



GLOBAL JOURNAL OF HUMAN-SOCIAL SCIENCE: F
POLITICAL SCIENCE

Volume 14 Issue 7 Version 1.0 Year 2014

Type: Double Blind Peer Reviewed International Research Journal

Publisher: Global Journals Inc. (USA)

Online ISSN: 2249-460X & Print ISSN: 0975-587X

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By Ms. A. Srija

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GJHSS-F Classification : FOR Code: 160699



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Implementation of the Minimum Wages Act, 1948 - Case Study of India

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I. INTRODUCTION

The Indian economy is dualistic characterized by the existence of a comparatively well organised sector along with an unorganized sector with a pre-dominance of self-employment. According to the NSSO¹ Employment-Unemployment Survey of 2011-12, 92² percent of the workers out of the total workforce of 474.23 million are informal workers. These workers contribute to more than 60 per cent of India's GDP growth. Various studies hinted at jobless growth that had taken place in India during the late 20th and early 21st century. While the economy grew at an annual average of 5-6 per cent the net addition to employment was only 0.2 million in 2009-10 over 2004-05 as per NSSO Employment and Unemployment Survey of 2009-10. The employment generated was mainly low skilled in the construction sector and of an informal nature. The workforce in the informal sector has no assurance of wage protection, social security, occupational safety or employment stability not to talk of decent wage. In order to address the issue of decent job, the Government of

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¹ NSSO-National Sample Survey Organization

² Calculated using unit level data of NSSO

India has been focusing on inclusive strategy in terms of skill development, social protection and labour reforms including stricter enforcement of the Minimum Wages Act, 1948.

The Minimum Wage Act, 1948 derives its principle from Article 43 enshrined in the Directive Principles of the Constitution of India which mandates 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, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities in particular" to ensure a fair deal to the labour class. Further, Article 39 of the Constitution of India also reinforces that the State shall, in particular, direct its policy towards securing (a) that the citizen, men and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women.

The question that therefore arises is how India has operationalised the implementation of the above-mentioned Article 39 and 43 through the prism of the Minimum wages Act, 1948. The initiative for determination of minimum wages was started in 1920 when a proposal for setting up Boards for determination of minimum wages in each industry was mooted. The International Labour Organisation adopted in 1928 Convention No.26 and Recommendation No. 30 relating to wage fixing machinery in trades or parts of trades. Subsequently in 1943 on the recommendation of the Standing Labour Committee and Indian Labour Conference, a Labour Investigation Committee was appointed to investigate into the question of wages and other matters like housing, social conditions and employment. The Indian Labour Conference considered a draft bill in this regard in 1945. The Standing Labour Committee in 1946 recommended enacting a separate legislation for the unorganized sector including working hours, minimum wages and paid holidays. Accordingly, a Minimum Wages Bill was introduced in the Central Legislative Assembly to provide for fixation of minimum wages in certain employments which was passed in 1946 and came into force in 1948.

In the meanwhile deteriorating industrial relations forced the Government to appoint a Central Advisory Council to advise the Government on issues relating to payment of fair wages to labour and fair return on the capital employed. The Central Advisory



Council appointed a tripartite committee called the 'Fair Wages Committee' to 'determine the principles on which fair wages should be based and to suggest the lines on which these principles should be applied.' The report of this Committee was a major landmark in the history of formulation of wage policy in India as it gave the definition for three levels of wages viz; a minimum wage, a fair wage and a living wage. Minimum wages means legally enforceable lowest limit of wage in a given industry in a given State fixed by a process invoking the authority of the State³. Minimum wages are usually fixed for occupations in industry where workers are not protected by collective bargaining, or statutory backing in wage fixation.

The Committee recommended that the "The minimum wage must provide, not merely for the bare sustenance of life, but also for the preservation of the efficiency of the worker by providing for some measure of education, medical requirements and amenities⁴." The definition of minimum wages got further refined by the 15th Indian Labour Conference which laid down the norms for fixing need based minimum wages to include: a standard working class family to comprise of three consumption units i.e. wife and two children apart from the earning worker, net intake of 2700 calories per day per consumption unit, per capita consumption of 18 yards per year, minimum housing rent charged by the government for low income groups, fuel, lighting and other miscellaneous items of expenditure to constitute 20 per cent of minimum wage. But these norms were criticised as being too idealistic giving little consideration to the capacity of the industry to pay and the standard of living of other similar groups of people in the community (Dr. Shanta A. Vaidya). The National Commission on Labour, 1969 held that in fixing the need based minimum wages the capacity of the industry to pay will have to be taken into account. "The need based minimum which is in the range of lower level of the fair wage, attracts in its determination, the employers' capacity to pay."

The Study Group on Wages, Incomes and Prices (Bhoolingam Committee 1978) attempted to quantify a 'National Minimum Wage' thereby laying down the lowest limit of minimum wage, which will be uniform all over the country. The Committee arrived at a National Minimum Wage of Rs.150 per month at 1978 prices by taking into consideration the national per capita income, per capita consumption expenditure of the working class etc. To begin with the Committee suggested a National Minimum of Rs.4 per day or Rs.100 per month below which no employment should be permitted. The Committee also recommended that efforts should be made to achieve the target of Rs.150 per month within a period of seven years. However it

was based on the recommendations of the National Commission on Rural Labour that the concept of a uniform National Floor Level Minimum Wage (NFLMW) was mooted in 1991. The NFLMW was initially fixed at Rs.35 per day in 1996. Based on the increase in the Consumer Price Index (Industrial Workers), the Government of India has revised the NFLMW from time to time. The NFLMW was raised to Rs.80 per day in 2007, further raised to Rs.100 in 2009 and to Rs.115 per day w.e.f 1st April, 2011. However the NFLMW is at present only advisory though proposals are being examined for making the NFLMW statutory.

As of today minimum wages varies across different industries in the same State and across States for the same industry. This raises the question of how have the introduction of National Floor level Minimum Wages influenced the trend of minimum wage fixation in general as well as the actual wages. This Paper first tries to analyse the evolution of the minimum wages policy in India, introduction of NFLMW, the trend in actual wage levels of the lowest paid viz; the agricultural and rural workers and influence of statutory minimum wages in poverty reduction, gender pay gap and the influence of Mahatma Gandhi National Rural Employment Guarantee Act.

This Paper has six sections. Section I provides an Introduction to the topic. Section-II gives a background of the Minimum Wages Act, 1948 covering up to the latest developments. Section III is on the literature review. Section IV on the empirical analysis, Section V on the issues in implementation, and Section VI on policy conclusions.

II. MINIMUM WAGES ACT 1948

The Minimum Wages Act, 1948 in India is a welfare Act applicable to the workers in the unorganised sector who lack the collective bargaining and are likely to be exploited. Apart from the Minimum Wages Act, 1948, the other relevant Acts that have a bearing in influencing the wage level as well as the structure of wages for the unorganized sector workforce is shown in Box-1.

³ 'Minimum Wages in India Concepts and Practices' page 2-3

⁴ Report of the Fair Wages Committee

Box-1

Labour Legislation	Type of Intervention
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 Remuneration 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 Labour (regulation & 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: *Minimum Wages in India: Issues and Concerns* by Prof. Biju Varkkey and Khushi Mehta

The Minimum Wages Act, 1948 provides for fixation of minimum wages by the appropriate governments at the Centre and State for the different scheduled employments under their respective domains for different time periods. The Act lists out the schedule of employments where minimum wages are applicable and are notified by the Central/State Government respectively. There are two parts of the Schedule. Part I has non-agricultural employments whereas Part-II relates to employment in agriculture. As of now there are 45 scheduled employments at the Centre and as many as 1679 employments at the State level (Annexure-I). All the list of industries mentioned in the schedule of the Act may not be applicable to all the States. The States may notify minimum wages only if there are more than 1000 workers working in the State in a particular employment.

The Act mandates revision of the wages by respective Governments at an interval of every five years. The minimum wage fixed has two components the basic wage and the variable dearness allowance which is adjusted to the Consumer Price Index every two years. The Act also provides for overtime allowance wherein a worker who works more than the stipulated hours of work is entitled to overtime wages fixed according to the rules framed by the State Government.

In India, there is no uniform nationally applicable minimum wage. The minimum wage is sector/occupation driven and varies across States for the same occupation/industry. The Minimum Wages Act 1948 does not define minimum wages nor does it lay down the criteria for fixing minimum wages. The criteria arrived at in the 1957 Indian Labour Conference forms the basis. The 1992 Supreme Court judgment in the *Reptakos & Co. vs its workers* laid down that children's education, medical requirement, minimum recreation

including festivals/ceremonies, provision for old age, marriage etc should further constitute 25 percent of the minimum wage and be used as a guide in fixation of minimum wages.

The Minimum Wages is indexed to inflation by having a provision called Variable Dearness Allowance (VDA) in addition to the basic minimum wages. The VDA is indexed to Consumer Price Index of Industrial Workers. Nearly 26 States/Union Territories have included VDA as a component of their minimum wages. The Central Government revises VDA twice a year effective from 1st April and 1st October in the occupations notified by it.

The Minimum Wages Act also entrusts the appropriate government to lay down the hours of work for the scheduled employments as under: (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals; and (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest; and provide for payment for on a day of rest at a rate not less than the overtime rate. Even remuneration for piece rate work is fixed in MW Act.

Time and again there has been demand for evolving a National Wage Policy. But as fixation of wage depends on a number of criteria like local conditions, cost of living and paying capacity also varies from State to State and from industry to industry, it is difficult to maintain uniformity in wages. However to bring some degree of uniformity in the minimum wages fixed across States and occupations, the Central Government had formed five Regional Minimum Wages Advisory Committees as shown in Box2.

Box-2 Regional Minimum Wages Advisory Committees

Region	States/UTs covered
Eastern Region	West Bengal, Orissa, Bihar, Jharkhand, Chhattisgarh, and Andaman & Nicobar Islands
North Eastern Region	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim

Southern Region	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Pondichery and Lakshadweep
Northern Region	Punjab, Rajasthan, Himachal Pradesh, Jammu & Kashmir, Haryana, Uttar Pradesh, Uttarakhand, Delhi and Chandigarh
Western Region	Maharashtra, Gujarat, Goa, Madhya Pradesh, Dadra & Nagar Haveli and Daman & Diu.

Source: Ministry of Labour & Employment, Government of India- Annual Report

In 1991 the National Floor Level Minimum Wage was introduced which is only advisory. The experience of countries like USA, Canada, France, Netherlands, Japan etc who have introduced the concept of a floor for wages, is that the number of workers getting this lowest wage varies a great deal from country to country and from year to year.

In 2005, the Government of India came up with a legislation titled the 'National Rural Employment Guarantee Act' later known as the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) which provides for the enhancement of livelihood security of the households in rural areas of the country by providing at least 100 days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work. The Act also lays down the wage rate as distinct from the Minimum Wages Act, 1948 wherein Section 6 of the MNREGA says that the Central Government may by notification specify the wage rate and that different rates of wages maybe specified for different areas and the wages rate fixed at any time shall not be less than Rs.100 per day. Anything higher than this shall be met by the State Governments.

The Parliamentary Standing Committee on Labour that examined the Ministry of Labour's Demand for Grants for 2012-13 recommended that the criteria for fixation of minimum wages should be defined in the Act. And also a concept of "Fair Wages" should be simultaneously evolved and it must be ensured that the contract/casual/outsourced workers engaged by the profit earning PSUs/ organizations /autonomous bodies are paid fair wages.

Among the recent amendments to the Minimum Wages Act, 1948, *inter-alia*, include making National Floor Level Minimum Wage (NFLMW) *statutory* and making the Act applicable to *all employments* across the states irrespective of the size of the workforce in that employment. This amendment is a welcome measure in ensuring that the informal sector workers get wages that is not below the statutory floor level which at present is Rs.115 per day or Rs.3450 per month. Further it will be applicable to the contract/casual workers employed in the organized sector. Some of the perceptions about raising minimum wages are that higher minimum wages reduce the employment of less-skilled workers. Higher minimum wages encourage employers to replace less-skilled workers with more productive employees. Higher compensation costs without corresponding increases in

productivity cause employers to hire fewer workers. (James Sherk) But in developing countries with dual labour markets, it is highly unlikely that a minimum wage increase would lead to increase in unemployment, but rather shift in labour from one sector to another (Belser & Rani).

III. LITERATURE REVIEW

In many States while fixing the minimum wages, they are not linked to the payment of dearness allowance. As a result, real wages of workers keep eroding due to inflation, pushing them below the poverty line (Prof. BijuVarkkey and Khushi). The criterion for inclusion of an employment in the Minimum Wages Act viz; the stipulation of 1000 workers has left a very large number of workers in the unorganised sector outside the purview of the Act (ibid). Enforcement of the minimum wages is done by both the Centre and State Governments within the respective spheres where they notify the minimum wages. Inspecting officers of the Labour Department at the Centre and State conduct regular inspections and in the event of detection of non-payment or under-payment of minimum wages advise the employers to take corrective action. In case of non-compliance, penal provisions prescribed in the Act are taken recourse to. The general observation is that workers get less than the minimum wages. Among the reasons mentioned for poor enforcement include inadequacy of the inspecting staff compared to the number of establishments covered by the Act, the scattered nature and small size of the establishments, insistence of authorities of fulfilling the target number of inspections without insisting on the quality of work, rampant bribery and corruption, ignorance of workers (and often employers also) regarding their rights and privileges, delays in justice when claims for non-payment are filed etc. Above all the workers being in a state of working poor are prepared to work for any wage rather than being unemployed. (Shanta et al) The survey of prosecutions and convictions made under the Act reveals that very few cases have been taken up under the Act so far.

The calculation of minimum wages is a cumbersome exercise often beyond the capability of the small scale unorganised sector employer and most often beyond the awareness level of the employee. Simplicity and uniformity in the calculation of minimum wages will go a long way in the enforcement of minimum wages. Implementation of minimum wage is

not uniform across States as the variable dearness allowance is not clubbed with minimum wages, like for instance agriculture is not covered under the VDA in most States.

Nearly 50 percent of the workforce consisting mainly of women is outside the purview of this Act even after nearly 66 years of enactment of the Act. Further women are working in piece rated jobs or as helpers in own account enterprises where they are either paid much below the minimum wages or no wages (National Commission on Rural & Self-Employed Women).

Payment of minimum wages cannot be evaded on the grounds of the financial capacity of the industry to pay. The Supreme Court of India has passed the judgement that the Minimum Wages Act is a piece of social legislation, which protects the day to day living conditions of sweated labour.

IV. EMPIRICAL ANALYSIS

a) *Role of Minimum Wages in Poverty Reduction*

Though it is believed that minimum wages reduce poverty in developed countries⁵ this is not considered true of developing countries where the dominant view is the one outlined in the World Development Report on labour markets, "Minimum wages may help to protect the most poverty-stricken workers in industrial countries, but they clearly do not in developing nations."((Lustig and McLeod). The reasons attributed for this are among other things coverage of minimum wage laws in developing countries is restricted to the formal sector which forms a small segment of the total workforce, and therefore workers who benefit from the minimum wages are not the poorest of the poor, and lastly a large section of the working poor is employed in the self-employed sector which remains outside the purview of the Minimum Wages Act. However as the working poor are mostly concentrated in unskilled work the impact of minimum wages on wages paid for the unskilled labour could be looked at.

An alternative theory of how minimum wages could impact the wage levels in the informal sector is that, the general equilibrium analysis models of Alan Carruth and Andrew Oswald and Edward Learner show

that in small open economies a rise in formal sector wages always raises wages in both the formal and informal sector. This is because a rise in minimum wages in the formal sector cannot be passed along in higher prices. Therefore, profits fall, leading to migration of capital, rather than the labour, out of the formal sector. Capital moves to the informal sector, driving up wages and employment in that sector. (ibid)

In Table-1 a comparison is made of the NSSO 2011-12 Employment-Unemployment data on Wages paid to the Casual Labour engaged in MNREGA public works, other public works and non-public works in rural areas with the Minimum Wages fixed for Agriculture Sector across States. Under the Minimum Wages Act 1948 which is applicable only to those occupations where more than 1000 employees are employed in a State, the Minimum Wage fixed for agricultural workers is taken as the closest proxy for rural wages. Further an attempt has been made to compare these wages with 2011-12 poverty line worked out for per day.

⁵ In the United Kingdom, where minimum wages were introduced at the beginning of the twentieth century, abolished in the 1980s and reinstated in the 1990s, a survey of political experts has identified the national minimum wage as a successful Government policy. In the United States, too, a higher minimum wage has come to be seen by many as a way to reduce poverty and inequality and provide a stimulus to the economy with potentially favorable fiscal effects, including through reduced costs of anti-poverty programs and increased tax revenue. (Source: *World of Work Report 2013: Repairing the economic and social fabric*)

Table 1 : State-wise Average Wages for Casual Labour engaged in Public and Non-Public Works in Rural Areas in comparison with Minimum Wages for Agriculture & Rural Poverty Line

(in Rupees Per Day)					
States/UTs	MGNREGA public works	Public Works other than MNREGA	Works other than public works	Minimum Wages for Agriculture as on 31-12-2011	Poverty Line
(1)	(2)	(3)	(4)	(5)	(6)
Andhra Pradesh	101.02	100.8	141.53	112	143.33
Arunachal Pradesh	-	147.09	209.89	80	155.00
Assam	168.57	171.43	135.65	115.6	138.00
Bihar	110	133.23	125.98	120	129.67
Chhattisgarh	125.17	124.44	83.85	113.76	181.67
Gujarat	100.56	130	112.84	-	155.33
Haryana		128.27	196.89	178.61	169.17
Himachal Pradesh	119.66	127.4	178.43	120	152.17
Jammu & Kashmir	116.31	154.44	209.51	-	148.50
Jharkhand	-	145.62	132.04	138.23	124.67
Karnataka	-	135.51	142.4	157.34	150.33
Kerala	148.74	147.49	314.88	150	169.67
Madhya Pradesh	120.89	100.58	105.22	175	128.50
Maharashtra	-	142.92	117.36	120	161.17
Manipur	115.24	112.29	202.64	122.1	186.33
Meghalaya	114.67	119.2	173.52	100	148.00
Mizoram	120.14	128.3	297.52	170	177.67
Odisha	125.26	131.66	117.43	92.5	115.83
Punjab	130	-	198.64	160.48	175.67
Rajasthan	90.17	116.84	159.45	135	150.83
Sikkim	118.11	152.82	214.97	130	155.00
Tamil Nadu	88.78	94.73	169.93	100	146.67
Tripura	118.47	118.76	164.21	100	133.00
Uttarakhand	104.69	148.76	174.4	124.66	146.67
Uttar Pradesh	117.14	132.01	133.06	100	128.00
West Bengal	127.27	124.93	120.92	167	130.50

Source: NSSO 68th Round Report on Employment-Unemployment 2011-12, Minimum Wages Report 2011, Labour Bureau & Poverty Estimates from RBI Database

In India with about 50 per cent of the workforce engaged in self-employment and another 30 per cent engaged in casual employment, the applicability of Minimum Wages Act is limited to less than 20 per cent of the workforce. Therefore while comparing the minimum wages stipulated for agriculture with the average daily wages of casual workers engaged in 'MNREGA public works', 'public works other than MNREGA' and 'other than public works' the following results emerge:

The wages received under MNREGA is lower than the minimum wages prescribed for agriculture except in the States of Assam, Chhattisgarh, Meghalaya and Uttar Pradesh. The MNREGA scheme is for the unskilled workers who report themselves as unemployed, the guarantee of right to work under the scheme emanates from the need to avoid distress migration to urban areas. Under the Act a minimum of 100 days employment is guaranteed by the State. The duration of the work is more in the nature of a subsidiary

activity than a principal activity. Hence a wage rate above the minimum wage rate fixed for agriculture will encourage the labour force to prefer MNREGA work over agriculture labour.

The comparison of average daily wage rates of casual labour with the minimum wages of agriculture gives a mixed picture. In some States the average daily wages are higher than the minimum wages while it is the vice versa in other States. The MNREGA wages are higher than the average daily wage rates of casual labour in some States. In most of the States the average daily wages received under works other than public works is more paying than that received under the public works programme where Government is the employer.

The wages received under all three kinds of work is lower than the poverty line of the respective States in the case of major States like Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh and Maharashtra. In Bihar and Madhya Pradesh being poor States the wage

levels in rural areas could be lower due to illiteracy, lack of awareness and weak bargaining power of the labour force and also because they are labour surplus States. But in the case of major States like Andhra Pradesh, Gujarat, Maharashtra, it is quite surprising and the possible explanation could be the influx of unskilled migrant labour from neighbouring States have enabled the employers to keep the wage levels low.

Kerala is an exceptional State where the wages received under works other than public works is more than double the minimum wage prescribed for agriculture, probably due to Kerala being a labour scarce State.

b) Gender Pay Gap

In Table-2 the wages of unskilled labourers across States has been compared with the Minimum Wages prescribed for Agriculture which can be taken as the closest proxy for a comparable government fixed

wage level in the rural sector. It is seen that in majority of the States wages of male unskilled labourers is higher than the minimum wages while the wages of female unskilled labour in most of the States is less than the minimum wages. In the State of Kerala the wage rates of the male and female unskilled labourers is much higher than the national average wage as well as the minimum wage prescribed for the State. Secondly, except in the case of Himachal Pradesh, the average daily wage rates of female workers is less than the male workers in all the States where female wages have been reported (Table-2). The reason given by the employers for this disparity is difference in the nature of work performed by both the male and female workers. It could also be due to the cultural mind set where women's output contribution is considered as assisting the male worker, therefore paid less wages, and in female dominated occupations like domestic work, it could be due to weak bargaining skills, lack of alternative employment opportunities etc.

Table 2 : Average Daily Wage Rates of Unskilled Labourers in Rural India during July 2011 (in Rupees)

States	Unskilled labourers		Minimum Wages Agriculture Basic + DA	Difference in Wages (Col 2-Col 4)	Difference in wages (Col 3- Col 4)
	Men	Women			
1	2	3	4	5	6
Andhra Pradesh	139.53	104.08	112	27.53	-7.92
Assam	128.27	101.67	115.6	12.67	-13.93
Bihar	110.64	102.86	120	-9.36	-17.14
Gujarat	94.96	91.89		94.96	-
Haryana	199.73	196.33	178.61	21.12	17.72
Himachal Pradesh	188.89	200	120	68.89	80
Karnataka	108.44	76.58	157.34	-48.9	-80.76
Kerala	331.58	239	150	181.58	89
Madhya Pradesh	81.28	71.06	175	-93.72	-103.94
Maharashtra	118.24	78.62	110	8.24	-31.38
Manipur	97.78	92.78	122.1	-24.32	-29.32
Meghalaya	111.43	80	100	11.43	-20
Orissa	124.17	113.11	92.5	31.67	20.61
Punjab	194.85	-	160.48	34.37	-
Rajasthan	171.19	157.86	135	36.19	22.86
Tamil Nadu	189.13	138.66	100	89.13	38.66
Tripura	113.33	-	100	13.33	-
Uttar Pradesh	131.75	110	100	31.75	10
West Bengal	113.29	100.12	167	-53.71	-66.88
All-India	136.36	105.37	165	-28.64	-59.63

Source: Wage Rates in Rural India (2011-12) & Report of the Working Group for the Minimum Wages Act, 1948 for the year 2011, Labour Bureau, Govt. of India

c) Impact of MNREGA on poverty reduction

In order to provide wage employment at a binding minimum wage the government had to act as the "employer of last resort" and in 2005 enacted the Right to Work Act called the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. Under this the BPL households reporting themselves as unemployed

were to be provided unskilled job by the Government at stipulated wage rate within a period of 15 days of registering with the Gram Panchayat. The government guarantee of providing jobs as the 'employer of last resort' was not to exceed 100 man days a year per BPL household. One of the objectives of the scheme was to arrest distress migration by guaranteeing 100 days of

wage employment to the unskilled & unemployed. But in the survey conducted by IAMR⁶, 100 days of wage employment were not provided to the households and distress migration continued. The feedback from the respondents of the survey was that migration is only for just wages and not for better wages. The respondents were of the view that the Gram Panchayat responsible for implementing the scheme at the grassroots level were not taking any measures to create sustainable assets to create wage employment and stop the distress migration⁷. Further on MNREGA's impact on poverty it is mentioned that the 'type of activities for which work can be funded-e.g. water conservation, land development, afforestation, provision of irrigation systems, construction of roads, or flood control-are prone to being taken over by wealthier sections of society' (Sjoblom & Farrington). Though MNREGA is a 'self-targeting scheme' i.e. they attract only those willing to work at basic wage rates, there are reports of errors of inclusion and exclusion under MNREGA. The requirement of the beneficiaries to register with the Gram Panchayat for job cards is substantially contributing to exclusion. In Gujarat, Madhya Pradesh and Jharkhand it has been found that the bribe demanded by local officials for an application form for a job card may range from Rs.5 to Rs.50. Instances of discrimination with regard to caste, age and gender have also been observed, with some evidence that single-woman headed households are being denied registration (ibid).

V. ISSUES IN IMPLEMENTATION OF MINIMUM WAGES ACT, 1948

1. Multiplicity of minimum wage rates across Centre and States, and across occupations. For the most common occupation, say agriculture, 33 States/UTs have reported different rates, wherein Delhi has the highest minimum wage of Rs.279 and the Union Territory of Puducherry (Yanam region) the lowest wage of Rs.55⁸. Similarly, the State of Assam has the maximum number of minimum wage rates fixed for 104 scheduled employments while Mizoram has one minimum wage fixed for all employments⁹. As a result there is divergence in minimum wages within a State like in the State of Andhra Pradesh, the lowest minimum wage fixed is Rs.69.27 and the highest minimum wage fixed is Rs.298.59¹⁰. The wide difference in range between the minimum and
2. The criterion for inclusion in the list of scheduled employments viz. more than 1000 workers in a State has resulted in exclusion of many activities from the list and huge number of workers from the purview of the Minimum Wages Act. As per World of Work Report 2013 only about 60 per cent of the wage earners, excluding public-sector workers, were covered by minimum wage legislation in India in the mid-2000s.
3. The Act provides for time bound revision of basic minimum wage at least once in 5 years. However, this is not happening perhaps due to the provision of continuation of existing rates and linking it with VDA.
4. Lack of awareness¹¹ about the Minimum Wages Act among employers and workers is also an issue which has been highlighted in the Evaluation Studies on Implementation of the Minimum Wages Act, 1948 conducted by the Labour Bureau under the Ministry of Labour & Employment. On the other hand despite being aware about the minimum wages the willingness of workers to accept lower wages is influenced by other compelling factors such as weak bargaining power, the rural push induced by conditions of drought, non-availability of work, loss of income yielding assets, indebtedness etc.
5. There is problem of non- linking of payment of minimum wages to variable dearness allowance eroding the real wages of the workers and keeping them as working poor.
6. Compliance rate to the Minimum Wages Act is very low due to poor implementation including exemptions provided under the Act. Out of a total of 76, 98, 033 establishments covered under the Act the number of establishments that submitted their annual returns was just 2, 21, 110 i.e about 3 per cent in 2012.
7. Penalties for non- compliance are very low. They need to be high to dissuade employer to contravene the provisions of the Act. Also the procedure for imposing the penalty is cumbersome.

⁶ Institute of Applied Manpower Research

⁷ All India Evaluation of NREGA-A Survey of 20 districts, Institute of Applied Manpower Research, (IAMR 2007)

⁸ Report on the Working of the Minimum Wages Act, 1948 for the year 2012

⁹ ibid

¹⁰ ibid

¹¹ In the Evaluation Study on the Implementation of Minimum Wages Act, 1948 in Stone Breaking & Stone Crushing Industry in Karnataka 2007-08 among the units surveyed only 30 per cent of the units and 8 per cent workers reported awareness about the Act.

VI. WAY FORWARD IN IMPROVING THE IMPLEMENTATION

It cannot be concluded as James Sherk said that 'despite the best of intentions, the minimum wage has proved an ineffective-and often counterproductive-policy in the war on poverty. In India though many policy improvements were made in the Minimum Wages its effect on raising the average daily wages of the unskilled workers is yet to set in. Though there were reports of the MNREGA wage rates setting in a rise in the average daily wages in the rural sector it was a short-run phenomenon resulting in rise in Consumer Price Index of Rural & Agricultural Labourers and rate of increase in nominal agriculture and rural wages decreased since 2011.

1. The need of the hour is to fix the basic minimum wage especially for low skilled activities like agriculture, domestic work, stone crushing etc compatible with the living wage of the respective State/ Union Territory so that the workers earning minimum wage are able to lead a decent life.
2. The Dearness Allowance (DA) should form a part of the minimum wages in all occupations and in all States and the DA be linked to the Consumer Price Index to enable timely updation and the worker remains protected from inflation.
3. The compliance under Minimum Wages can be improved if the employers are given a single window clearance for filing all labour law related returns.
4. The latest amendment to the Minimum Wages Act which is yet to come out as a legislation viz; making the National Floor Level Minimum Wage statutory, extension of the Minimum Wages Act to all employments irrespective of the size of the workforce in that employment; inter alia are some of the outstanding amendments that could bring about a remarkable change in the implementation of the Minimum Wages Act in India.
5. The penalties for contravention need to be hiked for better compliance.
6. In addition what is also essential is awareness creation among the employers and most importantly the labour force about the statutorily determined reward for 'sweated labour'.

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Annexure-I

Original Schedule of the Minimum Wages Act, 1948

Part 1

- i. Employment in any woollen carpet making or shawl weaving establishment.
- ii. Employment in any rice mill flour mill or dal mill.
- iii. Employment in any tobacco (including bidi making) manufactory.
- iv. Employment in any plantation that is to say any estate which is maintained for the purpose of growing cinchona rubber tea or coffee.
- v. Employment in any oil mill.
- vi. Employment under any local authority.
- vii. Employment on the construction or maintenance of roads or in building operations.
- viii. Employment in stone breaking or stone crushing.
- ix. Employment in any lac manufactory.
- x. Employment in any mica works.
- xi. Employment in public motor transport.
- xii. Employment in tanneries and leather manufactory.
- xiii. Employment in gypsum mines.
- xiv. Employment in barytes mines.
- xv. Employment in bauxite mines.
- xvi. Employment in manganese mines.
- xvii. Employment in the maintenance of buildings and employment in the construction and maintenance of runways.
- xviii. Employment in china clay mines.
- xix. Employment in kyantite mines.
- xx. Employment in copper mines.
- xxi. Employment in clay mines covered under the Mines Act 1952 (35 of 1952).
- xxii. Employment in magnesite mines covered under the Mines Act 1952 (35 of 1952).
- xxiii. Employment in white clay mines.
- xxiv. Employment in stone mines.

Schedule

Part 2

(1) Employment in agriculture that is to say in any form of farming including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees or poultry and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operation (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market farm produce).