

Minimum Wages in India: Issues and Concerns

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Abstract

The wage and employment policies relating to the unorganised workers and in particular the issue of minimum wages paid to them has been a subject of considerable discussion among union leaders and labour experts in India. While minimum wage legislation has to a large extent been effective in providing protection to workers in the organised sector, with periodic revision, this has not been the case with the unorganised workers, who largely remain outside the purview of minimum wage legislation. The paper highlights the issues and concerns relating to Minimum Wage Act, 1948 in India.

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1. Minimum Wages in India

The Indian economy is characterised by a dualism, *i.e.*, the existence of comparatively well organised sector along with the decentralised sector with a large population which is self-employed¹ (explanation of concept of unorganised sector in India is given in Annexure 1). According to reports, 422.6 (94%) million workers out of the total workforce of 457.5 million belong to the unorganised/informal sector² in India. These workers contribute to more than 60 per cent to India's GDP growth.

The Constitution of India envisages a just and humane society and accordingly gives place to the concept of living wage in the chapter on Directive Principles of State Policy. The Minimum Wages Act, 1948 is based on Article 43 of the Constitution of India which states that, "The State shall endeavour to secure by suitable legislation or economic organisation or in any other way to all workers, agricultural, industrial or otherwise, work, a living wage (emphasis added) conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities".³

The term 'Labour' is included in the 'concurrent list' of the Constitution which provides for labour legislation both by the central and the state governments. Labour laws for most workers in the informal sector⁴ are enforced by the state governments, while that for contractors and casual workers in establishments is regulated by the central government. All labour laws enacted by the central government directly or indirectly influence wage level and structure of wages in the informal sector. Table 1 gives a list of legislations that have a direct influence on wages in the informal sector.

¹ <http://planningcommission.nic.in/plans/planrel/fiveyr/6th/6planch24.html>

² Informal sector in India is broadly characterized as consisting of units engaged in the production of goods and services with the primary objectives of generating employment and incomes to the persons concern. The workers in informal sector are engaged in economic activities which are not officially regulated and which operate outside the incentive system offered by the state and its institutions.

³ http://nceus.gov.in/Report_Bill_July_2007.htm

Table 1: Labour legislations influencing wages in the informal sector in India

Labour legislation	Type of intervention
The Minimum Wages Act, 1948	To provide minimum compensation for work. Workers in scheduled employment to be paid minimum wage.
The Trade Unions Act, 1926	To enable workers of a number of small units to form unions, who can bargain wages and other condition of work.
The Industrial Disputes Act, 1947	To enable unions to raise industrial disputes on wages and the conciliation machinery to intervene.
The Equal Remunerations Act, 1976	Assure equal wage to women for same or similar work.
The Payment of Wages Act, 1936	To regulate the manner of payment of wages and their realisation in case of non-payment.
The Contract Labours (Regulation and Abolition) Act, 1970	The contractor is required to pay wages and in case of failure on the part of the contractor to pay wages either in part or in full, the Principal Employer is liable to pay the same.

Source: Das, K.S. (1998), *Wage policy issues in the informal sector*, The Indian Journal of Labour Economics, V 41(4), p 896.

Minimum wage legislation is the main labour legislation for the workers in unorganized sector. In India, the policy on wage determination had been to fix minimum wages in sweating employments and to promote fair wage agreements in the more organised industries. Wages in the organised sector are determined through negotiations and settlements between employer and employees. On the other hand, in unorganised sector, where labour is vulnerable to exploitation due to illiteracy and does not have effective bargaining power, the intervention of the government becomes necessary.

The Minimum Wage Act, 1948 provides for fixation and enforcement of minimum wages in respect of schedule employments to prevent sweating or exploitation of labour through payment of low wages. The objective of the Act is to ensure a minimum subsistence wage for workers. The Act requires the appropriate government to fix minimum rates of wages in respect of employment specified in the schedule and review and revise the minimum rates of wages at intervals not exceeding five years. Once a minimum wage is fixed according to the provisions of the Act, it is not open to the employer to plead his inability to pay the said wages to his employees.

The minimum wage rate may be fixed at a) time rate, b) piece rate, c) guaranteed time rate and d) overtime rate. The Act provides that different minimum wage rate may be fixed for a) different scheduled employments, b) different works in the same employment, c) adult, adolescent and children, d) different locations or e) male and female. Also, such minimum wage may be fixed by a) an hour, b) day, c) month, or d) any other period as may be prescribed by the notified authority.

In order to protect the minimum wages against inflation, the concept of linking it to the rise in the consumer price index was recommended at the labour ministers' conference in 1988. Since then, the concept of Variable Dearness Allowance (VDA)⁵ linked to consumer price index has been introduced. The VDA is revised twice a year in April and October. While the Centre has already made provision in respect of all scheduled employments in the central sphere, 22 states and Union Territories have adopted VDA as a component of minimum wage.

2. Norms for fixing minimum wages

The fixation of minimum wage in India, depends upon various factors like socio-economic and agro-climatic conditions, prices of essential commodities, paying capacity and the local factors influencing the wage rate. It is for this reason that the minimum wages vary across the country.

In the absence of any criteria stipulated for fixing the minimum wage in the Minimum Wages Act, the Indian Labour Conference in 1957 had said that the following norms should be taken into account while fixing the minimum wage. The norms for fixing minimum wage rate are (a) three consumption units per earner, (b) minimum food requirement of 2700 calories per average Indian adult, (c) cloth requirement of 72 yards per annum per family, (d) rent corresponding to the minimum area provided under the government's Industrial Housing Scheme and (e) fuel, lighting and other miscellaneous items of expenditure to constitute 20 per cent of the total minimum wage (f) Fuel, lighting and other miscellaneous items of expenditure to constitute

⁵ While fixing or revising Minimum Wages, Dearness Allowance (D.A) linked to cost of living index called Variable Dearness Allowance (V.D.A), in addition to basic wages so as to neutralise the cost of living.

20% of the total Minimum Wages, (g) children education, medical requirement, minimum recreation including festivals/ceremonies and provision for old age, marriage etc. should further constitute 25% of the total minimum wage.⁶

In September 2007, the national minimum floor level wage⁷ was increased to Rs 80 per day for all scheduled employments from Rs 66 in 2004 to Rs. 45 in 1999, Rs. 40 in 1998 and Rs. 35 in 1996.

3. Issues in Wage Policy

Minimum wages are expected to cover the essential current costs of accommodation, food and clothing of a small family. The Minimum Wage Act, while being very progressive has led to specific problems. Doubts have been raised on the existence of a clear and coherent wage policy in India particularly in unorganized sector. This is mainly due to its poor norms of fixation, enforcement, implementation and coverage in various parts of the country. Some of the issues and concerns faced in India regarding minimum wages are summarized below:

a. Norms for fixing minim wages

The Act does not set out a minimum wage in rupee terms, but just stipulates that the wage be a *living wage*⁸ which is to be decided by labour department in each state. Certain norms have been laid out including that of calorie requirements, yards of cloth per family and so on. The Act also stipulates that minimum wage rates are to be revised keeping in mind inflation. Additionally, the guidelines laid down for the minimum wage by the 15th Indian Labour Conference (ILC) and the Supreme Court suggest that a minimum wage for 8 hours of work should be high enough to cover all the basic needs of the worker, his/her spouse and two children. However, in many states while fixing the minimum wages, they are not linked to the payment of

⁶ <http://labour.nic.in/wagecell/welcome.html>

⁷ The national minimum floor level wage represents the lowest level of wage for any employment in the country. The wage rate is applicable to all employments which are currently not covered under the Minimum Wage Act. The State Government has to ensure that the minimum wage fixed under MWA is not lower than the national minimum wage rate.

⁸ A "living wage" is the level of income sufficient to allow workers to support their families.

dearness allowance. As a result, real wages of workers keep eroding due to inflation, pushing them below the poverty line.

Another inadequacy is that though the MWA requires wages to be revised every five years, this rarely happens. The MWA also has a clause which states that if wages are not revised, the existing wages should continue. Such an arrangement has only led to greater laziness and unaccountability on the part of state labour departments, leaving some workers to live below poverty line. Further to overcome these inadequacies, the National Commission on Rural Labour in 1990, recommended that the MWA should be amended to compel timely revision of wages and it should be linked to VDA. It should also ensure enhancement of wages every six months on the basis of the Consumer Price Index. How far the amendment has been implemented in states is unknown. (For example, states like Rajasthan, Orissa etc. do not have provision for VDA).

Different wages are fixed for the same work in different sectors. For instance, a watchman in the shop or commercial establishment may be fixed higher or lower wages than a watchman in the plastic industry or in a construction or maintenance of roads or building operations, though a watchman's job will be the same wherever he may work. To overcome these deficiencies, several states like Himachal Pradesh, West Bangal, Andhra Pradesh, etc., have rationalised all the different occupation categories into just four categories - unskilled, semi-skilled, skilled and highly-skilled. As per this system, only one notification is applicable to all industries, rather than the time-consuming system of notifying wages individually for various industries. Though the system gives a clear and detailed information of minimum wages, it has not been adopted by all states, including the Indian Labour Ministry website, which gives the minimum rate of wage (that is wages for unskilled workers) for each occupation.

b. Coverage

In order to have minimum wage fixed, the employment or industrial activity has to be included in the schedule of Employments. Currently the number of scheduled

employments in the Central government is 45 whereas in the state sphere the number is 1232. The criterion for inclusion in the list of scheduled employment is that there should be at least 1000 workers engaged in that activity in the state. Thus, many activities are excluded from the list. This criterion for inclusion has left a very large number of workers in the unorganised sector outside the purview of the Minimum Wage Act.

c. Implementation

The main problem of minimum wage legislation in India is its poor implementation. The Act empowers the appropriate government (Central, State or Local) to fix a minimum wage for workers in unorganised sectors. However, often exemptions from the payment of minimum wages have been granted to industries. In addition, minimum wage levels have been revised only at long intervals (where the actual prescribed limit is within 5 years). Such a failure in implementation of MWA is not only due to loopholes in policy design but is also an outcome of lapses in the administration.

Poor implementation of MWA does not affect organised workers as much as it does to workers in unorganized sectors. Unorganised workers are employed with millions of employers (generally small trade, enterprise, sole proprietor or household) who are scattered and hence becomes difficult to cover them under law. This diversity in locations and nature of work has left them vulnerable to exploitation in the absence of a broad legal standard. Also, many workers for the fear of losing their jobs do not report about payments lower than the minimum wage rate. At times, these workers are even forced by their employers to certify payments below minimum wages.

d. Enforcement

Poor enforcement of the Act is another issue prevalent in most of the states in India. The issue arises mainly due to lack of awareness amongst the workers about minimum wage provisions and their entitlement under the labour laws. Surveys have shown that almost 80 per cent of the workers in unorganized sector earn less than 20

rupees a day, or less than half the government-stipulated rural minimum wage of 49 rupees a day and urban wage of 67 rupees⁹. This is particularly true in remote areas and in areas where workers are not unionized or otherwise organised. As a result their wages have long since failed to keep pace with rising costs and continue to diminish in real value over time.

4. Need for meaningful minimum wage policy

In spite of vast number of workers in unorganized sector, and their substantial contribution to the national economy, they are amongst the poorest sections of India's population. It is therefore imperative that urgent steps are taken to improve their condition. Infrequent revisions and inadequate cost of living adjustments have been a marked feature of minimum wages in India. The rates of minimum wages so fixed in few states, is not enough even for two times meal in a day, leave aside the needs of health, education and shelter. In specific terms, the issues and problems of the wage policy in both organised and unorganised sector, relate to the elements like need based minimum wage, protection of the real wages through compensation for rise in the cost of living, incentives for increases in productivity, allowances for hazards of occupation, wage differentials for skills, etc.

The main objective to be considered while fixing or revising the minimum wage rate should be two fold - 1) Social objective: that is, by providing sufficient purchasing power to the worker, enable him/her to have a basic standard of living. In long run such a step would help in abolishing labour exploitation and poverty. 2) Economic objective: The rate of minimum wage should be fixed at such a level which would motivate workers and enable them to enjoy the benefits of economic growth, and thereby contribute to the economy.¹⁰ For example, the Sixth Central Pay Commission (CPC) has fixed the minimum wage of Central Government employees at Rs 5740. The first four scales of pay suggested by the Fifth CPC for the Group D Employees of the government have now been removed, under the Sixth CPC. The existing employees in these grades are to be moved to Group C cadres through a process of

⁹ March 11, 2008, Rising labour concerns for Indian government, Business Standard.

¹⁰ <http://www.amrc.org.hk>

training thereby indicating that the unskilled functions in the governmental sector would be contracted or outsourced.

Two major and recent initiatives for providing social security to the workers in the informal sector have been passed in the parliament; a) the National Rural Employment Guarantee (NREG) Act 2005 and, b) the Social Security for Unorganised (Informal) Sector Workers. The National Rural Employment Guarantee (NREG) Act 2005 is meant for the working poor in villages to take care of the problem of underemployment and thus to enhance their income that would make them less poor or cross the officially determined poverty line. It entitles adult citizens in rural areas to seek work up to 100 days per household per year. With the implementation of National Rural Employment Guarantee Scheme, hopes are raised for meeting basic needs of workers in unorganised sector, by earning minimum wages at least.

On the other hand, Social Security scheme covers health (hospitalisation for self and family) and maternity, life and disability and old age security in the form of state pension for those belonging to poor households and a provident fund for others. The scheme is based on contributions from workers, employers and government in the ratio of 1:1:1.

Minimum Wage legislation in India requires the active support of workers, trade unions, and labour associations. It would also require sincerity on part of the labour departments in each state to determine minimum wage rate on the basis of ethical and humanitarian concerns in order to ensure basic subsistence to workers in unorganized sectors. Implementation of government policies and legislations is the main problem in the unorganized sector. Also, low productivity in unorganised sectors, limitation of avenues for gainful employment, lack of organisation on the part of workers, affects their bargaining capacity, accounting for their vulnerable situation. Hence, involvement of non government organizations and trade unions can play an important role in better enforcement of minimum wages act. For example, Self Employed Women Association (SEWA) in Ahmedabad.

SEWA is the 7th largest trade union organisation in India working towards organising women workers (mainly in informal sector) for full employment, which means employment whereby workers obtain work security, income security, food security and social security (at least health care, child care and shelter). SEWA has been organising workers in the dyeing, chemical and screen-printing industry, agarbatti rollers, ragpickers, street vendors, etc for many years now. Involvement of such organisations gives a voice to workers in unorganised sectors in collective bargaining. Ignorance and illiteracy are the main reasons for exploitation of workers in unorganized sectors. Trade unions and NGOs can help by making the workers aware of the legal provisions of the minimum wage rate and the benefits to which they are entitled.

Also, minimum wage data is not readily available. Only limited official data is available from national labour ministry website which may or may not be updated on regularly basis. The information available does not permit extensive comparison on wages in formal and informal sector due to different formats of reporting or recording of wage rate in each state. Minimum Wage Checker on Paycheck website provides the information on minimum wages in each Indian state. The minimum wage data collected from labour department in each state is uploaded on the website in a detailed format enabling inter-state comparison easy.

The need of the hour is not only to increase the basic rates of minimum wages but the basic approach towards the whole issue also needs to be changed. The prevailing system of minimum wages, instead of abolishing the poverty, is in fact increasing it. Initiatives like strengthening the enforcement machinery, simplifying the procedure relating to coverage and revisions of minimum wage rate, linking the rates with the Consumer Price Index Numbers (CPI), and increasing the involvement of various workers' organisations in the implementation of the Minimum Wages Act, are some of the steps advocated to improve the situation.

Annexure

Unorganised sector in India

According to reports, 422.6 (94%) million workers out of the total workforce of 457.5 million belong to the unorganised sector in India. These workers contribute to more than 60 per cent to India's GDP growth. The term 'unorganised' is often used in the Indian context to refer to the vast numbers of women and men engaged in different forms of employment. These workers are engaged in unorganized economic activities in small scale industries, cottage industries, construction, manufacturing units, textile and garment, horticulture, agriculture, rural occupations, forest based employments, fisheries, sweeping-cleaning, loading-unloading, mining, forestry, service sector, entertainment, temporaries, home workers, domestic servants, time rated or piece rated, casuals, part time workers, own account workers, and contractual workers. Unorganised sector work is often characterised by low wages that are often insufficient to meet minimum living standards including nutrition, long working hours, hazardous working conditions, lack of basic services such as drinking water and sanitation at the worksite, etc.

In India, workers in informal sector are distinguished from the workers in formal sectors in the following way: a) in the organised sector activities are regulated by legislation, while that in unorganised sector are not well regulated and b) workers in the organised sector are covered under social security legislations, while they do not cover the unorganised sector. As a rule of thumb the demarcation line between organized and unorganized enterprises is at 10 employees.

Unorganised sector workers are mostly employed in rural jobs and are increasingly migrating to the cities. Being migrant and casual in nature, they often remain outside the purview of India's tough labour laws and the collective bargaining strength of the unions. Workers engaged in the unorganised sector do not have the benefit of several laws such as the Minimum Wages Act or the Factories Act. They are also not covered by statutory welfare measures such as maternity benefits, provident fund, gratuity, etc.