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The Code on Wages - A Critical Analysis

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Abstract- The Indian economy is dualistic. It consists of both sectors one is well organized and another is unorganized/informal sector. The informal sector is dominated by self-employed persons. Employment in the informal sector is uncertain. The workers in the informal sector have no access to social security, wage protection, and a decent wage. To address the issue of decent jobs the government of India tried to focus on the social protection and enforcement of the wage legislation. Article 43 of the Constitution states that "The state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities in particular".[1] Article 39 of the Constitution states that " the State shall, in particular, direct its policy towards securing (a) that the citizen, men, and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women."[2] In the light of the abovementioned articles of the Constitution the paper is an attempt to analyzing the code on wages, 2019 and its provisions.

Keywords: *wages, minimum wages, floor wages, workers. establishment.*

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The Code on Wages - A Critical Analysis

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Abstract- The Indian economy is dualistic. It consists of both sectors one is well organized and another is unorganized/informal sector. The informal sector is dominated by self-employed persons. Employment in the informal sector is uncertain. The workers in the informal sector have no access to social security, wage protection, and a decent wage. To address the issue of decent jobs the government of India tried to focus on the social protection and enforcement of the wage legislation. Article 43 of the Constitution states that "The state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities in particular".[1] Article 39 of the Constitution states that " the State shall, in particular, direct its policy towards securing (a) that the citizen, men, and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women."[2] In the light of the abovementioned articles of the Constitution the paper is an attempt to analyzing the code on wages, 2019 and its provisions. The first part of the paper provides an introduction to the topic. The second part focuses on the background of the wage policy and the need for wage policy in India. The third part analyzing different provisions of the Code on Wages, 2019, and the last part of the paper includes suggestions and conclusions.

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I. Introduction

Wage policy refers to a law or government action undertaken to regulate the level or structure of wage, or both, to accomplish definite aims of social and economic policy. It consists of planned efforts of the government to regulate the national wage laws. As far as India is concerned it doesn't have any planned wage policy. There is an indication of a wage policy-like framework is available in numerous ad hoc policy statements made by the government, some of which have also been merged in the labour policy and procedures and institutions influencing wage behavior.[3]

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[1] Article 43 of the Indian Constitution.

[2] Article 39 of the Indian Constitution.

[3] See C.K. John, "Some Aspects of Wage Policy in India", in his edited book, Issues in Indian labour Policy. He points out that "it would be correct to say that instead of a wage policy we [India] have a series of procedures ..." (p. 262). S.A. Palekar attributes this to the government's "refusal to face the wage policy" question in Problems of Wage Policy for Economic Development" (p. 185). K.N. Subramaniam feels that "the planners do not seem to be troubled by the absence of any [wage] policy", in Labour-Management Relations in India (p. 549). The underlying note reflected in these authors is in the direction of pointing out the fact that the need for wage policy is conspicuous.

a) Origin of Wage

Wage is as ancient as our society. In earlier times the artists and craftsmen were used to get wages in kind. The wages were paid by the king or village guilds. The evidence of this can be found before the Vedic age and Mahabharata. Wages in the form of money were not known until ancient India. The first reference to wages is found in Kautilya's 'Arthashastra' and 'Nitisara' by Sukrecharya. In common language, "the wage is a reward for the services rendered or payment for the work done." Wages play an important role in an economy. They are a reward for work as a factor of production; they provide an instrument for allocating manpower between occupations, industries, and regions. They also have an efficiency function: output-related earnings tend to improve worker efficiency and serve as an incentive to further effort. And, finally, wages contribute to the pattern of distribution of the national income: variability in the share of wages in national income also affects the size of other income shares. In short, wages perform productivity-related, allocative, and distributive functions.[4] India is a weak or underdeveloped country.[5] It was in the year 1951 India through its five-year plan aimed at achieving fast economic growth, stability in prices, increase in employment opportunities, and trying to raise the living standard of every especially the working class.[6] According to C095 - Protection of Wages Convention,[7] the term "wages mean remuneration or earnings, however, designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an

[4] For a more detailed discussion, see Lloyd G. Reynolds, "Objectives of Wage Policy in Developing Countries", in A.D. Smith (ed.), Wage Policy Issues in Economic Development, p. 219.

[5] Per capita income in India has averaged in recent years at Rs. 525 annually; net increase in GNP per capita has averaged between 1-15 per cent per year; population growth has averaged 2.4 per cent per year; like most other underdeveloped countries India also has a huge stock of surplus labour. Clark Kerr et al. reminded us over a decade ago that developing countries "are plagued with an overabundance rather than a scarcity of labour resources", Industrialism and Industrial Man, 1960, p. 181

[6] Reserve Bank of India, Report on a Framework for Incomes and Prices Policy, p. 1.

[7] C095 - Protection of Wages Convention, 1949 (No. 95)

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employer to an employed person for work done or to be done or for services rendered or to be rendered."[8]

b) Need of a Wage Policy

According to International Labour Organisation "wages are among conditions of work that have the most direct and tangible effect on the everyday life of workers. Although wages are necessary for the maintenance of workers and their families, in many parts of the world access to adequate and regular wages is not guaranteed."[9]

The following are main International Instruments on wages that prescribes wage protection to the workers.

Protection of Wages Convention, 1949- It provides regular payment of wage in case wages are paid in kind then it is the obligation on the part of the employer to see that the value of payments must be just and rational. If an employer becomes insolvent then wages shall be significant in the dispersal of liquidated assets. India has not ratified this convention.[10]

Minimum Wages Convention- The purpose of this convention is to insist on the states who have ratified this convention to establish in their country mechanism related to the minimum wage for shaping and reviewing minimum wage. India has not ratified this convention.[11]

Protection of Workers' Claims (Employer's Insolvency) Convention- It prescribes protection of the wages in case of insolvency and bankruptcy. This convention is ratified by very a smaller number of countries. India has not ratified this Convention.[12]

Despite international instruments, in many countries, workers face problems because of wage arrears. In some cases, because of the bankruptcy of the enterprise wages are never paid to the workers. When a larger part of wages is paid in kind instead of money workers face problems, such circumstances force the workers into poverty. In such situation's workers compel them to work like bondage labor. The Versailles treaty has placed the belief of the provision of a satisfactory living wage. In 2009 the Global Jobs Pact adopted by the ILC was a response to the international economic crisis.[13] It is mentioned in the pact that consistent modification of wages in consultations with the stakeholders reduced the poverty and give stability to the economic crisis.

c) Wage policies in India

India was considered a pioneer to introduce legislation on wages. It was as early as 1929 minimum wage policy in India was started. The Royal Commission's report on Labour was a pioneer in enacting the different legislations on wages. The purpose of the Payment of Wages Act was enacted to legalize bonuses paid to the employee. Despite these legislations, the wage policy has unable to produce the desired results. According to the India Wage Report, "there is a sign of prevalent low wages, wage inequality, working poverty and high gender pay gap, associated with international standards (ILO 2018)." Based on such findings there was a need for wage policy reform and the formation of a legislative national minimum wage.

d) Labour Law Reforms

India's labor practices and laws have borrowed from British rule. It was only after liberalization the government thought of changes in Labour legislations. The second National Commission on Labour[14] suggested justification of existing laws and a broader regulation for guaranteeing a basic level of wages to wage-earners in the formal/organized sector. In 2002 the Commission submitted its report and recommended that labor laws should be amalgamated. It suggested they should be amalgamated into four codes based on legislation related to Industrial Relations, Social Security, Wages, and Occupational Safety, Health, and Working Conditions. The worker represents the underprivileged and most helpless sections of the country.[15] As per the World Bank India is at 63rd position on 'Ease of Doing Business Rankings, 2020'.[16] According to the Global Competitiveness Report, 2019 issued by World Economic Forum India stands at 128th position.[17] The various reports show that to improve our ranking and to achieve new heights it is mandatory to reform and

[8] Article 1 of the ILO CO95 C095 - Protection of Wages Convention, 1949 (No. 95)

[9] Available at https://www.ilo.org/global/standards/subjects-covered-by-international-labour standards/wages/lang--en/index.htm Visited on 17.6.21.

[10] C095 - Protection of Wages Convention, 1949 (No. 95)

[11] C131 - Minimum Wage Fixing Convention, 1970 (No. 131)

[12] Ratifications of C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).

[13] Available at https://www.ilo.org/ilc/ILCSessions/previous-sessions/98thSession/texts/WCMS_115076/lang--en/index.htm last visited on 15.5.21.

[14] The 2nd National Commission on Labour (NCL) set-up in 1999.

[15] Department of Economic Affairs (2019): *Economic Survey 2018-19, Volume 1*, Ministry of Finance, Government Press, New Delhi. International Labour Organization (2018): "India Wage Report: Wage Policies for Decent Work and Inclusive Growth," Available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_638305.pdf last seen on 30.4.21

[16] The New Indian Express 'Eyebrows raised over India's ease of doing business ranking by World Bank' by Arshad Khan, published: 29th August 2020 12:09 PM.

[17] The World Economic Forum 'The Global Competitiveness Report 2019'Professor Klaus Schwab World Economic Forum Editor.

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change old laws with new laws. India is beholding the long-awaited reorganizations in the Labour Law regime.

The Bill on the Code on wages was introduced in the Lok Sabha in August 2017. This bill was lapsed due to the suspension of the Sixteenth Lok Sabha. The Ministry re-introduced the revised wage Code in the Lok Sabha. Both houses of Parliament have passed the bill and it received the Presidential assent on 8th August 2019. The Code on Wages (henceforth referred to as the Wage Code), has codified India's four wage-related laws namely the Payment of Wages Act, the Payment of Bonus Act, Equal Remuneration Act, and the Minimum Wages Act. The Wage Code has amended the provisions of previous legislation.

According to National Sample Survey Office (NSSO)[18] India's 400 million workforces, nearly 49% reliant on wages for the nourishment of their livelihood. According to the Economic Survey held in 2018-19 has discovered that out of three workers one worker is not getting the minimum wage laws because of defective implementation machinery.[19] Out of these 400 million workers, approximately two-thirds of workers are informal and denote the deprived and weakest segments of the country (NSSO 2010; NCEUS 2008).[20] According to the study undertaken by Patrick Belser and Uma Rani (2011) suggests full implementation depicts that "extending the legal coverage certainly reduced the wage inequality by 10 percentage points; there would be chances of the lower poverty level from 8-9% points among regular and around 18 percentage points among casual workers."[21] It is not only India but other countries like Brazil and China also supported through empirical evidence "that minimum wage policy may contribute to a reduction in income inequality by raising the earnings of low-paid wage workers (Lin and Yun 2016; Engbom and Moser 2018)"[22] The purpose of the wage code 2019 is to provide a universal statutory minimum wage to all workers irrespective of the sector in which they are employed. It also guarantees timely payment and removes gender discrimination.

e) Applicability of the Code

Before the Wage code, the applicability of various wage legislation was different. The Payment of Wages Act applicable to specific eight different industries and establishments like mines, oil and manufacturing units, etc. it also covers employees drawing salaries below a statutory limit (24,000). The code covered all the establishment against the specified industries factories under the Act. There is no wage threshold. The Minimum Wages Act applies to workers engaged in scheduled establishments. The code on wages extended its scope and it applies to all employees not restricted to scheduled employments. The wage code prescribes that "no employer shall pay to any employees wages less than the minimum wages less than the minimum rate of wages notified by the appropriate government."(GoI 2019d: 6).[23] Moving on to another act the Payment of Bonus Act, this act covers all industries that hire 20 or more persons. It also covers all the employees who earn at 21000 per month. Now under the wage code, it applies to all establishments. Equal Remuneration spread over to all industries. The Wage code includes an unorganized sector within its preview. Unorganized workers are not defined under the wage code but it is mentioned in the statement of objects and reasons of the code. Apart from that all kinds of employees/workers whether employed directly or indirectly would be covered under the purview of the code. According to the Periodic Labour Force Survey(PLFS) data (NSO 2020), the wage code is a good initiative and it is going to benefit around 22.47 crore wage earners in 2018-19 and protecting an additional 7.64 crore wage earners.[24] According to the government, the wage code will apply to all employees and will cover 500 million workers. But it is still not clear that whether self-employed workers who constitute 38.6% of the self-employed will be entitled to get minimum wages. The definition of establishment excludes wage-earners in the household and those persons who are engaged in agriculture sectors. In addition to this Section 50(4) of the code on wage excludes employers employing less than five workers for domestic and agricultural purposes.[25] According to the

[18] National Sample Survey Office (2011): "Employment and Unemployment Situation in India 2009-10," Ministry of Statistics & Programme Implementation, Government of India.

[19] Department of Economic Affairs (2019): *Economic Survey 2018-19, Volume 1*, Ministry of Finance, Government Press, New Delhi.

[20] NCEUS (2008): "Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector," National Commission for Enterprises in the Unorganised Sector, Government Press, New Delhi.

[21] Belser, Patrick and Uma Rani (2011): "Extending the Coverage of Minimum Wages in India: Simulations from Household Data," *Economic & Political Weekly*, Vol 46, No 22, pp 47–55.

[22] Lin, Carl and Myeong-Su Yun (2016): "The Effects of the Minimum Wage on Earnings Inequality: Evidence from China," Forschungsinstitutzur Zukunft der Arbeit (IZA) Discussion Paper No 9715, Available at http://ftp.iza.org/dp9715.pdf.visited on 13.6.21.

[23] (2019d): "The Code on Wages, 2019, No 29 of 2019," Ministry of Law and Justice, Legislative Department, Government of India, New Delhi, Available at http://egazette.nic.in/WriteReadData/2019/210356.pdf visitted on 16.6.21.

[24] (2020): "Periodic Labour Force Survey (PLFS)—Annual Report, July 2018–June 2019," Unit-level Records National Statistical Office, Ministry of Statistics and Programme Implementation, Government of India, New Delhi.

[25] Section 50(4) of the Code states that "*agricultural* income tax law" means any law for the time being in force relating ... Apprentices Act, 1961), *employed* on *wages* by an establishment to ... *purposes* of section 3, the dispute shall be decided by such authority ... 5.

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government, the wage code will apply to all employees and will cover 500 million workers. But it is still not clear that whether self-employed workers who constitute 38.6% of the self-employed will be entitled to get minimum wages. As far as the agriculture sector is concerned it is not included how then persons who are involved in this sector will get the stipulated minimum wages.

The three important terms *Employer, Employee, and Worker* are defined by the Payment of Wages, Payment of Bonus, and the Minimum Wages Act. As far as the code on wages is concerned it widens the scope of each term. The definition of 'employee' is broader than that of 'worker'. As per the new definitions, all the workers are an employee but all workers are not an employee. Barring the minimum wages Act which is restricted to only workers. An '*Employee*' under the Wage Code is "any person employed other than apprentice on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, or clerical work for hire or reward, whether the terms of employment be express or implied."[26] The term '*worker*' refers to "any person except an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward, whether the terms of employment be express or implied and also includes working journalists and sales promotion employees, but excludes persons who are employed mainly in a managerial or administrative capacity; or the person who is employed in a supervisory capacity drawing a monthly wage exceeding INR 18,000 or such amount as may be notified by the Central Government from time to time."[27] *Employer* -Means a person "who employs whether directly or through any person or on his behalf or behalf of any person, one or more employees in his establishment, and includes occupier and manager in case of a factory. In the case of any other establishment, the person who has ultimate control over the affairs of the establishment, a manager or managing director who has been entrusted with the affairs. Also includes a Contractor and Legal Representative of the deceased employer."[28] For the factory act, the owner has been excluded from the definition of employer. As far as Payment of Bonus is concerned the owner is included as the employer. A legal representative of the deceased owner has been excluded from the ambit of the factory but it has been covered from the ambit of other establishments. Section 2(f) of the Code defines a 'contractor' as an employer.

Wages- 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, — a) Basic pay; b) Value of house accommodation/supply of water, light, medical attendance or other amenity Dearness allowance; and c) Retaining allowance if any."[29] The following components would be excluded.

"Value of house accommodation/supply of water, light, medical attendance, or another amenity;

Employer's contribution to Provident fund, pension, and interest accrued thereon;

Conveyance allowance/value of traveling concession;

House Rent Allowance;

Remuneration payable under award or settlement;

Gratuity payable on termination;

Overtime Allowance;

Retrenchment Compensation and Other Retiral Benefits/ Ex-gratia."

The definition of 'wages' was entirely different across labor laws in India. The Code tries to prescribe an unvarying definition of 'wages'. This common definition of wages applicable to various legislations. The definition of wage is almost similar but there are few changes in their construction. As far as equal remuneration and Payment of wages are concerned the few exclusion components shall be considered for the computation of wages.[30] The Code on Wages specifies that if payment under the components which are excluded from the wages exceed one-half or amount as notified by Central Government of the total wages in such cases the amount which exceeds added under wages.[31]

f) Fixing of Minimum Wages

Under the Minimum Wage Act, there were two methods to fix minimum wages. First method fixing wages through committees and subcommittees.[32] The second method of fixing minimum wages through the appropriate Government shall by notification, in the Official Gazette publish its proposals for the information of persons likely to be affected thereby and specify a date not less than two months from the date of

No *employer* shall *pay* to any *employee wages less than* the ... of *section 50*;

[26] Section 2(k) The Code on wages, 2019.
[27] Section 2(z) The Code on wages, 2019.
[28] Section 2 (l) The Code on wages, 2019.
[29] Section 2 (y) of the Code on Wages, 2019.
[30] Second Proviso to Clause 2(y) of the Code on Wages, 2019
[31] Section 2 (y) of the Code on Wages, 2019
[32] Section 5(1)(a) of the Minimum Wages Act, 1948

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notification, on which the proposals will be taken into consideration.[33] Based on this the different states were having different minimum wages. As far as the Wage Code is concerned the procedure for fixing of minimum wage is on the administrators. The administrator is hardly concerned about the rights of workers to wage that is sufficient for leading a dignified life (Sundar and Sapkal 2018).[34] In January 2018 the center constituted an expert committee under the chair of Dr. Anoop Sathpathy (henceforth Sathpathy committee) with a wide mandate to make a detailed review of minimum wages given the historical and the judicial context and recommend the national and regional minimum wages. Keeping in mind global best practices and their adaptability and relevance to the Indian context. The committee submitted national d its report in 2019. The committee recommended a national minimum wage of Rupees 9,750 and a housing allowance of rupees 1,430 for workers living in the urban area and region-wise minimum wages. This report was not accepted by trade unions. The Code on Wage does not discuss anywhere the components on which the wages would be fixed. In earlier legislation, there was a procedure for fixing minimum wages.[35] The Indian Labour Conference in its 15th conference which was held in 1957 decided the need-based minimum wage for a single industrial work. According to need-based workers, a normal family is consists of a spouse and two children below the age of 14, the consumption units would be 3. Dr, Wallace Aykroyd a famous nutritionist had suggested that according to an activity performed by an average Indian adult daily he must consume 2,700 calories comprising 65 gm of protein and around 45-60 grams of fat. The purpose of minimum wages crucially depends on calorie requirements. In the newly passed Code on Wages 2019, the specified energy requirement is 2,700 kilocalories. The government for fixing minimum wages divides the concerned geographical area into three major areas metropolitan, non-metropolitan and rural area. For fixing of minimum wages employees are categorized into brackets viz. unskilled, semi-skilled, skilled, and highly skilled. Arduous nature of work specified in Schedule E to the rules, with a provision for modification/ addition/ deletion therein.[36]

The appropriate Government shall fix a minimum rate of wages for piece work or for time work. If an employee is employed based on piece work, the government shall fix a minimum rate of wages on a time work basis. If it is time work the rates may be fixed by the hour, or by the month, or by the day. The minimum wages will vary depending upon the arduousness of the work assigned to the worker, the skill required for a particular work, and the geographical location.[37]

g) National Floor Wage

The Code announces the national minimum wage be fixed by the central government. On the basis of the Floor wage, the states fix their minimum wages. The NFLMW (herein referred to as National Floor Level Minimum Wages) is non-statutory. The purpose of Floor Wage is to prescribe a wage below which the states shall not be allowed to fix the minimum wages. The central government prescribes minimum wages for its employees. The next important change is the specific timeline for payment of wages to the workers was not prescribed under the Payment of Wages Act. The Act simply prescribes that wages must be paid within the month and the so-called wage period shall not exceed one month. The Act incorporates two different wage periods for payment of wages based on the workers. The new Wage Code prescribes two working days for clearing payments concerning the full and final settlement of the employee's resignation. The Wage Code prescribes in case of daily wages worker the wage period would be at the end of the shift. In the case of weekly wage-earner wage, the period would be the last working day of the week before every week holiday. Fortnightly wage earners will get their wages before the end of the second day after a fortnight. In the case of a monthly wage earner, the wage period would be 7the day of every month. The wage code added convicted of sexual harassment a new ground for the disqualification of receiving the bonus.

h) Equal Remuneration

Equal Remuneration act prohibits gender discrimination in recruitment, promotion, wages, training, and transfer for workers performing the same work and it also prescribes the constitution of a board to promote female employment. When we compare gender-based discrimination the wage code prohibits gender-based discrimination only in terms of wages and recruitment. The Wage Code included transgender employees within its preview after passing the Transgender Person (Protection of Rights) Bill 2019. The concept of the same employer was not there in the equal remuneration Act. Under the wage code, the 'same employer' has been incorporated. It means if a male and female employee is engaged in the same work in separate units of an organization but under the same employer, they will be entitled to the same remuneration.

[33] Section 5(1) (b) of the Minimum Wages Act, 1948.

[34] The Bussinessline 'The many misses of the Wage Code' K. M. Shyam Sundar/Rahul S Sakpal March 14, 2018

[35] Section 5(1)(a) of the Minimum Wages Act,1948.

[36] The Code on Wage, 2019 available at https://egazette.nic.in/WriteReadData/2019/210356.pdf visited on 18.6.21.

[37] Section 6 of the Code on Wages, 2019.

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i) Duties of the Employer

The employer has certain duties towards its employees irrespective of sectors. He has to pay the minimum wages, the bonus, payment of overtime wages, and timely payment of wages to the employee. Apart from this, the employer has to maintain a register containing details of workers engaged, a register containing details of wages to be paid, and the issuance of wage slips. The Wage Code enhances the limitation period for filing claims. Under the payment of wages Act the limitation period was 12 months and under the minimum wages period was 6 months this limitation period enhances to 3 years. Under the Wage code now inspection would be web-based and information would be provided electronically.

j) Working hours

According to Wages Rules, 2019, the given number of hours of work is nine. This is conflicting with the normal practice of eight hours of work. The government prescribes the minimum wage for the eight-hour work period. The Wage Code 2019 and OSHWC nowhere prescribes the Concrete number of working hours, rest intervals, and for determination of overtime, etc, and leave to the appropriate government. Developed countries are working on reducing work hours. The Wages Rules 2019 suggests that work hours shall constitute a normal working day, including a period of rest, should not exceed 12 hours. According to this rule, the employer would change three shifts to two shifts. The 12-hour detaining of the workers at the workplace shall be misused.[38] The inspection system under the wage code prescribes limited inspection. India is a founding member of the ILO. India has ratified the convention on Labour inspection in 1947. The limited inspection in the wage code is not in line with ILO Convention.

k) Penalties

The wage code enhanced the penalty for contraventions of the provisions. The trade unions are authorized to make complaints about the offense under the code. Before the wage code, the Minimum Wages Act and the Payment of Bonus Act prescribed punishment of imprisonment of up to six months. Unlike earlier legislation, the Code penalizes a second conviction within five years from the first offense with imprisonment. In case of first offense – Penalty of Rs. 50,000 and in case of repetitive offense within Five years may lead to imprisonment up to three months and a fine may extend up to one lakh rupees or both. If the employer contravenes any other provisions then fine up to Rs. 20,000 and repetitive offense within Five years may lead to imprisonment up to one month and a fine may extend up to Forty thousand rupees or both. The offenses of non-maintenance or improper maintenance of records and registers in the establishment are punishable only with a fine of up to ten thousand rupees.

II. Suggestions and Conclusion

With the enactment of Wage-Code, many workers come under the ambit of minimum wages. There is no second thought that the application of code on the unorganized sector and introducing a national level floor is going to hugely benefit a large number of wage-earners. The government has to clear certain areas where there is little ambiguity. The minimum wages are not defined under the code in my opinion when we are having a full chapter on minimum wages its needs to be defined under the code. One of the objectives of the Code is to implementation of the universal wage for all workers. The Wage Code itself prescribes a different basis for determining the minimum wages viz based on the skill of the workers, nature of work, and geographical peculiarities. The minimum wage is a basic wage that fulfills the basic needs of a wage-earner. It should be common for all workers. This needs to be clarified. The Wage Code prescribes formal payment to the wage-earners through banks and digital platforms for effective implementation of formal payment the workers must be aware. The Code on Wage is being welcomed as a significant step towards labor reforms. The Code would protect the vulnerable wage -earners and also implement it with transparency and clarity.

[38] The WIRE 'Here Are All the Issues that Remain Unresolved in the Draft Code on Wages Rules' by Kingshuk Sarkar, 08/JUL/2020.

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