

Fixing minimum wages in India: skirting real issues

By Sharit Bhowmik

The issue of minimum wages in India has long been discussed but never resolved. It crops up during labour movements but dies out soon after. There was a nation-wide strike on 20 and 21 February 2013 (Bhowmik, 2013), and one of the ten demands submitted by the trade unions was to fix a national floor wage of Rs10 000 a month (roughly US\$155). This is higher than the usual wage in agriculture; plantations and informal employment, but there was no real explanation for why this figure was chosen. Moreover, the trade unions did not take it up as a campaign issue after the strike.

When the new government led by BJP (Indian People's Party) was voted into power in May 2014, it adopted a more aggressive attitude to labour, stressing the old World Bank stand that protective legislation would decrease employment. The government started to modify existing labour laws to be more employer friendly (Bhowmik, 2015).

Trade unions in the country then formed an alliance to oppose these anti-labour policies. The BMS (*Bharatiya Mazdur Sangha*, Indian Workers' Union), which is the largest trade union federation with around 10 million members, was initially part of this alliance. BMS is closely affiliated with the government through a common mentor, the RSS (*Rashtriya Swamsevak Sangh*, National Volunteers Union), which is a Hindu fundamentalist body.

The alliance decided to call a one-day, nation-wide strike on 2 September 2015. The unions' demands were to withdraw the proposed anti-labour legislation, to regularise casual labour and to fix a national floor wage at Rs15 000 a month (approximately US\$230). BMS showed a lot of enthusiasm for the strike. The government refused to negotiate with the unions until a few days before the strike. It proposed that the floor wage would be Rs7 000 and the other issues would be discussed through tripartite forums. BMS promptly backed out of the strike while the other unions opposed the government's offer. The strike was a success and affected several cities, but once again, neither the government nor the trade unions took up the issue of minimum wages after the strike.

What is a minimum wage?

There are two pieces of legislation governing wages in India, namely the Payment of Wages Act of 1936 and the Minimum Wages Act of 1948. The former deals with the dates for paying wages; if workers are paid by the month, they must be paid by the 7th of each month; if the wage is paid weekly it should be paid on the last working day of the week; and by the end of the working day in the case of a daily wage.

The Minimum Wages Act states that if the provincial or central government declares a minimum wage, it must be paid by the employers in the sectors concerned. The act does not specify how the minimum wage should be calculated or how it should be constituted. Provincial governments usually declare the minimum wage every three years for each industry and for agricultural labour. Therefore the minimum wage for engineering units, for example, will be different from the minimum wage of workers in textiles. Generally, states also declare minimum wages in agriculture that are lower than those of urban or industrial workers.

The declared minimum wage is primarily for workers in informal employment, namely industries that are not under the purview of the Factories Act, workers in the services sector and shops, and agricultural workers. Neither act covers self-employed workers nor domestic workers, home-based workers and so on, who constitute one-third of the informally employed.

The issue of minimum wages does not arise for workers in the formal sector because it is settled through collective bargaining. These wages are significantly higher than the declared minimum wage. Hence wages of workers in small scale engineering units will be lower than those of industrial workers in the formal sector. Since only 7% or 8% of the work force is in the formal sector, the vast majority of workers are entitled to the minimum wages declared by government. The only exception is the plantation industry, where minimum wages are sometimes lower than the wages of agricultural workers. This industry engages 1.6 million permanent workers and is the largest employer in the

formal sector.

How is the minimum wage calculated?

The issue of the minimum wage has cropped up since the country gained independence from colonial rule in 1947. But there were no concrete guidelines on what should constitute a minimum wage until the 15th session of the tripartite body of the Indian Labour Congress (ILC), held in 1957, which decided that there should be a need-based minimum wage. In other words, the notified minimum wage should cover the basic necessities for reproducing one's labour. The ILC unanimously decided that the minimum wage should cover minimum food, clothing and shelter for three "units of consumption" - a family of two adults and two children. The food consumption of each unit would amount to 2 700 calories, including carbohydrates such as cereals, proteins such as egg, meat, fish, and milk, and oils and fat. The clothing requirements for three units were fixed at 72 yards per annum. Together with the house rent component, these would account for 80% of the minimum wage. The remaining 20% was for fuel, lighting and miscellaneous expenditure.

Soon after the resolution was passed, central government announced the formation of minimum wages boards for 22 industries. This was the first time that such a massive exercise was undertaken for fixing minimum wages in almost all industries. The commissions for each industry comprised representatives of trade unions and employers while a senior official of the Ministry of Labour was appointed as chairperson. Each commission was to decide on the mode of fixing the minimum wage in their respective industry. Within a few months of setting up the commissions, the government announced that minimum wages would be implemented only if there was unanimity among the board members. This went against the interests of labour because, in most cases, the employers' representatives would differ from the decision of labour or even the chair. A deadlock meant that the declaration of the minimum wage for that industry would be delayed, indefinitely if the employers refused to budge. Hence, in most cases, labour had to make compromises in order to reach unanimity, thus depressing the declared minimum wage below the real minimum wage. Hence the government managed to play to the interests of employers even after promising a fair deal to labour.

Supreme Court ruling

In 1991, the Supreme Court ruled that the minimum wage should also include children's education, provision for old age, and sudden expenses such as births, deaths,

and marriage. It ruled that these should constitute 25% of the minimum wage. Hence the total minimum would now comprise 55% for food, clothing and housing, 20% for fuel, lighting and miscellaneous expenses and 25% for education, sudden expenditure and old age. The calculation of the minimum wage was mainly based on the costs of food, clothing and rent.

Recent developments

This year, the government proposed a law that merges and modifies earlier laws, known as the Labour Code on Wages Bill of 2015. This bill merges four important pieces of legislation: the Payment of Wages Act of 1936, the Minimum Wages Act of 1948, the Payment of Bonus Act of 1965 and the Equal Remuneration Act of 1976. The most crucial aspect of the Code is minimum wages, but it merely repeats what has been said in the 1936 and 1948 acts and does not specify how the minimum wage should be calculated. One can understand that the Minimum Wages Act did not specify this because the idea of a need-based minimum wage had not been discussed then. As a result, states will be left to decide what they want to fix as a daily minimum wage, as is happening at present. In most states, the minimum wage for unskilled labour varies from Rs140 to Rs400 a day (Rs65 = US\$1). There is no way that a need-based minimum wage could vary this much if the basic criteria for fixing it are applied. Moreover, employers are likely to pay wages that are lower than the notified minimum wage because there are no effective checks, as the present government relies on self-certification by employers.

An effective trade union movement can ensure that minimum wages are enforced as has happened in some states. In fact, unless the trade union movement starts a broad-based movement for a need-based minimum wage, the government is unlikely to consider it.

Sharit Bhowmik is a National Fellow of the Indian Council of Social Sciences and is based at Tata Institute of Social Sciences, Mumbai

Reference:

- Bhowmik, S. (2013). India: Nation-wide Strike on 20-21 February 2013. *Global Labour Column*, (125). Accessed: (<http://column.global-labour-university.org/2013/02/india-nation-wide-strike-on-20-21.html>)
- Bhowmik, S. (2015). The Labour Code on Industrial Relations Bill 2015: Tough times ahead for labour in India. *Global Labour Column*, (207). Accessed: (<http://column.global-labour-university.org/2015/06/the-labour-code-on-industrial-relations.html>)