

# A CRITICAL ANALYSIS OF THE CODE ON WAGES, 2019

Amit Srivastav<sup>1</sup> and Prof. (Dr.) D.N. Dwivedi

<sup>1</sup>Research Scholar, Dept. Of Law, Meerut College, Meerut, UP, India.

<sup>2</sup>Professor, Dept. Of Law, Meerut College, Meerut, UP, India.

<sup>1</sup>Corresponding Author Email: [amit.llmnet@gmail.com](mailto:amit.llmnet@gmail.com)

<sup>2</sup>Author Email: [drdndwivedi@gmail.com](mailto:drdndwivedi@gmail.com)

## ABSTRACT:

In Indian employment framework, the adoption of the “Code of Wages 2019” serves as a revolutionizing step. It demonstrates a transformation from a fragmented legislative regime towards a comprehensive and structured code regulating wage-related aspects. Before framing of the 2019 Code, the wage regulations were governed via several legislations. While these statutes sought to safeguard employees, their co-persistence eventually led to implementation issues, overlapping sections and inconsistencies. The Wages Code aims to address such concerns by enacting a uniform legal code applicable to each class of workers across different sectors<sup>1</sup>. It inculcates various progressive provisions like wage standardization, gender equality in wages, etc. But the practical effectiveness of the Code is dependent on its enforcement within the complicated social and economic landscape of Indian labour sector<sup>2</sup>. This research paper critically explores the definition and features of the Code on Wages 2019 and also analyses its provisions regarding its efficiency in attaining wage justice. The paper also underpins the notable challenges related to the Code and provides conclusion while providing relevant suggestion for brining policy reforms, institutional strength and efficient governance in labor market.

**Keywords:** Wages, Workers, Code on Wages, India, Labour Sector.

## 1. INTRODUCTION:

The “Code of Wages, 2019” reflects a significant reformative legislative effort in Indian labour arena, seeking to ensure modernization and streamlining the wage laws through the integration of 4 prominent statutes: “Minimum Wages Act (1948), the Payment of Wages Act (1936), the Equal Remuneration Act (1976), and the Payment of Bonus Act (1965).” This unified code foster fairness and simplifies wage regulation, thereby bridging the loopholes existing for a long duration in matters involving worker welfare

<sup>1</sup> A.K. Satpathy, Xavier Estupinan & B.K. Malick, Wage Code and Rules: Impact on the Effectiveness of Minimum Wage Policy, 56 ECON. & POL. WKLY. 66–73 (2021).

<sup>2</sup> Sudesh Kharb, The Code on Wages, 2019—A Critical Analysis, 13 INT'L J. ENG'G DEV. & RSCH. 745, 745–49 (2025).

and wage protection. Wages are not only an economic dealing among workers and employers; they are basic need to the socio-economic well-being, dignity and survival of employees. In a democratic nation like India, wherein a large bulk of people relies on wage labour for their life, the wage governance holds immense significance<sup>3</sup>. Thus, the 2019 Wages Code has been introduced by unifying these laws into a single Code. However, structural challenges related to wages still persist within India's labor sector, which this present research seeks to evaluate.

## 2. CONSTITUTIONAL NEXUS WITH WAGE LAWS

The Indian Constitutional law provides the basis for wage regulation and worker welfare. While wages are not expressly acknowledged as a fundamental right, they are interpreted by the judiciary from different provisions which promotes social justice, dignity and equality. Article 21<sup>4</sup> secures the "right to life & personal liberty", which has been construed to encompass "the right to livelihood"<sup>5</sup>. Article 14<sup>6</sup> envisages "equality before the law" and promotes non-discrimination. This provision is the foundation for the doctrine of "equal pay for equal work", which has also been incorporated under Article 39(d)<sup>7</sup>. The principle has been also upheld in the decisions like "*Randhir Singh v. Union of India*"<sup>8</sup>, "*PUDR v. Union of India*"<sup>9</sup>, and "*State of Punjab v. Jagjit Singh*"<sup>10</sup>.

Further, Article 23<sup>11</sup> forbids forceful form of labour, which entails scenarios wherein employees are remunerated less than the standard wage. The DPSP further strengthens these norms. Article 43<sup>12</sup> mandates the government to provide "decent working condition" and "living wage" to the employees<sup>13</sup>. These Articles together establish a legal regime that obligates the State to secure "sufficient and fair wages for every employee". So, the "Code on Wages 2019" shall be assessed in the light of such constitutional provisions<sup>14</sup>.

## 3. FEATURES AND IMPACT OF THE CODE ON WAGES 2019

### 3.1 Harmonization of several definitions

The 2019 Code has harmonized various definitions mentioned under separate statutes, which were subjected to diversified construction despite being connected with same matter. For instance, the expression "wages" was defined under different laws, but under the Code, it has been reformed as

<sup>3</sup> Piyali Ghosh & Shefali Nandan, Industrial Relations and Labour Laws (6th repr. ed. 2021).

<sup>4</sup> INDIA CONST. art. 21.

<sup>5</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

<sup>6</sup> INDIA CONST. art. 14.

<sup>7</sup> INDIA CONST. art. 39(d).

<sup>8</sup> AIR 1982 SC 879.

<sup>9</sup> AIR 1982 SC 1473.

<sup>10</sup> (2017) 1 SCC 148.

<sup>11</sup> Anjali Menon, Bilal Lateefi & Namratha M.N., The Code on Wages, 2019: Reconstructing India's Wage and Remuneration Framework, BAR & BENCH (May 1, 2026)

<sup>12</sup> INDIA CONST. art. 43.

<sup>13</sup> Dev Bansal, Critical Analysis of the Code on Wages, 2019: Challenges in Implementation and Alignment with ILO Standards in India, TAXGURU (Apr. 10, 2026), <https://taxguru.in/corporate-law/critical-analysis-code-wages-2019-challenges-implementation.html> (last visited Aug. 22, 2026).

<sup>14</sup> Jehosh Paul, What Exactly Are the Current Norms for Calculating the Minimum Wage in India?, 4 INDIAN PUB. POL'Y REV. (2023).

“remuneration or salary”<sup>15</sup>, which inculcates all forms of “remuneration via allowances, salary or other elements explicit in terms of money”<sup>16</sup>. It further outlines the exclusions like commission, gratuity, etc<sup>17</sup>.

### 3.2 Different Definitions for “Worker” and “Employee”

The Code distinguished between the definition of a “Worker” and an “Employee”, wherein the latter encompasses persons engaged in administrative, managerial, and supervisory roles, whereas the former precludes such persons, while explicitly including sales promotion employees and journalists<sup>18</sup>. This signifies that such classes of “employees” are covered under the law, unlike MWA. But the code doesn’t refer to “employees” and only to “workers” regarding the factors of ascertaining minimum wages<sup>19</sup>.

### 3.3 The concept of “Appropriate Government”

The Wage Code modifies the definition of expression “appropriate government”, which clarified the scope & nature of such “factories or establishments”, which would be covered within the ambit of Central Government for the purposes such as fixing the wages, regulation, and so forth.

### 3.4 Abolishment of Discrimination

According to Section 3 of the Code<sup>20</sup>, there is an explicit provision on discrimination among the employees on the ground of sex in subjects relating to wage payment and recruitment (except wherein it is limited by any law) by the employer, with regards to the “similar work or same work by any worker”<sup>21</sup>. This provision is applicable across all units and establishments. The Code has been reshaped to assure adequate acknowledgment of third gender<sup>22</sup>.

### 3.5 Introduction of Floor Wage

The Wage Code incorporated a novel concept known as “floor wages”, which has been envisaged under Section 9<sup>23</sup>. The expression “floor wages” entails a “baseline wage or national benchmark” ascertained by the Union which serves as a mandatory ceiling limit for outlining employee compensation. The primary aim of such wage is to secure minimum living standards (encompassing essential shelter, clothing and food costs) and basic income security throughout the nation. Section 9(1) of the Code<sup>24</sup> confers the Centre exclusive authority to fix the floor wages for diversified geographical region<sup>25</sup>.

<sup>15</sup> “Code on Wages, 2017 - An Analysis” (Lakshmikumaran & Sridharan: Top Law Firm in India September 2017) <https://www.lakshmisri.com/insights/articles/code-on-wages-2017-an-analysis/> accessed May 5, 2020

<sup>16</sup> *Ibid.*

<sup>17</sup> A Critical Analysis of the Code on Wages, 2019, INT’L J. LEGAL & SOC. STUD. (IJLMH), <https://ijlmh.com/a-critical-analysis-of-the-code-on-wages-2019/?pdf=1> (last visited Aug. 22, 2026).

<sup>18</sup> India Code, *The Code on Wages, 2019*, <https://www.indiacode.nic.in/handle/123456789/15793> (last visited Aug. 22, 2026).

<sup>19</sup> Paul J. Wolfson, A Review of the Consequences of the Indian Minimum Wage on Indian Wages and Employment, ILO Asia-Pacific Working Paper Series (2019).

<sup>20</sup> The Code on Wages, No. 29 of 2019, § 3 (India).

<sup>21</sup> Shreya Kapoor, A Critical Analysis of the Code on Wages 2019: Need for Right to Minimum Wage, 2 INDIAN J.L. & LEGAL RSCH. 296, 296–306 (2021).

<sup>22</sup> Atul Gupta, Code on Wages 2019: A Leap Forward, BLOOMBERGQUINT (Aug. 6, 2019), <https://www.ndtvprofit.com/opinion/code-on-wages-2019-a-leap-forward> (last visited Aug. 22, 2026).

<sup>23</sup> The Code on Wages, No. 29 of 2019, § 9 (India).

<sup>24</sup> The Code on Wages, No. 29 of 2019, § 9(1) (India).

<sup>25</sup> Ministry of Labour & Employment, Labour Codes, <https://www.labour.gov.in/offerings/schemes-and-services/details/labour-codes-gzNzQzMtQWw>



### 3.6 Wages Payment

The Code inculcates a new provision assisting in wage payment via digitalized mode<sup>26</sup>. It further imposes duration for salary payment for several classes of workers (for instance, Daily wage workers shall be remunerated before the end of shift). The Code further underscores the time limitation for wage payment paid monthly, fortnightly, weekly and daily by the employers. In the matters involving unemployment, resignation, retrenchment, dismissal and removal of workers because of shutting down of factories, the wages shall be paid within 2 working days<sup>27</sup>.

### 3.7 Permissible Deductions

Section 18 of the Code<sup>28</sup> highlights the notable deductions which could be made from wages on the ground of absence from duty, fines, and so forth. In no case deductions can exceed 50% of the overall wages of the workers. However, where the deductions has been exceeded the said capping, the said amount would be becomes recoverable from the employer<sup>29</sup>.

### 3.8 Payment of Bonuses

Under Chapter IV (Sections 26-38), the provisions addressing the bonuses have been provided. As per Section 26(1), the employer is bound to pay bonus 100 Rupees or 8.33%-20% of wages, whichever is greater. The said bonus shall be paid even where the establishment doesn't have allocable surplus. The Code further altered the eligibility condition for bonus payment and the manner for calculating the same. Previously, the eligibility relied on the prescribed wage limit, which is presently be ascertained by the government<sup>30</sup>.

### 3.9 Provision on Death of a Worker

Section 44 of the Code<sup>31</sup> enumerates that where a worker dies prior to receiving their dues, every pending amounts payable under the Code shall be conveyed directly to their nominated individual. Where no nominee is existing or payment is not possible, the employer is mandated to pay the funds with relevant authority<sup>32</sup>.

### 3.10 Inspector-Cum-Facilitator

The instant Code substitutes the expression "Inspector" under Section 51 with that of "Inspector-cum-Facilitator", who would, along with the authority of inspector (to investigate or inquire), be designated the function of giving information and advising the workers and employers on the efficient adherence with the code for eliminating malpractices and abuses in inspection. The facilitator is further bound to secure

<sup>26</sup> The Code on Wages, No. 29 of 2019, § 15 (India).

<sup>27</sup> The Code on Wages, No. 29 of 2019, § 17 (India).

<sup>28</sup> The Code on Wages, No. 29 of 2019, § 18 (India).

<sup>29</sup> Nidhiya Menon & Yana van der Meulen Rodgers, The Impact of the Minimum Wage on Male and Female Employment and Earnings in India, 34 ASIAN DEV. REV. 28-64 (2017).

<sup>30</sup> Dr. Sonika Ahlawat, "The New Code on Wages in India: Bridging Gaps in Wage Regulation," 7 INT'L J. FOR MULTIDISC. RES. 1 (2025). The article appears in Volume 7, Issue 1, January-February 2025.

<sup>31</sup> The Code on Wages, No. 29 of 2019, § 44 (India).

<sup>32</sup> Ankur Dalal & Ranjan Kumar, Code on Wages, 2019: A Paradigm Shift in Enforcement of Wage Related Labour Laws, 10 SURJ. PUNJ J. MULTIDISC. RES. 68, 68-91 (2020).

employers an opportunity to abide with the facilitator's decision/order, before commencing the prosecution for non-compliance.

### 3.11 Returns, Records and Notices

The Code obligates the employer to ensure maintenance of a common register encompassing particulars like information of workers, bonuses, wages, etc., which will eliminate the outdated procedure of maintenance of distinct records under various laws<sup>33</sup>.

### 3.12 Offences

The Wage Code has increased the punishment for non-adherence like jail (only) for heinous crimes, when repeated, and the damages payable in the matters involving default could exceed up to 10 times the claim ascertained by the relevant authorities. The Code has further decriminalized all the crimes excepted where the crime is repeated again in five years. This enables for settlement or compounding of the offences. But simultaneously, the Code maintains a balanced approach by prescribing strict penalty for repeat offence, which would serve as a deterrent factor for the first-time offenders from commission of more such crime in future. The Code also enhanced the period for making claims from 6 months to three years and burden of proving the compliance of duty lies on the employer, thereby making the Code employee-friendly<sup>34</sup>.

## 4. CHALLENGES UNDER THE CODE ON WAGES

Despite several advantageous elements under the Code, certain problem still persist which will be discussed in following manner:

### (i) Dilution of Universality through a Definitional Quagmire

The Code eliminates the difference between non-scheduled and scheduled employment. Section 5<sup>35</sup> emphatically states that "employer is obligated to pay employees the minimum wages prescribed by the appropriate government"<sup>36</sup>. Accordingly, there exists no scope for division of employment into different classes. But the apparent universalization of the mandate to pay minimum wages is merely a "chimera". The provision entitles 'employee' to avail minimum wages. This signifies that not every wage workers would have right automatically to claim such wages. The provision stresses that for getting minimum wages, "the wage worker shall fall within the ambit of employee". Such dependence on relationship of employment could operate as a major obstacle in the goal of absolute universality of minimum wages because various classes of wage workers can be expelled from the definition of "employee"<sup>37</sup>.

Due absence of direct control, several contract labourers were not found to be covered under the definition of employees in decisions of Supreme Court like *International Airport Authority of India v International Air*

<sup>33</sup> P.R.N. Sinha, Indu Bala Sinha & Seema Priyadarshini Shekhar, *Industrial Relations, Trade Unions and Labour Legislation* (3d ed. 2017).

<sup>34</sup> Atul Gupta, *Code on Wages 2019: In Simplification, Confusion?*, NDTV PROFIT (Aug. 6, 2019).

<sup>35</sup> The Code on Wages, No. 29 of 2019, § 5 (India).

<sup>36</sup> Uma Rani, Patrick Belser, Martin Oelz & Setareh Ranjbar, *Minimum Wage Coverage and Compliance in Developing Countries*, 152 INT'L LAB. REV. 381, 381-410 (2013).

<sup>37</sup> S. Bhattacharjee, *Many Discontents of the Code on Wages, 2019*, NLSIU STUDENT L. REV. (2022), <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1085&context=slr> (last visited Aug. 22, 2026).

*Cargo Workers' Union*<sup>38</sup>. Moreover, in “*Managing Director, Hassan Co-operative Milk Producer Society Union Limited v Assistant Regional Director, Employee State Insurance Corporation*”<sup>39</sup>, the Apex Court elucidated that “drivers employed by milk cooperative via contractors were found beyond the scope of employees”. The precedent reflects that large swath of contract domestic workers, sub-contracted workers; gig workers and contract labour would fall outside the employment relations.

### **(ii) A lacuna of Definitional Consistency—‘Employee’ and ‘Worker’**

The effect of preclusion attached with the definition of “employee” under Section 2(k)<sup>40</sup> is compounded by the confusion led by the usage of diversified legal expression to refer to workers to whom the Code is applicable. It is pertinent to note that few of the entitlements under the 2019 Code are conferred upon the “workers”, while most of the rights are granted to “employees”. For instance, Sections 7(1)<sup>41</sup> and 6(6)<sup>42</sup> mentions the word ‘worker’ while dealing with the determination of “minimum wage rate”. Conversely, Section 5 forbids an employer from paying less than prescribed amount of wage and mentioned the term ‘employee’. Likewise, Section 9 enables the Union to determine the floor wage, underpins the term ‘worker’.

The distinction in utilization of expressions is reiterated by the difference in legal definition of such words. The term ‘worker’ has been defined under Section 2(z) of the Code<sup>43</sup> as “individuals hired in any industry to do any supervisory, clerical, operational, technical, unskilled, or manual work for reward or hire” and encompasses sales promotion employees and working journalists”. The provision appears wider as it particularly inculcates sales promotion employees and working journalists. But it is narrower because it doesn’t cover administrative and managerial workers. Such inconsistencies in definition could probably cause ambiguity with respect to the ambit of individuals covered by the section on minimum wages.

Although the Ministry of Labour and Employment submitted in its report that the 2 terms has been utilized for different contexts. But this causes confusion and dilutes the actual application of the Code<sup>44</sup>.

### **(iii) Ambiguity in relation to inclusion of Domestic Work**

Section 2(m) of the Code<sup>45</sup> defines the expression “Establishment” as “any place where occupation, manufacture, business, trade or industry”. It is quite ambiguous regarding whether homes and households will be covered under the ambit of the terms enlisted under the definition of ‘establishment’. The notion that domestic work will not fall under the arena of establishment has been upheld by the Apex Court in

<sup>38</sup> (2009) 13 SCC 374 (Supreme Court of India).

<sup>39</sup> (2010) 11 SCC 537 (Supreme Court of India).

<sup>40</sup> The Code on Wages, No. 29 of 2019, § 2(k) (India).

<sup>41</sup> The Code on Wages, No. 29 of 2019, § 7(1) (India).

<sup>42</sup> Anjali Menon, Bilal Lateefi & Namratha M.N., The Code on Wages, 2019: Reconstructing India’s Wage and Remuneration Framework, BAR & BENCH (May 1, 2026).

<sup>43</sup> The Code on Wages, No. 29 of 2019, § 2(z) (India).

<sup>44</sup> Standing Committee on Labour, ‘Report on the Code on Wages Bill 2017, Forty Third Report’ (Ministry of Labour and Employment 2018) 15 accessed 23 June 2020.

<sup>45</sup> The Code on Wages, No. 29 of 2019, § 2(m) (India).



the matter of *“Bangalore Turf Club Limited v Regional Director, Employees State Insurance Corporation”*<sup>46</sup>, wherein the Court concluded that “an establishment is a place where an activity is habitually and systematically undertaken for distribution or manufacture of goods or services in those undertakings”. Such ambiguity over inclusion of home-based workers will materially impair the Code’s coverage.

#### **(iv) Exemption of NREGA from Minimum Wages Code**

The most negative element of instant Code is the preclusion of employment provided under “the National Rural Employment Guarantee Programme (NREGA)” from the scope of minimum wage legislation. According to Section 66, it has been evidently declared that the enactment doesn’t affect the “Mahatma Gandhi National Rural Employment Guarantee Act 2005”. The latest research shows that wages provided under NREGA were far less than legislative minimum wages in all union territories and states, which demonstrates the systematic neglect as observed by the Apex Court that “non-payment of minimum wages constitutes forced labour”<sup>47</sup>. The judiciary has further expressly concluded that “such duty to pay minimum wages expands to public work programmes also”. The Court in *“Sanjit Roy v. State of Rajasthan”* ruled that “minimum wages have to be paid for drought relief programme”<sup>48</sup>.

Despite the Supreme Court’s ardent efforts, the Code has de-linked the principle of minimum wage from programmes like NREGA, which contravenes Article 23 of the Indian Constitution<sup>49</sup>.

#### **(v) Failure to overcome structural hurdles**

Other than the definitional lacunas, the Code fails to deal with the structural barriers in enforcement of law concerning minimum wages. It has been found by the “High Power Expert Groups on Determining the Minimum Wages in India” that “wide disparities in remunerations and low wages have persisted across different States even from different scheduled employments”<sup>50</sup>. The systemic non-enforcement of the minimum wages provision has been the outcome of structural features of employment economy because of problems in legal definitions. Among those barrier includes the less power to bargain at work. For instance, workers fail to “deny work when the salaries offered are less than the minimum wage”<sup>51</sup>.

#### **(vi) State-level disparities**

The authority of concerned States to determine their own standard of minimum wages beyond the national floor wage leads to the possibility of substantial wage inequalities among the regions. States with higher living standard, advanced economic resources, and robust industrialization are likely to fix minimum wages beyond the floor. Employees in region with fewer minimum wages are more likely to witness difficulty in attaining basic expenses and income insecurity.

<sup>46</sup> (2014) 9 SCC 657 (Supreme Court of India).

<sup>47</sup> *People’s Union for Democratic Rights v Union of India* (1982) 3 SCC 235 (Supreme Court of India).

<sup>48</sup> *Sanjit Roy v State of Rajasthan* (1983) 1 SCC 525 (Supreme Court of India).

<sup>49</sup> INDIA CONST. art. 23.

<sup>50</sup> Ministry of Labour and Employment, ‘Report of the Expert Committee on Determining the Methodology for Fixing the National Minimum Wage’ (Government of India January 2019) accessed 23 June 2020.

<sup>51</sup> *Ibid.*

## 5. CONCLUSION

This research paper has attempted to demonstrate that despite its very noble aim of universalization of minimum wages, the Code on Wages suffer from different loopholes which would lead to continuous preclusion of large swaths of workers from the safeguards of minimum wage regulations. Although the Code undoubtedly adopts a very pivotal step ahead by elimination of dichotomy among the non-scheduled and scheduled employment, it has grossly failed to broaden the protection of minimum wage rules to all wage workers in Indian scenario. The myriad shortcoming in the Code, including the lack of uniform definition of 'employee' and 'worker', confusion over the position of domestic workers, exclusion of NREGA, and many such issues will ensure that universalizing the minimum wages in its true spirit will remain a pipedream. Therefore, the Code provides a promising legal framework, but its success ultimately depends on balancing economic flexibility with workers' rights, social justice, and meaningful wage security.

## 6. SUGGESTIONS

For addressing the aforesaid issues under the Code on Wages, the researcher has proposed following recommendations:

- Framing clear parameters or guidelines for the concerned States to decide minimum wages, which could lessen the disparities while upholding the State autonomy.
- Securing technical or financial aid to the economically weaker regions could empower them to ascertain and implement higher wage standards.
- Timely modifications to the national floor wage, alterations in economic conditions, accounting for inflation and reviewing floor wage can serve as an "equitable baseline for every state".
- The incorporation of wage tracking system and digital payment mechanisms could increase transparency and lessen the ambit for employer evasion.
- More clear norms on what actually include "wages: and stringent norms for preventing excessive exclusion is required.

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