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REFORMING INDIA'S WAGE CODE: BALANCING EMPLOYER OBLIGATIONS AND WORKER WELFARE

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ABSTRACT

India's labour law reforms have undergone a significant transformation with the introduction of the Wage Code, a pivotal step aimed at consolidating and modernizing the country's wage-related legislation. The Wage Code replaces multiple, fragmented wage laws, thereby simplifying compliance and administration. However, its implementation has raised critical questions about the balance between employer obligations and worker welfare. This article examines the historical evolution of wage regulations in India, outlines the key provisions of the Wage Code, and analyzes its implications for both employers and workers. It further evaluates the challenges of enforcing minimum wage protections across diverse sectors, including the unorganized and gig economies, and explores whether the new code meets international labour standards. The article concludes with recommendations to ensure effective enforcement while fostering a fair and equitable labour market.

Introduction

The landscape of labour law in India has long been marked by complexity, with numerous statutes regulating different aspects of employment. Among these, wage regulations have played a central role in defining the rights and duties of both workers and employers. Prior to 2019, wage-related matters were governed by a series of fragmented laws, including the Minimum Wages Act of 1948, the Payment of Wages Act of 1936, the Payment of Bonus Act of 1965, and the Equal Remuneration Act of 1976. This scattered framework often led to confusion, legal disputes, and inconsistent enforcement. In response to these challenges, the Government of India introduced the Code on Wages, 2019 (hereinafter referred to as the "Wage Code"), as part of its broader agenda to streamline labour laws. The Wage Code consolidates and subsumes the aforementioned legislations into a single framework, aiming to simplify compliance for employers while ensuring better wage protection for workers. A critical aspect of the Wage Code is its attempt to balance the

dual objectives of enhancing worker welfare and reducing the regulatory burden on employers. However, this balance remains a contentious issue, as stakeholders from both sides express concerns about the practical implications of the code. This article aims to explore the key features of the Wage Code, analyze its potential to improve worker welfare, and assess whether it imposes undue obligations on employers. Additionally, it will address the challenges in implementing the code across India's diverse labour market, particularly in sectors that were previously under-regulated. The analysis will also compare India's wage laws with international labour standards to evaluate the extent to which the Wage Code aligns with global best practices.

Historical Context of Wage Regulations in India

The development of wage regulation in India can be traced back to colonial times, with the introduction of laws aimed at protecting workers in a rapidly industrializing economy. The Payment of Wages Act, 1936, was one of the



earliest legislations that sought to ensure timely payment to workers in certain industries. This was followed by the Minimum Wages Act, 1948, which mandated the fixing of minimum wages in specific industries, mainly in the organized sector. The fragmentation of wage-related laws often led to a lack of uniformity and enforcement difficulties. Workers in different sectors faced disparate wage structures, and employers struggled with multiple compliance requirements. For instance, while the Minimum Wages Act applied only to scheduled employments, the Payment of Wages Act was applicable to a limited class of employees, leading to significant coverage gaps. The introduction of the Wage Code was, therefore, a response to the long-standing demand for consolidation and simplification of labour laws. The Code represents a shift towards a more unified approach to wage regulation, covering a wider range of employees and simplifying the compliance framework for employers.

Key Provisions of the Wage Code The Wage Code is structured around four key aspects:

Minimum wages, payment of wages, equal remuneration, and bonuses. These provisions aim to ensure that workers receive fair compensation for their labour while reducing the administrative burden on employers. Below are some of the essential features of the Wage Code:

1. Definition of 'Wages' One of the most critical reforms introduced by the Wage Code is the comprehensive definition of 'wages.' Under the previous laws, different statutes defined 'wages' in varied ways, leading to confusion and litigation. The Wage Code provides a uniform definition, encompassing basic pay, dearness allowance, and retaining allowance while excluding certain specific allowances, such as overtime and bonus. This new definition aims to bring clarity to wage calculations and ensure that workers are adequately compensated.

2. Minimum Wages The Wage Code retains the concept of a minimum wage but expands its coverage to all employees, including those in

the unorganized sector. Previously, minimum wage laws were limited to scheduled employments. Under the new code, the central and state governments are empowered to fix minimum wages across various sectors, ensuring that all workers receive a fair wage for their labour.

3. Payment of Wages The Code mandates that wages must be paid on time, without unauthorized deductions. Employers are required to ensure that wages are paid in full and within the prescribed time limits, failing which penalties may be imposed. This provision is expected to reduce wage-related disputes and improve compliance with timely payment standards.

4. Bonus Provisions The Wage Code incorporates provisions related to the payment of bonuses, ensuring that employees are rewarded for their productivity. The Code sets guidelines for the calculation and disbursement of bonuses, providing clarity for both employers and workers.

Under the Wage Code The Code on Wages, 2019, imposes a range of obligations on employers, aimed at ensuring fair and timely compensation for workers while promoting transparency and compliance. These obligations are crucial for safeguarding workers' rights and fostering a harmonious labour-management relationship. At the same time, the Code seeks to simplify administrative processes for employers, particularly in industries with complex wage structures. **Below are the key employer obligations under the Wage Code:**

1. Payment of Minimum Wages One of the fundamental obligations under the Wage Code is the requirement to pay minimum wages to all employees. Unlike the earlier Minimum Wages Act, which applied only to scheduled employments, the new Code extends minimum wage provisions to all employees across different sectors, including the unorganized and gig economies. This is a significant reform, as it ensures that no worker is paid below the



prescribed minimum wage, regardless of the nature of their employment. The responsibility to fix and revise minimum wages rests with both the central and state governments, depending on the type of employment. Employers must adhere to the minimum wage rates notified by the relevant authority. Non-compliance with this obligation can result in penalties, which the Wage Code has made more stringent to deter violations. Employers are also obligated to periodically review and revise wages, especially when the cost of living increases. The Code mandates that minimum wages be fixed based on factors such as the skills of the worker and the region in which they are employed, ensuring that wages are reflective of economic realities.

2. Timely Payment of Wages The Wage Code emphasizes the timely payment of wages, addressing a long-standing issue in India's labour market, particularly in the unorganized sector where wage delays are common. Employers are required to pay wages within the prescribed time limit, which varies based on the type of employment. For daily wage workers, payments must be made at the end of each day; for weekly wage workers, by the end of the week; and for monthly wage earners, within the first seven days of the next month. Failure to pay wages on time can lead to legal consequences, including fines and imprisonment in cases of persistent non-compliance. The Wage Code also introduces provisions that allow workers to file complaints about wage delays, ensuring a more accessible grievance redressal mechanism.

3. Deductions from Wages Employers are permitted to make deductions from wages, but only in accordance with the provisions laid out in the Wage Code. Permissible deductions include those related to taxes, provident fund contributions, and any penalties for absence from duty. However, the total deductions in any wage period cannot exceed 50% of the worker's wages. The Code also introduces protections against arbitrary deductions. For instance, employers cannot impose fines or deductions for damages to property without following due

process. Workers must be given an opportunity to explain their conduct before any deductions are made.

4. Payment of Bonuses The Wage Code consolidates and rationalizes the payment of bonuses, a key aspect of worker compensation. Employers are obligated to pay annual bonuses to employees who meet the eligibility criteria specified in the Code. The bonus must be calculated as a percentage of the employee's salary or wage, with a minimum rate of 8.33% and a maximum rate of 20%. In cases where an establishment makes a profit, employees are entitled to a share of the surplus profits in the form of a bonus. Employers are required to maintain transparency in the calculation and disbursement of bonuses, ensuring that workers receive their rightful share.

5. Record-Keeping and Compliance To facilitate transparency and compliance, the Wage Code mandates that employers maintain detailed records related to wage payments. This includes wage slips, registers, and other documentation that provide a clear record of wages paid, deductions made, and bonuses distributed. The Code allows for these records to be maintained in either physical or electronic form, offering flexibility to employers. The obligation to maintain accurate records is critical for ensuring that workers can access their wage information and for preventing disputes related to underpayment or unauthorized deductions. Employers are also required to provide wage slips to employees, detailing the components of their wages, deductions, and net payment.

6. Penalties for Non-Compliance The Wage Code introduces stricter penalties for employers who fail to meet their obligations. For instance, failing to pay minimum wages or delaying wage payments can result in fines of up to ₹50,000 for the first offense. In cases of repeated non-compliance, the penalties can escalate to imprisonment for up to three months, along with additional fines. The Code also allows for compounding of certain



offenses, enabling employers to settle minor violations by paying a specified fine without undergoing lengthy legal proceedings. This provision aims to reduce the burden on the judiciary while promoting quicker resolution of wage-related disputes.

Impact on Worker Welfare

The introduction of the Wage Code has been hailed as a progressive step towards improving worker welfare, particularly in sectors that have traditionally been neglected by labour legislation. However, the real impact of the code on worker welfare will depend on its effective implementation and enforcement. This section will analyze the potential benefits of the Wage Code for workers, as well as the challenges that may hinder its success.

1. Ensuring Minimum Wage Protection One of the most significant advantages of the Wage Code is its extension of minimum wage protection to all workers, regardless of their sector of employment. This marks a departure from the previous system, where only workers in scheduled employments were entitled to minimum wages. By including the unorganized sector, the Wage Code has the potential to uplift millions of workers who were previously excluded from wage protections. The inclusion of gig workers and contract labourers in the scope of the Wage Code is another important reform. These workers, who form a growing part of India's workforce, often face precarious working conditions and low wages. The Wage Code offers them a legal framework to demand fair compensation, potentially reducing income inequality.

2. Simplification of Wage-Related Disputes The Wage Code's emphasis on uniformity and clarity in wage definitions and payments is expected to reduce wage-related disputes. By providing a clear definition of wages and streamlining payment procedures, the Code minimizes the chances of misinterpretation and confusion. This is particularly important in industries where wage structures are complex, such as manufacturing and services. The Code

also introduces faster grievance redressal mechanisms, allowing workers to raise complaints about wage violations through simplified procedures. This is expected to benefit workers in industries where formal dispute resolution mechanisms were previously inaccessible.

Challenges and Criticisms

While the Wage Code, 2019, represents a significant reform in India's labour law framework, it has been met with various challenges and criticisms from stakeholders, including trade unions, employers, and labour rights activists. Some argue that while the Code has simplified compliance procedures, it may not go far enough in ensuring worker welfare or addressing the complexities of India's diverse labour market. Below are the key challenges and criticisms that have emerged in relation to the Wage Code:

1. Employer Concerns: Increased Compliance Burden and Operational Costs One of the main criticisms from employers is that the Wage Code, despite its aim to simplify wage regulations, has introduced additional compliance requirements that may increase operational costs. For instance, the mandate to pay minimum wages across all sectors, including the unorganized sector, places a greater financial burden on employers, especially small and medium-sized enterprises (SMEs). Employers argue that adhering to the prescribed minimum wages, especially during periods of economic downturn or inflation, could negatively impact their profitability and lead to downsizing or automation as cost-cutting measures. Additionally, the requirement to maintain detailed records of wage payments and deductions, although aimed at transparency, adds to the administrative burden on employers. While the Wage Code allows for electronic record-keeping, not all businesses, particularly in rural areas, have access to the infrastructure needed to implement these measures effectively. As a result, employers may face difficulties in



complying with the new regulations, leading to an increase in legal disputes and penalties.

2. Worker Concerns: Adequacy of Minimum Wages and Enforcement Issues From the workers' perspective, a primary criticism of the Wage Code is that the minimum wage rates prescribed by the central and state governments may not be adequate to meet the rising cost of living. Trade unions and labour rights activists have raised concerns that the Wage Code does not set a uniform national minimum wage, leaving the determination of wage levels to individual states. This could result in disparities in wage rates across different regions, particularly disadvantaging workers in states where the cost of living is high but the minimum wage rates are relatively low. Moreover, the issue of enforcement remains a significant challenge. Despite the provisions of the Wage Code, workers in the unorganized sector—who constitute a large portion of the Indian workforce—may still find it difficult to access their legal entitlements. Many workers in informal sectors, such as domestic workers, street vendors, and gig economy workers, are not unionized and may lack the resources or knowledge to assert their rights under the Wage Code. The problem of wage theft, where employers withhold or underpay wages, is likely to persist unless there are robust mechanisms for monitoring and enforcement.

3. Regional Variations and the Role of State Governments Another challenge in implementing the Wage Code is the significant role that state governments play in determining wage rates and enforcement mechanisms. While the Code provides for a national minimum wage, the central and state governments are responsible for fixing sector-specific wage rates based on local economic conditions. This has led to concerns about regional variations in wage standards, with some states potentially setting lower wage rates than others to attract investment and promote industrial growth. The decentralization of wage determination could also lead to disparities in worker welfare across different

states. For example, workers in states with weaker labour enforcement mechanisms may not benefit from the protections offered by the Wage Code, leading to a patchwork of wage standards across the country. The effectiveness of the Wage Code, therefore, depends largely on the willingness and capacity of state governments to enforce its provisions.

4. Concerns Regarding the Inclusion of Gig Workers and Contract Labourers While the Wage Code extends its coverage to include gig workers and contract labourers, there are concerns that it may not adequately address the unique challenges faced by these workers. Gig economy workers, such as those employed by ride-hailing platforms or food delivery services, often face irregular hours, lack of job security, and limited access to benefits like health insurance and retirement savings. Although the Wage Code brings them within the purview of wage protections, it does not provide clear guidelines on issues such as overtime pay, job security, or access to social security benefits. Similarly, contract labourers, who are employed on a temporary or project-based basis, may not fully benefit from the Wage Code's provisions due to the precarious nature of their employment. The Code mandates minimum wage protections and timely payment of wages, but it does not address the broader issue of job security for contract workers, leaving them vulnerable to exploitation.

5. Transition to Digital Compliance The Wage Code encourages employers to maintain electronic records of wage payments and other relevant information. While this provision is intended to promote transparency and reduce paperwork, it presents a significant challenge for smaller employers, particularly those in rural areas where access to digital infrastructure is limited. Many small businesses may lack the technological capacity to comply with the new requirements, leading to increased non-compliance and potential legal liabilities. This transition to digital compliance also raises concerns about data privacy and security. As more wage-related data is stored and



transmitted electronically, there is a heightened risk of data breaches or misuse of sensitive worker information. The Wage Code does not currently include specific provisions to address these risks, leaving a gap in its regulatory framework.

6. Implementation and Capacity of Labour Inspectors The effective implementation of the Wage Code depends on the capacity of labour inspectors to monitor compliance and enforce the law. However, India's labour inspectorate has historically been under-resourced and overburdened, raising concerns about the ability of the existing infrastructure to enforce the new wage regulations. Inspectors are responsible for ensuring that employers adhere to the provisions of the Wage Code, but in many cases, they lack the manpower or resources to carry out their duties effectively. The Wage Code introduces a more transparent inspection regime, including the possibility of self-certification by employers, which aims to reduce the burden on labour inspectors. However, critics argue that this could lead to a weakening of enforcement, as self-certification may incentivize employers to underreport or manipulate wage data to avoid penalties.

Comparative Analysis with International Labour Standards India's

Wage Code is an important step toward labour reform, but it must also be viewed in the context of international labour standards, particularly those set by the International Labour Organization (ILO).

The ILO has established several conventions and recommendations related to wages, including:

- ILO Convention No. 131: Minimum Wage Fixing Convention, 1970, emphasizes the need for a minimum wage that ensures a decent living standard.
- ILO Convention No. 95: Protection of Wages Convention, 1949, outlines the rights of workers to receive their wages promptly and in full.

Comparative Analysis

1. Minimum Wage Provisions Wages Code: Sets a floor for minimum wages applicable to all sectors, with provisions for periodic revision based on the cost of living and inflation. International Standards: ILO conventions advocate for minimum wages to be established through a transparent process involving consultations with stakeholders, ensuring that the set minimum wage meets basic living standards.
2. Timely Payment of Wages Wages Code: Mandates timely payment of wages (generally within a specified period after the end of the wage period). International Standards: ILO Convention No. 95 emphasizes that wages should be paid at regular intervals, ideally weekly or bi-weekly, to provide financial stability to workers.
3. Equal Pay for Equal Work Wages Code: Contains provisions aimed at ensuring equal pay for equal work across genders and categories. International Standards: ILO Convention No. 100 promotes equal remuneration for men and women for work of equal value, highlighting the importance of non-discrimination in wage-setting.
4. Worker Representation and Consultation Wages Code: Provisions for stakeholder consultations are included, but the effectiveness of worker representation can vary. International Standards: ILO emphasizes the need for workers' participation in wage-setting processes, advocating for collective bargaining as a tool for establishing fair wages.

Recommendations for Effective Implementation

To ensure the successful implementation of the Wage Code, 2019, and to achieve the dual objectives of enhancing worker welfare and reducing the compliance burden on employers, several recommendations can be made. These recommendations focus on strengthening



enforcement mechanisms, promoting awareness among stakeholders, and addressing the unique challenges faced by various sectors. Below are key recommendations for the effective implementation of the Wage Code:

1. Strengthening Enforcement Mechanisms A robust enforcement mechanism is crucial for ensuring compliance with the Wage Code. The government should focus on the following measures: **Enhancing the Capacity of Labour Inspectors:** To improve enforcement, it is essential to increase the number of labour inspectors and provide them with adequate training and resources. **Empowering labour inspectors with the skills and tools necessary for effective monitoring can significantly enhance compliance rates.** **Establishing Dedicated Enforcement Cells:** States should consider setting up dedicated enforcement cells within labour departments to specifically address wage-related issues. These cells can focus on monitoring compliance with the Wage Code, investigating complaints, and facilitating timely resolution of disputes. **Leveraging Technology for Monitoring:** The use of technology, such as data analytics and mobile applications, can aid labour inspectors in monitoring wage payments and compliance. **Implementing a digital reporting system for both employers and workers can facilitate real-time data collection and improve transparency.**

2. Awareness and Capacity-Building Initiatives Raising awareness about the provisions of the Wage Code among both employers and workers is essential for its effective implementation. Governments should consider the following initiatives: **Awareness Campaigns for Workers:** Trade unions and labour organizations can play a vital role in educating workers about their rights under the Wage Code. **Government-sponsored awareness campaigns can inform workers about minimum wage rates, timely payment, and grievance redressal mechanisms.** **Training Programs for Employers:** Employers, especially small businesses, should be provided with training

and resources to understand their obligations under the Wage Code. Workshops and seminars can help demystify the compliance process, enabling employers to adhere to the law without facing undue burdens. **Involvement of Civil Society Organizations:** Engaging civil society organizations can facilitate outreach to marginalized workers, particularly in the unorganized sector. These organizations can assist in raising awareness and advocating for workers' rights, ensuring that vulnerable populations are included in the compliance framework.

3. Addressing Regional Disparities To prevent regional disparities in wage standards and ensure fair compensation for all workers, the following measures should be implemented: **Establishing a National Minimum Wage:** While the Wage Code allows for state-specific wage rates, establishing a national minimum wage can ensure that all workers, regardless of their location, receive a baseline level of compensation. This approach would help eliminate wage disparities across states and promote equity in wage distribution. **Regular Review and Revision of Wage Rates:** The government should conduct regular reviews of wage rates to ensure they align with the changing cost of living and economic conditions. This could involve consultations with labour representatives and industry stakeholders to set realistic and equitable wage levels.

4. Protecting Vulnerable Workers Special attention should be given to ensuring that vulnerable workers, including gig workers and contract labourers, are adequately protected under the Wage Code: **Clarifying Rights for Gig Workers:** The government should issue guidelines specifically addressing the rights of gig workers, including entitlements to minimum wages, overtime pay, and social security benefits. This would help ensure that gig workers receive protections commensurate with their contributions. **Expanding Social Security Benefits:** The government should consider extending social security benefits to contract



labourers and gig workers to provide them with a safety net in times of need. This could include provisions for health insurance, retirement savings, and unemployment benefits.

5. Continuous Monitoring and Evaluation To assess the effectiveness of the Wage Code and address implementation challenges, continuous monitoring and evaluation mechanisms should be established: Establishing a Monitoring Committee: A multi-stakeholder monitoring committee, comprising representatives from the government, employers, and labour unions, should be formed to oversee the implementation of the Wage Code. This committee can regularly assess compliance levels, identify challenges, and propose necessary amendments. Conducting Impact Assessments: Periodic impact assessments should be conducted to evaluate the effects of the Wage Code on worker welfare and employer compliance. This will help identify areas for improvement and inform future labour policy reforms.

6. Promoting Employer Engagement Encouraging proactive engagement from employers can enhance compliance and foster a culture of fair labour practices: Incentives for Compliance: The government could offer incentives for employers who demonstrate exemplary compliance with the Wage Code. These incentives could include tax benefits, recognition programs, or preferential treatment in government contracts. Facilitating Self-Regulation: Encouraging industries to adopt self-regulatory mechanisms can promote voluntary compliance with the Wage Code. Industry associations can play a key role in establishing best practices for wage payments and labour standards within their sectors.

Conclusion

The Code on Wages, 2019, marks a significant milestone in India's labour law landscape, promising enhanced worker welfare and simplified compliance for employers. However, the success of the Wage Code hinges on effective implementation, robust enforcement

mechanisms, and active engagement from all stakeholders. By addressing the challenges and criticisms associated with the Code and implementing the recommendations outlined in this article, India can move towards a more equitable labour market that protects the rights of workers while promoting sustainable economic growth.

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