given the same pay and benefits as a teacher in a government school in Delhi. How can the courts apply this principle of equal pay for equal work? Here are some difficulties faced by courts in applying the said principle.

There are several difficulties that courts in India face when comparing and evaluating the work of different people in different organizations or even in the same organization. The quality of work produced by two people in the same organization is different. For the same reason, applying this principle of equal pay for equal work is difficult. The party making the claim has to prove that all things are equal but proof is usually not measurable in courts.

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5 AIR 1997 SC 449
6 AIR 2003 SC 2658
7 www.lawisgreek.com/equal_pay_for_equal_work_in_india
No material is provided to the courts to prove that there is a substantial claim for relief based on the duties of the twin categories, those who are asking for equal pay and those who are alleged to be already having equal pay.

**JUDICIAL APPROACH**

In recent years, courts in India have refrained from applying this principle unless there is *complete and wholesale identity between the two groups*. For the same reason in S.C. Chandra v. State of Jharkhand, the Supreme Court held a different approach by Mating as, “Article 39(d) does not mean that all the teachers working in the school should be equated with the clerks in BCCL or the Government of Jharkhand for application of the principle of equal pay for equal work”.

**WAGES**

"Wages" means all remuneration capable of being expressed terms of money, which would, if the terms of employment, expressed or implied were fulfilled, be payable to a workman in respect of his employment or of work done in such employment. Wages also includes:

i. Such allowance (including dearness allowance) as the workman is for the time being entitled to;

ii. The value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

iii. Any traveling concession;

iv. Any commission payable on the promotion of the sales or business or both.

But the following are not wages

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a) Any bonus;

b) Any contribution paid or payable by the employer to any pension, hind or provident fund or for benefit of the workman under any law for the time being in force;

c) any gratuity payable on the termination of service of workman

**PROPER WAGES**

To determine the proper basic wages of a workman with the rates obtaining in similar business of the locality is useful. If after paying such wages the company is unable to make any profit, that may be a consideration for the company deciding to wind up; the apprehension that the company may have to close the business cannot be said to affect the proper scale of pay.\(^9\) Scale of pay should be determined after taking into consideration the nature of the work done, the capacity of the industry to pay and other similar factors; whether the employer was able to make profit or not has no bearing on the question of proper wages of a workman.\(^10\)

So far as fair wages is concerned, while the lower limit must be the minimum wage, the upper limit is said to be the ‘capacity of the industry to pay’. The capacity of the industry to pay should be gauged on an industry-cum-region basis, after taking a fair cross section of that industry and in a given case, it may be even permissible to divide industry into appropriate classes and then deal with the capacity of the industry to pay class wise. Where an employee is given car allowance and benefit of telephone and newspapers, these must be taken into consideration in fixation of fair wages as they were allowed to him to reduce the expenditure which would otherwise has gone into his family budget.

In fixation of wages where\(^1\) there are no comparable concerns in the

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\(^9\) Rajamani Transport Ltd. v. Lisworkmen, AIR 1953 Mad. 342.

\(^10\) Ibid.
same industry and if there are any, they are newly started one, it has been held that the industry cum-region formula cannot be applied.\textsuperscript{11} In such cases wage structure (if other similar industries in the same region should be taken into consideration, but wages paid in same industry in other parts of the country should not be considered. A casual worker cannot expect the same wages as permanent employees.\textsuperscript{12} No workman can claim extra allowance from the employer for his traveling expenses from his residence to work place, when he shifts his residence unless there is a contract to the effect\textsuperscript{13}. Similarly, the employee cannot establish a claim when the employer in the exercise of his inherent right into choose his place of business shifts the same to another distant place. Shifting of business is not transferring the employee.

It was bold in *Siemens Ltd, Thane v. Gajanar Vithal Konde and other*\textsuperscript{14}, that a Labour Court has no jurisdiction to entertain a claim for wages during a period of lock-out under Section 33-C (2) of the Act. Amount payable to the workmen during illegal or unjustified strike or lock-out does not amount to 'wages' within the meaning of Section 2(rr).

In *Union of India v. Dhingara and others*,\textsuperscript{15} respondents were railway "running, staff" employees such as drivers, guards, etc. They retired prior to January, 1986. Their pension was computed by taking into account "running allowance" in their average emoluments. Subsequently their pension was revised as per recommendations of the 5th Pay Commission. Respondents claimed that running allowance should be included as per rule 2544(g) of the Railway Establishment Code for calculating the revised pension. The Central Administrative Tribunal upheld their claim. Hence the Union (Government

\textsuperscript{12} Ibid.
\textsuperscript{13} Shalimar Paint vs Third Industrial Tribunal AIR 1971 Cal 90.
\textsuperscript{14} 1993 Lab IJ 635 (Bombay)
\textsuperscript{15} 2008, ILLJ 867 SC.
preferred an appeal to the Supreme Court. The Supreme-Court observed that
the benefit of running allowance had to be taken into consideration for
computing pension only once, namely at the lime of retirement of the
employee, it was not required to be taken into account again for ,1m¹ future
calculation.

OVER TIME

The Bihar Shops and Establishments Act provides that a workman can
be asked to work for a maximum of 48 hours a week. If a' workman is asked
to work for more than 48 hours, then the employer has to pay double the rate
of ordinary wages for work clone over and above¹ 48 hours. in a case a
workman under the conditions of his service was required to work. There
are a number of statutory rights associated with wages. For information
about wages including information about the national minimum wage, illegal
deductions from wages and rights to a pay slip, see Rights to pay. For more
information about illegal deductions from wages in England, Wales and
Scotland, see Employer withholds your pay, in Em
ployment fact sheets.

HOLIDAYS AND HOLIDAY PAY

Nearly all workers are entitled by law to paid annual leave. Full-time
workers are entitled to at least 5.6 weeks a leave year. If you work part-time,
you’re entitled to a pro rata amount. There are some workers who are not
entitled to paid holiday.

SICKNESS

Many employees will be entitled to statutory sick pay if they are off
work due to sickness.
DIFFERENT CATEGORIES OF WAGE STRUCTURE

Wages may be divided into the following three categories;

1. Minimum Wages
2. Fair Wages
3. Living Wages

1. Minimum Wages

Minimum wages is at the bottom of the different categories of the minimum wages. Minimum wages set the lowest limit below which wages cannot be allowed to sink in all humanity\textsuperscript{16}. Minimum wages are determined on the cost of living and the normal or reasonable needs of the worker and his family. The minimum wage principle has no reference either to the value of the work done by the worker or the capacity of the industry to pay. The minimum wages are paid irrespective of the extent of profits, financial conditions or the availability of workmen at a lower wage\textsuperscript{17}.

However, minimum wages ensure not merely the physical need of the worker which would keep him just above starvation but ensure his subsistence and that of his family. The minimum wages must also preserve worker's efficiency as workman. As the Supreme Court in \textit{Hydro Engineers Pvt. Ltd. v. Workmen}\textsuperscript{18}, held that "the minimum wages should provide not merely for the bare subsistence of his life but for the preservation of worker and so must provide for some measure of education, medical requirement and amenities. Similarly, in \textit{Crown Aluminium Workers v. Their Workmen}\textsuperscript{19}, the Supreme Court holds that "if an employer cannot maintain his enterprise without cutting down the wages of his employees below even a bare

\begin{itemize}
\item \textsuperscript{16} Kamini Mittal and Alloys Ltd. vs. Their work man AIR 1967, SC 1175.
\item \textsuperscript{17} \textit{Ibid}.
\item \textsuperscript{18} AIR 1969 SC 182.
\item \textsuperscript{19} AIR 1958, SC 30.
\end{itemize}
subsistence or minimum wages, he would have no right to conduct his enterprise on such terms. Further, in Kamani Metal Alloys Ltd. v. Their Workmen, the Supreme Court held that "an employer cannot be allowed to run the scheduled industry if he is unable to pay even the minimum wages to his employees."

The minimum rates of wages for scheduled employments are fixed by the appropriate Governments of respective States. Therefore, a uniform rate of minimum wages cannot be fixed for all the States. The minimum rates of wages may vary from State to State. The fixation of minimum wages depends on the prevailing economic conditions, the cost of living in a place, the nature of work to be performed. However, difference in the minimum wages fixed by different States is mainly due to the difference in the economic conditions of theirs. An economically better State may fix higher minimum wages for the scheduled employment within its territory. Whereas the neighbouring State which is not better economically may fix minimum wages for scheduled employments within its territory at lower rates. Thus, minimum rate of wages in the scheduled employment fixed by the Haryana Government may be different from those fixed by the Punjab Government for the scheduled employment within the jurisdiction of Punjab government.

**Need Based Minimum Wage**

The 15th Session of the Indian Labour Conference was held at New Delhi in July, 1957. At this Conference a Resolution was passed which clearly laid down that the minimum wages should be need based and should ensure the minimum human need of the industrial worker. The Conference accepted the following norms to be followed by the Authorities in fixing the minimum wages:

1. The standard working class family consists of three consumption
units for one earner. The worker is one unit, his wife 0.8 and two children 1.2 units (However, the earnings of wife, children and adolescents are not taken into consideration).

2. The minimum food requirement should be calculated on the basis of net intake of calories as recommended by Dr. Askroyd for an average Indian adult of moderate activity.

3. The clothing requirement should be estimated on the basis of a per capita consumption of 18 yards per annum, which would give for the average worker's family of four, a total of 72 yards.

4. In respect of housing, the rent corresponding to the* minimum area provided for under Government Industrial Housing Scheme should be taken into consideration.

5. Fuel, lighting and other miscellaneous items of expenditure should constitute 20% of the total minimum wage.

According to the resolution passed by the Labour Conference in 1957, the authorities fixing the minimum rates of wages should take into consideration the above mentioned five norms.

In U. Unichoy v. State of Kerala,20 the Supreme Court held that, "in fixing minimum wage, capacity of management to pay is not a consideration." In Kamani Metals and Alloys Ltd. v. The Workmen?21 the Supreme Court observed as, "there are certain principles enumerated by the Court on which wages are fixed, broadly speaking the first principle is that there is a minimum wage which, in any event must be paid irrespective of the extent of profits, the financial condition of the establishment or the availability of the workmen on lower wages. The minimum wage is independent of the kind of the industry and applies to all alike big or small."

20 AIR 1962 SC 12.
21 AIR 1967 SC 1175.
Same principle has been applied by the Karnataka High Court in *M.G.B & A.B. Factories ASSN v. State of Karnataka.*

Thus in 1957, the Minimum Wage was evolved as a need-based concept. In *Reserve Bank of India's case* the Supreme Court observed that "the need-based minimum wage, as formulated by the Indian Labour Conference, was an ideal to be pursued and deserved respect." In 1968, some more criteria for the determination of minimum wages came to be recognized when the International Labour Organization listed three criteria for fixing minimum wages. These were (i) the needs of the worker; (ii) the capacity to pay; (iii) wages paid for comparable work. In 1969, the capacity to pay was explicitly admitted as a relevant factor by the National Commission on Labour when it held that in fixing the need-based minimum wage the capacity to pay should be taken into account. In 1991, the Supreme Court, in its judgment in the case of *Workmen represented by Secretary v. Reptakos Brett and Co. Ltd.*, expressed the view that the criteria recommended by the Indian Labour Conference may not suffice. It held that an additional component for children's education, medical requirements, recreation including festivals/ceremonies and provisions for old age and marriage should constitute 25% of minimum wages. The Minimum Wages Advisory Board (Central) in its 24th meeting in 1991 recommended that minimum wages should be linked to productivity, and the appropriate Government under the Minimum Wages Act may fix piece rate wages—wherever feasible.

2. **Fair Wages**

The fair wages lie somewhere in between the minimum wages and the living wages. As the Supreme Court in *Express Newspaper Ltd. v. Union of*
India,\textsuperscript{25} holds, "the fair wage is a mean between the living wage and the minimum wage." The lower limit of the fair wage is above the minimum wage. Whereas the upper limit is below the living wage. The limit of the fair wage depends upon the 'capacity' of industry to pay.

A Fair Wages Committee was appointed by the Central Advisory Council for labour, which published its Report in 1949. According to the Report of the Committee, the fair wages are determined on the basis of the peculiar conditions obtaining in any country, the circumstances of particular industry or region in a country as well as the paying capacity of the employer. Whereas in \textit{S.A.F.L Works v. State Industrial Court, Nagpur}, \textsuperscript{26} the Supreme Court laid certain guidelines to be followed by the Tribunal to determine the paying capacity of an employer while fixing the fair wages payable by the employer. In \textit{S.A.F.L Works v. State Industrial Court, Nagpur},\textsuperscript{27} the Supreme Court enunciated the following principle in determining the financial capacity of the employer in order to determine the fair wage as the Supreme Court in this case held as follows:

In order to determine the fair wage including the scale of pay, the price rise, the dearness allowance, etc., the financial capacity of the concern has to be determined. A close working of the concern has to be made. The profit and loss account, the prospects of the company improving itself in the future and all other relevant matters will have to be taken into account. The expenses properly incurred for working the industry such as buying the raw material, expenses incurred in running the factory, office and other transport expenses incurred in marketing and other such allowable expenditure has to be deducted. It is not correct to say that the gross profit alone has to be taken into account. Equally it is wrong to say that net profits alone should be the basis of determining the financial capacity.

Rates for minimum wages are fixed by the appropriate Government. Labour Courts or Industrial Tribunals are not entitled to fix minimum rates of wages under the Minimum Wages Act, 1948. However, on the basis of minimum rates of wages fixed by the appropriate Government, the Labour

\textsuperscript{25} AIR 1958 SC 578.
\textsuperscript{26} AIR 1978 SC 1113.
\textsuperscript{27} Ibid.
Courts or Industrial Tribunals may fix the fair rates of wages taking into consideration the paying capacity of the employer, conditions of region and industry, etc. Thus, Labour Court or Industrial Tribunal may fix the "fair wages", but not the minimum wages. In this regard Bonibay High Court in *Transport Corpn. of India Ltd. v. State of Maharashtra*\(^{28}\) held as,

> It is not for the Labour Court or Tribunal to fix the minimum rates of wages. While fixing the fair rate of wages the Courts or Tribunals Jake into consideration the minimum rates of wages. Where the Government has not fixed the minimum rates of wages then the Courts or Tribunals ascertain for themselves what would be the minimum rates of wages. However, they merely ascertain the minimum rates of wages for the purpose of deciding fair wages.

### 3. Living Wage

Living wage is the highest of the different categories of wages. "Living wages" is above the fair wages, as the Supreme Court in *Hindustan Ltd. v. Their Workmen*\(^{29}\) held that "living wages" maintain the workman in the highest state of industrial efficiency. "Living wage" enables the worker to provide his family with all the material things which are needed for their health and physical well-being. "Living wages" enable the male earner to provide for himself and his family not merely the bare essentials of food, clothing and shelter, but a measure of frugal comfort, including education for the children, protection against ill health, requirements of essential social needs and a measure of insurance against the more important misfortunes including old age.

The Directive Principle under Article 43 of the Indian Constitution requires the State to try to secure by suitable legislation or economic organization or in any other way, all workers, agricultural, industrial or otherwise, a living wage. Though "Living Wage" cannot be fixed under the Minimum Wages Act, 1948 because of economic compulsion, yet the State

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\(^{28}\) (1993) 11 LLJ 365 (Bombay).

\(^{29}\) AIR 1963 SC 1332.
should make efforts to move closer to the goal of assuring "Living Wages" to the workers. As in *All India Reserve Bank Employees Association v. Reserve Bank of India* \(^3\) the Supreme Court has observed that, "our political aim is living wage though in actual practice living wage has been an ideal which has eluded our efforts like an ever receding horizon and will so remain for some time to come'.

**SOCIAL SECURITY SYSTEM IN INDIA**

The importance of social security in developmental plans, particularly in the context of present employee and employer relations, need not be exaggerated. It is a novel concept in the field of business management and industrial administration. In rudimentary form, however, social security was not unknown in ancient India. Today the worker gets all his facilities as of right, decades ago he got them *en gratis*. This is true for all countries although there is no denying that social security, today, embraces a wider field than ever before. In addition to labour welfare and economic protection of workers it covers also socio-economic progress and development of the weaker classes—the so-called backward and Scheduled Castes, Scheduled Tribes and the welfare of children, the aged and the handicapped.

It would be desirable to give briefly social security measures adopted in ancient India. The structure of Hindu society in ancient India was by itself a great security against economic calamities. It has been very aptly observed that, in ancient India joint Hindu family was the unit of social organization and was also the original cell for security, prototype and analogous to the further institutions. The reciprocal obligations of the parents to support the child in infancy and of the son to support the parents in old age were represented in social insurance by the solidarity of generations. The paternal responsibility was further illustrated across the ancient Indian history in the

\(^3\) 1966 AIR SCW 305.
relationship of the patron to his clients, the Lord to his vassals and the master to his servants and a such it survives even today in a variety of legal obligations of the employer to protect his workers, and in the manifold welfare schemes set up voluntarily by the employers.

In ancient India there were economic groups living together in the form of modern guild, specializing in different branches of the economy. Dr. R.C. Majumdar gives a list of about thirty such groups. Besides this guild system, the joint-family system too played its due role in the social security for the dependent members. It is recorded by Kautilya that the government believed in social cooperation and enforced social duties on its subjects. Any dereliction of such duties was penalized. As such punishments were inflicted on men forsaking wife and children or husbands refusing to maintain wives or on brothers with their role and become all labourers. The other way is to realize that labour is real capital, in fact, the maker of capital. What the two hands of the labourer would achieve, the capitalists would never get with all his gold and silver. Can anyone live on gold? But labourer has to be made conscious of its strength. The whole trouble arises from the fact that neither labourer, nor those who are guiding the labour movement, realizes the dignity and strength of labour. It is like the lame leading the blind. I entertain high regard for his great industry and acumen. But I cannot believe in his conclusion. I have no ration m violence being able to usher in non-violence. World thought is moving and is outstanding Karl Marx. That, however, does not detract from the merit of the great man's labour.

Equally important were thoughts of Pt. Jawahar Lai Nehru who remarked in 1953, "I think every employer should realize the terrible time labourer has had for generations, how they were crushed." Same thoughts were repeated by Sardar Ballabh Bhai Fatel in forceful words in 1948: "like Gandhi ji I want to make the capitalists also understand which way their true
duty lies. Again he said, "In the tasks ahead we have to take labour and capital with us. If we fail to do so, we are doomed to disappointment. I have no doubt whatsoever that the conflict between labour and capital, and, may I say, also the government, at this stage would be nothing but ruinous to the country. We have just now finished one chapter of exploitation. We should see that we do not find ourselves entering into another chapter in which we are exploited by different types of forces which nevertheless are destructive and even more dangerous because they are internal.

These thoughts were written into the Constitution of India and the labour laws made by the Parliament and State legislatures in free India. The authorities called upon to interpret the labour laws cannot ignore them. They must also constantly bear in mind the Directive Principles of State Policy enumerated in Part IV of the Constitution of India. Thus the Constitution of India under its Chapter IV embraces principles and policies pertaining to social security measures which are to be followed by the State in future when it would think expedient, just and proper to legislate for working class in our country. It would be desirable to mention here pertinent principles of State policy as contained in our Constitution.

Article 38 of Constitution of India ensures that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all the institutions of the national life. The State shall, in particular, strive to minimize the inequalities in income, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different avocations. Article 39 of the Constitution of India provides that the State shall, in particular, direct its policy towards securing –
a. That the citizens, men and women equally, have the right to an adequate means of livelihood;

b. that the ownership and control of the material resources of the community also distributed as best to sub serve the common good;

c. that the operation of the economic system does not result in the concentration of wealth and means of production in the common detriment;

d. that there is equal pay for equal work for both, men and women;

e. that the health and strength of workers, men and women, and tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

f. that childhood and youth are protected against exploitation and against moral and material abandonment.

The State shall secure that the operation of legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.\[^{31}\]

The Constitution of India further provides under Article 41 that State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 42 of the Constitution of India further directs the State that it shall make provision for securing just and humane conditions of work and for maternity relief. Another directive

\[^{31}\textit{Constitution of India}, \text{Article 39 A.}\]
principle of State policy provides that "the State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social opportunities and in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas." It is further provided under Article 43-A of the Constitution of India that the State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.

In our country labour laws have been codified in consonance with the above principles of State Policy and thoughts of great leaders like Mahatma Gandhi, Pt. Nehru and Sardar Vallabhbhai Patel, the Universal Declaration of Human Rights and other principles recommended by International Labour Organization, from time to time. It may be desirable to note that the social security schemes provide protection and safeguards, and security against various risks in workers' life.

**Health and Safety**

All employers have a statutory duty to take care of the health and safety of all their employees, for example, they should provide first aid equipment, and adequate means of escape in case of fire, protective clothing and ensure all machinery is safe. In addition, there are specific rules which cover the following fire safety. For more information about employers' responsibilities for fire safety in country.

- cleanliness

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32 *Id* at Art 43.
33 Inserted by the Constitution (42 Amendment) Act 1976, Sec 9, w.e.f. 3-1-1977
34 [www.newwailes.gov.uk/topic/housingand community/safety/law](http://www.newwailes.gov.uk/topic/housingand community/safety/law)
- noise
- machinery
- lifting and carrying heavy weights
- hazardous substances
- toilets
- washing facilities
- drinking water
- seating
- first aid facilities
- temperatures
- hours and rests.

Nearly all workers have the right not to have to work for more than 48 hours on average, a week. Night workers cannot work an average of more than eight hours in each 24 hour period. Workers aged 18 and over (adult workers) are entitled to one day off each week. Workers aged 16-18 (adolescent workers) are entitled to two days off each week. Adult workers are entitled to eleven hours consecutive rest per day, and a minimum 20 minute rest break if their working day is longer than six hours. Adolescent workers are entitled to 12 hours consecutive rest per day, and a minimum 30 minute rest break if they work for longer than four and a half hours.

**Harassment and Discrimination**

Discrimination means treating someone worse than other people for some reason. You have rights not to be treated horse than other people at work because of your:
- age
- disability
- pregnancy or maternity leave
- race
- religion or belief
- sex
- sexual orientation
- gender identity.

ASSOCIATION

Standing as one of the oldest minority ethnic organizations in Britain, the Indian Workers Association (Hindustani Mazdoor Sabha) has been at the forefront of twentieth century anti-racist and working class struggles. By providing a voice for Indians which demanded to be heard, it has demonstrated the effectiveness of black people in organizing themselves to defeat many forms of oppression on a local, national and international level.

Whilst the first Indian workers association was established in Century in 1938 to further the cause of Indian independence, it was the arrival of Punjabi migrants during the 1950’s that caused the organization to be reborn and to flourish. As people began to settle, the IWA branches found a new rote as they began to turn their attention to the social and welfare issues affecting Indians after migrating to Britain. Branches sprang up where Punjabi populations were concentrated including Wolver Hampton and south all, and in 1958 Nehru, the local associations were together in 1958 to form the Indian Workers Association (Great Britain).
Aims

The bold vision of the centralized organization was to:

1. Promote co-operation and unity with the Trade Union and Labour movement in Great Britain.

2. Fight against all forms of discrimination based on race, colour, creed or sex for equal human rights and social and economic opportunities.

3. Promote the cause of friendship, peace and freedom of all countries.

4. Keep its members and the people of Great Britain informed about political, economic and social developments in India.

5. Undertake social, welfare and cultural activities.

Although still concerned with developments in India, the issues that occupied the Indian Workers Association were broadly to do with social exclusion facing migrants in Britain for example poor housing conditions, racism, employment inequalities, and the restrictions of immigration legislation. Thus, not only did the Indian Workers Association provide a sense of community for migrants in their new country, but it was also firmly committed to the struggle of black and minority ethnic groups and working people.

Membership

The Indian workers Association was open to all Indians however, the predominance of male migrants during the early days of settlement meant that men dominated the membership and the executive committees. Many were recruited in the factories and foundries of the West Midlands. The spirit of Socialism pervaded the organization’s attitude to its work and a significant number of the leadership either were or had been members of the Communist Party of India. Two key figures in the work of the Indian
Workers Association (GB) and the Birmingham branch were Jagmohan Joshi (1936-79) and Avtar Joshi, who spent his entire life engaged in revolutionary and campaigning activity, was General Secretary of the IWA (GB) from 1964 until 1979 and was also involved in a number of alliances in which he established links with people like Maurice Ludmer, Roy Sawh and Claudia Jones. Joushi was active as a union shop-steward in the foundries and served as secretary of the Birmingham branch and Generla Secretary of the Indian Workers Association (GB) from 1961 until 1964. Both men came from the Punjab and were instrumental in leading local and national campaigns.

Activities

A wide range of activities were undertaken by the Indian Workers Association which focused not only on matters of social justice relating to Indians but also wider ethnic, national and international issues. The activities, which will be explored in more detail in the learning package, centered on social or welfare work, trade union activity, and anti-racist and international solidarity campaigns.

The Archive

The extensive archive of the Indian Workers Association shows how the organization’s unique combination of welfare and campaigning work enabled it to make its mark as a champion of equality for Indians and other exploited groups in Britain and beyond. The collection held at Birmingham City Archives relate to the national organization IWA (gb) and the local Brimingham branch. Deposits have been made by Shirley Joshi, Jagmohan Joshi’s widow, and Avtar Joshi. Much of the collection consists of correspondence press cuttings, flyers, campaign material, minutes and reports as well as material from other organizations with links to the IWA.
Oral history interviews involving both Joshi and Jouhl, which provide interesting biographical information, can be found in the Charles Parker archive and the Black Oral History Project.

**Payment In Notice Period**

If you work your normal working hours in your notice period, you are entitled to be paid your normal pay. You may not be able to work during the notice period because you are:-

- willing to work but are given no work to do
- on holiday
- off work through sickness or injury.

If you do not work during the notice period for one of the reasons above, the law says you should usually still get your normal pay. However, there is an exception to this rule. If your contract gives you at least one week's notice more than the law gives you, you lose your legal right to be paid during the whole of the notice period. If you are in this position, you should consult an experienced adviser, for example, at a Citizens Advice Bureau. To search for your nearest CAB, including those that can give advice by email, click on nearest CAB. 35

**Pay in lieu of notice**

If your employer has dismissed you without giving you the notice you are entitled to either by law or by your contract, your employer should pay you in lieu of notice. 'In lieu' means 'instead of. This is also called severance pay. The only exception to this is when you have been dismissed because of gross misconduct. For more information about gross misconduct, see Step five: is the reason for dismissal one which isn't automatically unfair, in

35 www.citizensadvice.org.uk/index/getadvice
Dismissal. The amount of pay in lieu of notice you should get will depend on how much notice you are entitled to. You should get pay in lieu at the rate of your normal wages. For example, if you are entitled to four weeks' notice, but are only given one, you will be entitled to three weeks' pay in lieu of notice.

RAISING A GRIEVANCE

If you have a problem with your employer you should usually try to sort it out informally first. If this doesn't work, you should follow a proper grievance procedure which all employers should have. This means you should: Send your employer a written statement, setting out your grievance, and give them a reasonable time to respond meet with your employer to discuss your grievance appeal against your employer's decision if you are not happy with it.