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The New Code on Wages in India: Bridging Gaps in Wage Regulation

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Abstract
The *Code on Wages, 2019* represents a pivotal reform in India's labour ecosystem, aiming to streamline and modernize wage regulation through the consolidation of four major legislations: the Minimum Wages Act (1948), the Payment of Wages Act (1936), the Equal Remuneration Act (1976), and the Payment of Bonus Act (1965). By introducing a universal minimum wage applicable to all workers, irrespective of industry or wage ceiling, the code seeks to address wage inequalities, particularly in the informal sector, which constitutes the majority of India's workforce. Key provisions include a national floor wage, enhanced worker protections, and gender pay parity, aligning with international labour standards. The reforms promise to reduce compliance complexity for employers while promoting worker welfare. However, challenges such as regional disparities in wage implementation, ambiguities in the floor wage mechanism, and weak enforcement mechanisms raise concerns about achieving equitable outcomes. This article critically evaluates the code's impact on stakeholders, including workers, employers, and policymakers, and underscores the importance of effective implementation and intergovernmental coordination to ensure the code fulfils its potential in driving inclusive economic growth and labour equity.

Keywords: Labour Law, Minimum Wages, Code on Wages, Equal Remuneration, Bonus.

1. INTRODUCTION

India's labour market, characterized by a diverse and largely informal workforce, has long been governed by a complex web of regulations. The multiplicity of laws, many of which were drafted during the colonial era, created compliance challenges for employers and failed to adequately protect workers in the informal sector. Recognizing the need for modernization, the Indian government introduced the *Code on Wages, 2019*, as part of a larger effort to consolidate and streamline labour legislation. The *Code on Wages, 2019* is a landmark reform designed to streamline wage regulation and ensure fair remuneration across sectors. The *Code on Wages* merges four pre-existing laws — the Minimum Wages Act (1948), the Payment of Wages Act (1936), the Equal Remuneration Act (1976), and the Payment of Bonus Act (1965) — into a unified framework to simplify wage governance and promote fairness. Its ambitious provisions, including universal minimum wages, gender pay equality, and streamlined compliance requirements, aim to bridge long-standing gaps in wage protection and enhance worker welfare. Furthermore, the code seeks to boost ease of doing business in India by reducing regulatory fragmentation and creating a more predictable labour environment.

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The term "wages"[1] means "all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes-

1. Basic pay
2. Dearness allowance
3. Retaining allowance, if any,

But does not include-

1. Any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
2. The value of any house- accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
3. Any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon;
4. Any conveyance allowance or the value of any travelling concession;
5. Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
6. House rent allowance;
7. Remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
8. Any overtime allowance;
9. Any commission payable to the employee;
10. Any gratuity payable on the termination of employment;
11. Any retrenchment compensation or other retirement benefit payable to the employee or any ex-gratia payment made to him on the termination of employment."

The **Code on Wages, 2019** is a comprehensive and transformative piece of legislation enacted by the Indian Parliament to overhaul the framework governing wages, remuneration, and associated rights of workers. It consolidates four key labor laws: the Payment of Wages Act, 1936; the Minimum Wages Act, 1948; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. The integration of already existing legislations dealing with wages into a single code reflects a major step toward simplifying and modernizing India's complex labor law system. This unified framework aims to address wage disparities, promote fairness, and ensure equitable treatment for workers across various sectors of the economy.

One of the critical features of the Code is its universal applicability, extending its coverage to all employees in both organized and unorganized sectors, unlike the older laws that were limited to specific types of establishments or employment categories.

The overarching objectives of the Code on Wages are to create a fair, transparent, and inclusive wage system that protects the rights of workers, promotes gender equality, and fosters economic security. At the same time, it seeks to provide a conducive environment for businesses by simplifying compliance and reducing litigation risks. By addressing the needs of a modern workforce, the Code on Wages, 2019, represents a significant step forward in reforming India's labor law framework.

[1] Code on Wages, 2019; Section 2 (y).

Despite its progressive intent, the *Code on Wages* has sparked debates among stakeholders. While it offers significant potential to address wage disparities and improve working conditions, concerns remain regarding its implementation, especially in states with limited administrative capacity. Critics also point to ambiguities in provisions such as the national floor wage, which could lead to uneven enforcement and regional disparities.

This article delves into the key features of the *Code on Wages, 2019*, critically analyzing its potential benefits, limitations, and implications for workers, employers, and policymakers. By exploring the challenges of implementation and the opportunities for reform, this discussion aims to provide a comprehensive understanding of the code's significance in India's labour landscape.

2. KEY FEATURES

The Code on Wages, 2019 is a transformative piece of legislation in India's labour law framework, aimed at simplifying and modernizing wage regulation. By consolidating and repealing four existing laws- the code brings clarity, uniformity and inclusivity to wage- related matters. Below mentioned are the key features of the Code:

3. **Uniformity in Wage Definitions:** The Code standardizes the definition of "wages"[2], which eliminates ambiguities caused by varying definitions across different labour laws. This uniform definition ensures consistency in calculations for minimum wages, bonuses and other benefits, reducing disputes and legal complexities.
4. **Coverage of All Workers:** The Code extends its coverage to all workers in both organised and unorganised sectors, unlike already existing legislations that were limited to specific types of establishments or employment categories. This inclusive approach provides protection to a larger workforce. Gig workers and contractual employees also benefit, bridging gaps in earlier laws.
5. **Simplification and Codification:** By consolidating four major laws into a single Code, it simplifies compliance for employers and creates a more streamlined legal framework. This reduction in overlapping provisions eases the burden on employers and enhances ease of doing business. The Code's focus on **streamlining compliance** is another major advantage. By consolidating four laws into one, it reduces the regulatory burden on employers, making it easier for businesses to comply with wage-related rules. This not only enhances India's **ease of doing business** but also promotes better compliance rates by removing legal ambiguities.
4. **Minimum Wages for All Employees:** The Code ensures that minimum wages[3] are applicable to all categories of workers, which was not the case under the Minimum Wages Act, 1948. The Code establishes provisions for setting **minimum wages**, with the central and state governments empowered to fix wages based on sector, type of work, and geographical location.[4] Also, under the provisions of the Code the components of fixing minimum wages are described.[5] The introduction of a universal minimum wage is particularly noteworthy as it ensures a safety net for workers in all sectors, thus addressing wage gaps and enhancing economic equity. It allows the government to fix a universal floor wage for the country, providing a baseline for state-specific minimum wages**.** It mandates the fixation

[2] Section 2(y), Code on Wages, 2019
[3] The term "minimum wage" is defined under sec. 2 (s) of the Code as the wage fixed under section 6 of Code on Wages, 2019
[4] Section 6, Code on Wages, 2019
[5] Section 7, Code on Wages, 2019

of a floor wage by the central government[6], below which no state can set its minimum wages.[7] States retain the flexibility to determine region-specific minimum wages based on skill levels and economic conditions.

5. **Equal Remuneration:** The code prohibits gender-based wage discrimination, ensuring that men and women receive equal remuneration for work of a similar nature.[8] The Code retains and strengthens provisions ensuring equal pay for equal work for men and women, promoting gender equality in the workplace. It discourages discriminatory practices based on gender, which was a limitation in earlier laws. A significant highlight of the Code is its emphasis on **gender equality** in remuneration. It explicitly prohibits discrimination on the grounds of gender in matters related to wages and recruitment, reinforcing the principle of equal pay for equal work.[9] This is an essential step toward addressing long-standing issues of wage inequality and fostering inclusivity in the workplace.
6. **Timely Payment of Wages:** The Code mandates timely payment of wages, setting specific deadlines for different categories of workers.[10] The Code also ensures **timely payment of wages** to all employees, with clearly defined intervals for different categories of workers (daily, weekly, fortnightly, or monthly). This provision aims to prevent delays in wage disbursements and reduce financial insecurity among workers. Further, it mandates that wages be paid without unauthorized deductions, adding an extra layer of protection to worker incomes.[11] This provision helps in protecting vulnerable employees from exploitation and delays in receiving their dues. Additionally, the Code encourages the adoption of **digital payment systems**, which adds transparency and reduces the risk of wage-related disputes.[12]
7. **Inclusion of Bonus Payments:** The Code consolidates bonus-related provisions from the Payment of Bonus Act, 1965, and ensures clarity regarding eligibility and payment criteria. This protects employees' rights while maintaining transparency for employers. In terms of bonus payments, the Code retains the provisions of the Payment of Bonus Act, 1965, making it applicable to establishments employing 20 or more workers. It provides clear guidelines for calculating bonus amounts, ensuring transparency and fairness in distribution.[13]

8. **Promotion of Formalization:** By covering workers across organized and unorganized sectors, the Code encourages formal employment practices. It also mandates maintaining wage registers and records, aiding in the formalization of employment and ensuring better regulatory oversight.[14]
9. **Boosting Industrial Relations:** The Code mandates that a clear and simplified wage structure reduces disputes between employers and employees, fostering harmonious industrial relations. Employers are more likely to comply with straightforward laws, enhancing trust and cooperation in the workplace.

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[6] Section 9 (1): The Central Government shall fix floor wage taking into account minimum living standards of a worker in such manner as may be prescribed. Further, it was provided that different floor wage may be fixed for different geographical areas.
[7] Section 9(2), Code on Wages, 2019
[8] The term "same work or work of similar nature" is mentioned under section 2(v) means work in respect of which the skill, effort, experience and responsibility required are the same, when performed under similar working conditions by employees and the difference if any, between the skill, effort, experience and responsibility required for employees of any gender, are not of practical importance in relation to the terms and conditions of employment.
[9] Section 3, Code on Wages, 2019
[10] Section 17, Code on Wages, 2019
[11] Section 18, Code on Wages, 2019
[12] Section 15, Code on Wages, 2019
[13] Section 27, 31 and 39, Code on Wages, 2019
[14] Section 50, Code on Wages, 2019

10. **Empowerment of Authorities:** The Code strengthens the enforcement framework by granting inspectors-cum-facilitators[15] the authority to oversee compliance and ensure adherence to regulations and addressing grievances and conciliation and adjudication processes, to facilitate timely resolution of disputes, ensuring justice and protection for affected workers. By integrating digitalization and online grievance redress mechanisms, it enhances accountability and operational efficiency.

3. CHALLENGES AND CRITICISMS

1. **Ambiguity in Floor Wage Determination:** The methodology for determining the national floor wage under the Code on Wages, 2019, has been a focal point of criticism due to its perceived lack of clarity and precision. The national floor wage is intended to serve as a benchmark for states to establish their minimum wages.[16] The Code empowers the central government to set a national floor wage after consultation with stakeholders, including state governments and relevant bodies. However, the criteria used for such determination are not explicitly detailed in the Code. The absence of a clear framework for calculating the floor wage leaves significant room for ambiguity and potential inconsistencies. For instance, it is unclear whether the methodology considers critical factors like inflation, cost of living indices, family size, or nutritional requirements, which are essential for determining a wage that ensures basic livelihood. India's vast geographical and economic diversity means that the cost of living varies significantly from one region to another. Urban areas generally have a higher cost of living compared to rural areas due to differences in housing costs, utility prices, and access to services. Similarly, regions with industrial hubs may have higher wage expectations due to local economic conditions. A **uniform national floor wage** risks being too low for workers in high-cost regions, failing to provide them with a sustainable livelihood, while simultaneously being too high for employers in low-cost regions, potentially affecting job creation.
2. **State-Level Disparities:** The ability of states to set their own minimum wages above the national floor wage creates the potential for significant wage disparities between regions. States with robust industrialization, better economic resources, and higher standards of living are likely to set minimum wages well above the floor. Workers in states with lower minimum wages are likely to face income insecurity and struggle to meet basic living expenses. For example, if the national floor wage is not adjusted adequately for inflation or cost of living, the wages set by weaker states may remain insufficient for ensuring a decent standard of living.
3. **Migration and Workforce Imbalance**: Regional disparities in wages can encourage **labor migration** from low-wage to high-wage states. While this might benefit individual workers, it can lead to workforce imbalances, putting additional strain on urban infrastructure in high-wage states and depriving low-wage states of skilled labor, which is essential for their economic development.
4. **Implementation Hurdles:** The effectiveness of the code depends on robust enforcement mechanisms. India's track record of weak labour law enforcement, especially in the unorganized sector, poses a significant challenge.

- **Inspector-Cum-Facilitators**: The Code introduces inspector-cum-facilitators to ensure compliance and resolve disputes. While this dual role is intended to promote compliance through a collaborative approach rather than punitive action, it risks overburdening officials. Inspectors may struggle to

[15] Section 2 (r), Code on Wages, 2019
[16] Section 9: The Central Government shall fix floor wage taking into account minimum living standards of a worker in such manner as may be prescribed.

balance their responsibilities, leading to diluted enforcement and oversight, particularly in sectors with high non-compliance rates.

- **Unorganized Sector Vulnerabilities**: The unorganized sector, which constitutes more than 90% of India's workforce, presents unique challenges. Workers in this sector often lack formal employment contracts, making it difficult to monitor wage payments, enforce minimum wage rules, or ensure compliance with timely payment provisions. The informal nature of employment complicates the documentation required for enforcement and dispute resolution.
- **Resource Constraints**: Effective enforcement requires adequate resources, including a sufficient number of inspectors, digital infrastructure, and training programs. However, labor departments in many states are underfunded and understaffed, leaving enforcement mechanisms stretched thin. This resource scarcity undermines the ability to conduct regular inspections or address worker grievances promptly.
- **Employer Evasion Tactics**: Employers in non-compliant industries often exploit loopholes, such as misclassifying workers as independent contractors or paying partial wages in cash to evade detection. In the absence of stringent monitoring, these practices are likely to persist, particularly in sectors like construction, agriculture, and domestic work.
- **Limited Awareness Among Workers**: Many workers, especially in rural areas, are unaware of their rights under the Code. This lack of awareness discourages them from reporting violations, allowing employers to exploit workers without facing penalties. Additionally, fear of retaliation often prevents workers from seeking redressal.
- **Judicial Backlog and Grievance Redressal**: While the Code provides for conciliation and adjudication of disputes, India's overburdened judicial and quasi-judicial systems create delays. Workers seeking justice often face lengthy litigation processes, deterring them from pursuing complaints.

5. **Exclusions and Compliance Concerns:** Although the code extends its scope, exemptions for small enterprises and micro-level establishments could leave many vulnerable workers without adequate protection. Additionally, employers may manipulate wage structures to exclude certain components from being counted as "wages."

- **Limited Coverage**: The Code provides certain exemptions for smaller enterprises and micro-level establishments, citing reasons such as administrative ease and the need to reduce the compliance burden on small businesses. While this approach may facilitate business operations, it risks excluding a significant portion of the workforce. Small and micro-enterprises, which form a substantial part of India's economy, employ a large number of workers, particularly in the **unorganized sector**. By exempting these establishments, the Code leaves many vulnerable workers without adequate wage protections.
- **Impact on Vulnerable Workers**: Workers in small and micro-enterprises often operate in precarious conditions, with little bargaining power and high risks of exploitation. The lack of wage protection mechanisms in these enterprises can perpetuate poverty, widen income inequalities, and exacerbate economic vulnerabilities. For instance, workers in small-scale industries or informal businesses might be denied minimum wages or face delayed payments without legal recourse.
- **Risk of Abuse**: Employers might deliberately keep their enterprises below certain thresholds to avoid compliance with the Code. This could involve tactics such as splitting businesses into smaller units, misclassifying employees, or underreporting workforce size, further reducing the reach of the Code.

6. **Manipulation of Wage Structures:**

- **Exclusion of Wage Components**: The Code defines "wages" comprehensively, including basic pay, dearness allowance, and retaining allowance, while allowing specific exclusions such as bonuses, commissions, house rent allowances (HRA), and overtime payments. Employers may exploit this provision by restructuring salary components to minimize the amount classified as "wages." For example, by increasing allowances or non-wage benefits, employers could effectively reduce the share of remuneration counted as wages, thus sidestepping obligations tied to minimum wages, bonus eligibility, and other statutory benefits.
- **Impact on Workers' Rights**: Such manipulation can erode workers' rights, as many labor protections are tied to the "wage" component. For instance:
- **Gratuity and Provident Fund (PF)**: These benefits are calculated based on basic wages. By artificially lowering the basic wage component, employers can reduce their contributions to these funds, depriving workers of their rightful entitlements.
- **Minimum Wage Compliance**: Employers might meet the formal requirement of paying the minimum wage while providing a disproportionate share of compensation through allowances, which are excluded from the wage calculation.
- **Lack of Safeguards**: While the Code attempts to limit exclusions to 50% of total remuneration, enforcement of this provision is challenging. Employers may still find creative ways to structure pay in ways that exploit legal loopholes. For instance, creating new categories of allowances not explicitly mentioned in the Code could circumvent the intention behind the 50% cap.

7. **Worker Vulnerability**: These gaps disproportionately affect workers in the unorganized sector, small enterprises, and those with limited bargaining power. They may face reduced take-home pay, limited social security benefits, and financial insecurity, defeating the purpose of wage protection laws.
8. **Uneven Application of the Code**: The exemptions and potential for wage manipulation could lead to significant disparities in how the Code is applied across industries and regions, undermining its goal of creating a uniform framework for wage protection.
9. **Loss of Trust**: Workers who perceive the system as unfair or easily manipulated are less likely to trust legal mechanisms for wage protection. This distrust can discourage them from seeking redress, allowing exploitative practices to persist unchecked.
10. **Burden on Employers:** While simplifying laws benefits businesses, the increased scope of minimum wage coverage and stringent compliance requirements may burden smaller enterprises, particularly in the informal sector.

1. RECOMMENDATIONS

To address these concerns,

- Establishing clear guidelines or parameters for states to determine minimum wages could help minimize disparities while respecting regional autonomy. For instance, states could be required to link their minimum wages to local living costs or productivity indices.
- Providing financial or technical assistance to economically weaker states could enable them to set and enforce higher wage standards without undue strain on their economies.
- Policymakers could consider adopting a tiered or zonal approach to the national floor wage, where the country is divided into economic zones, each with its own floor wage reflecting local conditions.

- Incorporation of objective indicators like the Consumer Price Index (CPI), poverty lines, and expert recommendations into the wage-setting methodology would enhance transparency and credibility.
- Regular adjustments to the national floor wage, Periodic reviews of the floor wage, accounting for inflation and changes in economic conditions, could provide a more equitable baseline for all states.
- The adoption of digital payment systems and wage tracking mechanisms can enhance transparency and reduce the scope for employer evasion. Real-time data collection and monitoring can assist in identifying non-compliant entities.
- Strengthening labor departments through increased funding, recruitment of additional inspectors, and training programs is essential. Inspectors should be equipped with digital tools to streamline inspections and track compliance effectively.
- Conducting widespread awareness campaigns can educate workers about their rights under the Code, encouraging them to report violations. These campaigns should target rural and marginalized communities to ensure inclusive outreach.
- Establishing fast-tracks dispute resolution mechanisms and strengthening labor courts can reduce delays in addressing grievances. Simplified complaint processes and worker-friendly legal aid can further empower workers.
- Clearer guidelines on what constitutes "wages" and stricter rules to prevent excessive exclusions are needed. For instance, including a broader range of allowances in the definition of wages would reduce opportunities for manipulation.
- Robust enforcement mechanisms, such as digital wage tracking and audits, could help ensure compliance with wage definitions and protections. Employers manipulating wage structures should face penalties to deter such practices.
- Educating workers about their rights under the Code and providing accessible grievance redressal mechanisms can empower them to challenge exploitative practices.

2. CONCLUSION

The enforcement mechanisms provided in the Code, including the establishment of grievance redressal and dispute resolution frameworks, represent a significant improvement. However, there are concerns about the capacity of these mechanisms to handle the volume of cases in a country with a large workforce. Delays in adjudication and limited access to legal resources for workers could impede the timely resolution of disputes.

In conclusion, while the Code on Wages, 2019, is a laudable effort to streamline India's wage laws and promote fairness in employment practices, it is not without its shortcomings. The success of the Code hinges on robust implementation, consistent enforcement, and periodic review to address emerging challenges. To fully realize its potential, the government must ensure that the law is supplemented with clear rules, effective monitoring systems, and adequate support for both employers and workers. Without addressing these gaps, the Code may fall short of its ambitious goals, particularly in protecting vulnerable sections of the workforce.

The *Code on Wages, 2019* is a progressive step toward creating a more inclusive and equitable labour framework in India. By consolidating wage laws, ensuring minimum wages for all, and promoting gender pay parity, it addresses several longstanding issues in the labour market. However, its success will depend on resolving ambiguities, strengthening enforcement mechanisms, and ensuring uniformity in its application across states. The government must engage in dialogue with stakeholders, invest in capacity building, and monitor the implementation process to achieve the code's objectives effectively. While the code holds immense potential, a cautious and inclusive approach is necessary to balance economic growth with workers' rights.

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