

Where Labour law reform meets populism: Centrally mandated Minimum wages

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The new Parliament passed the Code on Wages bill mandating Minimum wages across the country, in its first session itself. This 2019 law mandates a universal minimum payment of 178 rupees a day. There is some excitement and lots of disappointment all around. The wage prescribed is less than half the 375 a day recommended by a high power labour ministry panel. It is miles away from the 700 rupee fair wage that the Seventh Pay Commission had arrived at. On the other hand, the code will improve compliance. The Periodic Labour Force Survey 2017-18 shows that 45% of regular workers are paid less than the minimum. The government seems to have made its choice between substantially hiking wages against ensuring compliance at a much lower level. The new law increases minimum wages by a paltry sum of Rs 2 a day. The consternation this meagre increase has caused is natural, the hope is that compliance will be higher now.

The justification for such a marginal increase comes from the argument that this Rs 178 is now a definitive minimum for all workers, and will be universal across the country, across all sectors. It will therefore allow for wages to rise in informal sectors and will address the issue of gender based disparities. At the moment women earn 45% less than men in the same occupation. It would also reduce the rural urban gaps. Today, urban workers in regular sectors earn 149 rupees more per day than their rural counterparts. Casual workers earn Rs 33 more in urban areas. Other estimates suggest that 15% of regular workers and 41% of casual workers do not get paid minimum wages. The wage may even go down to a miserable Rs 20 a day, in times of poor demand. A mandated minimum will hopefully reduce this differential

Labour law reform

Labour law reforms were among the more significant promises made by the Modi government. The argument given was that Indian industry is shackled by a number of socialist era laws that prevent Indian firms become competitive. Workers cannot be fired, organisation structures are not flexible, transfer policies are not nimble enough and high human resource costs prevent firms from growing bigger. More than 45 central laws and at least 100 state level legislations create confusion, complexity and chaos. The burden of compliance is huge and with red tapism and bureaucratic delays has often been quoted as the major reason for both domestic and foreign investors shying away from increasing local manufacturing capacity.

The NDA government was wedded to the idea of improving India's ease of doing business. The Modi government initially argued vociferously for making sweeping changes in labour law. Under severe opposition including from within its affiliate organisations, this aspect of business reform soon got forgotten. However, the one labour law that was brought back to the discussion table was this one on Minimum Wages. In sharp contrast to the preceding discussion on making market friendly laws, the Minimum Wage bill came out forcefully arguing for actually increasing the cost of doing business by increasing minimum rates. This move caught quite a few of its supporters by surprise as they saw that government was not

going to undertake any of the market friendly labour reforms it had promised, and would actually be going in the opposite direction. The Code on Wages Bill, 2019 firmed up this impression.

Focus on Minimum wages

The debate on Minimum Wages started 80 years ago in the United States when the Federal minimum wage was fixed at 25 cents an hour. In 2009, the wage went up to 7.25\$ a year. India's minimum wage system, according to the Economic Survey of 2018-19 comprises of 1,915 minimum wages defined for various scheduled job categories across different states in the country. The process of determining the minimum wage is complex to say the least. The level of compliance too is abysmal,; one survey shows that 90 percent of workers don't even know of a minimum wage and needless to say, are severely exploited. It is to address these issues that this new Code was passed

The populism and politics on Minimum wages is obvious. But first let us outline the academic debate on Minimum wages. Gary Becker, on one hand argued that when minimum wages go up, you end up with more people out of work. Milton Friedman famously said that a high rate of unemployment among teenagers, and especially black teenagers, is largely a result of minimum wage laws. Alan Greenspan agreed with both these Nobel prize winners and declared that minimum wage legislation destroyed jobs.

A number of academics belong to the other side. Kenneth Arrow, James Tobin and Joseph Stiglitz vociferously argued for hikes in minimum wages. Edmund Phelps, Nobel prize winner in 2006, has a different solution. He prefers work subsidies that do not put burden the employer. They would push wages of the traditionally low paid work seekers up and the additional demand for more low-wage labour would create new jobs. The counter argument is that companies will cut back on hiring extra hands that need to be paid at more than market rates.

The central government has chosen to increase Minimum wages and push costs to business. The centre will set standards and define minimum wages across industry, including for small businesses. Given our diversity, this will not be easy. The 15th Indian Labour Conference more than 60 years ago suggested norms for fixing minimum wages based on a per person intake of 2700 calories per day, and 18 yards of clothing per year, minimum housing rent as charged by the government for low income groups, fuel, and lighting and other miscellaneous items of expenditure. All this, it said, should comprise 20 per cent of minimum wage.

Inequalities add regional differences

Beyond the complications that such calculations bring, the government must grapple with costs and requirements changing significantly across the country, from low wage economies in Tripura to high scarcity areas like Kerala where labour supply is meagre. It must also address questions on what constitutes fair wage and what defines a living wage. Is a minimum wage the goal of society or should it go beyond and ensure that workers be paid fair and liveable wages? The Directive Principles of our Constitution already encourage the state to work for higher than minimum

wages.

Article 43 states clearly 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. Article 39 reinforces the same and states 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.” These goals have not been reached and this Code seeks to do so..

The first unique fact is that small and unorganised businesses employ more than which 90% of the India’s work force, more than 500 million strong. This new law seeks to cover all employees, just as recommended in the Directive Principles. This is where the major problem with compliance comes up, leading to the threat of harassment from labour officers and inspectors. In an atmosphere where businesses are reeling under the impact of a hurriedly passed GST system, this new requirement will certainly impose higher costs.

The second quirk is that 50 per cent of the workforce is self-employed. Nearly 30 per cent works on a casual basis, approaching the labour market in bursts and spurts. The new Code therefore will actually only work for 20 per cent of the total workforce. Even within this, more than half belong to very small enterprises that hire between 1 and 5 people. Making these tiny enterprises across the country comply with new laws is in any case a tall order. However any increase in formal sector wages will raise wages in the informal sector too. In competitive markets, any increase in wage costs cannot be passed on customers by increasing prices Therefore profit margins will fall, and capital will move away from the formal sector. Therefore employment and wages will go up in the unorganised and informal sectors.

The third point is a question that emerges is by way of how this code leads to setting up more industries and create more jobs? But this is what the Bill goes on to assert. It then says the endeavour is to remove multiplicity of definitions and authorities without compromising on the basic concepts of welfare and benefits to workers and to bring transparency and accountability into the system. This is a laudatory statement but remains an expression. A centralised code is extremely unlikely to reduce complexity, and almost certainly is counterproductive in bringing transparency or accountability in the system.

The fourth point that must be highlighted is that the new Code seeks to achieve a large number of objectives. The basic premise in public policy setting is that one instrument must have one clear goal. If it has more than one, it would not achieve any. The code on wages bill, states it would provide for all essential elements related to wages, equal remuneration, its timely payment and bonus. It takes four major acts at once, the Payment of Wages Act of 1936, Minimum Wages Act of 1948, Payment of Bonus Act of 1965 and Equal Remuneration Act of 1976, and seeks to bring them together into one.

It then goes on to do what the extant Central Advisory Council was doing,

recommending a fair wage. Here under the new code, the central government will fix a floor wage, somehow factoring in varying living standards of workers. Then the Code does what the government had done while damaging the GST. Instead of giving us a single and low tax rate it gave way to a complicated set of five different tax rates. This code does the same. After promising a uniform floor rate, the code then says that the centre will set different floor wages for different geographical areas. The code says that the centre *may* take advice from the states, not that it shall.

A major issue that remains is that we still don't know if the government is clear about what it wants to do. Is this code meant to tackle increasing inequality? Should workers expect the new code to improve their condition by increasing wages and by increasing the number of jobs? The conflict here is built in; one comes at the cost of the other. It is clearly a lurking danger that higher wages will almost necessarily result in fewer jobs. Job losses and unemployment are already at their highest ever now. However, in the long run, the impact on inequality could be sharp, and allow us to reduce the income differentials across the organised and the unorganised sectors.

A single mandate on minimum wages will not be enough to tackle the inequality issue. There are two other ideas that could possibly be introduced to address some of the persistent issues. The first of course, is the Phelps idea of wage subsidies. Rather than state governments like Gujarat, Maharashtra, Andhra and Karnataka mandating jobs quota for locals, they could actually provide wage support to firms, thus incentivising investment and local hiring, while keeping wage bills low for firms operating in competitive environments. The other idea of course comes from the labour ministry panel that had suggested a Rs 1430 housing allowance for city based workers. This would allow for labour mobility and address the housing concern, an unorganised worker's biggest nightmare.

And above all, what is worrisome is the set of expectations that the bill has spawned and has ignited. It is expected that complications will reduce, but the expectation that this would also ensure timely payment of wages in all sectors everywhere seems to be farfetched. In fact, this might very well be the casualty against this centralization of yet another policy. This code is, unfortunately being seen as a silver bullet for all other challenges faced by labour. It will increase disposable income, say some, while others argue that humane working conditions will emerge and employers will also implement regulated working hours, pay for overtime and prevent exploitation. Another major selling point of this code has been that it will also ensure the end to gender discrimination in wage payments. Again and again, it is demonetization that this code on wages reminds us of. A well intentioned and brave step but rendered ineffective though multiple, vague and lofty goals.