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NATIONAL COMMISSION ON LABOUR

Minimum Wage including National Minimum and Need-Based Minimum

We begin the discussion on this subject by a recognition that (i) the country has a law on minimum wages - the Minimum Wages Act, 1948, (ii) while this law is meant for the benefit of those engaged in what are known as sweated industries, the guidance given by the Report of the Committee on Fair Wages held the field for a long time for fixing wages in the more organised sectors of employment, and (iii) the Committee referred to in (ii) above has defined these wage levels: (a) 'minimum wage'; (b) 'fair wage'; which is above the minimum wage in (a) and takes in its concept some additional items of expenditure, and (c) "Living Wage" which is an ideal to be reached but which will keep on changing as the economy grows, (iv) the minimum wage of (i) and (iii)(a) can be different because of the organised sector to which (iii)(a) will be applicable, minimum fixed under (i), (v) there is a reference in Article 43 of the Constitution to 'Living Wage'. It is not quite clear what the definition of 'Living Wage', the Constituent Assembly had in mind. The debates in the Assembly and discussions in the Fair Wages Committee were simultaneous. (vi) though (v) has been mentioned as a matter of putting the record straight, it does not

concern the Commission because any recommendation on Living Wage in view of the judgement of the Supreme Court in the LSSO case can be very much remote for application in the Indian context.

2. The question of a minimum wage for the workers was discussed at the 15th Indian Labour Conference held in July 1957. The following norms to work out a need-based minimum wage were recommended by the Conference :

"(A) While accepting that minimum wage was 'need-based' and should ensure the minimum human needs of the industrial worker the following norms were accepted as a guide for all wage-fixing authorities including minimum wage committees, wage boards, adjudicators, etc.

- (i) In calculating the minimum wage the standard working class family should be taken to comprise three consumption units for one earner, the earning of women, children and adolescents being disregarded.
- (ii) Minimum food requirements should be calculated on the basis of a net intake of 2700 calories as recommended by Dr. Aykroyd for an average Indian adult of moderate activity.
- (iii) Clothing requirements should be estimated on the basis of a per capita consumption of 18 yards per annum, which would give for the average workers' family of four a total of 72 yards.
- (iv) In respect of housing, the rent corresponding to the minimum area provided for under Government's Industrial Housing Scheme should be taken into consideration in fixing the minimum wage.

(v) Fuel, lighting, and other miscellaneous items of expenditure should constitute 20% of the total minimum wage.

(B) Wherever the minimum wage fixed was below the 'Norms' recommended above, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from adherence to the aforesaid norms".

3. Quantification of the need-based minimum wage on the basis of the norms laid down by the 15th Indian Labour Conference raised the question of practicability of this need-based minimum, as indeed other basic issues as to whether need alone should be a criterion for fixing minimum wages. The Second Pay Commission while examining the question of minimum remuneration for a Central Government employee took note of these norms and the minimum worked out on the basis of these norms by organisations of employees, which according to the Report of the Commission is about Rs.125/-, presumably for a centre like Delhi. A break-up of Rs.125/- as calculated by employees' organisations is not available. Against this, the Pay Commission fixed Rs.80/-. The main reason for the gap between the two figures was the difference between the nutritive content and the composition of the 'diets'*

*This cannot be the main reason since the difference between the caloric content accepted by the Pay Commission and that recommended by the 15th Indian Labour Conference is hardly of 100 calories per day. Also in regard to the composition of the diet subsequent calculations have shown that an industrial workers' family in Delhi (in 1958-59), consumed a diet almost on the basis of 15th I.L.C. recommendations in terms of the caloric content.

The main arguments put forward by the Pay Commission for not adhering to the ILC norms were :

- (i) The minimum remuneration calculated on the basis of the 'norms' recommended by the Indian Labour Conference, works out to about Rs.125/- per month as compared with Rs.52.50 which, with some exceptions, is the upper limit of minimum wages fixed under the Minimum Wages Act.
- (ii) The minimum remuneration of Rs.125/- is about 70 to 80 per cent higher than the rates prevailing in the organised sector of the industry and would be well above the highest wages i.e. Rs.112/- (in cotton textile industry in Bombay - average for 1958).
- (iii) Such a high minimum wage was not feasible, economically and financially at the present level of per capita national income.
- (iv) The 'norms' adopted at the Conference are themselves open to question in the light of further researches on nutritional requirements.
- (v) Even assuming that a minimum wage of Rs.125/- is made available, it may not be possible to make available goods and services on the scale envisaged in the 'norms'.

4. It would be seen that the main attack on the I.L.C. formula as developed in the Pay Commission's report is on its quantification by some employees' organisations and not on the norms themselves since in four out of the five objectives Rs.125/- has been specifically mentioned. A subsequent flaw mentioned in the I.L.C. formula that it is inconsistent because the proviso takes away all force of the substantive recommendation seems to be valid. Possibly what is

implied in this objection is that either (A) or (B) of para () should have been there. Another objection is that the I.L.O. formula tends to be too rigid. In beating down the formula, however, a more valid objection seems to have been lost sight of and that is the clubbing together of the minimum wage Committees/Wage Boards and Adjudicators.

5. Most of the Wage Boards who have dealt with this question have taken a cue from the weighty pronouncement of the Pay Commission. Some of them have tried to work the monetary equivalent of the norms suggested by the 15th I.L.O. and felt that the workers could not be paid need based minimum wage. The Committee on the functioning of the wage board system has observed that a majority of the wage boards have not found it feasible because of one or more often a combination of the following reasons:-

- (a) It would be beyond the capacity of the industry to pay.
- (b) It would unduly affect the relativity of wages among industries in the same region.
- (c) It would result in excessive and abrupt increase in wages.
- (d) It would be extravagance at the cost of the consumer on whom the burden of increased wages and salaries would fall.

First Wage Board on Cement was, however, an exception. This Wage Board worked out the need-based minimum wage on the basis of the 15th I.L.O. norms and recommended the same as the lowest wage for the worker deducting the value of amenities provided by the employers.

6. This is broadly the position when the matter has come for review by the Commission.

II

7. Foreign experience cannot be much of a reliable guide on the question of 'need-based minimum' though minimum wage legislation or the less formal arrangements for securing minimum wage in sweated industries have been known to many countries at their various stages of development.

III

Evidence Before the Commission.

8. The discussion of evidence falls in two parts: (i) National Minimum Wage, (ii) The Need-Based Minimum Wage. The general view of the State Governments is that the concepts of Minimum Wages require no modification. Some of the public sector undertakings are, however, of the view that since 1948, a lot of social security measures have been introduced and the fringe benefits had been widened in scope. During these intervening years these benefits have tended to reduce the family expenditure of the workers. The concept, therefore, requires modification, State Governments and Government Departments are generally of the opinion that "National Minimum Wage" is quite alluring but it is difficult of quantification. A start may be made by fixing the minimum wage at regional level. In the present state of our economy it may not be possible to sustain the National Minimum Wage.

9. The Employees' organisations have contended that the concept should stay but should be spelt out in more precise terms. As it is, it leads to different interpretations by wage fixing authorities. A section of employees consider National Minimum Wage as desirable though they too have preference for regional minimum

wage. In the written Memorandum the INTUC has stated that "A National Minimum Wage will be desirable so that no employer is allowed to pay at rates less than the National Minimum Wage". H.M.S. during the evidence favoured a National Minimum and wanted this to be the floor below which wages could not fall at the National level. Many workers' associations apprehend that minimum may become the maximum and have desired adequate safeguards to be taken against this. The regional minimum should be worked out with special reference to mode of living, modern ways of living, advancement of educational ladder, keenness on skill formulation etc.

10. The Council of Indian Employers is of the view that "Industry must pay a minimum wage; but where such a minimum wage is a subsistence-plus-wage i.e. the "minimum wage" of the Fair Wages Committee's concept, the capacity of industry to pay should be a factor to be taken into account". They have further observed that "if there are to be "standards of living" for the workers (as there must be), it is equally essential to have a corresponding concept of "survival for industry". During the course of the oral evidence the Council pointed out that the National Minimum Wage should be prescribed, with the proviso that it should take into account the national income and that it should be applicable to industrial as well as non-industrial

workers. The employers have generally not favoured the evolution of a National Minimum Wage though, some are of the opinion that a National Minimum Wage can be fixed provided it is a protective subsistence wage. Since the peculiar features of employment conditions in the various sectors of employment will have to be taken into account, they would suggest that the minimum wage should be determined on an industry-cum-region basis.

11. The State Governments have generally approved the norms laid down by the 15th I.L.O. for the need-based minimum wage as ideals to be achieved. Doubts have, however, been expressed about their applicability in the present economic conditions of the country. Government of Maharashtra has observed that these are ideal norms not capable of being achieved. The Government of Gujarat also agrees with this view. The Government of Madhya Pradesh feels that the norms should be quantified by the Labour Bureau and such quantification will help wage fixing authorities in making their recommendations. Some State Governments, however, think that the norms cannot be said to be universal for all times. The Government of Rajasthan has observed that conditions in the last 10 years have undergone definite changes and the norms set cannot be held good today in the changed circumstances.

The Assam Government feels that the standards laid down have to be varied in the context of availability of various items.

12. State Bank of India considers the norms as impracticable while Air India has suggested reduction in consumption units from 3 to 2.25 and caloric value of food from 2700 to 2600. Similar views have also been expressed by some other public sector managements.

13. INTUC had observed in the written Memorandum that "The Minimum Wage should be need-based". The organisation pointed out during the evidence that need-based minimum wage is a good ideal towards which the country has to make progress but the same can never be reached since it is an expanding concept. If the industry has capacity to pay it should pay the same. The extension of formula to Government employees will depend upon the financial position of the country as a whole and social and developmental considerations. According to H.M.S. "A need-based wage will have to take note of the special requirements of different areas and industries". During the evidence the organisation pointed out that in cases where such fixation is a matter of policy and not dependent on capacity as in the case of Government the need-based wage should be immediately implemented. In the industry there should be no return for capital unless need-based wage is first met.

14. In regard to the norms of need-based minimum as laid down in the 15th I.L.O. the Council of Indian Employers feels that the norms should be made more realistic. "The need-based minimum wage must, on the one hand, be capable of payment by industry and, on the other, maintain and promote employment". During the course of evidence the Council pointed out that there was no objection to need-based minimum being regarded as an ideal to be achieved in due course of time; but laying it down as such when it is not likely to be achieved, would cause frustration. They also felt that the industrial workers must wait till wages of agricultural labour come up. The A.I.M.C. has observed that "The whole concept of need-based minimum wage is vague". The organisation pointed out during the evidence that when a wage is fixed on the basis of needs it should be related to efficiency and productivity. The employers' organisations are generally of the opinion that capacity to pay of the industry is an important consideration and has to be kept in mind while fixing wages.

15. Government of India Memorandum observes that "It is not feasible to determine the minimum remuneration with reference to an elaborate standard of needs. The country does not have the capacity to afford such a need-based minimum. There is also the important

question of equity as between industrial workers, public employees and the vast sector of unorganised rural labour and self-employed persons". In support of this argument it has been observed in the Memorandum that "Most of these wage boards have examined the question of a minimum wage determined by reference to some objective standards of needs. Not one of them, however, has found it possible to recommend a need-based minimum in view of the other factors such as the capacity of the industry to pay, the need for wage restraints, the need for larger savings and investment for development, etc."

16. During the course of the evidence there was a consensus among the Economic Secretaries that wages should be fair and such as do not lead to exploitation. They have to be fair in relation to particular areas and industries. In regard to the norms and these should not be considered as binding on the Government. It was also pointed out that the Government's employment has certain special features and for these reasons the Government could not be equated to an industry. Dr. I.G. Patel stressed that considerations such as needs for expansion, development, modernisation, rate of return on capital etc. are equally relevant in determining the wage level in industry as the government's capacity to pay is in determining public servants' salaries. Also capacity to pay could be viewed

merely from a short-term point of view.

17. The Study Group for the Construction Industry has observed that "Minimum wages fixed under the Act should be revised more frequently than the five-years interval prescribed under the Act". The Study Group for Heavy Chemicals has observed that "the concept of minimum wage needs no restatement". The Group has further observed that "just because the profitability of the chemical industry is a little over average, it does not mean that these profits should be given away in the form of higher wages. It does not mean that wages should be low but a proper perspective must be maintained in the interest of the over-all growth of industry, especially Heavy Chemicals".

The Study Group on Railways made the following observations in regard to railwaymen:-

- "(i) Wages of Railwaymen should be decided separately and not necessarily connected with the wages of other civil servants, as conditions of service on railways and in other civil services are quite different.
- (ii) Minimum wage for Railwaymen should be the need-based wage as decided by the Tripartite Committee of the 15th Labour Conference.
- (iii) Dearness Allowance should be revised periodically, say, every six months. Revision should be on the basis of the cost of living index during the previous six months. This will remain in force for the succeeding six months, when it will be reviewed again.

(iv) In the payment of dearness allowance, full neutralisation should be allowed.

(v) Fringe benefits should be defined as representing those benefits which are universally admissible to all employees and are capable of evaluation in terms of money".

18. The Study Group on Iron & Steel has recommended that "it may be desirable also to have a National Wage Commission which should examine the question of fixing National Minimum Wage for different sectors like: (i) Agricultural Sector, (ii) Unorganised Sector, (iii) Organised Sector".

19. The Study Group on Wage Policy has observed that:

"The minimum prescribed by the 15th Labour Conference with some further explanations and clarifications represents a welcome attempt at a quantitative definition of an absolute minimum that is essential for a worker. The logic of it applies equally to all fully employed workers but looking at the present stage of the Indian economy, it may not be possible to achieve it in agriculture and unorganised industries for quite some time to come and even for organised industry it will be a goal to be achieved by stage".

20. The Indian Social Institute has worked out in a paper for the Commission the money equivalent of the need-based minimum on the basis of the 1960 and 1967 price levels.

Conclusions and Suggestions.

21. The problems involved in considering the twin issues of a National Minimum Wage and a Need-based Minimum Wage have a conceptual and quantification aspect. As a concept the need-based minimum wage has come to be accepted. The difference has arisen over the rigidity of what is known as the 15th I.L.C. formula and its quantification in money terms at a level of prices.

22. In the case of the minimum of the Minimum Wages Act, 1948, protection is against exploitation. But this also has ultimately a quantification element. Since, however, the wage fixation has been on a minimum level amounting to a subsistence and since in any case the current wage is above the minimum no questions have arisen about its translation in money terms.

23. Quantification has raised problems in the case of the 'need-based minimum' because organised labour has placed its value at a level which employers and Government have found it difficult to accept. The Pay Commission also juxtaposed the claim as made by labour against what it thought on other grounds to be not feasible and rejected the I.L.C. formula.

24. This seems to be a negative approach, when the Pay Commission itself worked out a 'need-based

minimum' and recommended it for Government's acceptance. If protection has to have any meaning, the degree of protection provided should translate itself into some norms of the bare human needs. That a minimum or a need-based minimum wage if quantified would differ considerably as between different regions and parts of a large country like India is certainly another matter.

25. Because of the vastness of the country and wide environmental and other differences as between different parts of the country it will perhaps be logical to conclude that a National Minimum Wage in the sense of a uniform monetary rate of remuneration is not feasible would perhaps be justified. In terms of a realistic approach there have to be different minima for various regions depending among other things on differences in the level of living and price structure. We must still distinguish between this regional minimum which will be a 'subsistence minimum and the minimum of the Fair Wages Committee'.

26. More specifically, the difference between the 15th I.L.C. and the Pay Commission is about the total number of calories required. The Pay Commission went on a hypothetical diet which provided over 2600 calories where as the 15th I.L.C. recommended 2700. The difference between the two is not such that it should make the quantification so disparate (as R.80 of the Pay

Commission as against k.125 by employees' organisation). The reason for disparity has to be sought elsewhere.

27. We have been able to locate the source of this divergence through the exercise which has been presented to the Commission by the Indian Social Institute - A computerised exercise on the 'need-based minimum'.

28. Adopting the same method as may have been used by labour organisations (which appeared before the Pay Commission and the Wage Boards) a need-based minimum was worked out for different centres for which Family Budget Enquiries were undertaken in the year 1958-59. The years for which the wage was quantified were 1960 and 1967.

29. The method was to work out the value of food component on the basis of the price relatives for the two years and then arrive at the total budget by using the same price relatives for other items as were available for food articles. By doing so a figure of the type which was mentioned before the Pay Commission by workers representatives appeared plausible.

30. When the price relatives for other items were used for clothing and housing there was a substantial reduction in the need-based minimum so much so that the figure came to near what could be reached on the basis of the Second Pay Commission formula (at least for

Delhi for which the Indian Social Institute gave revised calculations).

31. The question then remains of the caloric requirements of the 1958-59 diet. This also has not been a difficulty which cannot be encountered. The 1958-59 diet (actually consumed by the working class) was evaluated in terms of calories and other nutrients by the Sub-Committee of the National Nutritional Advisory Committee. For the 22 centres for which data have been worked out by the Sub-Committee there is not much difference in the caloric content of the 1958-59 budgets and the one recommended by the Sub-Committee (and incidentally it was somewhat higher than the 15th I.L.C.).

32. In fact working on a somewhat similar basis the First Cement Wage Board did interpret the need-based minimum for cement workers and Government and the industry accepted its recommendations.

33. The suggestion which the Commission should consider, therefore, is this that the concept of a need-based minimum has to be accepted. When quantified properly it does not lead to all the absurdities which the Second Pay Commission has pointed out.

34. One may specifically recognise the limitations imposed by capacity to pay as also the availabilities of goods and services necessary for providing a need-

based minimum wage but at the same time point out that if the cement industry had the capacity many others will be in a similar position. Also the question of availabilities falls in its proper place if it is recognised that what worker consumed in 1958-59 was not beyond availabilities and it still provided nearly 2700 calories.

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