

SUGGESTIONS ON
Draft Code on Wages (Central) Rules, 2020

SUBMITTED BY
CUTS INTERNATIONAL

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1. Approach Adopted by CUTS

1.1 The **Draft Code on Wages (Central) Rules, 2020** as put out for public suggestions and objections by the Ministry of Labour & Employment has been analysed by CUTS using an interactive systems *approach* by acknowledging the interests and perspectives of two different systems of stakeholders, namely, workers and employers.

1.2 CUTS has devised its approach from its on-going work on labour and employment which is premised on intensive engagement with these stakeholders. CUTS's interaction with workers and employers spans 6 states namely Punjab, Haryana, Rajasthan, Maharashtra, Tamil Nadu & Karnataka and 2 labour intensive sectors namely Textiles & Clothing and Food Processing sector. This approach has been adopted in order to understand the effectiveness and adequacy of the provisions contained in the Draft Rules.

1.3 This approach is relevant primarily for two reasons. Firstly, it enforces the principles of participatory democracy on which the Indian law making stands and operates. Secondly, it captures the perspectives and needs of the stakeholders who are most likely to be impacted by the introduction of the said rules. It also offers opportunity to these stakeholders to be heard and put forward their demands and aspirations.

1.4 This approach becomes all the more important in the present times where working class and employers have been significantly impacted due to COVID 19 pandemic. The Draft Rules introduced to operationalise the Code on Wages, 2019 is a welcome step. If executed in its spirit, it will assist in putting more resources in the hands of the working class, thereby increasing the consumption in India. The overall effect of the increased consumption will help in the recovery of Indian economy.

1.5 The short and concise set of suggestions are intended to further the objective of the Draft Rules and are also an expression of CUTS' contribution in the policy making process.

2. Table of Suggestions

Sl no.	Rule	Draft Provisions	CUTS Comments
1.	2	Defining Skill level	<p>While the draft rules recognise four different categories of skills, the definitions provided for skilled, semi-skilled, unskilled and highly skilled work remain vague and ambiguous. This may create of exclusion or wrong categorisation of certain professions and workers.</p> <p>CUTS recommends that the definitions are revised to make them more concrete in order to avoid ambiguity.</p>
2.	3	Manner of calculating the minimum rate of wages	<p><u>Number of Consumption Units-</u> According to the current rules, the number of Consumption Units within a standard working family, which act as one of the determinants for fixing of minimum wages are set at 3 units. This is not representative of dietary and nutritional requirement of women and children. Further it does not take into account other members of the family, which becomes critical in a country like India where the average family size in India is 4.45 members, according to Census 2011 data.</p> <p>It is also pertinent to note that the <i>Report of the Expert Committee on Determining the Methodology for Fixing the National Minimum Wage</i>¹ had recommended the increment in the consumption units from 3 to 3.6 per standard working family.</p> <p>In terms of gender discrimination, it is important to note that the standard working class family based on which the consumption units of 3 has been derived is as follows:</p> <p>1 (male) + 0.8 (female) + 0.6 (child) + 0.6 (child) = 3 adult consumption units.</p> <p>Less consumption value has been ascribed to the adult female member of the family which</p>

¹ https://labour.gov.in/sites/default/files/Committee_on_Determination_of_Methodology.pdf

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			<p>has no scientific grounding, therefore making it gender discriminatory. Thus the consumption units of a man and woman should be considered at par in order to make the determinant effectively representative.</p> <p>In terms of dietary intake of children, the consumption value assigned to children is not representative of the actual consumption and dietary needs of a growing child.</p> <p>In terms of family size, the standard family as defined in the Rule 3 doesn't taken into account the Senior Citizens of the family. It becomes relevant in light of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which places an mandatory and statutory obligation on a person to maintain his parents and otherwise.</p> <p>CUTS recommends that the consumption units within a standard working family should be as follows: For Adult male- 1 For Adult female- 1 For children- 0.8-1 unit for one child i.e. 1.6 to 2 units for two children For Senior Citizens- 1+1</p> <p>Thus, a total of 5.6-6 consumption units must be taken into consideration under a standard family for fixing the minimum wages.</p> <p><u>Calorie Intake</u>- The rules prescribe a net intake of 2700 calories units per day per consumption unit for calculation of minimum wages. The prescription of 2700 calories per consumption unit was recommended by Dr. Aykroyd, Director of Nutrition Division, Food and Agriculture Organisation, United Nations in 1948. The prescription is out-dated and doesn't take into account the calorie intake recommended by International & National Organisations post-1948.</p>

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			<p>Further a constant value does not take into account the differences in age, sex, physical activity and other factors. The calorie needs of pregnant women and lactating mothers have also not been taken into account in the prescribed calculation for calorie requirement in the calculation of minimum wages. Absence of such dynamic factors will not lead to a fully representative figure.</p> <p>Thus, CUTS recommends that the Calorie requirement should be prescribed based on the present day research on the dietary and nutritional needs of a standard working class family as well as dynamic factors determining calorie needs. The Central government may appoint an Expert Committee for ascertaining the same.</p> <p><u>Clothing-</u> The prescription of 66 metres of clothing per standard family, as mentioned in the rules for calculating minimum wages, is not sufficient for covering the annual cloth needs of a family as 66 metres will barely cover the minimum clothing requirements and doesn't take into account cloth requirements for additional needs such as home textiles, winter accessories, innerwear etc.</p> <p>It also doesn't take into account the difference of needs of standard working family living in cold and dry regions.</p> <p>Thus, CUTS recommends that the clothes measure for a working standard family needs be enhanced in general and should also prescribe different standards for standard working family in cold and dry regions.</p> <p><u>Housing rent expenditure-</u> The real time housing rent is not considered by this rule and is unscientifically prescribed as 10 percent of the food and clothing expenditure.</p>

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			<p>CUTS's on-ground interaction with workers suggests that the housing rent expenditure is in the range of 25 to 30 % of the income of a working standard family whereas the food and clothing expenditure amounts to approximately 40% of the total income. In such a scenario, as per the prescribed format, the housing rent expenditure would amount to a mere 4% of the total income which is unsustainable.</p> <p>Thus, based on evidence from the ground, CUTS recommends that the housing and rent expenditure should be kept at least 30% of the income. The same has also been speculated by the Draft National Urban Rental Housing Policy, October, 2015².</p> <p><u>Other necessities</u>- The expenditure on travel, mobile phone, internet and other utilities has not been considered for calculation of minimum wages and must be included especially in the context of current social distancing and digital work/learning/transaction norms.</p>
3.	4	Norms for fixation of minimum rate of wages	<p>The constitution of the technical Committee to advise Central government in respect of skill categorisation is devoid of experts on labour productivity as well as worker's representatives.</p> <p>There is a direct relation between wages and productivity. Therefore, CUTS recommends that the Committee shall also have representative from the Productivity Council.</p> <p>CUTS' on-ground experience suggests that employers classify skills based on the value addition of worker in the different nature of work. Thus, the Committee may also include adequate employer and worker representation to put forth the current gaps in skills needed.</p>

² http://mohua.gov.in/upload/uploadfiles/files/National_Urban_Rental_Housing_Policy_Draft_2015.pdf

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4.	5	Time Interval for revision of dearness allowance	<p>There is no mandatory obligation on the government to undertake the revision of dearness allowance which may lead to payment of wages lower than what is required for subsistence, to workers. It might cause greater difficulties for migrant workers who generally have to live in cities with higher standard of living thereby accruing higher cost of living.</p> <p>Non-revision of DA might also lead to discontentment amongst workers and give rise to litigation thereby leading to rift between the trade unions and government. It will also create unnecessary burden on judiciary and will hamper the ease of doing business in India.</p>
5.	6	Number of hours of work which shall constitute a normal working day	<p>While the rules specify the number of working hours in a day they do not specify the limit of working hours per week. The Rule does not specify the number of hours per week. CUTS recommends that it may be done in order to avoid any ambiguity.</p> <p>Furthermore, Rule 6 (2) is in contravention of the section 56 of the Factories Act which mandates that the spread over shall not be for more than ten and half hours a day.</p>
6.	11	Manner of fixing floor wage	<p>There is no specified method for fixing floor wage under this Rule. It will potentially lead to arbitrariness and non-uniformity. Furthermore, it will potentially create rift between trade unions and the government and will also lead to increased litigation.</p>
7.		Miscellaneous	<p>The draft rules do not include the provision for a monitoring and evaluation mechanism for conducting regular checks on the enterprise compliance to different conditions set for payment of wages and work under rule 7, 8, 9, 10.</p> <p>Chapter IV, V and VI of the draft rules details out various provisions related to payment of wages, bonus and dues and claims respectively. However, there is no mention</p>

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			of digital means for doing the same. CUTS recommends that the J-A-M trinity be leveraged for ensuring transparency, efficiency and accountability in the process of payments.

3. Way Forward

Adopting a systems approach and backing regulations with evidence from the ground for ensuring effective implementation and realisation of objectives

The Draft Code on Wages Rules (Central), 2020 proposed to implement Code on Wages, 2019 is a step in the right direction to ensure minimum wages to the Indian workforce. While the Code has already brought the substantial workforce amounting to 45 crores under its ambit, the enactment of the said rules will make it happen. However, the need of the hour is to strengthen the said rules with the help of ground evidence-based strategies.

Given the historical challenges being faced by the labour force and the consistent efforts of the Government to address them effectively, it becomes pertinent to hear the voices from the ground so as to achieve optimal and sustainable solutions.

Thus, it is imperative to back the regulations with sufficient research and evidence for achieving its intended objectives. In this regard a systems approach is relevant as it provides recognition and voice to the various stakeholders who are a part of the larger system. Empathizing with the stakeholders who will be eventually impacted by the regulations is crucial to avoid unintended consequences. Further, participatory approaches in decision making uphold the essence of a democracy. Supplementing the systems approach with strong qualitative and quantitative evidence enhances robustness of the approach. Thus, it is recommended that the government should adopt an evidence based systems approach in the rule making process.

CUTS has a vast experience in conducting research and advocacy using a systems approach and ground level evidence. Our work could be accessed at <https://cuts-ccier.org/>