

## **Minimum Wages in Bangladesh –Issues and Challenges**

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### **1. 1 Introduction**

Wages is treated not only as the sale price for the labour that a worker renders but also as the very basic component which is inextricably related with the modes of production. It bears a deep connotation so far as the establishment of fundamental rights of the working class is concerned. The position of Bangladesh in this regard is diversified as well as intricate, because of its being a source of cheap labour and the prevalence of unemployment in a massive scale.<sup>1</sup> A labourer gets wage for his service on the basis of his efficiency. Though the capability of labourers differs from person to person, their basic needs are almost same. So, wage structure is specified to meet the basic needs of labourers. Thus, the main objective of fixing wage structure is to pay a laborer minimum amount with which he can fulfill the needs of him and his family.<sup>2</sup> In order to ensure social security of a worker following seven issues<sup>3</sup> should be given priority: 1. Income security, 2. Representation security, 3. Labour market security, 4. Employment security, 5. Job security, 6. Work security and 7. Skill representation security. All these ensure 'primary base' for income security of unskilled workers which is directly related to minimum wages. Primary task to ensure income-security of unskilled workers can be accomplished by declaring 'national minimum wages' irrespective of all sectors and genders.<sup>4</sup>

According to pure economic theory, wages means rewards that a worker gets from the employer after interval of certain period in return to his/her service rendered to the employer. Wages should be 'just' and 'reasonable' and have to be regular and timely. It cannot be below the minimum requirements

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of standard livelihood. Thus, by minimum wage we mean the amount which meets minimum basic needs of a worker. Logically, an employer has the right to give wages to the workers on the basis of their capacity. But he cannot pay a worker below the minimum national wage<sup>5</sup>. The government should specify the wages which can meet all his basic needs. There is no uniform minimum wages scale for workers of all sectors in Bangladesh. Even there is no homogeneity among the minimum wages fixed for different sectors and industries. Different wage structures prevail in different industries, relevant to job pattern of the workers. Several wage boards and commissions have been set up at different times with the aim to fix minimum wages for workers employed in various enterprises- public and private. This article examines existing minimum wages structure of major industries and sectors in Bangladesh and will also cover existing legal mechanisms; socio-economic conditions of Bangladesh and other relevant issues. Both primary and secondary resources have been exhausted in preparing the paper. Primary data have been collected by personal discussion with the experts. In addition, books, journals, diagnostic reports, statutes and official gazettes have been used as secondary resources.

### **1.2 Legal Environment of ‘wage’ and ‘minimum wage’**

It is pertinent to point out legal environment of ‘wage’ and ‘minimum wage’ in Bangladesh from national and international perspectives. Payment and protection of wages and other related matters were previously regulated by the Payment of Wages Act, 1936. Workers employed in factories, shops, industrial and commercial establishments had been brought within the purview of this legislation. This Act has now been merged with the newly introduced Labour Act, 2006 with some modifications. According to S. 2(45) of the Act, ‘wages’ means all remuneration capable of

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being expressed in terms of money. It is payable to a worker if the terms of the contract of employment are fulfilled.

The term ‘wages’ includes any other additional remuneration of the nature aforesaid which would be so payable but does not include the followings:

- a) the value of any house accommodation, supply of light, water, medical attendance or other amenity or a\of any service excluded by general or special order of the Government;
- b) any contribution paid by the employment to any pension fund or provident fund ;
- c) any traveling allowance or the value of any traveling concession;
- d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.

However, according to section 120, the phrase ‘wages’ shall include the following, namely:

- a) any bonus or other additional remuneration payable as per the terms of employment;
- b) any remuneration payable for holiday, stoppage or overtime work;
- c) any remuneration payable for any order of the court or for any award or resolution between the parties;
- d) Any money payable under any contract or the Labour Act for any removal from service- be it under retrenchment, discharge, removal, resignation, retirement, dismissal.
- e) Money payable for lay-off or temporary dismissal.

Under the Constitutional framework<sup>6</sup> to ensure employment for all citizens in return of reasonable wages has been termed as one of the fundamental duties of the State. Universal Declaration of Human Rights (UDHR)<sup>7</sup> and ILO Conventions<sup>8</sup> have also given clear directions for payment of reasonable wages to the workers.

As mentioned in ILO Convention 131, the right of minimum wages must be ensured by law and it cannot be left in the hands of anybody's discretion. Actions have to be taken against those who fail to implement the law.<sup>9</sup> It lays down procedure to determine minimum wages for the workers. According to the UDHR, everyone who works has the right to *just and favourable* remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection...<sup>10</sup>. Again article 25 lays down that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Under the Labour Act of 2006, the minimum rates of wages declared by the Government is final and no employer can pay wages lower than that. However, the law does not preclude employers from paying more than what has been recommended<sup>11</sup>.

### **1.3 Other legal issues relevant to question of minimum wages**

#### **a) Working hours**

Working hours of a worker for payment of wages shall be determined in the following manners:

- A worker has to work generally eight hours a day<sup>12</sup>.
- In return for overtime allowance, a worker can work overtime 2 hours per day. A worker can be engaged for overtime duty only when he/she agrees thereto<sup>13</sup>.
- Including overtime, a worker's maximum working hour is 60 hours a week. But average annual working hours cannot exceed 56 hours a week. That is to say, a worker cannot be engaged for overtime duty in every working day of the year<sup>14</sup>.

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- Every worker will get following leaves <sup>15</sup> with full wages:
  - one weekly holiday;
  - 10 days casual leave;
  - 14 days sick leave;
  - 11 days festival leave
  - one day earned leave for every 18 days of work in the previous 12 months.

#### **b) Payment of Wages**

- Wages and overtime allowance have to be paid within 7 days of wage-period<sup>16</sup>.
- Wage period shall be 30 days<sup>17</sup>.
- All wages have to be paid in working days<sup>18</sup>;
- Wages have to be paid in the existing currency in cash taka or cheque<sup>19</sup>.

#### **c) Some important aspects of wages<sup>20</sup>**

- Grades of wages have to be fixed on the basis of experience and efficiency.
- Wage slips have to be given after registering the gradewise wages.
- ‘Contract workers’ engaged by the contractors will also be regarded as ‘workers’ and the contractors as ‘employers’. Under the Labour Act 2006 if the contractor does not pay wages employer will be responsible for payment of wages. The employer will later on adjust the same from the contractor.
- If wages paid already is in excess of the minimum wages declared, it cannot be curtailed.
- In case of piece rated workers, wages should be fixed at such rates that it may not be less than the minimum wages declared.

- Besides minimum wages declared, all other benefits that would accrue to a worker under the Labour Act 2006 will form part of his/her wages.

**d) Remedy for non-payment of and undue deduction from wages<sup>21</sup>**

- If minimum wages are not paid, the unpaid worker has to serve a written demand notice to the employer claiming his/her wages. If it does not work the worker may go to the labour court within six months of refusal to pay wages.
- In case of undue deduction from wages or less payment of wages or delay in payment of wages violating the provisions of the Labour Act 2006, the worker can go to the labour court seeking remedy by filing a complaint case. Before filing the case the worker has to claim wages from the employer by a written letter. The complaint has to be lodged within 12 months of the claim.
- An employer who pays wages to a worker which is below the minimum rate of wages shall be punishable with imprisonment up to one year or five up to taka five thousand or with both.
- If any employer who has been convicted of non-payment of minimum wages is again convicted for the same offence, he shall be punished with double penalty fixed for such contravention.

The practice is that workers should preserve a copy of the written demand for payment of wages or stoppage of undue deduction or timely payment of wages. A worker may apply in this regard to the Inspector for the respective industry. If no remedy is given by the Inspector, then the worker can go to the labour court within limitation period.

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### 1.4 Determination of Minimum Wages

Generally wages is specified in three ways: *firstly*, through the negotiation between the employers and the employees, *secondly*, under the law of government and *thirdly*, through the agreement between the trade unions and the employers<sup>22</sup>. In Bangladesh wages are determined by three separate bodies<sup>23</sup>. Wages for government employees are fixed up by National Pay Commission (NPC) that proposes new pay-structure after every 5/6 years. Whereas wages for workers in public sector enterprises are determined on recommendation of the National Workers' Wages and Productivity Commission (Popularly known as Wages and Productivity Commission, WPC). WPC is formed under the State-Owned Manufacturing Industries Workers (Terms and Conditions of Service) Ordinance, 1985. These commissions are normally set up by the government on *ad-hoc* basis from time to time in order to rationalize the pay and wage structure with the changes of cost of living and other related factors. In practice, Wages Commission recommends new pay structure in line with the pay scale declared by the Pay Commission<sup>24</sup>. On the other hand, wages of private sector workers are usually determined, through collective bargaining, by the Minimum Wages Board formed under the legal framework<sup>25</sup>.

So far, the Government has fixed up minimum wages for 38 private sectors<sup>26</sup>. Rates of minimum wages for private sector workers are fixed by the Government on the recommendation of the Minimum Wages Board. The Board undertakes the task after every five years either by the direct requisition of the Government or if the workers or employer or both of a particular industry so demands to the Government.

### 1.5 Composition of Minimum Wages Board

Since the Minimum Wages Ordinance 1961, *inter alia*, has been consolidated with the Labour Act 2006, the erstwhile minimum

wages board is now operative under the present law. Chapter 11 (sections 138-149) of the Act deals with wages board. The Government determines the role and functions of the Board. The Board consists<sup>27</sup> of the following members:

- a) the Chairman;
- b) one independent member;
- c) one member to represent the employers;
- d) one member to represent the workers;

When the Government decides to fix new rates of minimum wages for workers of one or more specific sectors, then the following two members shall also be included in the Board:

- e) one member to represent the employer connected with the industry concerned;
- f) one member to represent the workers engaged in such industry.

The Government appoints the Chairman and other members of the Board. They are appointed from among persons with adequate knowledge of industrial, labour and economic conditions of the country and who are not connected with any industry or associated with any employers' or workers' organization. The members of the Board representing the employers and workers respectively are the nominees of their respective representative organizations (i.e. trade unions). However, in the absence of any nomination after repeated trials, the Government may determine the workers' and employers' representatives in the Board.

### **1.6 Fixing minimum rates of wages for private sector**

The legal provisions for fixation of minimum wages can be described as follows:

If in respect of any private enterprise the Government considers<sup>28</sup> that it is expedient to fix minimum wages for all or any class of workers, it may direct the Wages Board to recommend minimum



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rates of wages for them. The Government may also consider the matter of fixation of minimum rates of wages if the employer or workers or both of any particular industry/sector apply to do so. The Board usually submits its recommendation *within six months or within the time extended* by the Government. The Board may propose that minimum wages should be adopted uniformly throughout the country or for a particular industry or location. It may recommend minimum wages for all classes of workers in any grade and may also specify-

- a) minimum rates of wages for time-work or piece-work;
- b) minimum time-rates of wages for workers employed on piece-work.

The time-rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

On receiving the recommendation of the Board, the Government will fix minimum rates of wages for workers of the enterprise(s) concerned<sup>29</sup>. If the Government considers that the recommendation is not, in any respect, equitable to the employers or workers, it may refer it back to the Board for reconsideration. The Government has to do it within 30 days with its comments and information. The Board will reconsider the recommendation after taking into account the comments made and information given by the Government. On receiving the revised recommendation of the Board, the Government will declare, by Gazette notification, the minimum rates of wages for the workers concerned. Even then, if the rates so fixed seem to be inequitable to the employers or workers, the Government may again refer it back to the Board for revision according to the procedure mentioned above. The minimum wages declared by the Government is final. If any of the factors mentioned above require necessary changes in the rates of wages, the Board will review<sup>30</sup> its recommendation. It then recommends the Government any amendment, modification or revision of the minimum rates of wages declared earlier. Provided

that no recommendation will be reviewed earlier than one year from the date on which it was made (unless the special circumstances of a case so require) and later than three years from such date.

### **1.7 Evolution of minimum wages in Bangladesh**

The first wages board in the country was set up in 1958 by the then East Pakistan Government under the Minimum Wages Act, 1957.

The Minimum Wages Ordinance was enacted in 1961 by the then Pakistan Government to regulate the issues of minimum wages. In 1969, a commission lead by Air Vice Marshall Nur Khan (Popularly known as Nur Khan Commission)<sup>31</sup> proposed 115 taka as Minimum National Wage. In the same year the Government amended the Minimum Wage Ordinance. After the independence the proposal of the Nur Khan Commission was not adopted in Bangladesh due to nationalization policy of the then government. However, due to their distinctive features, evolution of minimum wages for public and private sectors in Bangladesh need to be discussed under separate sub-headings.

#### **a) Evolution of minimum wages in public sectors**

In Bangladesh economy public sector (state- owned industries) plays a dominant role in respect of employment generation for a large segment of population. Government's intervention in wage determination is, therefore, predominant. After the independence of Bangladesh in 1971, the first wages commission was set up in 1973.<sup>32</sup> According to their recommendations eight grades of wages were declared for different categories of workers. The basic minimum grade was from taka 155 to 235 and the maximum grade between taka 250 to 435 plus other accompanied fringe benefits.

The government did not immediately consider the issue of fixing minimum national wage until it adopted privatization policy.

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In 1977 another wages commission was set up to revise the wage structure. This time the numbers of grades were increased to sixteen for different categories of workers. The lowest grade of scale ranged from taka 270 to taka 380 and the highest grade from taka 570 to taka 1018. Again in the year 1985 the wage rates were further revised for the third time. The number of grades remained sixteen, the lowest grade begin from taka 560 to taka 860 and highest one from taka 1160 to taka 2060. In 1991, the Government allowed an additional 10% dearness allowance to all grades of workers employed in public sector industries in order to give some relief against inflationary pressure.

Seven years thereafter, the 4<sup>th</sup> Minimum Wages & Productivity Commission was formed in 1998. The Commission suggested the lowest and the highest wage scale as 1550 and 2775 taka respectively. A worker would get 5665 taka including other facilities in the scale of 2775 taka. The proposal of the Commission had been approved with some modifications by the Cabinet in October same year<sup>33</sup>. Implementation of the Commission's suggestions started from 2001.

After an interval of another seven years, the 5<sup>th</sup> Wages Commission was formed in 2005<sup>34</sup>. It recommended taka 2,850 as minimum wages and taka 4250 as the highest wages to be paid in 16 scales. As per Commission's recommendations, the wages at 1<sup>st</sup> scale was proposed as taka 2850-120-5010 and at the 16<sup>th</sup> scale taka 4250-270-9110. It proposed house rent allowance to be added with all wages scale @ 40%-47% of the basic pay. Besides, the Commission has recommended fringe benefits like medical allowance, festival bonus, overtime allowance and so on. The government, with necessary modifications of the recommendations given by the Wages Commission, declared new pay scales with effect from 1<sup>st</sup> January 2006<sup>35</sup> Government fixed minimum monthly wages as 2450 taka and highest monthly wages 3980 taka.

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By 16 scale increments, the highest possible wages could be taken 9000.<sup>36</sup>

Expert analysts and investigators of the Wages Commission had fixed taka 3,030 necessary to meet the minimum basic needs of a four member family of an unskilled worker. Some 1,842 taka was added with the proposed basic as benefits including house-rent, medical allowance, education of dependents, cloths, conveyance and social communications.

Thus, monthly minimum needs of an unskilled worker's family is taka 4872. Whereas, minimum monthly basic needs of a skilled worker is 5526.<sup>37</sup> Commission in its report stated that average inflation had been 34.28% during seven years period between 1998-99 to 2004-05 fiscal years. The Commission agreed that compared to inflation rate and price hike, the scales proposed by it were insignificant for workers.<sup>38</sup>

The minimum rates of wages fixed under the National Pay Scale 2005 is taka 2400 which is less than Commission's suggested minimum wages scale by taka 450. The government decided to add 50 taka only with each scale. Commission proposed house rent as 60% of basic pay for Dhaka Metropolitan area and for all other areas 50% of the basic. Workers who are provided with housing would not get house rent allowance. As regards the proposals of the 5<sup>th</sup> Wages Commission, the government (in particular, Ministry of Finance) was of opinion that while determining different fringe benefits for the workers it would not be advisable to exceed the benefits and allowances paid to the government employees. Because, there might be a risk of demand for increase in pay scale by the government employees.

Ministry of Finance admitted that the government could not fully implement the reports of National Pay Commission-2005 mainly due to lack of resources<sup>39</sup>. Besides, most of the state owned

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industrial enterprises are loosing concerns and, therefore, such a decision would increase the amount of loss.

### **b) Evolution of minimum wages in private sectors**

No government paid proper attention to private sectors for wage fixing. The question of minimum national wage for private sector industries came to forefront when government signed an agreement with SKOP.<sup>40</sup> General Ershad was in power when SKOP signed the agreement with the government. But no government including the Ershad regime was successful to settle the issue of minimum national wage in private sectors until a straight move by the immediate past military backed caretaker government (popularly, 1/11 government).<sup>41</sup> The minimum wages board prepared a draft wages-scale for 38 private sectors in 2001. It kept agricultural and domestic workers outside the scheme of minimum wages.<sup>42</sup> Minimum wages was fixed in that declaration as taka 1200<sup>43</sup>. This again did not see light of the day as the associations of employers filed a writ petition against it before the High Court Division of the Supreme Court.

The court declared the impugned government gazette fixing minimum wage rates as illegal and void but did not refrain the government from fixing new wages structure. Subsequently, another wages board was formed in January 2004 and it submitted its recommendation of minimum wages for private sector workers in March 2004.<sup>44</sup> Accordingly, ‘agriculture and domestic workers’ have been left out of the recommendations. Thus, only 8.5 millions workers have been brought under this scheme whereas 50 millions of toiling workers are living without any legal protection regarding their wages. According to the class of industries the Board proposed the following minimum wages:

- For small industries employing less than 10 workers: 1200 taka per month
- For medium size industries employing 11-49 workers: 1250 taka per month

- For large industries employing 50 or more workers: 1350 taka per month

### **1.7 Minimum wages for RMG workers**

On the initiatives of Bangladesh Institute of Labour Studies (BILS), representatives of all trade unions and federations gathered in the capital in April 2006 and prepared a 10- point charter of demands.

Demand for monthly minimum wages worth taka 3000 was one of them. On the face of continued labour movement, a tripartite agreement was signed in May 2006 between government, BGMEA (Bangladesh Garments Manufacturers and Exporters Association) and RMG (Ready Made Garments) sector workers. Minimum Wages Board was set up in accordance with this agreement. After prolonged deliberation a 7-grade minimum wage structure was declared for RMG sector workers. The minimum rate of wages (wages of the 7<sup>th</sup> grade) was determined as 1662.50 taka per month. The declaration was made in November 19, 2006 with effect from October 22, 2006<sup>45</sup>. All apprentices or trainee workers will get 1200 taka per month as their training allowance. Apprenticeship will be for three months. After training, they will join as assistant sewing machine operator (helper) at 7<sup>th</sup> grade.

### **1.9 Minimum wages for unskilled and juvenile workers in all private sector industries**

On April 15, 2007, the government announced minimum wages for unskilled and juvenile workers employed in all private sector industries in Bangladesh.<sup>46</sup> Here again, agricultural workers and workers in household affairs have been excluded.

The government considered the recommendations of minimum wages board and fixed minimum wages as taka 1500 inclusive of basic, house rent and medical allowance. In addition to minimum

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wages, workers will be entitled to all other benefits allowed by the employer. It applies to all private industries. However, if the government declares separate minimum wages for workers of any private industrial enterprises that will accordingly apply to them. But no minimum wages structure should be below the amount fixed above.

### **1.10 Guidelines and Problems in wage fixing**

In both public and private sectors wages are determined under rules set forth by the Government. Certain matters should be taken into consideration before fixing minimum wage. Article 3 of the ILO Convention 131 (regarding Minimum Wages) states that the minimum wage fixing authorities should consider the living standard of labourers and their family, their needs, social and other facilities and also the standard of living of their society. A labourer and his/her family members' required calories intake, transport fair, education cost of his/her children are considered before fixing his/her wage.

Apart from these, wage is directly associated with productivity and the employer considers the workers' producing capability before fixing wages. However, there are two-fold problems in considering productivity as a yardstick to fix wages. Firstly, we do not have an ideal standard to evaluate the productivity of labourers. Secondly, productivity does not only mean the physical and mental labour of workers rather the management of an organization, raw materials, energy (electricity, gas) and machineries are related with it. So, it is unwise to consider productivity.

According to section 141 of the Labour Act, 2006 while fixing minimum wages the Board will consider the followings:

- i) cost of living ; ii) standard of living; iii) production cost;
- iv) production capacity; v) price of produced goods; vi) inflation;
- vii) nature of work; viii) risk and standard; ix) business capacity;

x) socio-economic conditions of the country and the respective area; and xi) any other related matters.

While fixing a minimum national wage it is also necessary to consider present and probably future price of essential goods. Besides this, wages should be increased in comparison to the increase in commodity prices and increase in inflation. Otherwise, real wages of the workers would be declined.<sup>47</sup>

As wages are not timely specified in Bangladesh, the workers become agitated and raise their voice for their basic rights. When government forms a pay commission or wages commission or wage board (as the case may be) after a long interval, pressure on national exchequer is mounted up. As a result, it puts impact on the market. If the government increases wages regularly maintaining the consistency of inflation the problem would not be created. In India, the government gives *Maggi Bhata* (dearness allowance) maintaining the consistency of inflation rate.<sup>48</sup>

#### **1.11 Whether we need national minimum wage or real minimum wage?**

The main purpose of adopting national minimum wages is to support the weak labourers (mainly unskilled, female and child) who cannot raise their voice about their basic rights. Otherwise speaking, the movement of minimum wage is more for the rights of female and child workers.<sup>49</sup> Employers often allege that production cost increases as the minimum wages are increased. To avoid loss the employers tend to increase workloads of the labourers, recruit unskilled workers, trim workers, curtail the facilities of workers, increase the rate of production.

They try to stop domination of wage over profit and get the jobs done by part-time workers. As part-time workers are deprived of different facilities, managements can save a lot from wages.<sup>50</sup>

National consensus is required to determine reasonable and just minimum wages suitable to meet the demands



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of workers. Acceptable minimum wages is an inevitability of industrial relations. No PRSP<sup>51</sup> will be fruitful if a worker's minimum wages scale is not adjusted with the price inflation. As part of poverty reduction goal, the World Bank has fixed 2 dollars as daily needs of a worker which is just above the poverty level. Therefore, average monthly minimum wages of a worker's family should be (2x30x4.8) or US\$ 288. According to UN millennium development goals minimum daily needs of a worker's family is 1 dollar (\$ 144 per month) in order to combat acute poverty.<sup>52</sup> But according to the existing wage scales in Bangladesh, this figure does not exceed \$ 40 (in round figure) per month which is much below the above threshold(s). Thus, one can easily realize the miserable conditions that workers experience in Bangladesh. On the basis of daily basic needs, if fiscal year 1973-74 is taken as standard, a worker's average need amounts to more than 3000 taka in 2006-07 fiscal year.

Compared to 1973-74, a worker's living expense has increased 34 times this time<sup>53</sup>.

As per above analysis, how far minimum wages as declared by the Wages Commission and Wages Board is realistic is a big question. Along with this, if we consider provisions of ILO conventions (change in currency values, social security benefits, relative standards of lifestyle and economic factors), all rates of minimum wages seem to be totally devoid of reality. Lack of empowerment of the workers is identified as the root cause of deplorable conditions of them in Bangladesh. We, therefore, suggest to introduce enhanced minimum national wages under the prevailing circumstances of productivity and capacity of the industries in the country. There is a fair chance to introduce it. For example our RMG (readymade garments) sector is no more a weak sector. Turnover increase in this sector has been 12.87% more in 2004-2005 fiscal year than in 2003-2004. This increase has been more than 10% in average since the last two decades.

Therefore, workers in RMG sector deserve higher rates of wages considering their key role in flourishing this sector. Increase in the wages of workers will indirectly increase the national GDP<sup>54</sup>.

Interestingly enough, even the lawfully guaranteed minimum wage can not ensure the bare minimum necessities of a worker.

It is universally acknowledged that industrial harmony is essential for a smooth economic growth and sustainable development. The Government can in no way deny its primary responsibility of formulating pragmatic laws and enforcing them strictly to protect the rights of toiling millions. Ironically, the Government of Bangladesh has failed to meet either of these obligations. Worse even, the supreme law of the land or the Constitution that lays down a bunch of provisions concerning rights including minimum wages does not provide for a specific guideline and an effective enforcement mechanism to this end. Article 15 of the Constitution of the Peoples Republic of Bangladesh is pertinent to be mentioned in this regard, which is stated as follows:

*It shall be a fundamental responsibility of the state to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens-*

- a) the provisions of the basic necessities of life, including food, clothing, shelter, education and medical care;*
- b) the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;*
- c) The right to reasonable rest, recreation and leisure; and*
- d) The right to social security, that is to say, of public assistance in cases of unemployment, illness or disablement, or situations suffered by widows or orphans or in old age or in other such cases.*

That the welfare clauses of the Constitution are there, the need for a national minimum wage is felt even more. It is so, because the existing wage structure is by no means able to fulfill the basic needs of the workers. For example, RMG is the single largest

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sector in Bangladesh so far as export revenue is concerned (contributes above 76%). A minimum wage exclusively for this sector was determined in 1994 as taka 930 per month (overtime excluded). This was not fit at all to meet the minimum needs of a worker. Minimum wages in other sectors such as jute, leather, agriculture etc. were not better than apparel sector. Until 2006, this remained the minimum standard of wages for workers concerned.

Now the question arises that what should be the real minimum wage of workers? Experience shows that increase in real wage causes job curtailment. As unemployment rate goes high, skilled workers would go under the market wage structure which is less than minimum wage. Then unofficial recruitment of labourers will become higher than official recruitment.

As uniform minimum wage policy has not been adopted in our industrial sectors most of the labourers do not get permanent appointment in many cases. So female workers do not get maternal leave as per the labour law. The labourers accept this in fear of losing their jobs.

Generally, female and child labourers are not the leading earning member of their family. Eventually it is easy for a producer to employ them for a poor salary. It brings disaster for those women who are the only earning member of their family. They have to work extra hours to meet their families' needs. Availability of labourers and their poor wage insist the producer to use the labour based production policy. So they force the labourers to involve in risky job, whereas it would be done without risk if they used machine based production policy. Minimum wage would not stop this inhuman use of labour. Only different rules of labour would restrict it.

On the other hand, we see that real wage of cheaper labourers is high because of labour movement. So private

investors try to adopt capital based policy or change the pattern of their business.

Since tea garden workers of our country are well organized, owners of the tea estates think that rubber production is much more profitable because it needs only a few labourers. So many labourers lost their job.<sup>55</sup> As mentioned above, Minimum Wages Law fails to stop discrimination between male and female workers. Of late, trade unions of western countries have launched movement for *living wages*<sup>56</sup>. They say that workers should be given the wage which is needed to maintain his life. And it is decided through the coordination of three issues: production capability, living standard and inflation of money. Living wage is fixed in such a way by which a labourer does not live below the poverty level. People, who support this process, admit that living wage would be higher than the present. But the employer would be inspired if the government declares tax relief for implementing minimum wage. At the initial stage, revenue of government would be lessened but later on, it will increase. Excessive income heightens effective demand of labourers who will also raise tax (indirect). It will insist the labourers to bear the expenses of education and health care which will also be helpful for the government. This system can be introduced into the industrial relation mechanism of Bangladesh.

### **1.12 Role of trade union and employers' organizations in wage fixing mechanisms**

Since minimum wages is a very sensitive topic because of its social and political implications, the minimum wage fixing authorities have sometimes been reluctant to revise the very basis of their systems.

As with any other policy instrument, periodic review and reforms are necessary in the case of minimum wages in order to remain in tune with the evolving socio-economic situation in a given national context. While many countries have adapted their minimum wage systems to the changing circumstances, there seems to be

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considerable room for adaptation in others. The best means of initiating this may be attained through consultations between government and representatives of employers' and workers' organizations in the country.

Since wages of the public sector workers are determined solely by the Government, collective bargaining for wages of these workers are not generally permissible. However, while the wages commission examines and formulate the wages structure it takes into consideration the views of the workers' and employers' representatives, the economic viability of the industries, the interest of the customers, the overall socio-economic conditions of the country, the consumer price index and any other relevant factors. However, Trade unions in private enterprises play or try to play important role in determining minimum wages by means of collective bargaining.

At the national level, SKOP played major role in realizing just wages for workers especially in 1980s and 1990s. On the face of persistent pressure of demands put by SKOP, the then governments were compelled to sit in a bargaining table to deliberate on the matters of wages. In the industry and plant levels, local trade unions or CBA (Collective Bargaining Agent) through participation committee can take initiative for collective bargaining under the existing labour law.<sup>57</sup> Besides, trade union representatives to the wages commission and wages board also play key role in wage fixing. They try to influence wage fixation mechanism by submitting wage scales suitable to the workers' interests. For example, trade union representatives to the 4<sup>th</sup> Wages & Productivity Commission gave their proposal about 16 wage scales the minimum scale being at taka 3000-150x5-5250.<sup>58</sup> Trade unions played remarkable role in fixing minimum wages for garments sector workers in 2006. On the face of their continuous demands, the then caretaker government declared in 2007

minimum wages rate for all private sector industries in Bangladesh.

### **1.13 Challenges of Collective Bargaining as a means of wage determination**

The major challenges and issues ahead of applying Collective Bargaining as an effective instrument for wage determination in Bangladesh came under discussion in a round table conference of the ILO in Dhaka, Bangladesh in March 2009<sup>59</sup>. It is alleged that there is huge lack of data regarding collective bargaining in Bangladesh which proves to be a major problem for trend analysis on wages. Besides, political affiliation of trade unions has always prevented them to be strong partners in collective bargaining. However, there are examples of good collective bargaining practices sponsored by some MNCs and local companies. Reference may be made to the practices followed by Unilever Bangladesh, Bata, British American Tobacco, KAFCO, Glaxo SmithKline, Square Groups, pharmaceutical sector, tea gardens, tannery, leather industries etc.

These organizations used to sign two-year bi-partite agreements with the workers on wages issue.<sup>60</sup> There are some bad practices as well. Management in the Multi-National Corporations opt for hiring contract workers, not permanent workers. There are large numbers of casual workers who do not get the benefit of collective bargaining. So, they are technically denying the workers to place their demands on wages and other benefits. In many cases, employers themselves submit charter of demands to the trade unions to put pressures on the workers. They also go for reducing of manpower and job outsourcing in violation of international standards. There are also huge differences of salaries/ wages between top level and junior level positions.

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Experts identify some weaknesses in the existing mechanism which prevent the successful arrangement of collective bargaining in any enterprise. These adversely affect the fixation of just and reasonable wages for the workers. In the long run, the productivity of the enterprise concerned goes down. Followings are among the drawbacks that prevent use of collective bargaining in wage determination.<sup>61</sup>

1. Weak labour administration of our country cannot implement labour laws and ILO mandates.
2. The employer's tend to bypass collective bargaining as a method of dispute settlement and instead, they rely on 'participation committee'. They regard collective bargaining as a hazard whereas, the workers always insist on collective bargaining. Participation Committee is not a mechanism that would substitute collective bargaining.
3. According ILO Conventions, workers can choose their own leadership either from inside or from outside of their union. This norm is absent in the present Labour Act, 2006. Under the present scenario, a worker/ union leader is under threat that he can be sacked at any moment. Factors that put threat to collective bargaining are: a) outsiders as trade union leaders is restricted. b) If a worker is terminated, he loses his strength to form trade union, and c) there is a three years bar to trade union movement after strike. Thus, effective negotiation cannot be made wage determination.
4. NGOs hold the view that better trade union rights were granted in the Industrial Relations Ordinance, 1969, then curtailed in 1977 and restored in 1984. But under the Act of 2006 these rights are again curtailed. The Labour Act of 2006 does not allow sectoral and other forms of bargaining. Collective bargaining is limited within the enterprise/ establishment level.

The issues and problems mentioned above are the impediments that adversely affect the development of collective bargaining as the means of wage determination. Although not permitted by law, in practice, sectoral collective bargaining is gaining popularity among the stakeholders to solve their disputes over different issues. Sectoral bargaining plays effective role in determining minimum wages for workers. Mention may be made to the fixation of minimum wages for RMG sectors. Tea, leather, tannery and pharmaceutical sectors are relying heavily on sectoral bargaining.

#### **1.14 Discrimination of wages between formal and informal sector workers**

The reality of wage structure for workers in public and private sectors is quite different from legal framework discussed earlier. Informal sector workers<sup>62</sup>, who form the largest sections of the total workforce in Bangladesh, have not been brought within the legal framework of minimum wages. Laws relating to wages do not have application in their case. In some sectors, workers are paid under the decades old wages structure. For example, wages for agricultural workers have been determined in 1984 last and since then wages structure has not been reviewed and no new scale has been refixed. According to the existing wages scale, minimum wages of a state owned industry worker including basic pay and other benefits is taka 4500 per month. As per the present market condition, it is very difficult to lead an ordinary livelihood with *humane dignity* out of this 4500 taka. But sheer reality is that workers in privates sectors do not even get this amount as their wages. Those working in informal sectors experience more deplorable conditions<sup>63</sup>.

Average minimum wages for 38 private sectors fixed by the minimum wages board in 2004 is 1200 taka-an incredibly small figure. Until April 15, 2007, minimum wages for



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garments sector was taka 930, ie. taka 31 per day. Rice mills workers get minimum taka 450 that is taka 15 per day. The highest amount of minimum wages is 1500 which was fixed for launch workers. These amounts fixed as minimum wages are in no way compatible with the rapid price inflations in every year.<sup>64</sup>

In this way, workers' wages are decreased continuously and hence up-to-date wage-scale is required to adjust with the increasing price hikes. From this picture of minimum wages in formal sectors one can easily perceive the deplorable conditions of the workers in informal sector. In these sectors wages are determined by the discretion of the employer which is clear violation of ILO conventions and other international and national standards<sup>65</sup>.

#### **1.15 Conclusion**

In the foregoing pages we have discussed the incidences of minimum wages in Bangladesh. Separate arrangements exist to regulate minimum wages for Government employees, public and private sector workers. No legal and institutional framework can be found for informal sector workers who form the largest workforce in the country. The article critically discusses the legal provisions, socio-economic conditions and other factors relevant to minimum wages. The discussion also reveals that it is very difficult to determine a uniform national minimum wages structure for all sectors. Economic viability of the country is one of the main reasons. Few recommendations can be drawn in order to formulate a workable wage fixing mechanism.

It is the 'attitude' of the stakeholders (Government, employers & workers) of industrial relations that is the most important thing to be changed at first. Pro-active attitude of management and workers can ensure just and reasonable wages to the workers. Government must keep it in mind that if she does not arrange for level playing field no institution would exist. Industry owners must learn to leave up their bad habit of exploiting workers for the sake of their self-aggrandizement. As profit-mongers they have been successful

in their motive to deprive the poor workers of their right to reasonable wages and other benefits including over-time dues and leaves. Employers, on the other hand, complain that workers tend to work slowly than their normal capacity and they often become violent and cause damage to the machineries and plantations. It is a very serious issue which cannot be ignored anyway. Above all, political stability is needed to achieve the goal of sound industrial relations in the country. Industrialization is directly connected with the country's macro economic development. In the absence of a culture of sound industrial relations economic progress would only exist as a myth. The ILO is urged to take the matter very seriously so that pressures might be mounted on the government to pay adequate attention to the welfare of the workers and to alleviate the culture of sustainable development in the country.

### Notes and References

<sup>1</sup> Advocate Fawzia Karim Firoze, 'National Minimum Wage: A Reality or a Myth!', *Labour*, Vol-10, July-Sep 2000, Bangladesh Institute of Labour Studies.

<sup>2</sup> Raheed Ejaz, 'Discrimination of Wages: Perspective of Bangladesh', *Labour*, Vol-10, July-Sep 2000, Bangladesh Institute of Labour Studies; (pp.9-12)

<sup>3</sup> Views expressed in the keynote paper titled 'National Minimum Wages Suitable For Livelihood of Workers', presented in a National Seminar on minimum wages for workers employed in private sectors, held at CIRDAP Auditorium on February 18, 2005; Organized by: Kormojibi Nari

<sup>4</sup> Ibid

<sup>5</sup> Minimum National Wage is the nationally specified wage structure and a worker cannot be paid below that structure.

<sup>6</sup> Article 15 of the Constitution of the People's Republic of Bangladesh

<sup>7</sup> Articles 23 and 25 of the UDHR.

<sup>8</sup> Vide ILO Conventions no- 26, 95, 99 and 131

<sup>9</sup> If any employer fails to ensure minimum wages for its workers there is ample opportunity to bring him/them to justice. If a worker remains unpaid of his/her due wages he/she can go to the labour court for proper

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remedy (vide, s. 132 of the Act of 2006). In addition to this, if an employer fails to implement the award of the labour court to pay the wages of any worker that employer may be punished with imprisonment or fine or with both under several sections of the Labour Act (vide, ss. 289,307, 308, 309, 310). The irony is that if any worker(s) indulge in unfair labour practice, the punishment is very quick, but no employer is seen yet to face any punishment for not implementing minimum wages for its workers. This fact has to be considered from socio-politico-economic point of view.

Employers always indulge in the plea of low-productivity in support of their failure to pay minimum wages. In most cases, employers use their political influence to escape government monitoring. BGMEA and the immediate past interim government declared drastic action programme against the defaulting employers failing to ensure minimum wages to the workers. But this remains a mere paper-tiger for no action is seen to be taken against any employer. This can be termed as a basic weakness of the Governments since earlier regimes towards establishing sound industrial relations in Bangladesh.

*(Comments made by some Govt. officials who preferred to remain anonymous.)*

<sup>10</sup> Vide art 23(3) of UDHR

<sup>11</sup> Sections 148, 149, the Labour Act, 2006

<sup>12</sup> S.100, the Labour Act, 2006

<sup>13</sup> S. 108, the Labour Act, 2006

<sup>14</sup> S.102, the Labour Act, 2006

<sup>15</sup> Vide sections 103, 115-119 of the Labour Act, 2006

<sup>16</sup> S.123 (1), the Labour Act, 2006

<sup>17</sup> s.122, the Labour Act, 2006

<sup>18</sup> S.123 (3), the Labour Act, 2006

<sup>19</sup> S.124, the Labour Act, 2006

<sup>20</sup> Vide, S.R.O. no-301-Ain/2006/SROKOM/Sh-6/NiMoBoard-1/2006

<sup>21</sup> Both civil and criminal actions can be taken against the employer who fails to pay minimum wages and due wages to a worker. *Vide, supra* note 9.

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<sup>22</sup> Dr.A.K. Enamul Hoque, 'Minimum Wage System: An Evaluation' *Labour*, Vol-10, July-Sep 2000, Bangladesh Institute of Labour Studies; (pp 13-20)

<sup>23</sup> 'Determination of National Minimum Wages', Altaf Parvez, Kormojibi Nari, Dhaka, web: [www.karmojibinari.org](http://www.karmojibinari.org)

<sup>24</sup> There is an exception to this practice that took place following declaration of pay scale in 2005 by NPC. Wages Commission did not announce any wages structure until a new Commission was set up and submitted its report in 2006.

<sup>25</sup> Legal provisions regarding formation and fixation of minimum wages in private sectors can be found in the Labour Act, 2006(sections 138-149). Erstwhile law on this point is The Minimum Wages Ordinance, 1961. The legal framework on collective bargaining (CB) is regulated under sections 209, 210 of the Labour Act 2006. CB is the first step in the industrial dispute settlement mechanism. A Collective Bargaining Agent (CBA) is legally entitled to raise wages issues on behalf of the workers and to bargain collectively with the employers on those issues.

<sup>26</sup> However, some more private industrial sectors have been identified in addition to the existing sectors. Personal interview with Syed Sultan Ahmed, Assistant Executive Director, Bangladesh Institute of Labour Studies, dated November 21, 2007. At present, there is an ongoing collective bargaining process in the tea sector which led to the formation of separate Wages Board, composed of 6 members (2 worker, 2 employers and 2 government members). The outcome of this board would be made public very soon., *supra note 61*

<sup>27</sup> S.138, the Labour Act, 2006

<sup>28</sup> Section 139, the Labour Act, 2006

<sup>29</sup> S.140, the Labour Act, 2006

<sup>30</sup> Section 142, the Labour Act, 2006

<sup>31</sup> Mesbahuddin Ahmed, 'Why National Minimum Wage?' *Labour*, Vol-10 July-Sep 2000, pp.1-3, Bangladesh Institute of Labour Studies.

<sup>32</sup> A.Z.M. Tabarukullah, 'Minimum Wages: Proposal for Scale on Minimum Wages fixed by the Minimum Wages Board in 1994 for Ready Made Garments Industries.', p-12, Report prepared under the auspices of Bangladesh Garments Manufacturers and Exporters Association, 2003.

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<sup>33</sup> Vide *Labour*, Vol-10, July-Sep 2000, Bangladesh Institute of Labour Studies; (pp.9-12)

<sup>34</sup> A 13 member National Minimum Wages Commission was formed on April 06, 2005. Primarily the tenure of the Commission was fixed for three months, but later on the term was extended. Jurisdiction of the Commission was to submit recommendations regarding basic wages and other benefits for workers of state owned industries considering expenses of livelihood. On that basis the Commission submitted its recommendations. **Source:** *Daily New Age*, April 29, 2006.

<sup>35</sup> *The daily Samakal*, 25 April, 2006 (At present public sector workers are paid at this wages structure).

<sup>36</sup> *Ibid*

<sup>37</sup> This requirement is not invariable. It has to be re-fixed after regular intervals.

<sup>38</sup> *The Daily Jugantor*, 24 April, 2006

<sup>39</sup> Should the government have implemented recommendations of the Wages Commission, it would have to budget some 200 crores more taka. But it drastically curtailed Commission's proposed pay scales and that would require the government to arrange 80 crores more taka.

<sup>40</sup> The term SKOP stands for Sramik Kormochari Oikko Parishad which is a grand alliance of trade unions in private sector industries in Bangladesh. There had been wage discrimination between the workers of state owned organizations (public sector) and private industrial enterprises. Trade union leaders had been raising their voices for a long time to eliminate such discrimination. They demanded on several occasions to introduce a special law for the implementation of minimum wage in privately owned organizations. Accepting their proposal, Ershad government signed an agreement with SKOP leaders. But it is a matter of great regret that succeeding governments have for long not taken any initiative to implement that agreement. Eventually labourers of private industries had been deprived by getting very poor amount as minimum wages fixed in 1985 & 1991. (*Vide*, supra note-2)

<sup>41</sup> In a gazette published on the April 15, 2007 the army backed caretaker government declared national minimum wages for unskilled and juvenile workers employed in all private industrial sectors in Bangladesh as taka 1500. This rate is applicable irrespective of any previous declaration as

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to minimum wages. *Vide*, the Bangladesh Gazette (*Extra Ordinary Issue*) S.R.O. No 52-Ain/2006/SROKOM/Sha-6/NIMONI-28/2001.

<sup>42</sup> In Bangladesh, total workforce is about 5 crore. Agricultural and domestic workers form 80% of total workforce. That is four-fifth of the total working class in Bangladesh had been kept out of the wages structure which is shame to our nation. See, BBS Labour Force Survey 1999-2000.

<sup>43</sup> *Vide*, S.R.O. no 184-Ain/2001/SROKOM-10/NIMONI-28/2001

<sup>44</sup> *Vide supra* note 3 also see, Gazette notification reference no-Ni.Mo.Bo/Ni.Mo.Ni./99/2004/67

<sup>45</sup> See, Gazette notification ref:-S.R.O. no 301-Ain/2006/SROKOM/Sha-6/Ni.Mo.Board-1/2006. Also see, News flier of Bangladesh Institute of Labour Studies, *web: [www.bils-bd.org](http://www.bils-bd.org)*

Earlier wages board for RMG sector workers was formed in 1994 which recommended minimum wages for workers as taka 930 per month.

<sup>46</sup> The Government published a gazette notification in this regard in pursuance of section 140(1) of the Labour Act 2006. See Ref:- *supra* note (*Vide*, the Bangladesh Gazette (*Extra Ordinary Issue*) S.R.O. No 52-Ain/2006/SROKOM/Sha-6/NIMONI-28/2001.)

<sup>47</sup> In November 2007, the immediate past caretaker government decided to reconsider the existing pay scales of the government employees, persons working in autonomous, semi-government bodies, government funded organizations and education institutions. (*Daily JAI JAI DIN, November 13, 2007*). Thus, dearness allowance equal to 20% of the basic pay has been added to their salaries from January 2008. This will now be merged with the latest national pay-scale declared by the present government on the recommendations of the 7<sup>th</sup> National Pay Commission and secretary Committee. The new pay structure will be divided into 20 grades and be implemented in part with effect from July 01, 2009.

But house rent and related benefits other than basic salary will be paid from July 2010. According to the pay scale, the highest level of basic salary is taka 40,000/- (fixed) and the lowest is taka 4,100/-. The 7th Pay Commission was set up on August 31, 2008 headed by M.Mostafizur Rahman-a retired Secretary. The Commission submitted its final recommendation to the Government in April 2009. This was reviewed by a 5-member Secretary Committee led by Cabinet Secretary Abdul Aziz.

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Final recommendation of the Secretary Committee was approved and declared by the Cabinet on November 11, 2009. A Gazette to this effect was published on December 03, 2009 titled 'The Services (Salary and Allowances) Order, 2009'. The Government has also declared separate pay schedules for Judicial Service and special benefits have been offered to the defense service employees, nurses and pensioners. *Vide*, The Daily Prothom Alo, dated: 10-12 November, 03 December, 2009. *Also* Bangladesh Gazette (Extraordinary) December 2009, web: [www.bgpress.gov.bd](http://www.bgpress.gov.bd) accessed on December 10, 2009.

<sup>48</sup> *Supra* Note-31

<sup>49</sup> *Supra* Note-22

<sup>50</sup> *Ibid*

<sup>51</sup> Poverty Reduction Strategy Paper. This is a kind of position paper prepared by the Government on the recommendations of the international donor agencies in order to fight extreme poverty in the country.

<sup>52</sup> 'Safety of Wages and Minimum Wages of Workers in Bangladesh in the Age of Globalization', Unnoyan Onnesa- a national NGO, Dhaka, 2005

<sup>53</sup> Minimum wages campaign fact sheets prepared by BILS and Karmajobi Nari, Dhaka.

<sup>54</sup> *Supra* Note-23

<sup>55</sup> *Supra* Note-22

<sup>56</sup> *Ibid*.

<sup>57</sup> See sections 203, 205, 210 of the Labour Act 2006

<sup>58</sup> *Supra* Note-2

<sup>59</sup> In the ILO Conference of March 18, 2009, representatives of workers, employers, HRD personals, Government Officials, NGO activists and academics were present as discussants.

<sup>60</sup> NGOs and trade union leaders complain that collective bargaining is regularly held in the MNCs and some national companies. But the outcomes of these negotiations are not up to the mark. However, in the sense of industrial relations system still it is good practice. *Vide*, *infra* note 61

<sup>61</sup> Details of the issues and points discussed and the resolutions adopted thereto in the Conference of March 18, 2009 are available with the ILO office, Dhaka, Bangladesh.

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<sup>62</sup> Say, domestic workers, agricultural workers etc.

<sup>63</sup> Supra Note-22

<sup>64</sup> Inflation in 2005 was 8% and in 2007 9.5%. See, Daily Jai Jai Din, November 13, 2007. Also see, supra note 23

<sup>65</sup> Supra note 22