

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



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# **LEGAL IMPLICATIONS OF NEW WAGE CODE: A CRITICAL ANALYSIS**

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## **Abstract**

The Indian government is utilizing wage policy as part of broader monetary policy measures to safeguard the income of migrant and informal labourers affected by the Covid-19 epidemic and the lockdown that follows. In the past 20 years, during the period of economic liberalization, the pervasive discussion over Indian labor regulations impeding the flexibility of the labor market has taken center stage. In the twenty years after the economic liberalization phase, the persistent debate over how Indian labor regulations restrict labor market flexibility has gained significant attention. One of the major turning points in labor law reform over the last three decades has been the introduction of new labor codes by the Indian government, which aim to simplify and streamline labor rules to create a more business-friendly environment. On the other hand, labor unions vehemently contend that, in spite of what they see as "restrictive" labor regulations, the Indian labor market is still "flexible" to the advantage of employers and that any further deterioration of the present framework of labor laws would have a detrimental effect on the working class. As part of a recent effort to overhaul wage policy, the Indian government passed the Code on Wages in August 2019. A mandatory floor pay and extending the legal minimum wage coverage to all wage workers are among the reform measures, which also aim to streamline the country's minimum wage framework. In July 2020, the government released the draft law on Wages (Central) Rules, which described how the wage laws would be implemented. This paper examines how the policy of minimum wages could be reinstated as a mechanism for redistribute targeted at low-paid workers as a result of some of the significant changes made to the pay law. Employee welfare depends on a minimum wage policy that is effective and addresses the extent of legal coverage, the floor and minimum wage levels, and compliance. Consequently, the paper examines the proposed implementation

strategy for these three variables in the draft pay regulations, identifies its shortcomings, and makes recommendations for improvements.

**Keywords:** - *Leveraging Wage Policy, Low-paid Workers, Indian Government, Code on Wages, Legal Coverage, Working Class, Workers' Welfare, Minimum Wages.*

## INTRODUCTION

The proposed Wage Code (Central) Rules (henceforth referring to as the wage rules) were published in a gazette notice by the Government of India (GoI) on July 7, 2020. The draft offers a final opportunity for everyone to offer ideas and feedback.

India's employment laws have long been slated for reform. Employers have long called for labor laws to be made simpler and more logical in order to achieve ease of doing business. The primary argument for the modifications was that by removing the constraints imposed by various labor laws, they would advance industrial and economic development. In response to this uproar from businesses, the Indian government is currently actively pursuing one of the primary recommendations of the Report of the Second National Commission on Labour, which was presented in 2002: the simplifying and integration of all labor regulations into a few labor codes.

Four employment laws were subsequently developed and approved by the Indian Parliament in 2020. Together, the new labor codes—the Industrial Relations Code (IRC), the Code on Occupational Safety and Working Conditions (OSHWCC), the Social Security Code (SSC), and the Code on Wages (WC)—complement forty-four earlier labor regulations.

The new labor rules are seen as "anti-worker" by most labor unions and working-class sympathizers because some of the changes they include have wide-ranging effects. For example, the new Code on Industrial Relations, 2020 (IRC) forbids strikes without 60 days' notice, within 14 days of giving such notice, and while conciliation, arbitration, or tribunal proceedings are ongoing. It is believed that such stringent strike preparation processes make it more difficult for trade unions to organize their members and engage in collective bargaining. Despite this worry about worker groups and units, the new Code explicitly accepts and recognizes the existence of trade unions at the central level by requiring each manufacturing facility to have a negotiation council or a negotiation organization.

The impact of such guidelines and suggestions won't be seen until these regulatory bodies are established. According to the Supreme Court's decision in *Syndicate Bank and Ors. vs. K. Umesh Nayak*, the Industrial Disputes Act, 1947 (ID Act) seeks to regulate the concept of strike without denying workers' right to strike. The updated IRC, 2020 essentially lowers the standards for a legitimate strike. Compared to the Industrial Dispute Act, which prioritizes worker welfare, the new Code prioritizes corporate convenience. The current labor market trend of increasing contractualization and casual employment in both the official and informal sectors may be exacerbated by this legislative framework, which promotes temporary employment.

A significant proportion of regular wage salaried workers (RWS)—68.8%—had no documented employment contract and were ineligible for social security payments, according to Kapoor's study of the Periodic Labor Force Survey (PLFS) dataset 2018–19. This figure was 57% in 2004–056. This shows a significant rise in the proportion of workers in industries without social security and benefits. In order to provide workers with certain benefits, it would be necessary to recognize fixed-term employment and mandate statutory benefits for it, just as for permanent employees. The employment security of workers will be impacted, however, since it would also reduce the incentives for firms to acquire permanent employees.

Without formal agreements, many employees, particularly in formal sectors, are vulnerable and easily let go. IRC 2020 doesn't really address this issue. In reality, the number of employees needed for a standing order has increased from 100 to 300. In such a situation, the job security and social security of the vast majority of India's workers are predicted to suffer significantly.

The majority of union members and working-class supporters see the new labor laws as "anti-worker" since some of the changes have broad implications. For instance, the new Code on Industrial Relations, 2020 (IRC) prohibits strikes while conciliation, arbitration, or tribunal proceedings are ongoing, without 60 days' notice, and within 14 days of giving such notice. Trade unions' efforts to organize employees and their capacity for cooperative negotiation are said to be hampered by such stringent strike planning procedures.

Following the COVID-19 outbreak, workers in the manufacturing, commerce, hospitality, construction, and agricultural sectors have been the most severely impacted. As of

right now, the suggestion that,

- All workers in informal employment must receive universal and national minimum social security benefits, which include payments for maternity, old age, disability, death, and disability; and;
- The National Commission for Enterprises in the Unorganized Sector is in charge of setting eight-hour work norms and a national minimum wage. This is essential for revitalizing the Indian labor and economy, but sadly, the SSC does not have a system or legal framework for universal social insurance.

Only financial assistance provided via the proper boards in the unorganized sector, subject to institutional delivery, are covered under the social security law for women workers in the chapter on maternity benefits. Nevertheless, the pay code of 2019 (WC) only sets a national floor pay of Rs. 178, below which the states are not permitted to set their own minimum wages. In the 1957, 2012, and 2015 decisions in the Raptakos Brett case of 1992, the Supreme Court used the need-based standards suggested by the ILC to determine minimum wages. In addition to undermining workers' legal rights and enforcement measures, the MWC, 2020 has once again ignored and failed to provide any approach for establishing a fair minimum wage for workers. The writer, Jayara Nivedit:

*Additionally, the pay Code denies courts the power to administer justice to workers who have been subjected to pay violations. Accordingly, workers cannot contest the wages their employers pay them in court; instead, they must utilize the quasi-judicial body and appellate authority created under the provisions of the Wage Code.*

Government representatives also announced an increase in average MGNREGS wages of ₹15 per day under the ABA measures (from ₹187 per day in 2019–20 to ₹202 per day in 2020–21), keeping in mind that wages in the public work program are the main factor that will safeguard workers and support private investment and consumption demand. This might benefit families valued at five crores, and each house will earn an additional ₹2,000.

To protect low-paid workers, the government has announced intentions to streamline the country's minimum wage system, establish a statutory national floor pay, and extend the legal minimum wage coverage to all wage earners (ILO, 2020e). The most recent pronouncements were linked by the government to the ABA measures as part of the ongoing reform of pay

policy under the Code on Wages, 2019 (henceforth referred to as the wage code). On July 7, 2020, the government also released the Draft Wage Code (Central) Rules, 2020 (henceforth referred to as the wage rules) in an effort to accelerate the implementation of the wage code's provisions. Unlike other wage rules, this one allows floor and minimum wages to be fixed, revised, and adjusted. Because of this, it will decide how these rates are first established and how much the minimum wage is kept at in order to keep workers' buying power from declining.

The efficacy of the aforementioned wage policy initiatives on maintaining and revitalizing the income of migrant and informal labourer's remains uncertain, despite their significance. It is well knowledge that minimum wages in India are very low, vary greatly across states, and have poor rates of compliance. In 2018–19, a number of states even lowered their minimum wages below the national floor-level minimum wage amount of ₹176 per day. Similarly, MGNREGS pay, which are intended to provide poor and disadvantaged families a steady income during difficult times, have historically been low compared to state agricultural minimum wages and have fluctuated significantly over time. The problem is made worse by the states' inability to provide 100 days of guaranteed work under MGNREGS, poor adherence to the statutory minimum wages, and salary payment delays and rejections.

India's wage-related legislation, which were first established in 1936 regarding the payment of wages and again in 1948 regarding minimum wages, made it a leader in wage policy among rising countries. However, wage policy has not produced the desired redistributive effects. Several empirical investigations, like the India Income Report, have pointed out that there is a significant gender pay gap, severe income inequality, working poverty, and pervasive low incomes compared to international standards. According to the Report of the Expert Committee on Determining the Methodology for Fixing the National Minimum Wage (henceforth referred to as the Expert Committee), which acknowledged these findings and took into account India's minimum wage history, a transparent and modern minimum wage fixing method that is based on the most recent data and strategies for fortifying the minimum wage system should be adopted. The pay legislation and wage rules brought about a number of changes to the nation's minimum wage structure. For the first time, the pay code has clearly stated its goals, which are,

*“To advance equity and labor welfare on the one hand, and to encourage investment and the creation of new companies on the other, therefore creating more employment opportunities”.*

The pay code has made minimum wages and floor wages universally applicable to all wage earners, along with simplifying the minimum wage structure to achieve the stated purpose from the perspective of the workers. Similarly, the pay rules also incorporate, for the first time, the procedure and criteria for determining, updating, and modifying the minimum wage rate and floor rates. It is crucial to consider how some of these important reform measures can make minimum wage laws more effective as a redistributive tool for low-paid workers.

The first of three significant wage law reform measures will expand the legal coverage of floor wages and minimum pay to all wage workers nationwide. According to data from the quarterly labor force survey, it is a significant advancement that is anticipated to help around 224.7 million wage workers in 2018–19, or 48% of the 468.8 million workforce (National Statistical Office, 2020). Furthermore, it implies protecting an additional net increase of 76.4 million wage earners who are no longer subject to the 1948 minimum wage legislation.

The pay legislation also plays a significant role in rationalizing and simplifying India's complex minimum wage structure. There were 48 minimum salaries in the central sphere and over 1,915 occupational minimum pay rates throughout state spheres, according to the Economic Survey (GoI 2019b). These have been significant barriers that have impacted adherence to the minimum wage laws and deflected focus from the most vulnerable low-paid workers.

Eight distinct prior regulation have been consolidated into 58 parts that make up the wage rules under the four wage-related statutes. The several sections and subsections of the wage regulations outline how the various articles of the wage law are implemented. Three crucial components of the wage rules' requirements that are necessary for the minimum wage policy to be successful are examined: First, how comprehensive coverage would be such that no group of wage workers would be left behind.

A high level of compliance requires both a well-thought-out enforcement strategy that involves information exchange, effective labor inspections, and severe fines for violations, as well as a simpler minimum wage system. As mentioned earlier, the wage code and pay laws have attempted to rationalize the minimum wage framework, create uniform standards, and make the minimum wage application universal in order to simplify and reorganize the minimum wage system. This ought to boost adherence. But this isn't the case for the

enforcement plan, which should include provisions on using statistical data, increasing awareness, and establishing an inspection system—all of which have been discussed in the paragraphs that following.

## I. LITERATURE REVIEW

**Hänsel, C. (2022)** The value of work is closely related to its monetary equivalent, which is expressed in compensation. As a result, modifications to pay regulations have an impact on a wide range of disputes that arise in the politics around compensation at the individual, corporate, and state levels. In other words, disputes over wages are not a single source of conflict; rather, they are the root cause of several disputes within the institutions, workplace, and household spheres. The study uses this three-pronged approach to analyze how disputes are resolved in the Indian pay Code of 2019's economic, legal, and sociopolitical pay constitution.

**Chigater, S. (2021)** Although workers throughout the country have suffered greatly as a result of the changes to labor laws during the pandemic, this is not surprising. Since liberalization, worker rights have been steadily diminished under the pre-tense of promoting "ease of doing business" via "labor flexibility." The adjustments over the last six years have been incremental, "less direct," and piecemeal in what Rob Jenkins has called "reform by stealth." Although this has also happened, particularly after the NDA government assumed power in the center in 2014, the majority of the changes made possible via administrative processes rather than official legislative reforms have also taken place at the state level. But in recent years, there has been a significant shift in the reform agenda's scope and methodology.

**Subbiah, A. K. (2021)** Examining India's minimum wage legislation and evaluating its contribution to social justice and equality in the country is the main goal of the study. It focuses on analyzing the situation as it stands, identifying problems and solutions, and making sure that effective enforcement has been implemented. An empirical investigation has been carried out to investigate the study goal, using a semi-structured approach to gather qualitative data. Using the purposive sampling approach, six Indian economic experts made up the sample for the semi-structured interview. The theme analysis approach is used to analyze the respondent's collected opinions.

**Dwivedi, A. (2024)** This paper does a thorough analysis of India's changing labor

regulations, concentrating on the most current labor standards that were implemented in 2020. We place the current labor regulatory system in perspective by examining the history of labor laws, highlighting the impact of the Indian government on the changing nature of labor relations. Instead of directly changing the "protectionist" labor laws, our study shows that the government has considerably increased labor market flexibility over time via less obvious routes and covert policy changes.

**Bharadwaj, A. (2017)** A detailed discussion of the bill's features and an evaluation of the bill in light of India's many labor laws are pertinent given the introduction of the Wage Code Bill on August 10, 2017. The goal of this essay is to examine how the Bill would affect labor unions, hiring and firing practices, the unorganized sector, and other significant issues. This essay also outlines the main obstacles to this bill. This report suggests a few modifications to the Bill that would meet the requirements of all parties involved.

**Patidar, A. (2023)** Through the elimination of the difference between scheduled and non-scheduled work, the Code on Wages, 2019 seeks to make India's minimum wage legislation more universal. However, the Code's ambiguities, restrictions, and exclusions can make this aim impossible to accomplish. Domestic workers who were previously protected may also not be covered, and many wage workers may still not be covered. Furthermore, it violates the constitutional prohibition on compelled labor to exclude job guarantee programs from the minimum wage laws. Additionally, the Code ignores a number of significant labor economy structural problems that make minimum wage implementation difficult.

### **1.1 Objectives of the study**

- Examine and comprehend the Code on Wages, 2019's legislative framework, including its main provisions, structure, and extent.
- To investigate how the New Wage Code's constitutional and judicial viewpoints address wage regulation and the right to just compensation.
- To examine how the New Wage Code will affect firms, workers, and the government legally, especially with regard to minimum wages, wage payment, and bonus policies.

### **1.2 The Scope of the study's**

The current research looks at the legal ramifications of the Code on Wages, 2019, which was passed by the Indian government in an effort to streamline and rationalize labor regulations

pertaining to wages. The study's focus is limited to a critical assessment of the legal framework, statutory provisions, and real-world effects of the new Wage Code's implementation.

The following topics are covered in the study:

- **Legislative Framework:** The 2019 Code on Wages, which incorporates four earlier laws—the Equal Remuneration Act of 1976, the Minimum Wages Act of 1948, the Payment of Wages Act of 1936, and the Payment of Bonus Act of 1965—is examined in this paper.
- **Redefinition of Wages and Its Legal Impact:** The new legislative definition of "wages" and its consequences for compensation structure, social security contributions, gratuities, bonuses, and employer duties are critically examined.
- **Minimum Wages and Floor Wage Provisions:** The research assesses the impact of a national floor wage on federalism, state sovereignty, and consistent pay standards across industries and geographical areas.
- **Employer and Employee Rights and Obligations:** The study evaluates how the Code changes the legal obligations of businesses and enhances or diminishes employee rights, especially with regard to equitable compensation, timely salary payments, and dispute resolution.
- **Coverage and Applicability:** In addition to identifying legal ambiguities and gaps, the scope includes an analysis of the Code's broader application to both organized and unorganized sectors, including contract labor and gig workers.
- **Enforcement Mechanism and Penalties:** The efficiency of the Code's enforcement procedures, sanctions for non-compliance, and the new inspection-cum-facilitator system are all reviewed in the research.

## II. METHODOLOGY

The New Wage Code's legal ramifications are critically examined in this study using a doctrinal (black-letter) legal research technique that is complemented by analytical and comparative methodologies (Code on Wages, 2019).

- **Doctrinal Research Method:** The basic approach is a methodical examination of the Code on Wages, 2019's statutory provisions as well as other labor laws, regulations, and notifications. To comprehend the changing interpretation of wage-related rights and employer duties, Supreme Court and High Court rulings have been scrutinized.

- **Analytical and Critical Approach:** The report assesses the New Wage Code's goals, reach, and framework for implementation severely. The focus is on detecting possible problems with current labor rights, practical difficulties, and legal uncertainties, especially with regard to equitable compensation, minimum wages, and wage determination procedures.
- **Comparative Analysis:** To evaluate continuity, deviations, and legal changes brought about by the New Wage Code, a comparison is made between it and the abolished labor laws (such as the Payment of Wages Act, 1936 and the Minimum Wages Act, 1948).
- **Secondary Sources:** To give academic viewpoints and doctrinal support, the study consults secondary sources such as government documents, labor committee reports, textbooks, journal articles, and expert commentary.
- **Limitations of the Study:** There is no scientific or field-based research involved, and the study is limited to the legal and policy aspects of the New Wage Code. The analysis is restricted to the legislation and judicial interpretations that are currently accessible as of the research dates.

### III. CONCLUSION

A number of changes have been proposed by the pay code and wage regulations that will fortify the nation's minimum wage system. All workers are now paid their fair share of minimum wages, and the minimum wage system has been made simpler by the wage law. In a similar vein, the wage regulations have set the standards and procedures for fixing, revising, and adjusting the minimum and floor salaries. The key trade unions' long-standing demand is a step in the right direction. With comparatively stronger redistributive benefits than those achieved via earlier legislation, these revisions provide optimism for the resuscitation of India's minimum wage policy. It may result in first-order effects on poverty, inequality, and the gender pay gap that might be anticipated from any wage regulation.

To address these issues, the wage regulations' pertinent sections pertaining to universal coverage, establishing floor and minimum wages at a suitable level, and guaranteeing meaningful compliance must be strengthened and improved. This document offers a number of helpful recommendations to further improve the wage regulations, based on the Expert Committee's findings and global experience. It contends that the wage regulations should make it clear that all workers, regardless of their employment arrangements and establishment-linked

employment connection, are entitled to universal coverage of minimum wages and wage payments. The study identifies shortcomings in the wage rules' criteria for setting floor and minimum wages and makes the case for adding scientifically supported standards that take into account both worker needs and economic considerations in order to set wages at a fair level.

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