

A JUST MINIMUM WAGE



NTUI

New Trade Union Initiative

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Using Minimum Wages to Organise the Unorganised

1. Low Prevailing Minimum Wages - Unfair Wages

Minimum wages in states especially for agriculture are so low that even if workers find employment everyday in a year and are paid the minimum wage, they will not be able to fulfil the basic needs of their family specified as per the 15th ILC norms and the subsequent Supreme Court judgments (Unichoy vs State of Kerala in 1961 and Reptakos Brett Vs Workmen case in 1991) that is the basis for determining the minimum wage. The Supreme Court also has on various occasions amplified the need for payment of minimum wages by stating that the minimum wage "sets the lowest limit below which the wages cannot be allowed to sink in all humanity"; that it has to be paid irrespective of the kind of enterprise, the extent of profits and financial condition of the enterprise; or the availability of workmen at lower wages; that non-payment of minimum wages amounts to "forced labour" under Article 23, and that employers have no right to conduct their enterprise if they cannot pay their employees a minimum subsistence wage. Such low wage rates show that State governments have ignored the injunction of Articles 223 to 228 of the International Labour Organisation Code, as well as a directive of our own Constitution contained in Article 43.

The minimum daily wage for unskilled work in Delhi is Rs. 203 and for skilled work, it is Rs. 248, in Maharashtra the minimum wages range from Rs. 116.54 – Rs. 310.62 (in film industry), ranges from Rs. 80 – 207.42 in Tamil Nadu and Rs. 87.50 – 163.30 in West Bengal. However if one calculates the minimum wage as per the norms set by the 15th ILC and subsequent Supreme Court judgements at current average prices (on which the CPI-IW is calculated by the Labour Bureau) of the 4 metros, the daily minimum wage would be **Rs. 346.42**.

2. Norms for calculating Minimum Wage

Five norms for fixing minimum wages were evolved by the 15th Indian Labour Conference in 1957 - that minimum wages should be high enough to meet all basic needs of a worker's family, including food, clothing, shelter and other amenities. According to the 15th ILC, in calculating the minimum wage:

- the standard working class family to be taken as three consumption units for one earner, which is two adults and two children.
- minimum food requirement to be taken as a balanced diet of 2,700 calories per day per consumption unit;
- clothing requirement to be based on per capita consumption of 18 yards per annum, which gives 72 yards per annum for the average worker's family;
- for housing, the rent corresponding to the minimum area provided for under the government's industrial housing schemes should be taken; and
- fuel, lighting and other items of expenditure should constitute 20 per cent of the total minimum wage.

The Supreme Court fully upheld these criteria in the case of *Unichoy vs State of Kerala* in 1961. In the later *Reptakos Brett Vs Workmen* case in 1991, the Supreme Court held that minimum wages should also include a sixth component, amounting to 25% of the total minimum wage, to cover children's education, medical treatment, recreation, festivals and ceremonies.

3. Linking Minimum Wages to Dearness Allowance

A troubling aspect about the fixation of minimum wages by the Advisory Boards is that many wages are not linked to the payment of dearness allowance so that the real wages of workers keep eroding due to inflation. Another inadequacy is that though the Minimum Wages Act requires wages to be revised every five years, this rarely happens. According to the Minimum Wages Act if wages are not revised, the existing wages should continue. This has led to greater lethargy and less justice to workers. To overcome these lacunae, the National Commission on Rural Labour in 1990 had recommended that the Minimum Wages Act should be amended to compel timely revision of wages, that all wages should be linked to Variable Dearness Allowance (VDA) and ensure automatic enhancement of wages every six months on the basis of the Consumer Price Index. But this amendment has not been accepted till date.

Even when inflation is considered, there is the additional risk that it may not be considered *correctly*. Inflation in India is measured with the Wholesale Price Index (WPI), that is computed using the wholesale price of a basket of goods that has very little to do with the daily needs of a worker. For instance, the WPI keeps a tab of steel prices and the products that are made from it. And it does not account for services of any kind, whether housing, transport or education that impact consumers. Inflation and hence dearness allowance therefore should be calculated on consumer prices that determine the cost of living.

Also, the VDA as it is calculated today is not fully neutralised in all employments. The increase in the DA is less than the increase in the prices and hence cuts into the pockets of workers at the lowest end of the wage ladder.

The system of computing minimum wages on the basis of different Consumer Price Indices (CPI) for different kinds of work may not be fool-proof but it is definitely better than having a single flat rate for minimum wages across sectors and areas. India has three CPIs, all of which are used to determine wages and neutralise inflation. For instance, the CPI for agricultural workers is used to fix minimum wages for agricultural work. The CPI for industrial workers determines the dearness allowance for employees of state-owned enterprises, while the CPI for urban non-manual employees determines dearness allowance for government employees. The government, in an effort to simplify this computation, is now working on two CPIs, one for rural areas and another for urban areas. This may be one method of eliminating the discrepancies that creep in to the calculation if we take the wholesale price index as the base for setting the minimum wages.

4. Minimum wage is Subsistence Wage and Not payment for Skill

Minimum wages in many instances are fixed in such a way that for the same category of work in different sectors the wages vary. For instance, in West Bengal, the wage of a peon in a shop is different from one in a commercial establishment other than shops. To overcome this, most states today have done away with the system of notifying wages individually for various industries. They have instead rationalised all the different occupational categories into four categories: unskilled, semi-skilled, skilled and highly skilled.

Even this system is flawed as it assumes a class hierarchy in establishing minimum wages. Skill cannot be a determinant for **minimum wages**. Minimum wages set the standard for subsistence of a worker, which in no way can be dependent on the level of skill a person has acquired. The cost of living in a particular area for an 'unskilled' worker can not be different from that of a 'skilled' worker. Thus minimum wages should be so fixed such that any worker receiving it can lead a decent standard of living. Therefore instead of having sector specific or skill specific wages, the minimum wage should be regional as the cost of living differs from region to region and not from person to person.

Further, the dispersion in skills of a particular set of workers is a result of political decisions of the past and present as well as historical inequalities and exclusions and therefore it is unfair to attempt to determine wages on the basis of acquired skills as skill acquisition is not independent of social and political structures.

Discrimination takes many forms and has multiple outcomes. One of the most evident outcomes is to reduce the rewards for effort and skill paid in the form of wages to those groups who are discriminated in the labour market. Statutory minimum wage can prove to be a suitable instrument for combating wage discrimination against women and workers belonging to backward castes, migrant labour, who are usually over-represented at the bottom-end of the wage scale. Ultimately, implementing statutory minimum wages also contributes to the reduction of poverty.

The minimum wage is supposed to set the wage floor, instead it now sets the wage ceiling in most informal sectors of employment. The minimum wage has also become a poverty wage instead of an anti-poverty wage.

5. Need for a Statutory Minimum Wage

Neo-classical economics views the labour market as in perfect competition, with wage being determined by the competition between demand for labour, and the supply of labour. It would therefore view any externally determined minimum wage, particularly if it is higher than the "market" determined wage as distorting the market, and hence leading to reduction in employment. This view of wage definitely does not hold for a less developed economy. Typically a labour market in a third world economy is a situation where a small number of employers control employment and determine wages, with a labour surplus acting as a constant downward pressure on wage. The need for a minimum wage results from this structural imbalance between labour and capital.

The determination of wages, particularly a statutory minimum wage, is a political and institutional process, reflecting decisions and choices, reflected in social and political institutions, as to how labour is to be valued. The determination of a statutory minimum wage is closely connected to political and economic notions of 'just' and 'fair' pay. The labour market is embedded in its social and economic environment; the actors within the labour market operate according to rules and norms that have been generated over the long term and do not necessarily immediately accommodate to new patterns of behaviour. Thus the labour market more often than not continues to reflect traditional patterns of gender relations, caste relations embedded in pay systems and structures. Consequently, wages tend to reflect on the one hand traditional social relations in some sectors while it reflects the capitalist notion of being just another cost of business—like rent, electricity or raw materials on the other. However, wages are not only the price of a factor of production but also the means by which people are able to sustain themselves and their families. There is a constant tension between wages as a living and wages as a price. Moreover, wages are also part of the process through which social identities are constructed and reproduced.

The need for implementation of statutory minimum wage arises from the simple macro economic understanding that the implementation of statutory minimum wages will contribute to the stabilisation of domestic demand, particularly since the low-pay sector invariably exhibits higher rates of consumption and low savings rate. Further, statutory minimum wages can provide an important protection against deflationary wage cuts in case of weakened strength of workers. With regard to the implication for income and distributive policy, a statutory minimum wage, by definition, prevents wages from falling below a certain level and creates a floor level of societal wage structure.

6. Implementation of the Statutory Minimum Wages – Issues

The institutional mechanism for the implementation of the Minimum Wages in India is through the labour departments. The executive and the judiciary have, over the last two decades, successively disempowered the labour departments and restricted their powers. The problem of implementation of minimum wages has two distinct levels – one, non-payment by employers who have the ability to pay, and two, non-payment by employers in small enterprises, especially in agriculture, due to inability to pay.

Non-payment by employers who have ability to pay should be viewed as criminal offence as it amounts to forced labour. Given the laxity of the labour department and more often than not their collusion with employers, the right to inspect and prosecute cases of violation should be extended to registered trade unions.

Further, the 5 yearly revision of the minimum wages by the Advisory Board should be made mandatory. In case the Board fails to revise, then the VDA of 5 years should be clubbed with the basic along with a flat 15% increment.

7. Wage Subsidy

There is extensive violation of the minimum wage legislation in rural areas, especially in agriculture and in many home-based and small enterprises in urban centres. This arises from the intrinsic crisis in these sectors due to low productivity. The crisis in agriculture has affected the workers employed in this sector along with the producers. The selling price of agricultural products has not risen in sync with the increase in cost of inputs including labour cost. The phenomenal increase in the price of food items over the last year has not accrued to the producer. The galloping inflation has pushed the small and marginal farmers to a struggle for existence. The number of agricultural labourers is swelling in the rural areas implying that more and more small and marginal farmers are joining the ranks of the labourers. Hence there is a large section of employers in agriculture who are forced to employ workers outside family labour seasonally but are unable to even pay minimum wages as even that would threaten their own existence. It is in such circumstances that the method for the implementation of the statutory minimum needs to be reviewed.

Following the South African experience, a wage subsidy to establishments/ firms/ enterprises may be considered as an option for strict implementation of the statutory minimum wages for employers who are genuinely unable to pay minimum wages as it will not only increase the incentive of employers to hire workers but will also impose a regulatory framework for employment. This subsidy will ensure a reduction in unemployment and a redistribution of income. The cost of this employment subsidy can be substantial, depending on the extent of the target group but the benefit of increased employment will justify this cost. The negative indirect effects of raising funds for the scheme, either via an increased budget deficit or increased taxation, if counter posed against the positive impact of an employment subsidy scheme, the overall net benefits are positive. Household groups increase their income, while industries are able to employ more workers than before.

In the present Indian context, a wage subsidy scheme for implementation of minimum wages has to be linked to the capacity to pay of the employer. The Government of India, buckling under the pressure of powerful agriculture lobbies, has consistently been benevolent to the agricultural sector in terms of both providing large input subsidies and keeping it out of the tax net. This sector, despite its stagnancy, still contributes 17.5% to GDP and employs 52% of the workforce as against 20% and 14% respectively by industry (2009). The rationale to keep it out of the tax net is to provide a boost to the rural economy. The wage subsidy scheme, if applied to this sector, will be an additional incentive to the sector to enhance its productivity and thereby its competitiveness. But this benefit should be extended to only those producers who do not have the capacity to pay. The measure for capacity to pay should be concurrent with the income tax norms existing in the country. Those who are assessed to have an annual income less than the announced taxable income should be eligible for obtaining this subsidy and those with an income above the taxable income slab should be made liable for payment of income tax. Employment subsidies also have various positive downstream effects, which render them useful to address a number of issues directly and indirectly, including poverty alleviation, income redistribution, and the stimulation of private investment and aggregate demand.

8. Minimum Wage – need based wage

The necessity for a need based minimum wage also becomes clearer if we view minimum wages as relative to the per capita income of a nation or to its average productivity or to the profit share that accrues to a very minuscule section of the population. If we take the conclusions of the two ILO reports of 2008 (The Global Wage Report, 2008 and The World of Work Report, 2008), India witnessed a mere 1% hike in wages against a 5% growth in productivity during the last two decades to employees. India ranked 9th (of the 32 countries surveyed by ILO) offering highest disparity in wage and productivity growth between 1990 and 2007. Also the average growth rate of GDP in India between 1990-91 and 2006-07 was around 6.23% which may not be a phenomenal figure taken individually but posed against the average growth of wages, it is almost absurd. Also, if we only take the organised manufacturing sector, the wage share in value added in India has declined from 30% in 1991 to 15% in 2003-04 (Recent Employment Trends in India and China: A Unfortunate Convergence – Jayati Ghosh and C.P. Chandrasekhar).

When growth in wages lags behind overall economic growth, workers receive a declining share of the total economic pie (i.e. of the GDP). On the other hand a declining wage share implies that a larger share of the economic gains is directed into profits. Not only is this unfair, but it also has an adverse impact on future economic growth. As lower spectrum of income groups exhibit higher consumption and lower savings than those earning more, a fall in the wage share leads to lower demand and consequently a deceleration of growth.

9. National Regional Floor Wage

The notion of a need based minimum wage is linked to a notion of a wage that is regional as it is determined by the cost of living. The cost of living not only differs from state to state but also differs within states from urban to rural centres. The components of cost of living in computation of an urban wage necessarily should include amenities that are intrinsic to urban living and hence would be more than the rural wage. The rural wage as it is calculated today does not however take into account transport costs. But given the crisis in rural economy, there is a large section of the rural workers who are required to travel considerable distances to find work.

The need therefore is to set a national rural floor wage and a national urban floor wage and no wage should be below these rates. The urban national floor wage should be the median wage of the urban need based wages calculated for different states and similarly for the rural national floor wage.

Also given the immense heterogeneity of the workforce, it is essential to create a category of wage which takes into account the cost of education/ skill building that some workers may have invested in to enhance their skill set and thereby lost some wage earning years. This is not to create a creamy layer which is more than equal than the average urban or rural workforce but this is a layer that will give sufficient incentive to the average worker to move to this higher level of skill and hence wage. This can also be viewed as a dividend for the investment made in the previous time period by these workers on skill building.

10. Uniting workers for a Floor Wage

This attempt at a regional minimum wage for all workers is created to unite them in a common minimum wage platform that does not discriminate between different sections of the work force. It also incorporates the spirit of equal wage for equal work and therefore acts as a binding force between men and women in the working class, between contract workers and regular workers, between workers from various castes and religious minorities. This therefore opens up the scope for building on the strategy of uniting workers in the formal and informal sectors. In this context we would also flag the issue of demanding an industry level bargained minimum wage higher than this base level of regional minimum wage. However, this bargained wage would necessarily be at a stage when the collective bargaining strength of workers is high and they are in a position to demand a larger share of the economic pie.

NTUI demands:

1. A need based regional minimum wage, not based on skill
2. Link minimum wages to Dearness Allowance with 100% neutralisation
3. A national floor wage for rural workers and for urban workers – no wage can be less than this.
4. A higher wage for skilled workers.
5. the right to inspect and prosecute cases of violation should be extended to registered trade unions
6. 5 yearly revisions of the minimum wages by the Advisory Board should be made mandatory. In case the Board fails to revise, then the VDA of 5 years should be clubbed with the basic along with a flat 15% increment
7. Non-payment of minimum wages to be made a cognisable offence.

Fixation of minimum wages as per 15 ILC norms in the Sixth Pay Commission Report						
Items	Per Day Consumption per Consumption Unit (in gms)	Per Month Consumption of 3 Consumption Units (in Kgs)	Price per Kg as per prevailing rates in 2006 (in Rs.)	Total Cost (In Rs) in 2006	Price per Kg as per prevailing rates in Dec 2009 (in Rs.)#	Total Cost (in Rs.) in Dec 2009
Rice/Wheat	475	42.75	18.00	769.50	21.00	897.75
Dal (Toor/ Urad/ Moong)	80	7.20	40.00	288.00	94.29	678.89
Raw Vegetables	100	9.00	10.00	90.00	10.00	90.00
Green Leafy Vegetables	125	11.25	10.00	112.50	10.00	112.50
Other Vegetables	75	6.75	10.00	67.50	<i>28.53</i>	192.58
Fruits	120	10.80	30.00	324.00	30.00	324.00
Milk	200	18.00	24.00	432.00	21.50	387.00
Sugar and jaggery	56	5.04	24.00	120.96	37.87	190.86
Edible oil	40	3.60	50.00	180.00	65.37	235.33
Fish		2.50	120.00	300.00	205.53	513.83
Meat		5.00	120.00	600.00	243.21	1216.05
Egg		90 pieces	2.00	180.00	2.00	180.00
Detergent etc			200.00	200.00		200.00
Clothing		5.5 metre	80.00	440.00	80.00	440.00
Total				4104.46		5658.79
Misc. @ 20%				820.89		1131.76
Total				4925.35		6790.54
Add. Exp @ 25%				1231.34		1697.64
Total				6156.69		8488.18
Housing @ 10%				615.67		848.82
Grand Total				6772.36		9337.00
Daily Wage				260.48		359.12

*Figures in

Bold

No figures available and hence taking the 2006 values as given

**Figure in

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Other vegetables include onions and hence the figure is for the price of onion

20% of the total minimum wage to cover fuel electricity and other miscellaneous expenditure

25% of the total minimum wage, to cover children's education, medical treatment, recreation, festivals and ceremonies added as per the direction of the Supreme Court of the Reptakos Brett Vs Workmen case

prices as per the Average Monthly Consumer Prices of Selected articles of Industrial Workers in Dec 2009 collected by the labour Bureau, Government of India for calculation of CPI-IW