

CHAPTER I

PRINCIPLES OF WAGE DETERMINATION

1.1 The importance of wages as a factor in the economy cannot be overrated. Together, wages and salaries constitute the biggest chunk of the national product. Necessarily, the level of wages has to reflect the general economic condition and the level of national income. There has been no dearth of commissions, committees and expert bodies dealing with the subject of wages in India. Important among these are the Royal Commission on Labour 1931, the Bombay Textile Labour Inquiry Committee 1937, the Labour Investigation Committee 1946, the United Provinces Labour Enquiry Committee 1948, the Fair Wages Committee 1949 and the National Commission on Labour 1969. Unfortunately, all these bodies were totally or overwhelmingly occupied with wages of industrial workers. Even the National Commission on Labour whose Chairman made it a pre-condition that the terms of reference must include 'unorganised, inarticulate agricultural labourers', did not go into sufficient detail regarding the determination of wages in these sectors¹.

The words 'sufficient details' in the preceding sentence are used essentially in a comparative sense which becomes clear if we look at the size of the industrial workforce on the one hand and that of agriculture, rural and other unorganised labour on the other. To a large extent, operations of some of these bodies were circumscribed by their terms of reference. In other cases, it was merely a reflection of the overwhelming national concern with a small but organised segment of the work force. Fortunately, the fundamental-principles governing determination of wages in industry and non-industry sectors are the same. As a result, the lack of treatment or rather, the inadequate treatment by commissions and committees of the past need not be a serious handicap.

1.2 As was mentioned earlier, the most important factor which governs the determination of wages is the general condition of the economy. The national income is the most important indicator of the economic condition. Wages are a key instrument in the distribution of the national income and it goes without saying that distribution be so structured that it does not impede the further growth of the national income itself. It is possible to push this argument to one ex-

treme and visualise a situation where a highly unequal distribution of income leads to higher rates of capital formation with consequent high increases in the national income. In a reverse situation, equal or near equal distribution might assist capital formation and therefore economic growth. Obviously both extremes need to be avoided and this has to be the cardinal principle of any policy on wage determination. What this calls for is not so much a technical but a balanced approach where the interest of the community as a whole predominates over sectional interests. What follows is that at any level of national income, there has got to be a certain level of minimum wages which the community or the nation can afford. What it cannot afford, as the Committee on Fair Wages said, are wages fixed at a level which would lead to reduction in employment itself and therefore, in the national income.²

1.3 Having accepted that the condition of the economy is the most important factor in the determination of minimum wages, let us look at the other important factors which have a strong influence on the subject. The practice is to begin with the ILO instruments. In the Minimum Wage Convention 1928, the accent is on the methodology of fixation rather than on the principles of wage determination. This is not of any help to us in determining what should be the wage. The Minimum Wage-fixing Machinery Recommendation of the ILO is slightly more helpful. It says, that for the purpose of determining the minimum rates of wages "regard should primarily be had to rates of wages being paid to similar work where workers are adequately organised and have concluded effective collective agreements, or if no such standard of reference is available in the circumstances, to the general level of wages prevailing in the country or in the particular locality". The need for fixing minimum wages relates essentially to measures to improve the terms and conditions of employment of 'sweated' labour who are the unskilled manual workers. The reference in the I.L.O Recommendation to wages for the same work arrived through collective bargaining in the organised sector, would have little relevance to the vast numbers in the labour force in the un-

1. P.B. Gajendragadkar at the inauguration of the National Commission on Labour. His other conditions were that he would remain at Bombay while the Commission functioned from Delhi and that worker and employer representatives on the Commission must be experienced eminent persons (Report of the National Commission on Labour Appendix III).

2. Report of the Committee on Fair Wages 1949, Chapter II, Page 4.

organised sector in the under developed part of the world. Here, the second part of the recommendation, that which speaks of the general level of prevailing wages or what could also be called the prevailing rates of wages appears at first glance some what relevant. A closer view however would show serious pitfalls even in this approach. The United Provinces Labour Enquiry Committee, 1948 which went into this matter in considerable detail, came to the conclusion that the principle of comparison with prevailing rates of wages could not be applied to conditions in India as low wage levels were as much a characteristic of the so called organised industries as others. The Committee was enquiring into industrial wages. If that was its finding in, what it calls, the 'so called' organised industries, the damage that would have occurred by taking the prevailing rates of wages in agriculture, and in rural and unorganised industry as the master-guide and determining factor in arriving at minimum wages in these sectors could well be imagined. Investigations show that this is precisely how minimum wages in agriculture were determined all over the country in the early fifties.

1.4 From this brief digression to a practice which we shall discuss in detail later, we must return to the theory of principles of minimum wage determination. As we had noted at the beginning of this chapter, there has not been any significant work in this area in the rural and organised sector.³ However, the main principles involved in the determination of wages both in industry and in other than industry are the same and therefore, we have a wealth of material in the exercises conducted both within and outside the country. Most of these exercises relate to the question as to what could be the wage levels under various circumstances. It is not surprising that the findings of these bodies are similar. A family budget enquiry conducted by the United States Bureau of Labour Statistics in 1919, analysed the family budget with reference to three concepts;

- (1) the pauper of poverty level.
- (2) the minimum subsistence level, and
- (3) the minimum of health and comfort level.

The Bureau was looking into industrial wages and its concern was not so much with the subsistence level wage as to what lay between the subsistence level and the minimum health and comfort level. At home in 1948, the United Provinces

Labour Enquiry Committee classified levels of living into four categories, namely—

- (1) the poverty level,
- (2) the minimum subsistence level,
- (3) the subsistence plus level and
- (4) the comfort level

The objectives of these exercises were to arrive at what is now known as the 'fair wage'.⁴ The Committee on Fair Wages places the fair wage, above the minimum wage and below the living wage. At the moment it is important for us to note that the minimum wage is not the same as the poverty level wage. Both within the country and outside it has been clearly established and accepted that the minimum wage which, is at times called the subsistence level wage, is of a level above the poverty level wage. The following description of the concept by the Fair Wages Committee which we quote makes this clear. We consider that a minimum wage must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker. For this purpose, the minimum wage must also provide for some measure of education, medical requirements and amenities.⁵ All this the Committee has said in passing. Its reference was to evolve principles governing the determination of fair wages for industrial workers. But what it has said regarding the principles determining the minimum wage is true of minimum wage in both industry and non-industry and is in line with the findings of other expert bodies in India and elsewhere.

1.5 Having mentioned the living wage and fair wage it is necessary to examine them in some detail. We have stated briefly that the fair wage lies in-between the minimum wage and the living wage. Minimum wages will be our main concern in most of the chapters for substantial reasons. First, the bulk of the labour force in the country is on the minimum wage.⁶ This includes agriculture labour, labour in other rural employment and labour in the unorganised sector. Together these constitute the overwhelming majority of wage labour in the country. Second, the determination of the fair wage and the living wage must necessarily bear a relation to the minimum subsistence wage. And finally because, despite these circumstances the thinking on minimum wages in the country is clouded.

1.6 For the time-being however, we will leave minimum wages to take a close look at the living wage concept. Most of us know what living is.

3. The I.L.O's Minimum Wages and Economic Development 1968 and is "disappointingly general to be of any practical use to labour economists in the under-developed countries.

4. After the Report of the Committee on Fair Wages, 1949

5. Report of the Committee on Fair Wages 1949, Page 9.

6. A large number is working below the minimum wage even where minimum wage for the employments has been determined by law.

but asked to define, we find ourselves in difficulties. That seems to have been the position with the expert bodies too. Where these bodies were tripartite, there have been significant differences between employers and workers. The differences are mainly about the standards of comfort to be adopted. But the language 'comfort level' (United Provinces Labour Enquiry Committee), 'minimum of health and comfort level' (United States Labour Bureau of Statistics)' amount necessary to provide a standard of comfort' (Minimum wage Fixing Machinery, ILO), is common to every effort by expert bodies over the world to conceptualise the living wage. At the same time it must be understood that the level of comfort is essentially relative and has to be arrived at in the light of the circumstances at the particular time and place. The Committee on Fair Wages was of the view that in countries like Australia, Newzealand, the United States and Canada where the level of national income was high, the living wage formed the primary basis for the minimum wage and in fact there was not much distinction between the two.⁷ The Committee does not refer to countries in Europe or to Japan as the period under consideration relates to the immediate aftermath of the second world war. But the position seems to have changed at least in some of the countries mentioned in the report. For example, in the United States where the Federal hourly minimum wage was fixed at 3.35 dollars in 1981, there is currently a serious debate on the quantum of increase to be allowed. The issue is not that the increase suggested in certain quarters is unwarranted by the need to maintain minimum standards of comfort but the apprehension in some sections including in the Federal Government that the quantum rise may lead to fall in employment, and affect the very people who are sought to be benefited. The current controversy in the United States has been cited to show that even in the economically developed countries there can still be considerable lee-way between the minimum wage and the living wage. As for India, the Committee on Fair Wages set definite parameters the fair wage would be above the lower limit set by the minimum wage and below the upper limit set by the living wage and determined by the capacity of the industry to pay. The actual fair wage would depend on a consideration of—

- (a) the productivity of labour,
- (b) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities.

- (c) the level of national income and its distribution, and
- (d) the place of the industry in the economy of the country.

1.7 The Fair Wages Committee submitted its report in 1949 and in April 1950 Prime Minister Jawaharlal Nehru made a statement in Parliament announcing that the Government were committed to the principle of fair wages as recommended by the Committee. A few months later a Bill embodying these recommendations, the Fair Wages Bill, 1950 was introduced. The Bill lapsed with the dissolution of the Provisional Parliament and was not re-introduced.⁸ The incorporation of living wage under the Directive Principles of State Policy in Article 43 of the Constitution of India appears to be kind of a sop. The principles involving fair wages recommended by the Committee however, have found extensive application in the recommendations of the First and Second Pay Commissions of the Government of India, and in the awards of Wage Boards, Industrial Courts and Tribunals. Interest has however flagged in recent times and in the last two decades there has been little that could be compared to the intensive enquiries into matters relating to wages which took place in the twenties and the thirties, and in the years immediately before and following independence.

1.8 At this stage of analysis it would be useful to examine the concept of living wage. Although unattainable in this country for the work force in general in the foreseeable future, the living wage or the comfort level wage is the ultimate objective in wages." An Australian Court of Conciliation defined the living wage as one which meets the normal needs of the average worker and his family to live as a human being in a civilised community. Apart from meeting the the absolute essentials of food, shelter and clothing it must also meet the needs of frugal comfort by current standards and include an element of provision for evil days. Another Australian law defines the living wage as a sum sufficient for the normal and reasonable needs of the average employee. Necessarily such a wage would be related to the general standards of living and the state of the economy.

1.9 The definition of the family or rather the size of the family is crucial in relation to the minimum wage and the living wage. The Bombay Textile Labour Inquiry Committee said that the wage must support the wage earner his wife and two children. The general suggestions be-

7. Report of the Committee on Fair Wages, page 8, paragraph 9.

8. The concept of fair wage first figured as an integral part of the Industrial Resolution, 1948. The efforts of the tripartite Fair Wages Committee 1949 were to concretise this concept.

9. These are in Indian industry, what are known as high wage islands where the fair wage has attained the comfort standard.

fore the Committee on Fair Wages were on similar lines that the family should be regarded as one consisting of the wage earner, his wife and two children. Taking the two children as one consumption unit, the family would be of three consumption units. This was supported by the data disclosed in the family budget enquiries in 1948. Where the size of the family was found to be larger, it was also found that the number of earner was more than one. The size of the family as three consumption units in relation to minimum wage determination is of great importance. It has been relied upon totally by all subsequent commissions, committees and expert bodies.

1.10 As we had observed earlier in this chapter, the concern of most commissions and other bodies was with wages of industrial workers. Even in this narrow area, it was limited to wages of industrial workers in the organised section. The composition of these bodies with eminent industrial employers and leaders of organised workers makes this obvious. Their concern naturally was for the fair wage which was to be the actual wage in industry. There was unanimity that

the fair wage would be above the minimum wage and below the living wage. The only difference was whether it should be closer to the one or the other. Generally the trade union leaders wanted the fair wage to be closer to the living wage while employers wanted it closer to the minimum wage. The vast majority of the labour force in India however is in agriculture, rural employments and in unorganised industry. Statutorily fixed minimum wages apply to most of this labour. Their earnings although on the lower side individually, taken together, because of their numbers, greatly exceed the earnings of organised labour. The subject of minimum wage determination however has not received attention on a corresponding scale. An analysis of facts influencing minimum wage determination as was done for the fair wage by the Committee known by that name could have placed minimum wages fixed in the early fifties under the law of 1948 on scientific lines. The point at issue which will be analysed in succeeding chapters is whether minimum wages fixed under the Act of 1948 were in fact minimum wages or were below minimum or poverty level wages.

CHAPTER II THE MINIMUM WAGE

2.1 We will commence with a brief review of the concept of minimum wage by expert bodies. The United States Bureau of Labour Statistics in its family budget survey of 1919, referred to three levels of wages—

- (1) the pauper or poverty level,
- (2) the minimum subsistence level, and
- (3) the minimum health and comfort level

The United Provinces Labour Enquiry Committee 1948, classified levels of living into four categories, namely,

- (1) the poverty level,
- (2) the minimum subsistence level,
- (3) the subsistence plus level,
- (4) the comfort level,

2.2 The Committee on Fair Wages addressed itself to the question, which should be the level of minimum wages which can be sustained by the present stage of the country's economy? After consultation with employees and workers organisations and others, it said, "we consider that a minimum wage must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker. For this purpose, the minimum wage must also provide for some measure of education, medical requirements and amenities". We must keep in mind that the Committee was concerned exclusively with wages of industrial workers and some of the requirements and amenities mentioned might be more relevant to that area. Nevertheless, a clear set of basic principles of what the minimum wage must be emerges from these exercises. These are:

- (1) the minimum wage is not the pauper level or poverty level wage;
- (2) the minimum wage may also be called the minimum subsistence level wage;
- (3) the minimum wage must ensure the preservation of the level of efficiency of the worker;

- (4) It must also provide for some basic amenities like health and education of children.

What these principles together tell us is that the minimum wage level is that level below which wages should not fall. If they fall below that level, the efficiency of the worker will also fall.

2.3. Our efforts so far have been limited to the realm of theory and as far theory is concerned there has been a lot of writing on minimum wages within and outside the country. These exercises are important but what is more important is their practical application or application to real conditions. In this area we will look for attempts to determine the quantum of minimum wages in India within and outside government. Under the Minimum Wages Act, wages are determined by government in consultation with employer and worker interests. The administration of minimum wages is exclusively the preserve of the Government. Attempts by other bodies to quantify the minimum wage have generally not met with government approval.¹⁰ We have therefore to look for attempts by government appointed bodies to quantify minimum wages. The first such attempt is that of the Central Pay Commission, 1947. The Commission's approach to the problem appears to be balanced and rational. It says, "the discussion must start with the determination of the basic wage payable to unskilled labour. Whatever be the market value of such labour, we have come to the conclusion that a minimum wage standard should be adopted by the State and that the scale of Rs. 30-35 would be the appropriate basic remuneration for unskilled labour on the basis of a cost of living index of 165-175"¹¹ Mark, the words "whatever be the market value" of unskilled labour. They are of great importance particularly because they precede the report of the Committee on Fair Wages and the Minimum Wages Act. It is possible in India that in the circumstances described by the United Provinces Labour Enquiry Committee the market value of labour or the market level of wages would be at the poverty level *i.e.*, below the minimum subsistence level. The Pay Commission by a deliberate decision discounts the market value concept and adopts the minimum subsistence level concept for unskilled labour.

¹⁰. This is true even of the exercise conducted by the Fifteenth Indian Labour Conference, 1957. The Conference was tripartite and included departments of the Government of India, the State Govt. organisations of employers and organisations of workers. The Govt. of India rejected the minimum wage estimates of the Conference as too high and therefore, unpractical.

¹¹. Report of the Central Pay Commission, 1947 Part-II, Paragraph 223, Page-124. The cost of living index referred is 1939-100.

2.4. The manner in which the Commission arrived at a minimum basic wage of Rs. 30/- at a particular point of time, is interesting. There was already a considerable body of opinion on what the minimum wage should be. In an enquiry held in 1940, the Rao Committee had come to the conclusion that Rs. 35, 30 and 25 per month represented the subsistence levels for a family of three consumption units in a city like Bombay, in other urban areas and semi-urban areas respectively, according to pre-war prices. Justice Rajadhyaksha who adjudicated on a dispute between the government and postal employees, concluded that on the three unit basis, Rs. 65 to Rs. 70 per month was the minimum requirement for the average working class family in the city of Bombay at 1946 prices. For other areas, he placed the minimum requirement at Rs. 55 to Rs. 60 per month. After considering the demands of various employee organisations and the reports of experts, the Pay Commission pronounced that "the application of the minimum wage rule has always been recognised to be subject to limitation imposed by the general economy of the country. It may be applied to correct inequalities in the distribution system but not in disregard of the total production capacity of the country or without reference to the national income". The Commission decided that the minimum wage for the unskilled worker should be Rs. 55 per month inclusive of a dearness allowance of Rs. 25.¹² This minimum wage was to be the same for both rural and urban areas. Employees in urban areas were given additional allowance for house rent. There was criticism that this minimum wage of Rs. 55 was on the low side. For us however, the two principles enunciated by the Commission in determining the minimum for unskilled labour are important. These are:

- (1) the application of the minimum wage rule must be recognised to be subject to limitations imposed by the general economic situation of the country and,
- (2) irrespective of its market value, the State must adopt a minimum wage which must be the appropriate basic remuneration for unskilled labour.

Keeping these principles in view, the Commission fixed the minimum wage for unskilled labour under the Central Government Rs. 55 per month. This was the minimum irrespective of whether the place of work was urban or rural. In addition to this wage, the unskilled worker under the Central Government was paid some specific allowances in addition to non-wage benefits. There were also benefits like pension and gratuity. For the purpose of our analysis it is sufficient to remember that the Central Pay Commission 1947, taking into account the limitations imposed by the general economic situation of the country and the principle that irres-

pective of its market value, the State must adopt an appropriate basic minimum wage for unskilled labour, determined that wage to be Rs. 55 per month.

2.5. The second Central Pay Commission was set up in 1957. Its report became available two years thereafter. With inflation in the intervening years, the Rs. 55 per month minimum wage for unskilled labour, determined by the First Pay Commission had risen to Rs. 75. This amount consisted of Rs. 30 basic pay, Rs. 20 dearness pay and Rs. 25 dearness allowance. These distinctions between dearness pay and dearness allowance have great significance for government and its employees. For our present exercise however, these distinctions do not matter. The Commission as was to be expected, was flooded with demands from employee organisations for a review of the minimum wage. Many reasons were advanced. Important among these were:

- (1) that the amount determined by the First Pay Commission was an under-estimate
- (2) that it did not meet the minimum nutritional and other needs of the worker and his family, and
- (3) that the method of estimating the dearness allowance did not provide for full neutralisation of the price increase.

2.6. The question of incorporating the nutrition requirements of the family into the concept of minimum wage had been raised for sometime. However, it received systematic treatment in the Fifteenth Indian Labour Conference which met in July 1957. The Conference which was a tripartite body consisting of representatives of the Central and State Government, employees and employers, reached the following unanimous conclusion on need based wage:

(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 as three consumption units for one earner.
- (ii) minimum requirements should be calculated on the basis of a net intake of 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 the government 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 per cent of the total minimum wage.

(B) Where the minimum wage fixed was below the norms recommended above, it would be incumbent on the part of the concerned authorities to justify the circumstances which prevented them from adhering to the norms.

2.7 On the basis of these norms, major organisations of Central Government employees worked out need based minimum wages ranging from Rs. 110 to Rs. 137 per month at prices prevailing at the end of 1957, and presented them to the Pay Commission. The Commission's approach was two fold. It sought to know from the Central Government whether it had committed to adopt the recommendation of the Indian Labour Conference regarding need based minimum wage during the Second Five Year Plan. Government's reply came from the Secretary, Ministry of Finance, Department of Expenditure. We reproduce the relevant portion. "The Government desire to make it clear that recommendations of the Labour Conference should not be regarded as decision of Government and have not been formally ratified by the Central Government. They should be regarded as what they are, namely the recommendation of the Indian Labour Conference which is tripartite in character. Government have, at no time, committed themselves to taking executive action to enforce the recommendations". On receipt of the clarification, the Commission embarked on its own detailed consideration of the recommendation of the Labour Conference. The Conference recommendations related to industrial workers and taking into account the Railways and Post and Telegraph, the bulk of Central Government employees were indeed industrial workers. The Commission found that the minimum worked out according to the Conference formula was of the order of Rs. 125 per month. The highest minimum wage fixed under the Act of 1948 around this time was Rs. 52.50. The per capita income at current prices during the nine years ending 1957-58 was between Rs. 246.90 and Rs. 291.50. Taking the standard family of four members, the highest figure of nine years would work out to Rs. 1166 per year or about Rs. 97 per month. At his level a minimum wage of Rs. 125 would not be economically feasible.

2.8 The Pay Commission then went on to analyse the nutrition tables of Dr. W.R. Aykroyd¹³

Initially in Health Bulletin No. 23 Dr. Aykroyd had suggested a net intake of 3000 calories as the daily nutrition requirement of an average man doing moderate work. Later, the Doctor himself scaled this down to 2700 calories taking into account the somewhat lower metabolism of Indians. This was the calorie level adopted by the fifteenth Indian Labour Conference. Apart from providing the necessary calories, the diet has to be balanced to supply other elements essential for health. The Pay Commission went into details of food items. It found that while the standards set for cereals and pulses might be feasible, those for other items like fruit, milk, fish and eggs were clearly not attainable. The total output of milk which at the commencement of the First Five Year Plan was 18 million tons, worked out to 5 ounces per capita as against Dr. Aykroyd's recommendation of 10 ounces. Similarly the diet prescribed by Dr. Aykroyd included an egg a day against the actual availability of 4 eggs per head per year at the beginning of the Second Plan. The extremely wide gap between what was prescribed and what was available, made the Commission embark on an extensive exercise on nutrition. Experts including Dr. U. N. Patwardhan, Director, Nutrition Research Laboratories Hyderabad and Dr. B. C. Guha, Head of the Department of Applied Chemistry, University College of Science and Technology, Calcutta and eminent physicians Dr. B. C. Roy, Chief Minister of West Bengal and Dr. Jivraj N. Mehta, Finance, Minister Bombay¹⁴ were consulted. The Commission was informed that the Nutrition Advisory Committee of the Indian Council of Medical Research had recently scaled down the calorie requirement for men engaged in moderate activity from 3000 to 2800 and had considered 2400 calories as adequate for a man engaged in light or sedentary work. The Committee had further reduced the protein requirement for an average man from 82 gms to 55 gms. Dr. Mehta who submitted a note to the Commission incorporating his views and information gathered during a recent visit to Japan, said, that while an industrial worker in the cool climate of that country could manage with 2200 calories. for a sedentary or light worker in India, 2100 to 2200 calories should be adequate. Dr. Patwardhan was in agreement with this view.

2.9. The Pay Commission then attempted to work out a diet for an adult engaged in moderate activity. In its final shape, it was as follows:

Cereal	15 ounces
Pulses	3 "
Vegetables	6 "
Milk	4 "

13. These are in Health Bulletin No. 23 entitled "The Nutritive Value of Indian Foods and the Planning of Satisfactory Diets" published by the Nutrition Research Laboratories.

14. Dr. Mehta was earlier Director General of Health Services, Government of India. He later became the Chief Minister of Gujarat.

Sugar and	1	ounces
Vegetable oil and ghee	1	"
Groundnut	1	"

The calorie value of this diet was a little over 2600 and at prices prevailing in Delhi in December 1958, its cost, including a small allowance on condiments, worked out at 56 paise or Rs. 52 per month for a family of three consumption units. To this the Commission proceeded to add requirements on clothing, housing and other items prescribed by the Fifteenth Indian Labour Conference. The figure worked out to Rs. 82.50 at December 1958 prices with the consumer price index at 119 (1949—100). The corresponding figure at the index level of 100 would be Rs. 69.33. The minimum wage of Rs. 55 for unskilled labour in the Central Government fixed in 1947, had become Rs. 75 per month by 1958, taking into account inflation adjustment as per the First Pay Commissions formula. Representations to the Second Pay Commission sought to establish that under this formula which meant an increase of Rs. 5 for a 20 point rise on the 1939 index, full neutralisation did not take place. The Commission made its own estimates and found that full neutralisation of the price rise would raise the minimum wage to Rs. 80 per month. That was the level which the Commission ultimately recommended as the minimum wage for unskilled labour at the point of entry under the Central Government. The Commission makes it a point to refer that this minimum wage is not static. It is part of an incremental scale. This is an important point of difference between minimum wages in Government and minimum wages arrived at under the Act of 1948. The latter generally do not form part of an incremental scale. Unskilled labour in government like its skilled counterpart is eligible for a number of other monetary and non-monetary benefits. These include medical cover, leave travel concessions, children's education allowance, gratuity and pension. In recent years workers in government have been paid bonus on an adhoc basis. All these make a lot of difference and are relevant when we compare wage systems. But they are not relevant to a discussion on minimum wages.

2.10. In the course of this exercise we have established some basic principles relating to minimum wages. The first is that the minimum wage for unskilled labour is not the pauper level wage or the poverty level wage. It is also not the prevailing wage for unskilled labour if that wage is below the subsistence level. These principles are universal and were accepted and acted upon by the First Pay Commission of the Government of India in 1947 in determining the minimum wage of unskilled labour in Government employment. The Second Pay Commission made further additions to the concept of minimum wage by importing the element of nutritional needs. Whether the Commission was justified in deviating from the diet prescribed by Dr. Aykroyd for practical reasons of non-availability is a separate matter. The Commission, by taking in-

to account the levels of production and the population, established that the quantities of milk and eggs in the diet by Dr. Aykroyd would not become available to people in the foreseeable future. It therefore resorted to the process of substitution of components in the diet keeping the total calorie value the same. In fact, the calorie value at 2600 in the suggested diet was substantially above the minimum of 2200 calories suggested by Mehta and Patwardhan. Adding to these, expenditure on accounting of clothing, housing and other essentials and taking into account a family of three consumption units for every wage earner, the Commission determined the minimum wage requirement for the unskilled worker under the Central Government at Rs. 80 at the end of December 1958. These exercises by the First and Second Pay Commission have given us minimum wages for unskilled labour fixed according to a rational and scientific basis for the period between 1947 to 1958. These may be displayed as follows:

Table I

Year	Average actual minimum wage including DA (First Pay Commission) (Rs.)	Average consumer price Index 1949=100	Minimum wage including DA required for full neutralisation (Rs.)
1	2	3	4
1947	55	87	60
1948	55	97	67
1949	65	100	69
1950	65	101	69
1951	68	105	72
1952	70	103	71
1953	70	106	73
1954	70	101	69
1955	70	96	66
1956	70	105	72
1957	75	113	78
1958	75	116	80

Under column 2 is the actual minimum wage paid to unskilled labour under the Central Government according to the decision on the recommendation of the First Pay Commission. Column 4 shows what the minimum wage would be under a full cost of living neutralisation system. In fact, Rs. 80 at the bottom of column 4 at 1958 prices was the minimum wage recommended by the Second Pay Commission. Table I is of great importance because it relates to the period when minimum wages under the Act of 1948 were fixed by the Government of India and by State Governments for various scheduled employments in different parts of the country.

2.11. The object in this chapter has been to analyse the attempts at quantification of minimum wage for unskilled labour both within and outside government. Exercises within Government have been described in detail because for the first time they involve efforts to link nutritional requirements on a realistic plane with minimum wages.

CHAPTER III

DETERMINATION OF MINIMUM WAGES

3.1. In the preceding chapters we have succeeded in determining the basic principles which govern minimum wages. In a sense, the minimum wage is the minimum subsistence wage. It must be sufficient to meet the subsistence requirements of the worker and his family of three consumption units. We realise that in our efforts so far we have resorted to the socio-economic interpretation of the minimum wage. The Minimum Wages Act, 1948, does not go into details of quantification of the minimum wage. In fact it does not contain any indications in this direction. A similar void exists in the ILO instruments which we have discussed earlier. None of them help us in quantifying the minimum wage. Although, our quantity conception on socio-economic lines has been derived from practices followed by government instituted committees and commissions, it does not necessarily follow that a minimum wage formulated on the basis of minimum subsistence requirements would be legally acceptable. In atmosphere of opposing socio-economic groups it is likely that a concept of a minimum subsistence wage based on socio-economic criteria would be challenged in the courts. The legal cover to the concept of minimum subsistence wage in the absence of an appropriate provision in the law, has to come from judicial pronouncements. We are aware that the legal aspects of the minimum wage is the subject matter of another group. However, in the course of our task it is necessary for us to ensure that the concept of a minimum wage which we have formulated and are advocating for acceptance, is legally unchallengeable. In succeeding paragraphs we would show that the concept of the minimum wage arrived through the application of the minimum subsistence requirements of life is a legal right of the worker. We shall briefly cite the relevant decisions of the Supreme Court of India. In this, we have selected the most important pronouncements taking into account the vital issues which have figured from time to time and been made the subject of controversy by litigating parties.

3.2. The first among the most important cases is *Bijay Cotton Mills vs. the State of Ajmer*¹. In this case, the Chief Commissioner, Ajmer, under the provisions of the Minimum Wages Act, 1948, determined the minimum wages for workers in the cotton textile industry as Rs. 56 per month. The decision of 7th October, 1952 was challenged before the Supreme Court of India. The vires of the Minimum Wages Act was questioned with reference to Article 19(1)(g) of the Constitution of India. It was argued that the Act placed unreasonable restrictions on the rights of the employer by preventing him from carrying on trade and business unless he paid minimum wages. The fundamental

rights of the workers were also restricted in that they were prevented from offering themselves to work at wages below those determined under the Minimum Wages Act. The Court held that securing a minimum wage to ensure not only bare physical subsistence but also the maintenance of health and decency is conducive to the general interest of the public. If labour was to be secured the minimum wage and protected from exploitation by employers, it was necessary that the restrictions must be imposed on their freedom to contract. Such restrictions cannot in any sense be said to be unreasonable.

3.3. This case is important from our point of view because in an under-developed economy a large number of workers are likely to offer themselves for employment below subsistence wages. The pronouncement of the Supreme Court declares that contract for employment at wages below the minimum subsistence level is unlawful. The pronouncement is also important because a minimum subsistence wage of Rs. 56 determined on 7th October, 1952 was found acceptable as such to the Court.

3.4 The principle of capacity to pay has often been cited in support of payment of poverty or pauper level wages in the country. The argument, surprisingly, is heard even in government sponsored seminars and discussions. What is more surprising is that often, the argument emanates from Government spokesmen. Obviously such a situation is arrived in the absence of knowledge and comprehension of the legal position on the capacity to pay the minimum wage. The earliest and also the most important decision of the Supreme Court on this issue is in *Crown Aluminium Works vs. their Workmen*.² On the specific issue of capacity to pay minimum wages, the Court said "there is however one principle which admits of no exceptions. No industry has a right to exist unless it is able to pay its workmen at least a bare minimum wage. It is quite likely that in the undeveloped countries with unemployment problems on a very large scale, unorganised labour may be available on starvation wages. If an employer cannot maintain his enterprise without cutting down the wages of his employees below the bare subsistence or minimum wage, he would have no right to continue his enterprise on such terms".

3.5. Surprisingly, in India, unlike as in other countries, despite conclusive pronouncements, the same issue continues to be agitated before the Court in some form or other. The principle of capacity to pay the minimum wage figured before the Supreme Court again in *Kamani Metals and Alloys vs. the Workmen*.³ The Court in its judgement elabo-

1. AIR 1955, SC, 33

2. AIR 1958, SC, , 30

3. AIR 1967, SC 1175

rated the principle further as follows: "the first principle is that a minimum wage which, in any event, must be paid, irrespective of the extent of profits, the financial condition of the enterprise, or the availability of the workmen at lower wage. The minimum wage is independent of the kind of industry and applies to all alike big or small. It sets the lowest limit below which the wage cannot be allowed to sink in all humanity". The principle enunciated in this judgement, apart from the capacity to pay, is also vital to our exercise. The basic characteristics as well as the objectives of the minimum wage have been conclusively decided by the Court. The minimum wage sets the lowest limit below which wages cannot be allowed to fall. The minimum wage is independent of the kind of industry. It applies to all employments big and small, alike. These pronouncements, apart from clearing the mist which often envelopes thinking on the issue of minimum wages, also sets the fundamental principles which the authorities must follow in the determination and administration of minimum wages.

3.6. For reasons already stated, we do not wish to convert our exercise into one of legal aspects of minimum wages. However, before we revert to pursue our substantive task, we would cite the decision of the Court in *People's Union for Democratic Rights vs. Union of India*.⁴ The Court said that employment at wages below the minimum wage is forced labour and attracts Article 23. This was in connection with construction labour engaged in the *Asiad 1982*.

3.7. With the kind of socio-economic and legal infrastructure available, one would expect the quantification and determination of minimum wages by the various authorities in the country to be on a sound footing. In the course of our enquiry the Government of India and the State Governments were addressed through a questionnaire which, among other things, sought to know the basis for determination of minimum wages. The Government of India found itself unable to explain the basis for the minimum wage determined by them for employments falling within their purview. Currently the minimum wage, notified by the Ministry of Labour, Government of India for unskilled employments is Rs. 15 per day. Asked to explain this amount, the Ministry referred itself to the Labour Bureau which is an attached office under the Ministry. No further communication on the subject has been issued from the Ministry. The Labour Bureau to state the truth, does not determine wages. Compare this situation to the expertise available in the same Ministry on the subject of wages in 1948 when Sri Subramanian, Joint Secretary, chaired the Committee on Fair Wages and in 1957 when the Ministry, under Sri Gulzarilal Nanda, enunciated the need based minimum wage concept in the Fifteenth Indian Labour Conference. Notwithstanding the absence of any rational basis, the Ministry has been advocating the adoption of Rs. 15 as the minimum wage by the rest of the country.

3.8. The response to our questions from the other authorities under the Minimum Wages Act will be described in these paragraphs. The State of Punjab which has the highest per capita national income and also one of the highest minimum wages for unskilled labour, stated unequivocally, that the wage is decided on political considerations. Tamil Nadu replied that while fixing minimum wages, consideration is given to the prevailing wage rate in that employment and in other similar employments, the nature of work, the position of the organisation etc., apart from the cost of living index. The Government of Maharashtra in its replies to the question on the determination of the minimum wage, describes the methodology prescribed in the Act. In addition, the note sent by that Government refers to the recommendations of the Fifteenth Indian Labour Conference, the recommendations of the Labour Ministers Conference in July, 1980 and to Convention No. 131 of the ILO. There is however no exact explanation as to how the minimum wage for unskilled labour in Maharashtra is determined. The Government of Karnataka in its replies states that the basic needs of an individual workman is taken into consideration i.e.

Food	2700 Calories per day
Clothing	18 yards per year
House Rent	10% of items 1 and 2
Miscellaneous	20% of items 1, 2 and 3.

The Government of Bihar in its reply to the question states that generally the following principles are kept in view by the minimum wages fixation committees while advising fixation or revision of minimum wages. (1) Prevailing wage rate and other conditions of service; (2) Increase in the cost of living index since the last fixation; (3) Minimum rate of wage fixed in other States for such employments; (4) The minimum rate of wages fixed for similar categories of employees in other employments.

3.9. We do not wish to reproduce the replies received from some other state governments as that would amount to mere repetition. What we have reproduced above constitutes an accurate description of the position prevailing in the Central Government and in the States. In fact, in some States the position could be more confusing. It becomes clear from what has been stated above that the Government of India and the State Governments who must determine minimum wages under the Act of 1948, are not clear in their own minds on what it is that they must do. It is not surprising in these circumstances that we have in this country, minimum wages for unskilled labour in agriculture for example, ranging from Rs. 11 per day in Andhra Pradesh (9.2.87), Madhya Pradesh (26.6.87), Rajasthan (1.3.87), and Goa (1.7.87), Rs. 12 in Gujarat (4.2.86), Bihar (16.10.86) and Karnataka. Rs. 25 in Assam (1.7.89) to Rs. 35 in Haryana and Punjab (1.1.90).

Figures within brackets indicate the dates on which the rates became effective. The wide differences in the minimum wages for unskilled labour in the States as well as the wage determined by the Central Government is the direct consequence of the lack of comprehension of the concept of the minimum wage.

3.10. In our exercise in Chapters I and II and paragraphs 1 to 6 of Chapter III, we have identified and defined the basic factors which must decide the minimum wage. These are; (a) the cost of living relating to the minimum subsistence level for the worker and his family of three consumption units and (2) that the minimum wage will be the same for all employments. Application of these principles would naturally bring about uniformity in the minimum wages throughout the country irrespective of the authorities notifying the wage. Differences in the wages arrived at on the basis of cost of living would be accounted for only by the differences in comparative cost of living between various regions in the country. The approach will admit for minor variations. Certainly, the minimum wage in the country cannot vary from Rs. 11 to Rs. 35 at the same point of time. If Rs. 11 prevailing in some of the States is really the minimum wage, then, Rs. 35 determined in some other States cannot be the minimum wage. If Rs. 35 is the minimum wage then any wage well below that level, including the Rs. 11 in some States, cannot be the minimum wage. It is a poverty level or pauper level wage. We have described the above picture in detail to demonstrate the absence of a rational approach in the determination of the minimum wage among governments in the country.

3.11. No doubt the situation requires to be remedied. The remedy will be prescribed later in this chapter. Meanwhile we shall examine another aspect in the determination of the minimum wage which gives rise to serious deficiency. The minimum wage is to be determined in such a manner that it is minimum subsistence level wage. It follows that the minimum subsistence level wage must be protected from effects of inflation. If this is not done, then the minimum wage will fall below subsistence level. It will become the pauper level wage or the starvation level wage. In any case a wage below the minimum subsistence level cannot be a minimum wage. In the seventies and in the eighties, inflation has averaged at about nine per cent per year. There are two ways of protecting the minimum wage from inflation. The first is to revise the minimum wage at frequent intervals. The second is to link the cost of living element to the minimum wage. This is also called linking of dearness allowance. As the minimum wage is subsistence wage and as the minimum subsistence level is to be maintained, the cost of living must be fully neutralised through the mechanism of the dearness allowance. The Ministry of Labour, Government of India, did not have any dearness allowance element linked to its minimum wage until recently. During 1990 it was decided that neutralisation in the form of dearness allowance would be announced

every six months. As far as the states are concerned, the practices are different. In Andhra Pradesh, Himachal Pradesh, Meghalaya, Orissa and Rajasthan, there is no linkage of dearness allowance of any kind with the minimum wages. In Assam, Gujarat, Karnataka and Kerala there is dearness allowance with the minimum wage for non-agricultural employments. In Maharashtra, Tamil Nadu and Uttar Pradesh there is dearness allowance in some employments like construction. However, for the bulk of employments like agriculture, saw-milling, cashew processing etc., there is no dearness allowance linkage with the minimum wage. The practice is similar in Tamil Nadu and Uttar Pradesh. In the States of Haryana, Punjab and West Bengal and in the Union Territory of Delhi all minimum wages are linked to dearness allowance. Delhi, which earlier had what is called the all inclusive system, switched over to the minimum wage linked to dearness allowance, in 1989.

3.12. As we have stated, consequences of not linking the wage to cost of living can be minimised only if wages are revised frequently. However, frequent revision is not the practice in almost all States which follow the all inclusive system. These states do not follow the recommendations of the Labour Minister's Conference which wanted a revision every time the Consumer Price Index (1960-100) rose by 50 points. In fact, there are States which have failed to revise the minimum wages particularly in agriculture, even in five years. As a consequence, the Minimum Wages Act had to be amended to retain the legal validity of the wage determined, beyond the period of five years. The consequences of the absence of linkage of the minimum wage to dearness allowance can be described through the following table which illustrates the position in Tamil Nadu.

Year of fixation	Wage (Rs.)	Consumer Price Index number (1960-100)
1959	0.87	95
1973	3.00	224
1976	3.50	289
1979	5.00	352
1983	10.00	575
1989	14.00	848

The consumer price index number in column 3, is for industrial workers and is the yearly average for the centres in the State. No harm is done to our thesis as the indices for agricultural workers and for industrial workers have been moving together at similar rates. The point to demonstrate is the erosion in the real wage which occurs between two fixations. In 1983 when the wage was Rs. 10 per day for the unskilled agricultural workers, the index was 575. Because there was no inflation adjustment,

the wage remain at Rs. 10 until April, 1989 when it was raised to Rs. 14. The index meanwhile rose to 848, an increase of 47.5 per cent. What was Rs. 10 in 1983 was in real terms, only Rs. 5.25 on the eve of the revision in 1989. In this case, the new wage of Rs. 14 does not restore the real wage even to the 1983 level. Imagine the actual position when, in tune with practice, the wage is revised after five years. In fact the last revision appears to have come after nearly six years.

3.13. The absence of linkage of the minimum wage with the cost of living in most states has led to serious erosion in the wages. In fact, following the year of revision, the wage becomes a pauper wage and violates both the principles of socio-economic justice and Article 23 of the Constitution of India. There is no reason why the states should not follow the practice of neutralising the cost of living through linkage of the dearness allowance element. The system is working satisfactorily in the States of Haryana, Punjab and West Bengal. In certain States we have observed that neutralisation of cost of living exists for employments other than agriculture. This amounts to gross discrimination against agricultural labourers who constitute the bulk of the wage labour force.

3.14. We have observed that a number of States where the practice of neutralising the cost of living is followed, use the Consumer Price Index for Industrial Workers for wages relating to agricultural labour and other rural employments. The justification advanced by the authorities for doing so is that the Consumer Price Index for agricultural labourers is not available in time. It is received by the authorities about two months after, they receive the Consumer Price Index for industrial workers. The 1960 base Consumer Price Index for industrial workers and the 1960-61 base Consumer Price Index for agricultural workers have been moving together at more or less the same pace. As a result, the workers have not suffered any loss in real terms through the linkage with the Consumer Price Index for industrial workers. Nevertheless, as far as rural employments, are concerned, it would be advisable to follow the index for agricultural workers. The average for the centres in the State could be used for the purpose of neutralisation. The price relatives and other data for the compilation of index for agricultural workers is collected by the Central Statistical Organisation who furnish the material to the Labour Bureau for publication. It should be possible with some effort to publish the index for agricultural workers about the same time as the index for Industrial workers.

3.15. We now come to what we consider to be the most important as well as the most difficult part of our task. We must prescribe a rational scientific basis as well as a method for quantifying the minimum wage. The principles governing the quantification of a minimum wage both socio-economic and legal have been laid down clearly in the preceding chapters. The minimum wage is a minimum subsis-

tence wage. For socio-economic reasons, the worker cannot be paid below that wage. If he is paid below the minimum wage his efficiency will suffer and therefore productivity will decline. Legally, the pronouncements of the Supreme Court in a series of cases relating to the minimum wages are very clear. The minimum wage is a minimum subsistence wage for the worker and his family of three consumption units. It is illegal for the employer to pay his workers below the minimum wage even if the workers offer themselves to be employed at below the minimum wage. Also, the minimum wage being the subsistence wage, it cannot differ from employment to employment and from employer to employer. The differences in the minimum wage at a given point of time can be accounted for only by differences in the cost of living.

3.16. It is clear from the above that it is the cost of living at the subsistence level for the worker and his family of three consumption units which must determine the minimum wage. We therefore move on to the matter of determination of the minimum subsistence requirement. For this, the most scientific and reliable exercise in recent times is the one conducted by the Working Group under Planning Commission to determine the poverty line. The first time that such a Group was constituted was in 1962. The Working Group took into account the recommendations of the Nutrition Advisory Committee of the ICMR in 1958, regarding a balanced diet and minimum calories needs and came to the conclusion that a minimum consumption expenditure of Rs. 100 at 1960-61 prices would be needed by a family of five persons. For Urban areas, because of a higher cost of living the Group suggested a per capita consumption expenditure of Rs. 25. With refinements, this continues to be the basic approach to the concept of poverty line. In 1977, the Planning Commission constituted a Task Force on Projection of Minimum Needs and Effective Consumption Demand, to recommend a poverty line for use in the Sixth Plan. The Task Force relied on the calorie norms determined by the ICMR in 1968 which were 2400 for rural areas and 2100 for urban areas. The next step was to estimate the corresponding expenditure per capita in rural and in urban areas. For this purpose, the private consumption expenditure data in the 28th round (1973-74) of the National Sample Survey was utilised. The expenditure worked out to Rs. 49.09 per capita per month in the rural areas and Rs. 56.64 in the urban areas at 1973-74 prices. The estimated poverty line assumes that a person having this amount, would distribute his expenses between food and non-food items, in such a way that the calorie content of his food satisfies the calorie norms. The exercise was repeated in 1981 and the Study Group on the basis of dietary intake recommended by the ICMR and the per capita consumption expenditure data obtained from the National Sample Survey, determined the calorie requirement for rural areas to be 2400 and for urban area

2100. An important recommendation of this Group is the application of the consumer price index in place of the whole sale price index as the deflator.

3.17. Our concern in this exercise is mainly with wages in rural employments. The per capita expenditure worked out for the rural areas on the basis of 2400 calorie norm per month was Rs. 49.09 in 1973. The consumer price Index (1960 base) at that time was 236. When this index is 850 (1960 base) the per capita consumption expenditure, applying the inflation would be about Rs. 177. For three consumption units the requirement would be Rs. 531. There is scope for difference of opinion whether the calorie requirement for two children would be the same as that for one adult. It is likely that the requirement would be slightly higher. This point can be determined conclusively by nutrition experts. We demonstrate that by following the minimum consumption expenditure criteria in relation to subsistence requirement, it is practical to determine the minimum wage on scientific lines both for rural and urban employments. This will not only meet the socio-economic requirements but also the legal requirements. The wage will have to be adjusted at regular intervals to account for inflation. This will also meet the demands of various organisations from the trade unions for a national minimum wage. We do not subscribe to that terminology, but for all practical purposes, what we have recommended takes into account the minimum subsistence needs of the worker and has family at a point of time at any place in the country. This will also dispose of the complaint from the Government of Kerala that its neighbour States keep the minimum wage low as a result of which industry has been moving from Kerala into those States. Minimum Wages are usually fixed on day basis. To arrive at the minimum wage, we must divide Rs. 531 by the number of days for which the worker is required to work in a month which is 26. That will give us the amount of Rs 20 50 as the minimum subsistence level wage, in the country with the consumer price index 1960=100 at 850 points or 1982=100 at 200 points approximately.

3.18. In our questionnaire, we had asked the States if they took the per capita gross national product for the State into account while determining the minimum wage. Replies revealed that the States did not perceive any relation between the two. Available data shows that Punjab and Haryana with the highest per capita income, also have the highest minimum wages. On the other hand, Assam and Orissa which are low on per Capita income, have a minimum wage of Rs. 25 which is on the higher side. Goa which has one of the highest incomes per capita has a minimum wage of Rs. 12.

3.19 Another aspect in the determination of minimum wages by State Governments deserves serious attention. This is the substantial differences in the minimum wage between different employments at the same place. In Maharashtra, for example, the comparative minimum wages in two employments are as given below:

Zone	Construction (Rs.)	Agriculture (Rs)
I	36	20
II	33	16
III	31	14
IV	16	12

This is the position as on 1st July 1990. During discussions it was explained that the wages in construction were decided by the advisory committee representing employer and worker interests. The industry has the capacity to pay and so it agrees to pay a higher wage. On the other hand the employer lobby in agriculture in Maharashtra is too powerful compared to the agriculture workers. As a result the Advisory Committee sees to it that the wages are kept low. The State remains a mute witness and merely notifies the wage recommended by the Advisory Committees. In the result a fair wage is notified under the minimum wage law in construction and a poverty wage is notified under the same law in agriculture.

CHAPTER IV ADMINISTRATION OF MINIMUM WAGES

4.1 The first thing one learns is that the administration is not organised on the urban-rural divide. The commencing sentence in the note from the Government of Maharashtra makes it clear. The primary function of the Commissioner of Labour, says the note, is to maintain harmony between the employer and labour. The reference is to the administration of the provisions in the Industrial Disputes Act which may be said to be both the heart and the soul of labour administration in India. The divide, therefore, is not between the rural and the urban but between employments which fall within the ambit of the Industrial Disputes Act and those which fall outside. In the latter, are all employments which fall under agriculture. Viewed from this angle, the administration of minimum wages in the country falls under the following broad categories.

(a) A unified cadre of officials arranged hierarchically, headed by the Labour Commissioner. Members of the common cadre are assigned functions in labour administration like conciliation of industrial disputes, implementation of laws on payment of wages, minimum wages, gratuity, equal remuneration, child labour officials may be authorised to act exclusively under one legislation like the minimum wages law, their functions are subject to change in the course of administrative requirements. All States in the country except Gujarat and Bihar fall within this category. Tamil Nadu falls into a separate slot as far as administration of minimum wages in agriculture is concerned.

(b) A separate cadre of officials headed by a Commissioner for Rural Labour operates in Gujarat. The words 'rural labour' are misnomer. The duties of the organisation extend only to agriculture labour. The Commissioner reports to the Labour Secretary. At the lowest level of the cadre are the Assistant Government Labour Officers. They belong to this cadre exclusively and will remain so through out their service life. At the higher levels, the supervisory officers and deputationists from the general labour cadre.

(c) A second variation is found in Bihar. Here, there is a separate machinery to administer wages in agriculture. This machinery is headed by a Director who, in fact, is a Joint Labour Commissioner under the Labour Commissioner. At the lowest level of the organisation are the Labour Inspectors. Bihar has 590 Development Blocks. There is one Inspector in every Block. Sensitive Blocks have more than one Inspector. The cadre has a total of 641 Inspectors. They will remain in this organisation exclusively for their service lives.

(d) Tamil Nadu is in a category of its own. Here the minimum wages in agriculture, as in other employments, are determined by the Labour Department. However, the administration of minimum wages in agriculture is done by the Tehsildars who have been appointed Inspectors under the Minimum Wages Act. Tehsildars are officers under the Revenue Department. Administration of minimum wages in all other employments is performed by officers of the Labour Department.

4.2. We will now examine the performance of the machinery under the different systems. There is hardly any minimum wage administration in rural employments, outside employments in agriculture. Where special machinery exists, it almost exclusively caters to employments in agriculture. As far as other rural employments are concerned, matters relating to wages attract the application of the Industrial Disputes Act. The general labour machinery which deals with the application of the Industrial Disputes Act also deals with wages in rural industries covered by the Act. The actual performance in this area however appears to be extremely meagre and none of the States which responded to our questionnaire have been able to show any evidence of performance, discussions with worker leaders in the field in various States as well as studies carried out, from time to time show, that except during the busy agricultural season where the actual wage equals and at times exceeds the minimum wage, at all other times, the actual wage is below the minimum wage. The reason given by the authority is inadequate administrative machinery to administer the minimum wage. This reason is repeated in every annual meeting of the State Labour Ministers concerned in the Ministry of Labour. The States went to augment their implementation machinery through centrally sponsored programmes in their five year plans. Give us more men and more money to pay the men, is the constant demand from the State Governments. In the context of this demand, we must see how the States which have a special machinery for administering minimum wages in agriculture are performing.

4.3. The working of the rural labour administration in Gujarat has been the subject of a special study. The administration is headed by a Commissioner who reports to the Labour Secretary of the State. Although called the rural labour commissionerate, it operates exclusively for agriculture labour which, in effect, is for minimum wages. The Assistant Government Labour Officers are the field level functionaries.

They belong to an exclusive cadre. They are inspectors under the minimum wages law. With this kind of an exclusive arrangement and with a superior infrastructure and resource back-up, one would have substantial expectations from this cadre. The study however, brings out the fact that the organisation has not been effective. The officials are not adequately informed on their subject. They are not sufficiently motivated. The quality of the inspections is poor. In its totality also, the organisation has not done well. There does not seem to be adequate understanding of and identification with the objectives of the organisation. In the four years ending in 1988, the performance has been particularly poor, in some respects, declined. The number of inspections and consequent detection of violations and defaults are expected to go up following the revision of the minimum wage. In Gujarat the experience following the 1986 wage revision is in the reverse. The morale of the inspecting officers is low. There are also problems of logistics. Interaction with some of these inspectors at training sessions at the National Labour Institute showed that the officers are an unhappy lot and worried about their career prospects. They compare themselves unfavourably with their counterparts in the general cadre of labour administration. While a separate cadre for agriculture labour administration has advantages, at the same time one should not be blind to the hard facts of social realities. The State is fortunate to have the Gandhi Labour Institute which is adequately equipped to fully meet the training requirements of the cadre of rural labour inspectors. It should be possible to design and execute an appropriate training programme with better knowledge, skills and motivational inputs.

4.4. Bihar differs from the Gujarat pattern to the extent that the rural organisation is under the Labour Commissioner. The Labour Inspectors for agriculture labour form a separate cadre. They are graduates recruited through the State Subordinate Services Selection Commission. Bihar has 641 inspectors for agriculture wages. They have not received any training, institutional or inservice. In effect they are an army of unskilled labour. The quality of their inspections is very poor. There is no inspection manual. They are under the administrative control of the Tehsildar. Possibly this is a legacy of 1975 when minimum wages became one of the points in the twenty point programme. There are no skill or supervisory inputs from the Tehsildar. The labour inspectors resent the Tehsildars control. The Tehsildar is also seen to be pro-landlords. This conflicts with the role of the labour inspector. To get over these problems we suggest that the labour inspectors report to the District Labour Superintendent. In turn, he must report to the Collector. The Tehsildar in between is more an impediment

than a help. There is the usual problem of logistics. The inspectors have no transport. This deprives them of access to the target group. They have been seeking Government loans to buy two-wheelers. It should be possible for the State Government to meet this demand in phases. The main problem is the absolute lack of training, skills and motivation. As usual the rural inspector is envious of his counter-part in the general cadre. He considers himself a second grade inspector.

4.5 For many reasons the Bihar model is of great interest. It has an exclusive cadre of inspectors for agricultural labour. As far as absolute numbers in men is concerned, it is a dream come true. What other States keep begging the centre year after year, Bihar has already achieved. It has a mini-army of 641 inspectors exclusively for agriculture labour. The performance however is disproportionately meagre. The vast machine has not made any impact on the subject. Bihar has its special problems of inter-caste conflict which is intimately tied up with agriculture land. But that alone does not explain the absence of impact. The lack of training, skills and motivation has already been observed and commented upon. In Bihar we had long discussions on this problem with the Government, representatives of workers organisations and with a cross-section of inspectors. One of the reasons for lack of effectiveness is the manner in which the manpower is deployed in the field. An unskilled inspector in the b'ock, with little knowledge of his objective, confused about his line of control and with no guidance from superiors, is a lost case. A different approach on scientific lines is obviously necessary. Such an approach must have all the attributes necessary for success. We discussed the possibility of formulating a comprehensive strategy. Instead of spreading forces thinly on the ground a comprehensive task force approach must be adopted. Four or five districts must be selected by the State Government. An elaborate information package must be worked out. What is the minimum wage? Why is it necessary? What it is meant to achieve? What are its components? Why must it be paid? What happens if you do not pay the minimum wage to your employees? All these must be available to the people of the district in a clear and precise manner. The information must be communicated through the electronic as well as the print media and through other means. Officials accept that while many advertisements from the State Government with photographs of ministers and officials are published, no publication has been made ever on minimum wages. All Government, Semi-Government non-officials and other agencies must be involved. The work of the task force will be coordinated by the Collector. A senior officer of the Labour Department will be its Secretary. The selected force of inspectors will be given intensive training in skill and communication. Specific areas will be earmarked for each inspector. About five labour office

will be designated as Claims Officers. The field checks will commence after about three months of intensive information campaign. In fact, they will move in after the district is saturated with information.

4.6 Worker leaders with whom we have discussed this proposal feel that it will succeed. Indeed, one of the main drawbacks in the manner of determining the minimum wage is that but for a small group of persons, nobody else is aware of it. Certainly not the millions of employers and agricultural workers. In these circumstances it is no wonder that Government administration on minimum wages has failed in almost all parts of the country. The information package which we have discussed in paragraph 4.5 is a must for every State and District. As for Bihar, the information saturation described above is expected to push up the wage from pauper to minimum levels. Balance of action can come from the inspectors. The five Claims Authorities in the task force will speed up disposal of cases. Authorities and workers agree that once the wage is lifted to a higher level, it will not come down except in the event of a severe natural calamity affecting employment. The task force can be withdrawn gradually after re-assessment. Other districts can be taken up thereafter. By now the benefit of the spread effect of the measure elsewhere would be available.

4.7 Tamilnadu is in a special position. The minimum wages for all employments are determined by the Labour Department. The administration of minimum wages in agriculture is left to the Tehsildars who have been notified as inspectors under the law. The committee of Members of Parliament which was headed by Sri Gurudas Dasgupta found that the Tehsildars do not have enough time and do not have sufficient interest to devote to agriculture labour. Our own findings concur with those of the Committee. Indeed, the responses from the State Government indicate that they hold a similar view and are considering alternative arrangements. Paucity of resources in the form of men, and money is said to come in the way.

4.8 We are required to comment on the general demand from the States for augmentation of their labour administration machinery, particularly for the purpose of implementing the minimum wages. The complaint from the States is that they do not have the money to employ more staff. The general de-

mand can be summarised as give us more staff and we shall produce results. In actual practice, this can be different. We have seen how 641 inspectors in Bihar do not make any difference. In 1986, under a special programme, the resources of some States with considerable tribal population were specially augmented for the purpose of administering minimum wages in agriculture. Madhya Pradesh is one State where inspectors for minimum wages in agriculture were appointed under the Scheme. We watched their performance in the Jhabua District. The inspectors had not received any training. In fact, even their placement in the Jhabua District was faulty. Except in a small portion of the district, the concept of employer-employee relationship as it is generally understood, does not exist. In the circumstances, this untrained lot of inspectors had little to do. Even where there was work, their performance was miserable. In many places in the district we found that the labour was unaware of their existence. There was nothing unusual in this. In other States too, when we took the inspector with us and asked the agriculture labour if they know him, the reply invariably was that they had not seen him ever. In Jhabua where there is no need to deploy so many inspectors, we find that inspectors have been posted in large numbers because there is a Government Scheme which has sanctioned them for the tribal areas. This is more or less the situation in every State to a greater or lesser degree. The force is unskilled in every respect. Where it is exclusively rural, it is frustrated. Deployment, as we have seen in Jhabua is often not rational. The inspectors reports are routine. There is no effective supervision. The supervisors are themselves untrained and lack any perspective. At the State level, the Secretariat which deals with the determination of the wage is singularly ill-equipped in every conceivable manner. Barring some exceptions, the Labour Secretary and his officers in the State Secretariat are strangers to the subject. Frequent unplanned transfers of officers achieve this. The determination of minimum wages is left to the Labour Commissioner's Organisation. In most states the Commissioners have had short tenures. The subordinate officers have very little interest in the subject of minimum wage. They would rather work with industry. There is hardly any understanding about the concept of minimum wage. One State Government replies that the wage is estimated to meet the minimum needs of the worker. The family units are not taken into consideration. Asked about the State per capita gross national pro-

duct, another labour department replies that it is not concerned with the subject. The officers, with some exceptions, are ignorant of the basics on minimum wages. The work is a hush-hush affair and both employers and employees are generally ignorant of the wage. Smaller industrial establishments where minimum wages apply have perforce to acquaint themselves with the subject as the labour administration occasionally comes across them in connection with laws like the Shops and Establishment Act and Payment of Wages. In agriculture where the bulk of employment on minimum wages is located, ignorance prevails. Briefly the ground situation can be described as lack of understanding, absence of skills and motivation, inadequate and poor supervision and unimaginative deployment of men. In these circumstances to add to the number of men would merely amount to adding to the number of semi-ignorant as it has happened in Bihar and in the Jhabua district of Madhya Pradesh. We have described the information saturation programme while

discussing Bihar. That programme has to be operated in all States. It will not be expensive. Additionally, the skills all along the line in the labour administration have to be up-graded. This can also be achieved with a moderate outlay and mostly with existing resources. To add the existing pool of ignorance would be wasteful.

4.9. Should there be a separate cadre for agriculture and rural labour? We are required to pronounce on this issue. We will not be dogmatic. We will base our findings on facts. As far as impact goes, Maharashtra where the machinery is part of the general cadre is no worse than Gujarat which has a separate cadre. We found the members of the separate cadres in Bihar and Gujarat a demoralised lot. They envy their brother inspectors in the general cadre. While in theory specialisation has its advantages, in practical Indian conditions we must take into account the ground realities.

SUMMARY

Definition of minimum wages

1. There is general agreement world-wide that wages may be divided into the following categories;
 - (1) the poverty level wage or pauper level wage.
 - (2) the minimum subsistence level wage.
 - (3) the subsistence plus level or the fair wage.
 - (4) the comfort level or the living wage.
2. The minimum wage is the minimum subsistence level wage. "It must provide not merely for the bare subsistence but for the preservation of the efficiency of the worker" (Fair Wages Committee).

The Supreme Court on Minimum Wage

3. The first principle is that a minimum wage which in any event, must be paid, irrespective of the extent of profits, the financial condition of the enterprise, or the availability of workmen at lower wage. The minimum wage is independent of the kind of industry and applies to all alike big or small. It sets the lowest limit below which the wage cannot be allowed to sink in all humanity (Supreme Court of India in Kamani Metal and Alloys and its workmen).
4. Socio-economically and legally the minimum wage can be described as follows :

- (1) It is the minimum subsistence wage necessary for the worker and two adult consumption units.
- (2) It is that level below which the wage should not be allowed to fall.
- (3) Minimum wage at any point of time and place will be the same for all employments.
- (4) Variations in minimum wages between places can be accounted for only by variations in cost of living.

Qualification of Minimum Wage

5. It is possible to quantify the minimum subsistence wage into exact monetary terms. We recommend the linking of the minimum calorie requirements with the minimum consumption expenditure criteria. A similar approach is used by the Planning Commission in determining the poverty line which is based on ICMR calorie norms and NSS consumption data.

6. Quantified in these terms, with CPI (1960—100) at 850, the minimum wage for rural employments would be Rs. 20.50 and for urban employments Rs. 23.95.

Deviations and Distortions

7. In Punjab, Haryana, Assam and Orissa and for some employments like construction in Maharashtra, the minimum wage notified under the law is higher than the minimum subsistence wage. In all other States the wages are below the minimum subsistence level. Where the wage is above the level, it is fair wage and not minimum wage. Capacity to pay becomes immediately relevant for the fair wages. Where it is below subsistence level, which is for the bulk of the work-force in India, it is poverty level or pauper level wage and not the minimum wage.

Inflation adjustment

8. Is present for all employments in Punjab, Haryana and West Bengal. In other States it is there for some employments but not for agriculture. Between revision, the wage dips to abysmally low levels. Inflation adjustment on half year basis must be adopted by all States. The CPI for agriculture workers may be followed for employments in agriculture.

Administration

9. Administration is divided not on urban-rural basis. The divide is between employments covered by the Industrial Disputes Act and employments not covered by the Act. In the first category are all employments outside agriculture and in the second are all employments in agriculture.
10. There are administrative arrangements exclusive to agriculture wages, partly exclusive and general to all minimum wages. None of the systems are markedly superior to others. The officers are unskilled or semi-skilled, poorly motivated, unclear about objectives, badly deployed and poorly supervised. Qualitative improvements in skills, motivation, deployment, organisation and supervision are suggested. Augmentation of numbers at the present stage would amount to adding to the pool of unskilled labour and therefore, wasteful.

General

11. The Minimum Wages Act in its present form prescribes the methodology. It must be amended to include the criteria for quantification of minimum wages. These are available in Supreme Court pronouncements.
12. Only the minimum subsistence wage for unskilled labour should be determined and notified under the Act.
13. Raising wages to minimum subsistence levels will not push up prices of food grains. Punjab and Haryana which contribute the bulk of these commodities for the public distribution system have fixed agriculture wages well above the minimum subsistence wage.
14. There is no truth in the argument that the small and marginal farmers will suffer. In actual practice the big farmers who can offer long term employment for larger number of labourers enjoys superior bargaining power. It is the small farmer who has to hunt for labour for off and on jobs, who has to pay a higher wage.
15. The emphasis in ILO Convention 131 on minimum wages is on negotiated or market wages elsewhere. In a situation of surplus labour, this is of little practical help. It is suited to circumstances where a substantial portion of the labour is in the organised sector where bargaining for wages prevails.
16. Organisation of rural labour in all its forms, in India, is marginal and will not make any significant impact on wage levels.

Terms of Reference for the Study Group on "Wages"

1. Definition of Wages, minimum wages, need based wages, just wage, fair wage, floor wage or reference wage, its early origins in the context of national and international background.
2. The necessity and scope of fixing minimum wage policy, its impact on protection of vulnerable groups of workers, particularly rural labour in the unorganised sector and income distribution effect.
3. To find out the feasibility of devising factors leading to the determination of minimum wage as also to find out the potential of minimum wage as a instrument of economic policy at the macro level.
4. Various procedures of fixing minimum wages i.e. legislation, executive decision and orders, wage boards etc., extent of participation of workers, employers unions etc. in the process of minimum wage fixing. Factors which influence decisions in such a system and difficulties regarding coordination with national socio-economic policies.
5. To find out difficulties in the process of minimum wage fixing with particular reference to workers needs and employer's ability to pay and disposal of complaints regarding denial of payments of minimum wages, the role of Wage-Boards, legislative and executive machinery voluntary agencies etc.
6. To examine the need for revision and adjustment of minimum wages with regard to frequency and timeliness, consumer prices and their relationship with minimum wages.
7. To study the present measures-legal and executive, for ensuring minimum wages, extent of compliance, drawbacks of the measures and suggest measures for improvement.