



Fair wages in the unorganised construction industry in India: A conceptual framework

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Abstract

Fair wage refers to the wage levels and wage-fixing mechanisms that provide a living wage floor for workers while complying with national wage regulations. The fair wage is wider term including other dimensions like minimum wage, real wages, pay systems, prevailing wage, living wage and other dimensions. The national wage policy in India gets updated with the latest conventions at International Labour Organisation. The present study is a conceptual framework wherein the theoretical framework regarding the fair wages is analysed.

Keywords: wages, salary, unorganized workers

Introduction

Fair Wage

Das Gupta J. defined 'fair wage' "which may roughly be said to approximate to the need based minimum, *in* the sense of a wage which is adequate to cover the normal needs of the average employee regarded is a human being in a civilized society.

Hindustan Times Ltd. V/S their workman ^[1] in the words of HidayatuUah. J 'Fair wage' lies between the minimum wage which must be paid in any event and the living wage which is the goal. In Express Newspaper (P) Ltd. V/S Union of India ^[2] Bhagwati described fair wage as a mean between the living wage and minimum wage. Marshall would consider the rate of wage prevailing in an occupation as 'fair' if it is about on level with the average payment for tasks in other trades which are of equal difficulties and disagree able ness which require equally rare natural abilities and an equally expensive training. In All India Reserve Bank of Employees 'Association V/S R.B.I. Ltd. ^[3] The court said that the Fair wage is thus related to fair workload and the earning capacity. It is a step lower than the living wage. The concept of fair wage therefore, involves a rate sufficiently high to enable the worker to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to his status in life but not at a rate exceeding the wage coming capacity of the_ class of establishment concerned. It must however is realized that fair wage is only living wage by, which is meant a wage which, is sufficient to provide not only, the essentials above mentioned but a fair measure of frugal comfort wish an ability to provide for old age and evil days. Thus while the lower limit of fair wage must ability be minimum wage, the upper limit is equally set by what may broadly be called the capacity of industry to pay. This will not depend not only of the

economic position of the industry "but also on its future prospects.

In actual calculation of the fair wage, the Committee on< Fair Wage observed that it was not possible to assign any definite weight to three factor. The comm. On F.W. also recognized that the concepts of F.W. by it could not be viewed in any since they would from time to time depending on the economics and social development in the country ^[4].

Description of fair wage ^[5]

- a) Prof Pigou defined fair wage as:
 - Fair wage in narrower sense: Equal to the rate current for similar workmen in the same trade and neighborhood
 - Fair wage in wider sense: Equal to the predominant rate for similar work throughout the country and in the generality of trades.
- b) In Shivraj Fine Arts Litho Works vs LIC (1978), the Supreme Court said, The fair wage is, however, not a living wage. It lies between the minimum wage and the living wage.
- c) Industrial state of India, Maharashtra, being an industrial zone, sees fair wages as a combination of the following factors:
 - Productivity of the laborers
 - Prevailing rates of wages in the same or similar occupations in the same or similar neighboring localities
 - Level of national income and its distributions
 - place of the industry in the economy of the country

Fair Wages in India ^[6]

The Fair Wages Committee formulated the concept of living wages, fair wages and minimum wages. The Fair Wages

¹ LLJ 108, (IIL) S.C.

² (1961) LLJ (339) (S.C.)

³ (1965) IILU 175 (190) S.C.

⁴ Kothari, O.M: "Labour Demand and their adjudication" Ed. 1st 1977, Pub N.M. Tripathi Private Lmt. Bombay P.43

⁵ Section 2 of Minimum Wages Act, 1948

⁶ Goswami, V.G. Labour and Industrial Law Ed. 18 (2004) Pub. Central Law Agency Allahabad p. 98

Committee Report published by the Govt., of India in 1949 has been broadly approved by the Supreme Court in *Express News Paper (p) Ltd v / s Union of India and standard Vacuum Refining Co. of India V/s Its Workmen* living wage i.e. at the apex a political aim and in view of the level of national income a distant goal to be achieved in the course of years, at bottom is the minimum wages which must provide not merely for the bare sustenance of life but for the preservation of efficiency of worker. For this purpose, minimum wage must also provide for some measure of education, medical requirements and amenities. On the basis of decided cases the concept of minimum wages may be simplified. As a matter of fact, there are three concepts in this regard, i.e. living wage, fair wage and minimum wage. It would be desirable to discuss these concepts in some details in order to bring out the clear meaning of the concept of minimum wage.

Necessity of Fair Wage Policy in Construction Industry

1. Compared to most other industries, construction is more vulnerable to destructive forms of competition. Cut-throat competition undermines employment conditions, erodes occupational safety standards, weakens industry investment in skills training, and promotes evasion of legal obligations. The low bid policies which are widely adhered to in the public sector reinforce the tendency to cut-throat competition. *Fair Wage Policies are a necessary counter-balance to the tendency of the construction industry to fall into cut-throat competition.*
2. By putting limits on competition based on cheap labour, Fair Wage Policies pressure contractors to adopt more efficient construction methods and to strengthen project management. *By promoting positive competition rather than cut-throat competition, Fair Wage Policies support productivity and innovation in the construction industry.*
3. By increasing wage rates, *Fair Wage Policies encourage the use of more skilled and better qualified labour and thereby support industry and worker investments in skills training and apprenticeship.* A more skilled work force is one of the pillars of a more productive and innovative industry. A skilled work force is essential to a quality construction product.
4. In the construction industry, some contractors invest in apprenticeship and skills development, while others do not. Without Fair Wage Policies, contractors that do not invest in apprenticeship and skills development have a cost advantage over contractors that do. *It is patently unreasonable for governments, on the one hand, to support and advocate both expansion of the apprenticeship system and more industry investment in skills development and then, on the other hand, give a competitive advantage on public sector work to employers who do not contribute to the apprenticeship system and who make no direct investments in skills training.*
5. Decent working conditions and adherence to high standards for occupational safety go hand-in-hand. *Conversely, contractors that compete on the basis of cheap labour are notorious for weaker health and safety standards and for accepting greater risks of occupational injury.* U.S. evidence shows a significant increase in

occupational injuries in states that repealed their Prevailing Wage laws.

6. *Contractors that compete on the basis of cheap labour are also likely to cut corners on quality, thereby increasing long-run costs.*
7. *Contractors that style their workers as so-called 'independent operators' enjoy an unfair competitive advantage over legitimate contractors of an amount equal to approximately 22% of labour costs.* By tolerating this practice, public sector owner-developers penalize legitimate contractors and encourage non-compliance and evasion. *Fair Wage Policies, if properly designed, curtail underground practices and thereby create a level playing field for competitive bidding.*
8. *Fair Wage Policies are incorrectly criticized for radically inflating costs. The evidence does not support his claim. Careful studies of construction costs do not find a significant impact.* The largest study, which examined construction costs for elementary and secondary schools in British Columbia before and after the introduction of a Fair Wage Policy, found a cost impact of no more than 2% and even this finding was described by the authors as not meeting the statistical test of reliability. It should also be kept in mind that the two-thirds or more of the 'savings' from using of so-called 'independent operators' are actually financed by losses to government and other public agencies, such as the WSIB.
9. Fair Wage Policies are incorrectly characterized as union preference policies. *In virtually every trade there are legitimate non-union contractors who pay wages that equal or exceed those typically set out in Fair Wage Schedules.* Fair Wage Policies limit competition only from those non-union contractors that base their competitive advantage on cheap wages, 'independent operators' and lower safety standards.
10. At the local level, Fair Wage Policies protect local employment and thereby increase the benefits to the local economy from construction that is financed by local funds.

Guidelines for setting a fair wage

Report of the Committee on Fair wages, 1948: "Fair Wages is the wage which is above the minimum wage but below living wage.... The lower limit of the fair wage is obvious the minimum wage, the upper limit is to be set by the capacity of the industry to pay."

Encyclopedia of Social Sciences: "Fair Wages means the remuneration which is paid to the workers for the jobs requiring equal efficiency, difficulty and pains."

Thus, fair wages are the wage rates paid to the workers of same status in the organizations of the same type and of nearby areas.

Some guidelines for setting a fair wage are

- Keeping the rules as simple as possible, that is including fewer, rather than more, items in a basket of worker's needs.
- Defining the 'family' or household precisely
- Setting a fair wage, which is realistic in terms of existing wage levels

- Establishing a benchmark for annual revisions to fair wages. In defining the benchmark, the longer-term survival of an organization will depend on flexibility in linking wage adjustments to productivity improvements.
- The best way for this annual review is through a process of collective bargaining. Hence to make the fair wage concept feasible, several conditions would have to be met:
- Higher wages would have to be offset by higher productivity.
- In setting a fair wage, some technical issues have to be dealt with, such as:
 - (a) Providing a realistic assessment of the basic need of household to determine the components of a fair wage;
 - (b) Determining the units of coverage, which is not too ambitious;
 - (c) Setting a fair wage that does not differ too much from the existing wages, to preserve wage relativities across organizations and industries, and to ensure that fair wage does not jeopardize employment growth in labor-intensive industries

Implementation of Fair Wage Policy in India

1. Skills Training and Apprenticeship

A Modern Fair Wage Policy should explicitly promote apprenticeship by requiring that workers on provincially supported construction projects either hold a trade certification or be registered as apprentices. In civil construction, where there is a large pool of workers who do not hold trade certifications, the focus should be on establishing apprenticeships for new entrants rather than requiring incumbent workers to obtain qualifications.

2. Health and Safety

The government's policy of requiring contractors to document their health and safety policy should be extended to all provincially supported construction.

3. Underground Economy

India should adopt the requirements for reporting wage payments similar in effect to the requirements under the ILO standards. As well, so called 'independent operators' should be explicitly covered by the Fair Wage Policy, as is case under the ILO standards.

Further, the Indian government should revoke the 'independent operator' exemption from mandatory coverage, at least on work that is financed, in whole or in part, by the government. Finally, a Modern Fair Wage Policy should require statutorily mandated vacation and holiday pay to be added to remuneration if these benefits are not otherwise provided.

4. Productivity and Competitiveness

There is productivity and competitiveness challenges in the union sector than cannot be avoided. It would be both unwise and unreasonable to expect Fair Wage Policy to substitute for dealing with productivity and competitiveness challenges. Proposals for a Modern Fair Wage Policy will receive a much more sympathetic hearing if they are accompanied by

proposals to work with governments to identify and tackle productivity challenges in the industry. As a major purchaser of construction, *the public sector has a strong interest in working with the industry to improve productivity.*

5. Scope of Coverage

India should follow federal policy in applying its Fair Wage policy broadly, *i.e., to all construction that is undertaken using provincial monies, regardless of whether the provincial government or one of its agencies is the owner-developer.*

6. Wage Comparisons

India should follow the practice in ILO of *linking the Fair Wage Schedule to the wage package, not to straight wages.*

7. Implementing the Prevailing Wage Principle

As a first step and to avoid duplication, *Ontario should combine its efforts with the government and co-operate with financing of Statistics National Construction Wage Survey in India.* The five-year survey cycle should be reduced and a procedure should be developed for adjusting Fair Wage Schedules between surveys. The survey should track the wage package as well as the straight wage. *India should consider adopting the ILO standard whereby the negotiated wage package is deemed the prevailing wage when 50% of the appropriately weighted survey responses so report.*

8. Enforcement

An expanded Fair Wage Policy should be accompanied by policies that communicate to workers their entitlements under the policy, and by occasional audits. These would be in addition to the current investigation of complaints. Audits could be undertaken in conjunction with WSIB enforcement.

Contractor and Sub-Contractor Responsibilities in Fair Wages^[7]

1. A Contractor shall ultimately be responsible for any violation or non-compliance of Sub-Contractors on its City Construction Contracts.
2. A Contractor is fully responsible for ensuring that all Sub-Contractors comply with the Fair Wage Policy and Fair Wage Schedule.
3. The Contractor or Sub-Contractor shall not be responsible for any increase to the Fair Wage Schedule which occurs after the closing of the Request for Tenders or Request for Proposals for the City Construction Contract awarded to the Contractor.
4. At the commencement of the work, the Contractor shall post a copy of the Fair Wage Policy and Fair Wage Schedule in a prominent location at the City Construction Contract site to enable Employees of the Contractor and Sub Contractor to review. Alternate methods may be considered, and if approved by the Manager of Procurement, shall be in writing prior to the commencement of the Construction Contract.
5. After substantial performance (as defined in the Construction Lien Act, R.S.O. 1990, c. C.30) of the

⁷ Fair Wage Policy and Fair Wage Schedule for Construction Contracts closed on or after March 9, 2016

Construction Contract and prior to release of the holdback, for all Construction Contracts with the City, the Contractor shall provide to the City, in a form acceptable to the City, a statutory declaration confirming that the Contractor and its Sub-Contractors complied with the Fair Wage Policy and Fair Wage Schedule. The City reserves the right to not release part or all of the holdback on a Construction Contract until such Contractor's sworn statement of compliance is received and deemed to be satisfactory by the City.

Conclusion

The daily wage workers are the most vulnerable segment in the workforce in India who needs a protection for the wages they get. The Government is at obligation to protect their interests. The International Labour Organisation gives various provisions and they need to be adopted by the member nations to make sure that the interests of the workers are protected. Fair wage is defined in the Minimum Wages Act in India.

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