

Minimum Wage, Human Rights, and State Responsibility: The Case of Ethiopia

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Abstract

Minimum wage is one of the major subjects of concern and debate for international institutions and national stakeholders. The primary objective behind the debate and concern over this subject is about protecting workers from poverty and exploitation. More than 90% of ILO member countries have set a minimum wage for their workers. However, the notion of minimum wage is not without controversies. Some developing States are reluctant to set a minimum wage and a few even argue against it stating that it would push away foreign direct investment (FDI) which has become a principal driving force behind job creation in these countries. On the other hand, the protagonists of minimum wage argue that minimum wage is a fundamental labor right which ensures adequate life for workers.

While Ethiopia has not set a minimum wage for its private sector workers, it adopted a legislative framework in 2019 to set up a Wage Board which would determine minimum wages. Nevertheless, the State is not realizing the envisaged activities of the Wage Board which are expected to lead to a minimum wage regime. This, among other factors, is due to the fear that setting a minimum wage would adversely affect flow of FDI, job creation, and the country's post war economy. Ethiopia is a party to the International Covenant on Economic, Social, and Cultural Rights where various rights including the right to a decent way of life, food, clothing, and housing are recognized as fundamental human rights. The paper raises the question as whether Ethiopia, by

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ignoring the question for a minimum wage law for private sector workers, is violating its obligations under international human rights law. The paper further tries to answer this question by looking into the nature of economic, social, and cultural rights and analyzing States' obligations under human rights instruments. In doing so, it employed a doctrinal approach to define the notion of minimum wage and to delineate the debate around the concept. It then analyzes the stance of the Ethiopian government on the issue mainly from official speeches and commentaries that are publicly available in line with international human rights law and provide recommendations.

Keywords: Minimum Wage, Decent Way of Life, Health, Food, Clothing, Housing

1. Introduction

Minimum wage has been one of the subject of policy and metaphysical debate across societies over the ages. Plato, one of the well-known philosophers in history, advocated for what could be considered a living wage according to the standards of his time.¹ His contemporary, Aristotle, also advocated for the same standard.² This line of thinking on the subject was reinstated in Europe during the middle ages. Saint Thomas Aquinas asserted that “a wage rate that pushed workers below a subsistence level eroded their chances for being virtuous and is, therefore, unjust”.³ The Catholic Church of the period was also one of the proponents for what it called the just wage. Its argument for a just

¹ *Ibid.*

² *Id.*, p. 14.

³ *Id.*, p. 15.

wage concerned poverty and the State's responsibility to care for the poor.⁴

Arguments for a living wage continued during the period of the Enlightenment. One of the prominent philosophers of the period and the pioneer of modern economics, Adam Smith, argued for a living wage from the perspective of maintaining the economy and, wrote, "a man must always live by his work and his wage must at least be sufficient to maintain him". According to this author, if workers do not earn a subsistence wage, the workforce and the economy would cease to function.⁵

Although the idea of a living wage was known for thousands of years, the term "living wage" was first used in the 1800s.⁶ Scholars and activists of the period argued that "the spread of wage labour should come with a mandate for employers to pay employees wages high enough to support themselves".⁷ New Zealand became the first country to set a minimum wage when it passed a decree in 1894.⁸ It was followed by the Australian State of Victoria and the United Kingdom

⁴ David Neumark and William L. Wascher, *Minimum Wages*, MIT Press, (2008), pp. 290-291.

⁵ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, University of Chicago Press, (1977), pp. 100-101.

⁶ Stephanie Luce, Living Wage Policies and Campaigns: Lessons from the United States, *ILO – International Journals of Labour Research*, Vol. 4 Issue 1 (2012). p. 12.

⁷ *Ibid.*

⁸ ILO, What is a Minimum Wage?

https://www.ilo.org/global/topics/wages/minimum-wages/definition/WCMS_439071/lang-en/index.htm#:~:text=New%20Zealand%20was%20the%20first,social%20partners%20would%20be%20established, (accessed on October 10, 2024).

who adopted a minimum wage system in 1896 and 1909, respectively.⁹ New Zealand's Industrial Conciliation and Administration Act, enacted on August 31, 1894, set wage rates and conditions of work.¹⁰

In 1928, the newly established International Labour Organization (ILO) issued a convention on minimum wage, Minimum Wage Fixing Machinery Convention 26 (hereafter known as the "Minimum Wage Convention") which obligates members states 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".¹¹ In subsequent years, ILO issued additional conventions that aimed at protecting disadvantage groups of wage earners. Among these conventions, the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951, and the Minimum Wage Fixing Convention of 1970 (No. 131) bolstered the introduction and protection of minimum wage regimes. Today, minimum wage is widely recognized with more than 90% of ILO's 187 member states having implemented minimum wage laws, and 105 States having ratified the Minimum Wage Convention.¹²

In line with this global push for wage standards, the concept of minimum wage has evolved differently across various countries. While the principles behind a fair wage are widely accepted, definitions of minimum wage vary depending on local economic and social

⁹ *Ibid.*

¹⁰ Elina Lee, From the Serial Set: The History of the Minimum Wage, <https://blogs.loc.gov/law/2020/09/from-the-serial-set-the-history-of-the-minimum-wage/> (accessed on October 10, 2024).

¹¹ Minimum Wage Fixing Machinery Convention of the International Labor Organization, CO26/1928, (No.26), (1928) Article 1.

¹² ILO, Ratification of Co26 – Minimum Wage Fixing Ratification Convention, https://normlex.ilo.org/dyn/normlex/en/?p=1000:11300:0::NO:11300:P11300_INS TRUMENT_ID:312171, (accessed on October 10, 2024).

conditions. For practical purposes, we will rely on the definition provided by the ILO. Accordingly, the Committee of the ILO defines minimum wage as:¹³

The minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national, economic and social conditions.

From this definition, it can be understood that minimum wage is a labor market regulation on the one hand and a social welfare policy on the other.¹⁴ It is a tool which is intended to be binding with a view to combating poverty and ensuring social justice. Its establishment must take into account social and economic considerations.¹⁵

Despite the widespread adoption of minimum wage systems globally, a few countries remain hesitant to implement such policies. These countries, including Ethiopia, cite economic concerns to justify their reluctance. Ethiopia, notably, does not have a minimum wage system for its private sector workers. It has also not ratified any of the ILO

¹³ *Ibid.*

¹⁴ Jerold L. Waltman, *Minimum Wage policy in Great Britain and the United States*, Algora Publishing,(2008), p. 7.

¹⁵ *Ibid.* See also Wendy V. Cunningham, *Minimum Wages and Social Policy: Lessons from Developing Countries*, The World Bank, (2007), p. XI.

conventions on minimum wage.¹⁶ But is minimum wage not a human right? And if it is, is Ethiopia not obligated to implement a minimum wage regime?

This article seeks to address these questions in light of principles underlying the International Covenant on Economic, Social and Cultural Rights. It will first explore the objectives and arguments surrounding minimum wage systems. It then examines Ethiopia's reluctance to adopt one. Finally, it will consider whether minimum wage constitutes a human right and whether Ethiopia is bound by international obligations to establish such a system.

2. Minimum Wage: Objectives and Arguments

The concept of minimum wage has long been a subject of debate in contemporary legal and economic policy spheres. While many countries have adopted minimum wage laws to protect workers and promote economic stability, the issue remains a subject of debate, involving economic, moral, and legal considerations. This section explores the major objectives of a minimum wage regime. It then delves into the arguments for and against minimum wage policies, examining both moral and economic perspectives to provide a balanced understanding of the ongoing debate.

¹⁶ ILO, Ratifications for Ethiopia, [https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11200:0::NO::p11200-country_id:102950#:~:text=Out%20of%2023%20Conventions%20ratified,in%20th%20past%2012%20months.](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11200:0::NO::p11200-country_id:102950#:~:text=Out%20of%2023%20Conventions%20ratified,in%20th%20past%2012%20months.,), (accessed on March 10, 2025).

2.1 Objectives of Setting Minimum Wage

The major objective of a minimum wage regime is protecting workers from poverty and exploitation¹⁷ by redistributing income to the low paid.¹⁸ Such objectives can be attained through legislative measures of setting a wage which ensures basic standard of living in light of national economic and social conditions that principally protects low skilled and low paid workers. This principle underlies many legislative documents seeking such objectives in different parts of the contemporary world. For instance, the Vietnamese Labour Code “provides that the minimum wage should be based on the cost of living...and no labour contract may stipulate a wage below that level.”¹⁹ This means that the Minimum Wage in Vietnam intends to ensure a basic standard of living for workers based on the cost of living of that country. In Kenya, setting minimum wage is used to reduce poverty and promote the living standards of worker.²⁰ In addition, the objective of setting minimum wage in Australia was to stop “payment by an employee to his work people of a wage that is insufficient to purchase for them the necessities of life.”²¹

¹⁷ Benedict Y. Inbun, *Dynamics of Wage Fixation in a Developing Economy: The Case of Papua New Guinea*, Nova Science Publishers, (2008), p. 2.

¹⁸ Marteen Van Klavern, .), “Asia: A Comparative Perspective”, in Maarten Van Klaveren, Denis Gregory, Thorsten Schulten (ed.), *Minimum Wage, Collective Bargaining and Economic Development in Asia and Europe: A Labour Perspective*, Springer, (2015), p. 11.

¹⁹ Sean Cooney, Tim Lindsey, Richard Mitchell and Ying Zhu, *Law and Labour Market Regulation in East Asia*, Routledge, (2002), p. 135.

²⁰ Mabel Andalon and Carmen Pages, Minimum Wages in Kenya, *Inter-American Development Bank and IZA Discussion Paper*, No.3390, (2008), p. 4.

²¹ Wambuga H, Does Uganda Need Minimum Wage Legislation? A critical review of Uganda’s Minimum Wage Policy, *Policy Series Papers*, No.8, (2016), p. 5.

Minimum wage also has the goal of reducing income inequality.²² The primary source of income for workers in many societies is wage. Where there is unbearable and unreasonable gap between high skilled highly paid workers and low skilled low paid workers, the economic and social inequality between the two groups looms large leaving the latter highly vulnerable to exploitation and poverty, by setting a minimum wage that ensures a basic standard of living, the income inequality. This phenomena of inequality that invariably prevails across societies of the world require actions such as setting minimum wage.²³

In addition to reducing inequality, some argue that minimum wages can be used to deter industrial unrest.²⁴ In some countries, usually in the developed ones, wage disputes result in industrial strikes and work stoppages. This industrial unrest will be lessened if the wage setting is transferred to the government.²⁵ For example, one of the objectives to set a minimum wage in Australia was to “prevent strikes and lockouts.”²⁶ Similarly, South Africa’s practice shows that “[a National Minimum Wage] will lead to a reduction in industrial unrest.”²⁷ Countries also set minimum wages to stabilize their labour market. In this regard, the Fair Labor Standards Act of the United States (FLSA), of which the minimum wage was a part, was intended to ensure labor

²² Jarold L., *supra* note 14, p. 8. See also Benedict Y. Inbun, *supra* note 17, p. 2.

²³ Bangladesh Institute of Labour Studies (BILS), *National Minimum Wage for Bangladesh’s Workers: Rational Standard and Rationality of National Minimum*, BILS, (2015), p. 11.

²⁴ Jarold L. Waltman, *supra* note 14, p. 9.

²⁵ *Ibid.*

²⁶ Wambuga H, *supra* note 21, p. 5.

²⁷ International Labor Organization, *Towards a South African National Minimum Wage*, ILO, (2015), p. 4.

market stability by ensuring that workers would receive a fair wage for a fair day's work.²⁸

Finally, it is important to note that while Minimum Wage is aimed at achieving the aforementioned objectives, it has been a contentious issue since its inception and there are those who argue against it.

3. Arguments for and Against a Minimum Wage Regime

Minimum Wage has been debated for centuries. Scholars, economists, public servants, and lawyers raise economic and moral arguments for and against it.²⁹ The following sections present and critically examine these arguments in order to shed light on the essence of the subject.

3.1 Moral Arguments

As already mentioned earlier, the moral argument for minimum wage goes back to the time of the renaissance where the medieval scholastics and the Catholic Church argued for a just wage that targeted the poor.³⁰ In the current era, moral arguments for minimum wage base their stance on creating a decent standard of living for the poor, human dignity, addressing the demands of democratic citizenship, and justice.³¹ In the United States, for example, it is reasoned that the minimum wage law is increasing the wage of society's lowest earners and will lift many

²⁸ Oren M. Levin Waldman, *The Case of the Minimum Wage: Competing Policy Models*, University of New York Press, (2001), p. 7.

²⁹ *Ibid.*

³⁰ *Id.*, p. 10. See also David Neumark and William I. Wascher, *supra* note 4, pp.290-291.

³¹ Jarold L. Waltman, *supra* note 14, p. 10.

individuals and families out of poverty.³² Others argue that minimum wage is needed to allow workers to live in dignity by allowing them to be self-sufficient.³³ On the other hand, moral arguments that raise the issue of democratic citizenship raise the issue that people need to be economically independent in order to fight for their political rights and hence a wage floor that allows them to lead a decent way of life is needed.³⁴ Arguments of democratic citizenship also contend that minimum wage helps governments maintain public order by reducing economic inequality and social disparity.³⁵ Justice based arguments, the other perspective, focus on human dignity and the reduction of poverty as a subject of analysis. They hold that “people who work deserve a living wage for their efforts, and the criterion for this living wage was a minimal level of subsistence”.³⁶ This reason for the minimum wage is, arguably, at the center of the moral arguments of minimum wage which suggest that the goal of public policies should be narrowing the gap between the rich and the poor.³⁷ By narrowing down inequality between citizens, minimum wage reduces the bargaining power gap in labor markets, which, in turn, allows a majority of citizens to “earn a living as an evidence of human dignity and social justice.”³⁸

Nevertheless, others argue that the minimum wage regime limits the freedom of both employers and employees. According to this group of

³² Dallin Overstreet, Is Minimum Wage an Effective Anti-Poverty Tool? *Journal of Poverty*, Vol. 25 No.5, (2021), p. 453.

³³ *Id.*, p. 55.

³⁴ *Id.*, p. 11.

³⁵ Benedict Y. Inbun, *supra* note17, p. 11.

³⁶ Oren M. Levin-Waldman, Minimum Wage and Justice? *Review of Social Economy*, Vol. 58 No. 1, (2000), p. 44.

³⁷ *Id.*, p. 55.

³⁸ Robert E. Prash, In Defense of the Minimum Wage, *Journal of Economic Issues*, Vol. 30 No.2, (1996), p. 391.

scholars, “the role of the Government is to merely do what the marketplace cannot: maintain, arbitrate, and enforce the rules of the game” and not to limit the freedom of employers.³⁹ Consequently, the proponents of this argument contend that a government that dictates wages is a government that effectively limits freedom.⁴⁰ In this regard, it is argued, the minimum wage limits the freedom of contract in that it limits the ability to choose between jobs and accept a lower wage especially when this has an effect on the employment or non-employment of the individual.⁴¹ It will, therefore, be against the right to liberty — liberty to freely engage in a market without the intervention of the State in any manner.

3.2 Economic Arguments

According to the economic argument for minimum wage, minimum wage increases purchasing power and productivity and as a result influences poverty.⁴² Pertaining to this, Keynesian Theory states that the key to restoring or maintaining prosperity is to keep aggregate demand high so that by putting money in the pockets of consumers through minimum wage, the consumers’ purchasing power will be increased and demand will increase as well.⁴³ In contrast, in order to reduce costs which directly or indirectly relate to minimum wage, producers will look for more efficient ways. They will give more trainings and supervisions for their employees and they will look for better techniques

³⁹ Oren Levin-Waldman, A Conservative Case for the Minimum Wage, *Challenge*, Vol.57 No.1, 2014, p. 25.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² Jarold L. Waltman, *supra* note 14, p. 12.

⁴³ ILO, *supra* note 27, p. 1.

to produce their goods and services.⁴⁴ These efficiencies, which are the foundation of increased productivity, drive economic growth and expand the availability of goods and services for all. Over time, they also contribute to the creation of more jobs with better wages.⁴⁵ It is also argued that minimum wage removes public subsidies from some businesses lessening the burden on the government and tax payers.⁴⁶ However, there are counter economic arguments. Accordingly, some scholars believe that minimum wage leads to unemployment, inflation, and that it would bring business failures.⁴⁷ The labour market, as a free market, the argument goes, must be left to determine wages without any interference from the government. Minimum wage, it is stated, does not have much significance in developing countries because most of the labor force lives outside the ambit of labour regulations.⁴⁸

Moreover, some developing countries raise the issue that setting a minimum wage would push away foreign direct investment which has become the major economic drive behind job creation, skills transfer, and foreign exchange earnings. According to the ownership, location, and internalization paradigm, which is the dominant theory for explaining a company's decision to invest abroad, "a company will invest abroad if it has ownership specific advantages over competitors in prospective countries, if it is beneficial to internalize this advantage (rather than selling or licensing it), and if there are location – specific

⁴⁴ *Ibid.*

⁴⁵ Jarold L. Waltman, *supra* note 14, p. 13.

⁴⁶ Benedict Y. Inbun, *supra* note 17, p. 13.

⁴⁷ David Neumark and William Wascher, *supra* note 4, pp.14-15.

⁴⁸ *Id.*, p. 11.

benefits in moving production to the host country”.⁴⁹ One of the criteria for assessing the advantages of a host country for setting up a company is its labour standards. As a result, Governments of developing countries opt for weaker labour standards to present themselves as more attractive than other competitors.⁵⁰ In this regard, developing countries made their stance on considering labour standards as competitive advantages during the first World Trade Organization’s (hereafter WTO) Ministerial Conference in Singapore where they declared “we reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low wage developing countries, must in no way be put into question”.⁵¹ Therefore, Governments and some scholars of the developing world argue against minimum wage citing its potential to reduce foreign direct investment inflows to these countries.

While the concept of minimum wage is surrounded with both supporting and opposing arguments, the overwhelming majority of the world including developed and developing States, have set minimum wages for their workers. However, Ethiopia is one of the few States that does not have a minimum wage regime for its private sector. The next sections discuss this in detail.

⁴⁹ Robert G. Blanton and Shannon L. Blanton, Labour Rights and Foreign Direct Investment: Is there a race to the bottom?, *International Interactions: Empirical and Theoretical Research in International Relations*, Vol.38, No.3, (2012), p. 269.

⁵⁰ John McLaren and HyejoonIm, Foreign Direct Investment, Global Value Chains, and Labour Rights: No Race to the Bottom, *National Bureau of Working Paper Series*, Working Paper 31363, (2021), p. 2.

⁵¹ Anita Chan, Racing to the Bottom: International Trade Without a Social Clause, *Third World*, Vol. 24, No.6, (2010), p. 1012.

4. Ethiopia and Minimum wage: Why the Wait?

In 2012, the United Nations Committee on Economic, Social, and Cultural Rights provided its concern over the absence of a minimum wage regime in Ethiopia. In its concluding observations on Ethiopia, the Committee stated that Ethiopia needed to take “legislative and other measures to introduce a national minimum wage ... [which is sufficient] to provide all workers and their families with a decent standard of living”.⁵² It took seven years for this country to start acting on this recommendation. In 2019, Ethiopia issued a new labour proclamation which envisaged a minimum wage board with a power to revise minimum wage based on studies that consider the country’s economic development, labour market, and other conditions.⁵³ A draft minimum wage law has also been submitted to the council of Ministers.⁵⁴

Joining the call for a minimum wage system, the Ethiopian Human Rights Commission issued a statement on April 30, 2022, for the establishment of a minimum wage regime. The statement, which was given for commemorating International Workers’ Day, provided that the average monthly wage in Ethiopia remained insufficient to guarantee the right to an adequate standard of living.⁵⁵ The statement reads:⁵⁶

⁵² Committee on Economic, Social, and Cultural Rights, Concluding Observation of the Committee on Economic, Social, and Cultural Rights on Ethiopia, E/c.12/ETH/CO/1-3, (31 May 2012), para. 11.

⁵³ FDRE Labour Proclamation, Proclamation No.1156/2019, *Negarit Gazette* (2019), Article 55 (2).

⁵⁴ Ethiopian Human Rights Commission, Call to Prioritize the Establishment of a Minimum Wage System, <https://ehrc.org/call-to-prioritize-the-establishment-of-a-minimum-wage-system/> (accessed on October 10, 2024).

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

While minimum wage is not a panacea to all the problems that workers are facing in Ethiopia, it is a crucial step that can ensure decent living for the workers and their families, in particular, if it is coupled with other necessary socio-economic measures.

Nevertheless, the country has not still established a minimum wage system. The government's reluctance to set a minimum wage is mainly based on economic and investment policy grounds.⁵⁷ Elaborating on these grounds, the Ministry of Labour and Skills stated that "setting a minimum wage amidst the economic crisis could backfire and exacerbate the situation".⁵⁸ According to the government, minimum wage "complicates job creation, investment and inflation. The economy is currently in crisis and cannot bear a minimum wage. Introducing a minimum wage at this time of economic crisis would exacerbate the situation".⁵⁹ Muferihat Kamil, the Minister of Labour and Skills, stated, "the post war economy would make it difficult to enforce [minimum wage]."⁶⁰

The country's ambition to attracting Foreign Direct Investment (herein after referred to as "FDI") is also a factor in the delay for setting a minimum wage.⁶¹ Ethiopia is currently working to attract

⁵⁷ The Reporter, Study to Weigh Pros and Cons of Minimum Wage as Ethiopia Hesitates, <https://www.thereporterethiopia.com/35257/>, (accessed on October 10, 2024).

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ Addis Fortune, Labour Unions Premeditate a Rally on Labour Day, <https://addisfortune.news/labour-unions-premeditate-a-rally-on-labour-day/>, (accessed on October 10, 2024).

⁶¹ Please note that Muferiat Kamil, Minister of Labour and Skills, stated in November 2024 while addressing the parliament that the government does not fear that minimum wage would impact FDI. However, the facts provided in this paper

FDI to boost its economic growth. FDI is believed to bring technologies, hire a bulk of the population and train the Ethiopian workforce, and bring in hard currency. Ethiopia, however, has competitors in Asia and Africa which are equally striving to attract foreign companies. The workforce in these competing countries, however, has more industrial experience and therefore higher productivity levels when compared to Ethiopian workers.⁶² Accordingly, to beat the competition, the Ethiopian government has been promising cheap labour – workers who are willing to accept unusually low wages.⁶³ The State also uses the absence of a minimum wage in the country as one of its selling points. For example, an investment promotion brochure prepared in 2017 by the Ethiopian Investment Commission (EIC) provides that there is a flexible domestic labour law which does not have a minimum wage requirement for private sector employees.⁶⁴ In addition, the current website of the EIC provides Ethiopia has a competitive workforce by stating: “our relatively low wage rates and large industrial workforce offer significant labor-cost advantages for investors.”⁶⁵

The government was successful in attracting multinational companies by raising the availability of cheap labour as a competitive advantage. The establishment of PVH, the apparel giant,

show that the government provides cheap labor as a bait to attract FDI. See The Reporter, Government, Trade Union Confederation Again at Dead-End in Minimum Wage Saga, <https://www.thereporterethiopia.com/42717/>, (accessed on March 11, 2025).

⁶² Paul M. Barrett and Dorothee Baumann-Pauly, *Made in Ethiopia: Challenges in the Garment Industry's New Frontier*, New York University – Stern, (2019), p. 8.

⁶³ *Ibid.*

⁶⁴ Ethiopian Investment Commission, *An Investment Guide to Ethiopia*, EIC (2017), p.3.

⁶⁵ Ethiopian Investment Commission, Why Ethiopia? <https://investethiopia.gov.et/why-ethiopia/#young> (accessed on March 11, 2025).

in Hawassa Industrial Park in 2017 is the most notable example of the successful use of this strategy. Rising labour and costs in Asia forced PVH to look for other alternatives in Africa. Ethiopia, Ghana, and Kenya presented themselves as best destinations for the international giant. Among other factors, “the cost of labor was an important consideration in PVH’s decision-making process”.⁶⁶ The company found power costs and quality in Ethiopia, Kenya, and Ghana to be equal. However, Ethiopia scored better on wage cost and hence PVH entered the country.⁶⁷

As a result, it seems that the government’s fear over the adverse effect of minimum wage on job creation and investment is based on practical challenges the country has faced in attracting foreign companies. The State, nevertheless, undertook a study to see if a minimum wage system is feasible in Ethiopia.⁶⁸ Even though the Ministry of Labour and Skills has not made the conclusions of the study public yet, I was able to learn that there currently is no law which is being developed based on its finding. The approach to conduct this study also received a vigorous rapprochement from the Confederation of Ethiopian Trade Unions (CETU) which stated that neither it nor the minimum wage board was represented in the study.⁶⁹

⁶⁶ Mamo Mihretu and Gabriela Llobet, *Looking Beyond the Horizon: A Case Study of PVH’s Commitment to Ethiopia’s Hawassa Industrial Park*, The World Bank, (2017), p. 22.

⁶⁷ *Ibid.*

⁶⁸ Addis Fortune, *supra* note 60.

⁶⁹ The Reporter, *supra* note 61.

To sum up, the government appears to be avoiding a minimum wage regime for private sector workers due to economic concerns and for the purpose of attracting foreign investment through low labor costs. But at what cost is the State neglecting a minimum wage? The following section will illuminate the status of wages in Ethiopia and its impact on varying segments of society.

4.1 Wages in Ethiopia: Decent or Inadequate?

Many workers in the country are paid wages that do not warrant a decent life, at least according to Ethiopian standards. The Ethiopian investment promotion website, the iGuide reports that the average monthly wage of unskilled Ethiopians in 2018 was USD 40.⁷⁰ Reflecting a similar picture, a 2019 research on the employment patterns and conditions of the Ethiopian construction and manufacturing sectors revealed that the average monthly wages for low-skilled workers in the manufacturing sector were ETB 1,217 for workers in Chinese companies, ETB 1,269 in other foreign companies, and ETB 1,450 in Ethiopian firms.⁷¹ These wages did not show much change in 2023 even though the USD exchange rate

⁷⁰ iGuide Ethiopia, An Investment Guide to Ethiopia, <https://www.theiguides.org/public-docs/guides/ethiopia>, (accessed on October 10, 2024).

⁷¹ Schaefer, F. & Oya, C. *Employment patterns and conditions in construction and manufacturing in Ethiopia: a comparative analysis of the road building and light manufacturing sectors*, IDCEA Research Report, SOAS, University of London, (2019), p. 30. At 2019 market exchange rates the wages are equivalent to about USD 38, USD 40 and USD 46, respectively. See National Bank of Ethiopia, *Quarterly Bulletin Second Quarter 2019/20*, Fiscal Year Series, Vol.36, No.2, (2020), p. 46.

increased by 70% from what it was in 2019.⁷² In this regard, a study conducted in 2023 on female wage workers showed that “Women in selected farms earned an average wage of ETB 1841, while those working in cafes and restaurants, ETB 911 (plus tips), and in textile and garment factories ETB 209.”⁷³ Moreover, a study conducted by ILO in 2024 revealed that the median monthly wage in Ethiopia was Birr 3000.⁷⁴

These wages are not enough to access basic necessities of life.⁷⁵ Consequently, trade unions constantly voice their dissatisfaction about the wage regime in the country. They planned to hold a rally on minimum wage and other labour issues under the leadership of the Confederation of Ethiopian Trade Unions (CETU) on May 1, 2023, which failed to materialize because it was not approved by the government.⁷⁶

It could be seen, as a result, that there is a tension between the government and workers on minimum wage. On the one hand, the

⁷² In 2019 1 USD equaled 31.8041 Birr while in 2023 1 USD equaled 54.2454 Birr. See National Bank of Ethiopia, *Quarterly Bulletin Second Quarter 2022/23 Fiscal Year Series*, Vol.39, No.2 (2023), p.6.

⁷³ Ezana Amdework and Belte Bizuneh (Eds.), *The State and Transformation of Female Wage Labour in Ethiopia: Lessons from the Textile/Garment, Floriculture and Hospitality Industries*, Forum for Social Studies, (2023), p. 4.

⁷⁴ ILO, Discussions Heightened Towards Setting Minimum Wage in Ethiopia, <https://www.ilo.org/resource/news/discussion-heightened-towards-setting-minimum-wage-ethiopia> (accessed on March 10, 2025)

⁷⁵ Kibur Engdawork and Frehiwot Sintayehu, *The State and Transformation of Female Wage Labour in Ethiopia: The Case of Textile/Garment Industries*, in Ezana Amdework and Belte Bizuneh (Eds.), *The State and Transformation of Female Wage Labour in Ethiopia: Lessons from the Textile/Garment, Floriculture and Hospitality Industries*, Forum for Social Studies, (2023), pp. 56-57.

⁷⁶ Addis Fortune, *supra* note 60.

government fears that a minimum wage regime would disrupt its plans of job creation and development, while on the other, workers demand a minimum wage that could allow them to lead decent life. Yet in addition to the moral and economic arguments it possesses, is minimum wage not a human rights on its own standing? If it is, then is the government of Ethiopia not obligated to set a minimum wage? These questions will be addressed in the subsequent sections.

5. Minimum Wage as a Human Right

Minimum wage is recognized under international human rights instruments as one of the rights that enable a person to lead a decent way of life. It is also an enabler of other rights which are fundamental to human life including the right to food, clothing, housing, and health. This section will discuss the correlation between minimum wage and human rights by analyzing international human rights instruments.

5.1 Minimum Wage under International Human Rights Law

The concept of fair wages is recognized by the International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR) and the Universal Declaration of Human Rights (hereafter UDHR). The ICESCR under Article 7 recognizes the right of everyone to the enjoyment of just and favorable conditions of work including fair wages which provide workers with a decent living for themselves and their families. It is also provided under Article 23 of the UDHR that “Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity...”. Fair wages are, as a result, remunerations that ensure the

worker would have a decent way of life. In this regard, the ILO denotes that a living wage is a “wage level that is necessary to afford a decent standard of living for workers and their families, taking into account the country circumstances and calculated for the work performed during the normal hours of work”.⁷⁷

The Committee on Economic, Social, and Cultural Rights (hereafter CESCR) has a similar stance on the concept of a living wage. It states that a “remuneration must be sufficient to enable the worker and his or her family to enjoy other rights in the Covenant, such as social security, health care, education and an adequate standard of living, including food, water and sanitation, housing, clothing and additional expenses such as commuting costs.”⁷⁸ Accordingly, CESCR requires States Parties to prioritize the adoption of a periodically reviewed minimum wage, indexed at least to the cost of living, and maintain a mechanism to do this.⁷⁹ Workers, employers and their representative organizations are also required to participate directly in the operation of such a mechanism.”⁸⁰ The Committee further notes that minimum wage should be recognized by legislation and fixed with reference to a decent standard of living.⁸¹

⁷⁷ ILO, ILO Reaches Agreement on the Issue of Living Wages, <https://www.ilo.org/resource/news/ilo-reaches-agreement-issue-living-wages>, (accessed on October 10, 2024).

⁷⁸ Committee on Economic, Social, and Cultural Right, General Comment No.23 (2016) On the Right to Just and Favorable Conditions of Work (Article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, (27 April 2016), para. 18.

⁷⁹ *Id.*, para. 21.

⁸⁰ *Id.*, para. 20.

⁸¹ *Id.*, para. 21.

In this regard, the CESCR has forwarded several State Recommendations to members States of the ICESCR. For example, it urged Guatemala to “take the legislative and administrative measures necessary to ensure that all workers receive a minimum wage that enables them to achieve a decent standard of living for themselves and their families in keeping with Article 7 (a) (ii) of the Covenant.”⁸² It recommended El Salvador to “establish an effective mechanism for periodically reviewing the minimum wage, in accordance with Article 7 (a) (ii) of the Covenant, in which workers, employers and their representative organizations participate, in order to ensure that all workers receive a minimum wage that ensures a decent standard of living for themselves and their families”. Further, it recommended Bahrain to “establish, in collaboration with the social partners, an appropriate and regularly indexed national minimum wage, regardless of the type of contracts, working hour arrangements and sectors, in order to guarantee decent living conditions for all workers and their families.”⁸³ The right to a living wage also affects other areas of human rights. The right to food, clothing, housing, and health are all universally recognized human rights.

5.2 Minimum Wage and the Right to Food

The right to food is embedded in Article 11 (1) of the ISECR as part of the right to an adequate standard of living. According to the ICESCR, the right to food implies the following:⁸⁴

⁸² Committee on Economic, Social and Cultural Rights, Concluding Observations on the Fourth Periodic Report of Guatemala (2022), E/C.12/GTM/CO/4, (11 November 2022), para. 25.

⁸³ Committee on Economic, Social, and Cultural Rights, Concluding observations on the initial report of Bahrain, E/C.12/BHR/CO/1, (3 August 2022), para. 21.

⁸⁴ Committee on Economic, Social, and Cultural Rights, General Comment No.12: The Right to Adequate Food (Art. 11), E/C.12/1999/5, (12 May 1999), para. 8.

- a. The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals,
- b. free from adverse substances, and acceptable within a given culture; and,
- c. The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

In this provision, availability refers to the ability to obtain food either directly from productive land or through effective systems that distribute, process, and market food according to demand.⁸⁵ Accessibility, on the other hand, includes both economic and physical aspects. Economic accessibility means that the cost of obtaining food should not compromise the ability to meet other basic needs, ensuring that even socially vulnerable groups, such as the landless and impoverished, can afford adequate food.⁸⁶ Therefore, economic accessibility envisages an environment where workers, among other classes of society, will be able to earn a decent amount of wage that will enable them to purchase an adequate amount of food. Emphasizing this, the CESCR states:⁸⁷

States have the obligation to move as expeditiously as possible towards that goal. Every State is obliged to ensure for

⁸⁵ *Id.*, para. 12.

⁸⁶ *Ibid.*

⁸⁷ *Id.*, para. 21 and 26.

everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger. This requires the adoption of a national strategy which works towards a decent living for wage earners and their families to ensure food and nutrition security for all.

As a result, in order to strictly observe the right to food, sufficient wages must be provided for individuals to enable them to afford adequate and nutritious food without compromising other basic needs. A minimum wage regime is the most effective mechanism to ensure this right.

5.3 Minimum Wage and the Right to Clothing

An adequate standard of living could not be complete without ensuring the right to clothing. With a clear recognition of this fact, both the Universal Declaration of Human Rights and ICESCR show commitment to the fulfillment and protection of this right.⁸⁸ Similarly, Article 27(3) of the United Nations Convention on the Rights of the Child states that “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing”.

Further, Article 28(1) of the Convention on the Rights of Persons with Disabilities stipulates: “States Parties recognize the right of persons with

⁸⁸ International Covenant on Economic, Social, and Cultural Rights, (1966), Article 11(1). Universal Declaration of Human Rights, (1948), Article 25.

disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability”. As a result, the right to adequate clothing is a right recognized by various human rights instruments and is essential for the right to adequate standard of living.

The CESCR has not discussed the elements of this right. Nor is there much case law on the issue. However, the committee has made a passing remark on the right to clothing when it described as to what conditions of work should be met for workers. In this regard, the CESCR has stated that “remuneration must be sufficient to enable the worker and his or her family to enjoy other rights in the Covenant, such as ... clothing”.⁸⁹ Accordingly, the Committee’s remark reiterates that fact that a person cannot have adequate clothing without a sufficient remuneration that enables him/her to do so.⁹⁰

5.4 Minimum Wage and the Right to Adequate Housing

The ICESCR recognizes the right to adequate housing under Article 11 (1). As such it states that an adequate standard of living, which State Parties to the covenant agree to implement, includes an adequate food. CESCR has provided an authoritative interpretation of this right stating “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely

⁸⁹ Committee on Economic, Social, and Cultural Right, General Comment No.23, supra note 78, para. 18.

⁹⁰ *Ibid.*

having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."⁹¹ Hence, the right to live in dignity, which is the foundation of human rights, cannot be realized unless a person has a decent living place to live and raise a family. Affordability is one of the seven core elements of this right.⁹² Accordingly, in order to realize the right to housing, States are required to "ensure that the percentage of housing-related costs is, in general, commensurate with income levels".⁹³ If a State is not able to establish income levels that will allow a person to live in a decent house, it is at least required to establish housing subsidies.⁹⁴

5.5 Minimum Wage and the Right to Health

The right to health is protected under Article 12 of the ICESCR. It has been given an extensive explanation which is not binding, yet carrying an authoritative⁹⁵ interpretation by CESCR under General Comment No. 14 on the Right to the Highest Attainable Standard of Health (hereafter "GC 14"). Other human rights such as the right to life and the right to adequate food are also closely linked to this right. The Availability, Accessibility, Acceptability, and Quality (hereafter the "AAAQ")

⁹¹ Committee on Economic, Social, and Cultural Rights, General Comment No.4: The Right to Adequate Housing (Art. 11(1) of the Covenant), E/1992/23, (13 December 1991), para. 4.

⁹² *Id.*, para. 8. The other elements are Legal Security of Tenure, *Availability of services, materials, facilities and infrastructure, Habitability, Accessibility, Location, Cultural adequacy.*

⁹³ *Id.*, para.8 (c).

⁹⁴ *Ibid.*

⁹⁵ Salman Rawaf and Sondus Hassounah, Codification and Implementation of the 'Right to Health' in the Arab World in Brigit Toebes, Rhonda Ferguson, Milan M. Markovic, Obiajulu Nnamuchi (eds.) *The Right to Health: A Multi-Country Study of Law, Policy, and Practice*, Springer, (2014), p. 136.

protection described under paragraph 12 of GC 14 elaborates how states are required to carry out their obligation towards the rights to health. Accordingly, this principle applies to ensuring quality health care services by making these services accessible, affordable and acceptable by the society. In this respect, states have to make quality health care services accessible, affordable, and acceptable to these patients, hence the AAAQ principle.⁹⁶ However the right to health is far bigger than access to health care. It also covers “a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.”⁹⁷ In order for a person to lead a healthy life to get proper nutrition, housing, adequate sanitation etc., he/she needs to have a decent income that enables him and his family attains a healthy life.

In light of the underlying principles of the binding instruments and non-binding documents, it can arguably be concluded that a minimum wage is a system through which the right to a decent way of living is enforced. Accordingly, States have the obligation to set a minimum wage that allows their citizens to access basic needs. Therefore, it can be firmly established that a minimum wage, is a human right and will be referred as such in the following paragraphs. However, one may ask, what exactly is the obligation of a State Party to the ICESCR such as Ethiopia towards fulfilling this right? The ensuing paragraphs illuminate this point.

⁹⁶ See Committee on Economic, Social, and Cultural Rights, General Comment No.14: The Right to the Highest Attainable Standard of Health (Art.12), E/C.12/2000/4, (11 August 2000), para. 12.

⁹⁷ *Id.*, para. 4.

6. Minimum Wage and State Obligation under Human Rights Law

States are accountable for upholding human rights treaties starting from the date they ratify them. This is because international law puts States as the main duty-bearers when it comes to fulfilling treaty obligations and they are also required to implement the terms they have agreed to in good faith.⁹⁸ In addition, “States voluntarily acknowledge and accept obligations when they ratify human rights treaties. In doing so, they agree to implement these treaties and to be accountable for meeting the rights and providing for the needs of the people within their jurisdiction”.⁹⁹ Therefore, “in all circumstances the State which ratified or acceded to the Convention remains responsible for ensuring the full implementation of the [covenant] throughout the territories under its jurisdiction.”¹⁰⁰ In this regard, Article 2/1 of the ICESCR requires States parties to “take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”.

⁹⁸ Vienna Convention on the Law of Treaties, United Nations, Treaty Series, Vol.1155, (1969), Article 26. See also Committee on Economic, Social, and Cultural Rights, The Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights, E/C.12/2000/13, (27 November 2000), para. 7.

⁹⁹ John Tobin, Beyond the Supermarket Shelf: Using a Rights Based Approach to Address Children’s Health Needs, *The International Journal of Children’s Right*, Vol.14, (2006), p. 283.

¹⁰⁰ Committee on the Rights of the Child, General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child (ARTS. 4, 42 and 44, para. 6), CRC/GC/2003/5, (27 November 2003), guideline 41.

Given these stipulations, when do we say a State party to the ISECR is violating the Convention? The following argument tries to address this question by shedding light on the nature of State obligations enshrined under the ICESCR – especially in relation to the right to minimum wage.

6.1. State Obligation under the ICESCR

Obligations to implement economic and social rights are best explained by the Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights (hereafter “Limburg Principles”) and the Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights (hereafter “Maastricht Guidelines”). The Limburg Principles, developed by experts in 1986 aim to clarify the extent and nature of States' responsibilities regarding the implementation of economic, social, and cultural rights. These principles have “proven very useful to human rights advocates ... and have been particularly instrumental as an interpretative adjunct of the norms of the ICESCR within domestic legal spheres”.¹⁰¹ In contrast, the Maastricht Guidelines build upon the Limburg Principles by introducing a violations approach to economic, social, and cultural rights, underscores that such rights can be violated just like civil and political rights.¹⁰² This violations approach is important in that it affirms

¹⁰¹ Committee on Economic, Social, and Cultural Rights, The Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights, E/C.12/2000/13, (2000) para. 1. See also Scott Leckie, Another Step Towards Indivisibility: Identifying the Key Features of Violations of Economic, Social, and Cultural Rights, *Human Rights Quarterly*, Vol. 20, No.1, (1998), p. 89.

¹⁰² Committee on Economic, Social, and Cultural Rights, The Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights, *supra* note 101, Guideline 3.

economic, social, and cultural rights could be violated just as civil and political rights and, in the process, identifies what is expected of States in fulfilling economic, social and cultural rights.¹⁰³ Accordingly, the Maastricht Guidelines emphasize that “States are as responsible for violations of economic, social and cultural rights as they are for violations of civil and political rights.”¹⁰⁴ In addition, they clarify that the ICSECR similar to the ICCPR, imposes obligations to respect, protect, and fulfill.¹⁰⁵ Each of these obligations includes elements of obligation of conduct and obligation of result.¹⁰⁶ “The obligation of conduct requires action reasonably calculated to realize the enjoyment of a particular right”¹⁰⁷ while “the obligation of result requires States to achieve specific targets to satisfy a detailed substantive standard.”¹⁰⁸ And these tripartite obligations are to be realized progressively.¹⁰⁹ This means that economic and social rights are to be realized step by step.¹¹⁰

The obligations to respect, protect, and fulfill are adopted by the CESCR in its general comments and recommendations and have become the standard norm in defining and delineating States’ obligations. What do these obligations entail in terms of the right to a decent way of life through minimum wage?

¹⁰³ Victor Dankwa, Cees Flinterman, Scot Leckie, Commentary to the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, *Human Rights Quarterly*, Vol. 20 No.3, (1998), pp. 708-712.

¹⁰⁴ Committee on Economic, Social, and Cultural Rights, The Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights, *supra* note 101.

¹⁰⁵ *Id.*, Guideline 6.

¹⁰⁶ *Id.*, Guideline 7.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ Convention on the Rights of the Child, (1990), Article 4.

¹¹⁰ See UN Committee on Economic, Social and Cultural Rights, General Comment No.3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant), E/1991/23, (14 December 1990), para. 2.

6.2 The Obligation to Respect, Protect, and Fulfill the Right to Minimum Wage

According to the Office of the High Commissioner for Human Rights (hereafter “OHCHR”), the duty to respect requires the duty-bearer to refrain from interfering with the enjoyment of any human right. The duty to protect requires the duty-bearer to take measures to prevent violations of any human right by third parties. The duty to fulfill also requires the duty bearer to adopt appropriate legislative, administrative and other measures towards the full realization of human rights.”¹¹¹ The OHCHR also noted that “resource implications of the obligations to respect and protect are generally less significant than those of implementing the obligations to fulfill, for which more proactive and resource-intensive measures may be required. Consequently, resource constraints may not affect a state’s ability to respect and protect human rights to the same extent as its ability to fulfill human rights.”

In light of the above, the CESCR has defined what the obligations to respect, protect, and fulfill constitute when it comes to the right to minimum wage. Accordingly, “States Parties have an obligation to respect the right by refraining from interfering directly or indirectly with its enjoyment”.¹¹² This means, for example, that States are not allowed to introduce discriminatory salary scales or violate collective work agreements.¹¹³ On the other hand, “the obligation to protect requires

¹¹¹ Office of the High Commissioner for Human Rights, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, OHCHR, (2005), para. 47.

¹¹² Committee on Economic, Social, and Cultural Right, General Comment No.23, Supra Note 78, para. 58.

¹¹³ *Ibid.*

States parties to take measures to ensure that third parties, such as private sector employers and enterprises, do not interfere with the enjoyment of the [right] and comply with their obligations”.¹¹⁴ The obligation to fulfill, in contrast, “requires States parties to adopt the measures necessary to ensure the full realization of the [right]. This includes introducing measures to facilitate, promote and provide that right, including through collective bargaining and social dialogue”.¹¹⁵ These obligations are instrumentalized through laws, policies and regulations.¹¹⁶

6.3 Progressive Application of the Right to Minimum Wage

Even though the obligations to respect, protect, and fulfill the right to minimum wage have a generalized application, economic, social, and cultural rights have a progressive application. What does this mean? The progressive applicability of Economic, Social, and Cultural rights (hereafter “ESC Rights”) has different stages. The statement of article 2(1) with regard to states obligations in the realization of the rights is that states “[undertake] to take steps... with a view to achieving progressively the full realization of the rights recognized in the Covenant.

According to the Committee, this is the main obligation of state parties towards fulfilling the rights enshrined in the covenant and that the progressive applicability embodied in the article reflects the fact that all ESC Rights cannot be applicable in a short period of time.¹¹⁷

¹¹⁴ *Id.*, para. 59.

¹¹⁵ *Id.*, para. 60.

¹¹⁶ *Id.*, para. 61.

¹¹⁷ UN Committee on Economic, Social and Cultural Rights, General Comment No.3, *supra* note 110, para. 2.

Nevertheless, as provided under Article 2 (1) of the covenant, States are required to take steps towards the realization of ESC Rights. In this regard, the Limburg Principles under paragraph 16 states that “all State parties have an obligation to begin immediately to take steps towards a full realization of the rights contained in the Covenant.” It also adds under paragraph 23 that the inadequacy of resources should not be taken as reasons for a state not to take on steps towards the progressive realization of states. States under Article 2(1) of the covenant are required to work towards achieving the rights enshrined in the covenant by mobilizing available resources at home and those resources that could be acquired through international cooperation.¹¹⁸ The duty to progressively achieve [ESC Rights] entails that states must take steps to the maximum available resources to achieve the rights without delay. In addition, even though most ESC Rights are rights that will be achieved progressively, according to paragraph 8 of the Maastricht Guidelines, this nature of ESC Rights “does not alter the nature of the legal obligation of states which requires that certain steps be taken immediately and others as soon as possible.” The CESCR has similar interpretation on the progressive realization of ESC Rights and provides the following under paragraph 10 of its general comment on Article 2(1) of the ICESCR:

... realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country

118 Committee on Economic, Social and Cultural Rights, The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, *supra* note 98, para. 26.

in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal.

In addition, the CESCR also mentions minimum core obligations that States should fulfill to ensure the right to just and favorable conditions of work. These obligations are considered minimum essential levels of the right and require States to adopt these obligations as soon as possible.¹¹⁹ The minimum core obligations of each right are expected to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.¹²⁰ Nevertheless, the Committee has made it clear that any evaluation of whether a State has fulfilled its minimum core obligation must consider the resource limitations present within the country.¹²¹ According to the Committee, “in order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”¹²²

¹¹⁹ See UN Committee on Economic, Social and Cultural Rights, General Comment No.3, *supra* note 110, para 10. See also UN Committee on Economic, Social, and Cultural Rights, General comment No.23, *supra* Note 78, para. 65.

¹²⁰ UN Committee on Economic, Social and Cultural Rights, General Comment No.3, *supra* note 110, para. 10.

¹²¹ *Ibid.*

¹²² *Ibid.*

In light of the above, we may ask what the obligation of States towards the fulfillment of the right to minimum wage is. A right to minimum wage, as it has been mentioned, is a very crucial right that allows workers to lead decent life. As such, it not only allows workers to make ends meet, it also allows a wage earner to get a proper health care, clothing, education, housing, and food. Therefore, the fulfillment of the right to minimum wage is a stepping stone for the fulfillment of other rights that are essential to ensure a dignified life. Accordingly, the fulfillment of a right to minimum wage by itself is seen as a minimum core obligation. A state is expected to set a minimum wage when it starts taking steps towards fulfilling Article 7 of the ICESCR, the right to just and favorable conditions of work.¹²³ In this regard, the CESCR provides that States have the obligation to set minimum wages that are non-discriminatory and non-derogable. This legislative move is required to be done “in consultation with workers and employers, their representative organizations and other relevant partners ... fixed by taking into consideration relevant economic factors and indexed to the cost of living so as to ensure a decent living for workers and their families”.¹²⁴ Further, a minimum wage is expected to be set and governments are required to respect, protect, and fulfill this right as soon as they ratify the ICESCR. A state is deemed to have discharged its obligations only if it could show that it has made every required effort under its disposal to fulfill its obligation. What does this mean for the Ethiopian government?

¹²³ UN Committee on Economic, Social, and Cultural Right, General comment No.23, Supra Note 78, para 65 (C).

¹²⁴ *Ibid.*

6.4 The Obligation of the Ethiopian Government in Setting a Minimum Wage

The Ethiopian government has the obligation to respect, protect, and fulfill the rights enshrined in the ICESCR and other human rights instruments to which it is a member. Of course, economic and social rights are progressive, and the government is required to meet the minimum essential level of the right. Also, the government is considered to have violated its obligations under the ICESCR if it failed to guarantee the fulfillment of such minimum level of the right in question. The violation may manifest in an action or omission of obligatory duties.

Looking into Minimum wage as a segment of right, one could see that it is a minimum core obligation by itself that needs to be fulfilled immediately after the ICESCR has been signed. In addition, minimum wage is also a stepping stone towards fulfilling other rights such as the right to food, housing, clothing, and health. Without a wage regime that ensures a decent standard of living, these rights would not be fulfilled. Setting a minimum wage, as a result, could also be seen as a minimum essential step that a state takes towards fulfilling these rights.

Nevertheless, as described above, in assessing whether an action or omission constitutes a breach of the right, even for minimum core obligations, it is crucial to differentiate between a State's inability and unwillingness to comply.¹²⁵ For example, in the case of the right to food, if a State claims that limited resources prevent it from ensuring access to food for those unable to secure it on their own, it must show that it has

¹²⁵ *Ibid.*

made every effort to allocate all available resources to prioritize meeting these minimum obligations.¹²⁶ This standard is applicable on every other economic and social right.

Ethiopia has ratified the ICESCR, and, hence, is required to set a minimum wage for its citizens as one of its minimum core obligations towards fulfilling the right to just and favorable conditions of work and other essential rights discussed in this paper. Nevertheless, the Ethiopian government, it seems, is reluctant to set a minimum wage because it fears it would push away foreign direct investment which is believed to contribute significantly to the country in job creation and foreign exchange. In addition, as described previously, the government fears that the post Tigray War (2020–2022) economy will not sustain a minimum wage regime. It also raises other economic arguments. Nevertheless, there is no empirical evidences (as far as the researcher's observations goes) that prove or disprove these claims of the government. Therefore, it is difficult to assess whether the government is unable or unwilling to set a minimum wage regime which will help to assess its devotion to the fulfillment of the right to a minimum wage and other ancillary rights under the ICESCR. However, what can be safely concluded is that the government has the obligation to set a minimum wage and is required to take every step available towards the fulfillment of the right. In this regard, the government has already established a minimum wage board and concluded a research on a minimum wage regime. While this is commendable, the board has not been able to act since its establishment in 2019. Moreover, the research is not open to the public. Therefore, the government, as a step towards setting a minimum wage, needs to fulfill the following:

¹²⁶ *Ibid.*

1. Make the research it currently conducted on the sustainability of a minimum wage regime public for public reflection. If need be, conduct additional research that involves the participation of CETU and other relevant stakeholders.
2. Set minimum wages across selected economic sectors that are highly affected by low wage rates. This includes setting a minimum wage for workers in sectors that generally pay substandard wages such as the hospitality and commercial agriculture sectors.
3. Implement strategies/policies that will enable the country to attract FDI without depending on the cheap labor rhetoric.
4. Take relevant and immediate steps towards the fulfillment of the above recommendations.

7. Conclusion

The argument for a just wage that enables workers to lead a decent life goes back to the era of Greek philosophers and spans across the middle ages. It is now solidified as a human right that needs an immediate attention because it is crucial to fulfilling other essential human needs such as food, clothing, and a decent shelter. Accordingly, member states to the ICESCR are required to take immediate steps towards fulfilling a minimum wage when they ratify the covenant. However, failure to observe this economic and social obligation is not instantly taken as an offense against human rights law. The State's ability and willingness towards fulfilling this right, even where the right is regarded as a minimum core obligation, will be put to the test before providing any conclusions. A State is deemed to have violated the covenant, or, in other words, the right to minimum wage, when it is unwilling while being able to fulfill the right. Moreover, if the State fails to take steps

towards fulfilling its obligations under the right, it will be deemed to have not fulfilled its international human rights obligations.

The Ethiopian government, to its credit, has established a minimum wage board which is tasked with overseeing the fruition of a minimum wage regime for the private sector workers of the country. Nevertheless, the government has made its positions towards setting minimum wage clear in several occasions after the board was established in 2019. In this regard, the government is reluctant to set a minimum wage for workers because, among other factors, it fears a minimum wage would drive away foreign direct investment and disrupt the post Tigray war economy. So far, economic arguments that corroborate or dismantle the government's stance have not been made public. However, it should be emphasized that the government, as a State Party to the ICESCR, is required to respect, protect, and fulfill the right to minimum wage. Even if it is unable to observe its obligations due to economic reasons, it is required to take the necessary steps towards the fulfillment of the right. These necessary steps range from making its research findings on the minimum wage issue public to setting a minimum wage in some industries where the salary forces workers to live in dire life situations. If the government fails to take these steps, it will have violated its obligation under international law. It, as a result, needs to observe its promise for its citizens which it solidified by signing and ratifying the ICESCR and take the necessary steps towards fulfilling the right to minimum wage of private sector workers.