



# BEST AND WORST STATES TO WORK IN AMERICA

METHODOLOGY



**OXFAM**  
America

# BEST STATES TO WORK INDEX METHODOLOGY

## BIBLIOGRAPHY, DATA SOURCES, RATIONALE, APPENDICES

In an effort to understand the differences between states and to rank them, in 2018 Oxfam built an index of labor and employment policies of all 50 states and Washington, DC. The result was the Best States to Work Index (BSWI), which was published as a report and an interactive map on the Oxfam website.

Oxfam has committed to update the database annually, logging any changes in policies over the year and reporting on shifts in rankings.

This document offers full information on methodology used to create the BSWI. It is intended to stand as a perennial document, so may not be updated with the new resources used each year going forward.

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# APPENDICES

## APPENDIX 1: METHODOLOGY

All data is based on laws and policies in effect as of July of each year.

The index is based on state policies in three dimensions; each accounts for a third of the final overall score.

### Wage policies

Do workers earn a living wage that is sufficient to provide for them and their families? This dimension includes two areas:

- The ratio of the actual state minimum wage in relation to the “living wage” for a family of four with one wage earner. The living wage figure is from the MIT Living Wage Calculator.<sup>1</sup>
- Whether or not the state allows localities to implement their own minimum wage laws.<sup>2</sup>

### Worker protection policies

This dimension considers the quality of life for workers, especially women and parents. The policies include:

- Protections for women who are pregnant or breastfeeding.
- Mandates for equal pay, pay secrecy, and no salary history.
- Leave for non-Family and Medical Leave Act (FMLA) workers because of less time on the job; leave longer than federal FMLA.
- Mandate for paid sick leave.
- Protections around flexible scheduling, reporting pay, split-shift pay, advance notice.
- Protections around sexual harassment.

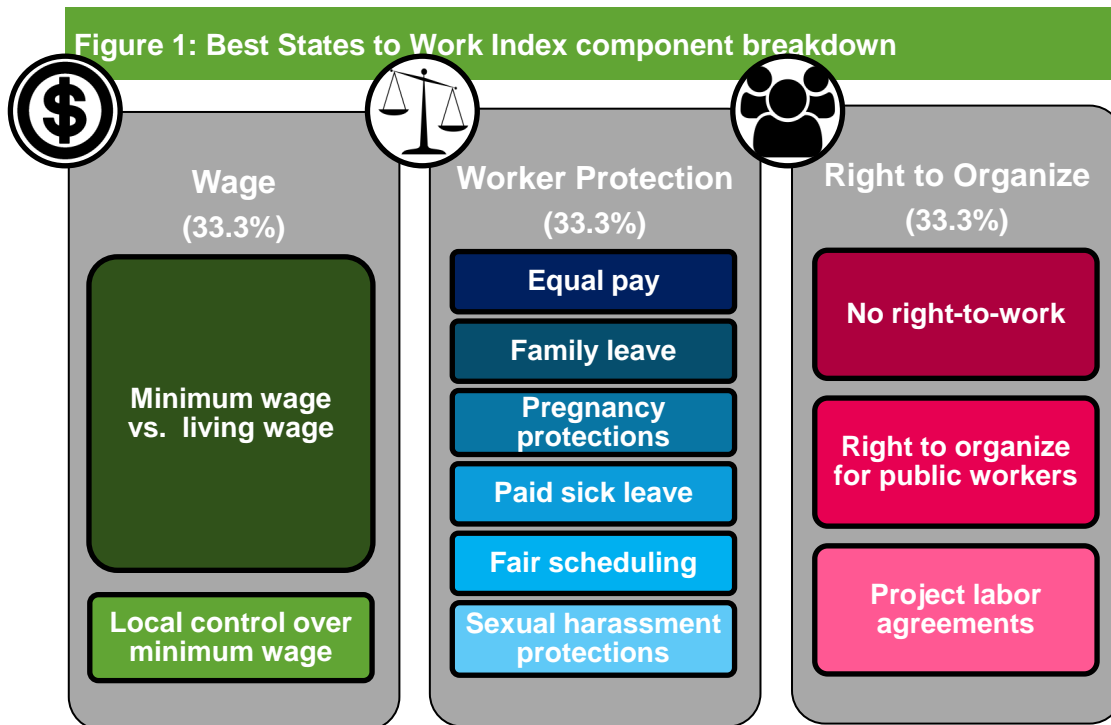
### Right to organize policies

Do workers have the right to organize and sustain a trade union?

- Does the state have a so-called “Right to Work” law (which suppresses union activity)?
- Do public employees (teachers, police, firefighters) have rights to collective bargaining and wage negotiation?
- Are project labor agreements for government contracts available?

The selection of these areas stems from three justifications: values and principles, strong evidence of a beneficial impact, and public support.





**Note:** Within each major dimension, submetrics are weighted equally, excepting the Wage Dimension where the “minimum wage versus living wage” to “local control over minimum wage” ratio is three to one.

Our team weighed each dimension—**Wage**, **Worker Protection**, and the **Right to Organize**—equally in the index. Then, within each area, our team selected from two to six policy indicators, for a total of 11.

## APPENDIX 2: RATIONALE FOR INDEX COMPONENTS

The three dimensions of state policy were selected through consultation with national labor experts from the Institute for Women’s Policy Research, the National Women’s Law Center, and the National Partnership for Women & Families, as well as through a review of literature regarding individual labor and collective employment law. The BSWI is comprised of these three dimensions for several reasons.

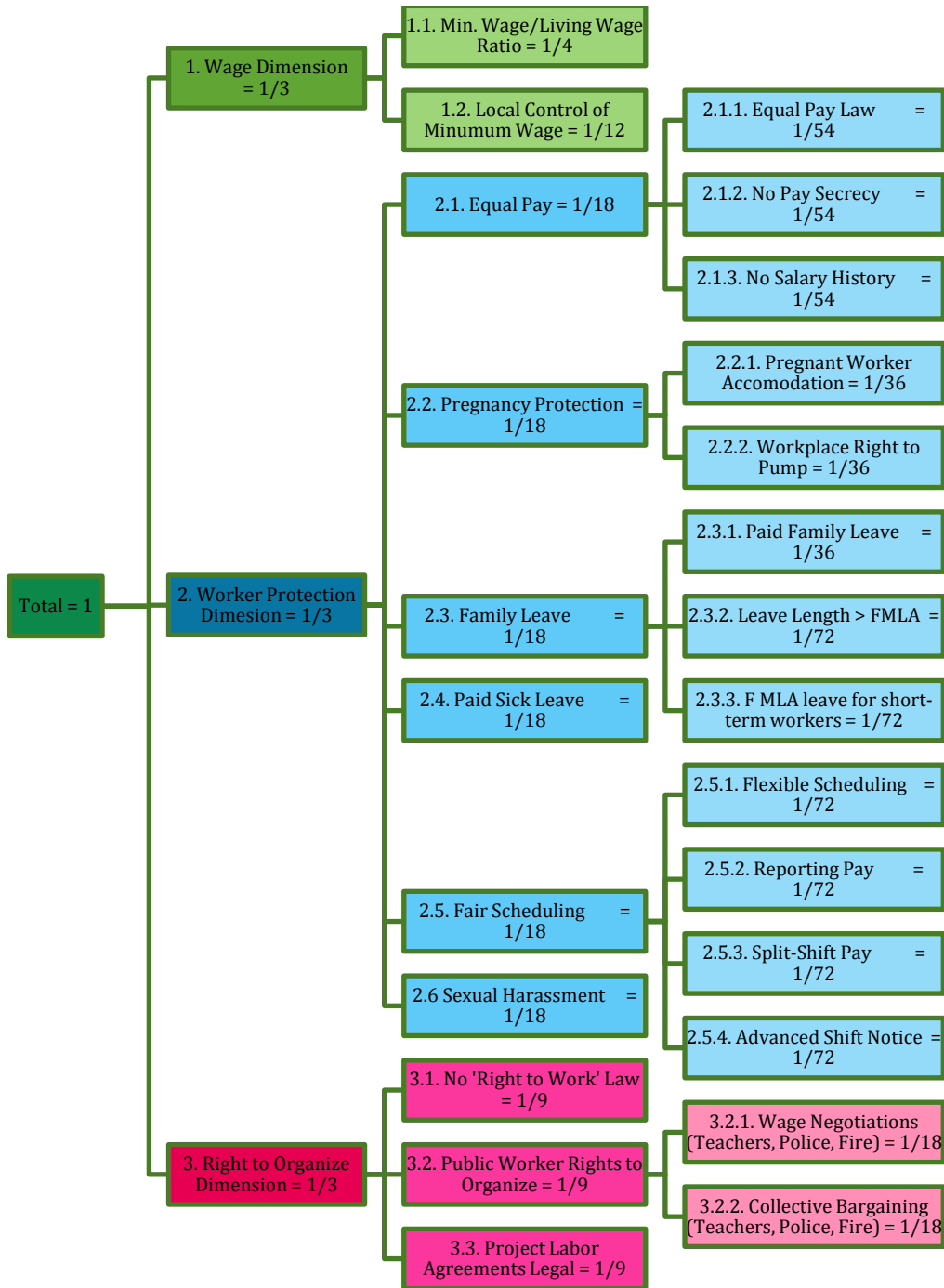
First, the BSWI reflects several values and principles: work—especially full-time work—should provide a wage such that workers can achieve a decent standard of living for themselves and their families. Workers should be able to take time off if they or their family members are sick. New mothers should have the right to pump breastmilk with ease in the workplace. Women should not earn substandard wages. Finally, management should not be able to simply dictate the terms of employment; instead, workers should have at least some opportunity to provide input into the workplace in which they spend many hours of their lives.

Second, the evidence suggests that such policies are generally beneficial for workers. Studies on the minimum wage generally show that on aggregate they are beneficial to

workers and their families. While most of the literature has debated the employment effects of the minimum wage,<sup>3</sup> there is a more general agreement that an increase in the minimum wage reduces poverty.<sup>4</sup> The literature on the effects of a variety of worker protections—paid sick leave, paid family leave, equal pay, and others—generally identify direct benefits for workers, and women in particular, as well as social benefits. Paid sick leave leads to fewer emergency room visits;<sup>5</sup> paid family leave is associated with breastfeeding and other mechanisms to improve the health of children;<sup>6</sup> and paid family leave and paid sick leave are associated with increased employment, especially for pregnant women and mothers.<sup>7</sup> Research on trade unions indicates they increase wages and improve benefits for unionized and non-union workers.<sup>8</sup>

There is already widespread public support for these dimensions. As of 2018, an increase in the minimum wage had been passed via ballot initiative in 17 states; only three such ballots have ever failed, and in every case, a similar ballot passed subsequently.<sup>9</sup> Polling on public support has been performed for many aspects of worker protection, showing widespread support for these measures. Public support for trade unions is also widespread, despite a decline in the portion of Americans who are members, with polls showing that the majority of American adults support trade unions.<sup>10</sup>

## APPENDIX 3: DIAGRAM OF INDEX COMPONENTS



## APPENDIX 4: DETAILS ON INDEX COMPONENTS

The data on labor laws is updated for legislation as of July 1 of the year. For all laws, the presence of a law that had been passed—and not necessarily implemented yet—was the criterion for the ranking. The exception is the wage rate, where the minimum wage that had been implemented by July 1 of the year was selected. The reason is that minimum wage laws change frequently, with some states increasing the wage every year according to the inflation rate; the costs of living change annually, too, making any projection into the future inaccurate.

### Dimension 1: Wage

The Wage Dimension reflects the value that workers employed full time should be able to provide a decent standard of living for themselves and their families. It consists of two components:

*Ratio of the state minimum wage to a living wage estimation:* This number consists of a ratio of the state minimum wage to the Massachusetts Institute of Technology Living Wage Calculator. This ratio facilitates an assessment of the “purchasing power” of the minimum wage in a given state. In other words, the ratio of state minimum wage to living wage does not penalize those states with a low cost of living, which a simple minimum wage would do, and thus provides a more accurate assessment of the standard of living for low-wage workers in a given state. The living wage calculation of MIT is constructed based on using government data on a variety of costs of living that the authors deem as necessary for a decent standard of living, including housing, food, transport, health care, other necessities, and childcare where relevant. The calculation varies based on family size, and the figure for a family of four with one adult working was selected. The variation in the ratio was normalized to produce a score, where the lowest score is 0 and the top score is 100.

*Local control over the minimum wage:* This indicator measures whether local governments in a state have a clear mandate to raise the minimum wage. Through either case law precedent or state legislation, a number of states expressly empower local authorities to raise the minimum wage. On the other hand, numerous state governments have passed legislation that prevents cities and local governments from raising their own minimum wage, using state preemption laws. Other states are “Dillon’s Rule” states in which local governments must receive express authority from the state legislature for functions such as regulating labor standards, and some states have case law that sets a legal precedent preventing cities from raising a minimum wage. Some state legislatures have established a staggered wage rate for a city and the rest of the state (New York and Oregon), but prevent those cities from raising their own minimum wage; these states are considered to not provide local control over the minimum wage.

### Dimension 2: Worker Protection

The Worker Protection Dimension includes the largest number of indicators and types of legislation. The premise is that workers should experience basic protections for themselves and their families; this dimension consists of six components:

*Equal pay:* This indicator includes the establishment of a basic equal pay law, as well as two principal mechanisms to combat wage inequality: the ability of employees to discuss current salaries, and the prohibition of an employer to request salaries of previous positions.

*Family leave:* This indicator involves three state laws: paid family leave, unpaid leave extended beyond the 90-day limit of FMLA, and unpaid leave that is offered to workers who have been on the job less than one year.

*Pregnancy accommodations and the right to pump:* This indicator includes two state laws: pregnancy accommodations in the workplace, and the expanded right to pump breast milk in the workplace that exceeds the FMLA standards for private employers.

*Paid sick leave:* Paid sick leave allows private and public sector workers to take a day off if they or their children become ill, and not lose wages for a full day.

*Fair scheduling:* Fair scheduling relates to work schedules that avoid scenarios that are unfair to workers. Abuses include workers reporting to work only to find they are not needed; working a double shift with insufficient time between shifts to allow the worker to return home or rest; and receiving changes in their work schedule at the last moment, preventing them from planning other activities and often forcing difficult childcare decisions for parents. The index includes indicators that represent policies to address each of these scenarios.

*Sexual harassment:* Sexual harassment laws are generally anti-discrimination statutes with claims for sexual harassment. They allow for lawsuits based on sexual harassment at the state level. The indicator measures the inclusion of sexual harassment in these anti-discrimination statutes.

### *Dimension 3: Right to Organize*

The right to organize a union and engage in collective bargaining is regarded as a fundamental human right, forming Article 23.4 of the United Nations Universal Declaration of Human Rights. While federal law establishes this right and ensures some basic influence, state law is critical as well. The dimension consists of three areas:

*No “right-to-work” law:* “Right-to-work” laws undermine union strength and funding, allowing workers to benefit from union activities without the obligation to pay dues.

*Rights to organize for public workers:* State and local governments employ 16.8 million people in the United States.<sup>11</sup> There is variation in these employees’ abilities to negotiate the terms of employment. This indicator measures whether state law allows for teachers, firefighters, and police officers to engage in collective bargaining, and specifically in wage negotiations.

*Project labor agreements:* Project labor agreements are established labor arrangements that state governments may use when executing a construction contract; these agreements usually require the use of union labor, with prices, wages, and other factors previously defined. These agreements provide strong support for union labor, and yield



numerous economic benefits.<sup>12</sup> This indicator captures whether a state has specifically banned the use of project labor agreements.

A number of items were excluded from the index for simplicity. A technical criterion used to construct the index is that the law must have been passed in at least two states. In other words, policies that may be desirable but not found yet in the United States do not form part of the index. Similarly, policies that have been passed in every state have not been selected for the index. Various forms of employment discrimination—there are at least 14 types of discrimination in current state laws—did not appear in the index, given it is a large, complex topic that deserves its own index; moreover, gender and race as employment discrimination appear in the laws of nearly all states. Health and safety laws are excluded, again due to their complexity. There are state preemption laws beyond the minimum wage, covering many items in this index, including sick pay, scheduling, and others that were not included. Innumerable detailed laws were excluded from this index as well, such as reclassification of workers as contractors instead of employees or the tipped-worker minimum wage, despite the fact that these laws are impactful.

## APPENDIX 5: INDEX COMPONENT SOURCES

### 1. Wage Dimension

1.1.1. MIT Living Wage: <http://livingwage.mit.edu>

1.1.2. Minimum Wage: <http://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx>

1.2. Local Control of Minimum Wage:

[https://ballotpedia.org/Labor\\_preemption\\_conflicts\\_between\\_state\\_and\\_local\\_government](https://ballotpedia.org/Labor_preemption_conflicts_between_state_and_local_government)

### 2. Worker Protection Dimensions

2.1.1. Private Sector Pregnant Worker Accommodation:

<http://www.nationalpartnership.org/our-work/resources/workplace/pregnancy-discrimination/reasonable-accommodations-for-pregnant-workers-state-laws.pdf>

2.1.2. Private Sector Right to Pump: <http://www.ncsl.org/research/health/breastfeeding-state-laws.aspx>

2.2.1. Basic Equal-Pay Laws: <https://www.aauw.org/resource/state-equal-pay-laws/>

2.2.2. Pay Transparency:

- [https://www.dol.gov/wb/equalpay/equalpay\\_txt.htm](https://www.dol.gov/wb/equalpay/equalpay_txt.htm)
- [https://www.capitol.hawaii.gov/session2018/bills/SB2351\\_CD1\\_.pdf](https://www.capitol.hawaii.gov/session2018/bills/SB2351_CD1_.pdf)

2.2.3. No Private Sector Salary History:

- [https://www.seyfarth.com/dir\\_docs/publications/Seyfarth-50StatePayEquityDesktopReference-2019.pdf](https://www.seyfarth.com/dir_docs/publications/Seyfarth-50StatePayEquityDesktopReference-2019.pdf)
- <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2019RS/PrintFiles/HB225-enr.pdf>
- [https://www.capitol.hawaii.gov/session2018/bills/SB2351\\_CD1\\_.PDF](https://www.capitol.hawaii.gov/session2018/bills/SB2351_CD1_.PDF)
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- <http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Passed%20Legislature/1696-S.PL.pdf#page=1>

2.3.1.1. Job-protected leave for non-FMLA workers:

<http://www.nationalpartnership.org/our-work/resources/workplace/raising-expectations-2018.pdf>

2.3.1.2. Job-protected leave longer than Federal FMLA:

<http://www.nationalpartnership.org/our-work/resources/workplace/raising-expectations-2018.pdf>

2.3.2. Paid Family Leave: <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/state-paid-family-leave-laws.pdf>

2.4. Paid Sick Leave: <http://www.nationalpartnership.org/our-work/resources/workplace/paid-sick-days/paid-sick-days-statutes.pdf>

2.5. Fair Scheduling: [www.nationalpartnership.org/research-library/workplace-fairness/equal-opportunity/schedules-that-work-act-fact-sheet.pdf](http://www.nationalpartnership.org/research-library/workplace-fairness/equal-opportunity/schedules-that-work-act-fact-sheet.pdf);

2.5.3 Split-Shift Pay

- <https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28-190>
- <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB828>

### 3. Right to Organize Dimension

3.1. Right to Work: inputs provided by the AFL-CIO

- 2.1.1. Collective Bargaining for Teachers: <https://www.nctq.org/contract-database/collectiveBargaining>
- 3.2.1.2. Collective Bargaining for Police: [https://www.commonwealthfoundation.org/state\\_labor\\_laws/](https://www.commonwealthfoundation.org/state_labor_laws/)
- 3.2.1.3. Collective Bargaining for Firefighters: [https://www.commonwealthfoundation.org/state\\_labor\\_laws/](https://www.commonwealthfoundation.org/state_labor_laws/)
- 3.2.2. Wage Negotiation: [https://www.commonwealthfoundation.org/state\\_labor\\_laws/](https://www.commonwealthfoundation.org/state_labor_laws/)
- 3.3. Project Labor Agreements: inputs provided by the AFL-CIO

## NOTES

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- <sup>1</sup> MIT Living Wage Calculator. <http://livingwage.mit.edu>
- <sup>2</sup> Local control over the minimum wage is based on Input provided by the National Employment Law Project.
- <sup>3</sup> [1] Kuehn, D. *Study Design in the Minimum Wage Debate*. Economic Policy Institute. 2014.  
[2] Schmitt, J. *Explaining the Small Employment Effects of the Minimum Wage*. Industrial relations: A Journal of Economy and Society, vol. 54 no. 4 (October 2015), pp. 547-581.
- <sup>4</sup> Dube, A. *Minimum Wages & Distribution of Family Incomes*. Institute of Labor Economics. 2017.
- <sup>5</sup> Bhuyan, S.S. et al. *Paid sick leave is associated with fewer ED visits among U.S.private sector working adults*. American Journal of Emergency Medicine. 34(5):784-789, May 2016.
- <sup>6</sup> Appelbaum, E. and Milkman, R. *Leaves that Pay: Employer and Worker Experiences with Paid Family Leave in California*. Center for Economic and Policy Research. Research Paper: 2011.
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[3] Milli, J. et al. *The Impact of Equal Pay on Poverty and the Economy*. Institute for Women's Policy Research. Research Brief: April 2017.
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- <sup>9</sup> [1] Ballotpedia. [States with initiative or referendum](#). Ballotpedia. Website: 2018.  
[2] Congressional Research Services. *State Minimum Wage Ballot Measures*. CRS. Research Brief: Dec. 2016.
- <sup>10</sup> Swift, A. *Labor Union Approval Best Since 2003*. Gallup. Research Brief: August 2017.
- <sup>11</sup> Bureau of Labor Statistics. *Seasonally adjusted employment: Government, aggregate*. Data: 2018.
- <sup>12</sup> Beyond supporting union labor, these agreements also produce benefits due to the in-built quality controls and labor management committees, as well as avoiding the need to negotiate many of the contract terms

Cover: A public transit driver in Memphis, TN. Photo: Joshua J. Cotten



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**HEADQUARTERS**

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