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▶ Discussion Paper: Wage code and rules – Will they improve the welfare of low-paid workers in India?*

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Minimum wage policy is regarded as an essential policy tool for improving the welfare of low-paid workers and reducing working poverty and inequality within the labour market. The Government of India recently undertook reforms in the country's wage policy and enacted the Code on Wages in August 2019. The reform measures include the establishment of a statutory floor wage and the extension of the legal coverage of minimum wage to include all wage earners. To give effect to the wage code, the Government has now outlined the implementation mechanism by notifying the draft Code on Wages (Central) Rules in July 2020. This discussion paper

examines how some of the key reform measures undertaken in the wage code could potentially benefit low-paid workers. Workers' welfare is contingent upon an effective minimum wage policy that addresses both the levels at which the floor and minimum wages are set and the degree of compliance. The paper also examines the proposed implementation mechanism related to these two aspects in the wage rules and identifies shortcomings therein. Based on a detailed analysis, the paper provides suggestions to strengthen and refine the wage rules, enhancing the effectiveness of the code and the use of minimum wage policy targeting low-paid workers.

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► 1. Background

The Government of India (GoI) has published the draft Wage Code (Central) Rules (hereafter referred to as the wage rules) in the form of a gazette notification issued on 7 July 2020 (GoI 2020). The draft is now open for stakeholders' comments. The publication of the wage rules in the gazette is the second step taken by the Government, after the enactment of the Code on Wages (hereafter referred to as the wage code) on 8 August 2019 (GoI 2019d). Arguably, this development potentially takes us closer to the date when the wage code becomes effective through a final notification of the wage rules. The implementation of the code and rules will also witness the beginning of a new phase in the wage policy of India, with a concomitant repealing of the existing four wage-related regulations on the payment of wages, minimum wages, payment of bonus, and equal remuneration.

The first of the existing wage-related regulations, on payment of wages, was enacted in 1936, and the second, on minimum wages, in 1948. This gave India the unique distinction of being the first among the developing countries to establish a wage policy and become a frontrunner in this field. However, minimum wage policy has not produced the desired redistributive outcomes. Instead, as pointed out in numerous empirical studies, most importantly in the India Wage Report (ILO 2018), there are overwhelming pieces of evidence around the prevalence and persistence of undue low wages, high wage inequality, working poverty and high gender pay gap compared to international standards. The Report of the Expert Committee on Determining the Methodology for Fixing the National Minimum Wage¹ (hereafter referred to as the Expert Committee), while taking note of these outcomes and reflecting on India's minimum wage history, suggested the adoption of a transparent and updated minimum wage fixing method embedded

in contemporary evidence and ways of strengthening the minimum wage system (GoI 2019a).

Both the wage code and the wage rules have highlighted several aspects of reform related to the minimum wage system of the country. The wage code, for the first time, has explicitly stated the objective it intends to achieve, that is "to promote equity and labour welfare on the one hand and encourage investment and setting up of more enterprises on the other, thereby catalysing creation of more employment opportunities"² (GoI 2019c). In order to achieve the stated objective from the workers' perspective, the wage code has universalised application of minimum wages and floor wages to all wage earners, apart from simplifying the minimum wage structure. Similarly, the wage rules have, for the first time, included in their ambit the manner and criteria of fixation, revision and adjustment of floor wages and the minimum rate of wages. It therefore becomes imperative to examine the extent to which some of these key reform measures could potentially benefit wage earners and their families. It is also essential to identify shortcomings in the notified wage rules and their implications on workers' welfare in terms of the levels at which floor and minimum wages are to be set under the code and achieving meaningful compliance. Lastly, the paper also provides suggestions to strengthen the notified wage rules further, drawing from the recommendations of the Expert Committee and also from international experience.

In short, the overall intent of this paper is to highlight the critical and fundamental reforms undertaken in the minimum wage system of the country and to contribute constructively to the ongoing national debate with specific suggestions for the wage rules.

1 The Code on Wages Bill, 2017 (GoI 2017: 7) originally defined a national minimum wage; later, it was changed to a floor wage as envisaged in the Code on Wages Act, 2019 (GoI 2019d).

2 See para 3 of 'Statement of objects and reasons' of the Code on Wages Bill, 2019 (GoI 2019c: 30).

► 2. Wage Code reforms and their contribution to workers' welfare

The first of the three key reform measures in the wage code, which the wage rules will make effective, is the extension of legal coverage of both floor wages and minimum wages to all wage earners in the country. It is a significant step forward and stands to benefit about 224.7 million (or 48 per cent of the total 468.8 million workforce) wage earners in 2018/19 as per Periodic Labour Force Survey data (National Statistical Office, Periodic Labour Force Survey 2018–2019). It also implies protecting an additional net increase of 76.4 million wage earners, presently not covered under the minimum wage regulation. Many of these additional wage earners belong to the most vulnerable groups within India's vast informal economy. The extension of legal coverage in conjunction with the universalisation of payment of wages is expected to provide wage protection to these vulnerable workers and level the playing field for all employers, fostering fair competition. However, the wage rules should ensure that no employee or wage earner falls outside the realm of the widely promulgated universal coverage. Vulnerable low-paid and informal workers, such as domestic workers, gig economy workers and homeworkers, should also be targeted under this coverage, if there is an employment relationship in place.

The establishment of a statutory floor wage is the second element in the wage code that has significant implications for wage earners. The code prescribes that state governments should fix their respective minimum rate of wages at least equal to or above the floor wages. For states where the minimum wages are already higher, provisions under the code restrict them from lowering such wages. If appropriately implemented, the institution of a legal floor wage will bring a new dynamism into the wage-setting process in India. This could result in raising the wage levels of millions of low-paid workers, either presently not covered under the minimum wage regulation or receiving a sub-minimum level of wages. The floor is also likely to reduce the considerable disparities in the minimum wage rates that exist within and across states.

Another primary task that the wage code is set to perform relates to the simplification and rationalisation of the complex minimum wage structure in India. In this context, it may be useful to note that there were more than 1,915 occupational minimum wage rates across state spheres and 48 minimum wages in the central sphere as per the Economic Survey (GoI 2019b). These have been significant roadblocks affecting compliance

and dispersing the focus of minimum wage policy away from the most vulnerable low-paid workers. The plethora of minimum wages found in India are also frequently adopted as the established wages for each occupation and scheduled employment, rather than just the minimum level of wages. This situation distorts the meaning of a minimum wage and may interfere with collective bargaining between workers and employers. Notably, the wage code has done away with the practice of fixing occupational minimum wage rates or wage fixation by scheduled employments. It has only retained the procedure of fixing the minimum rate of wages by skill categories or geographical areas or both. This act of cleaning up will effectively reduce the number of rates to a minimum of 4 and a maximum of 12 rates per state. Interventions around enhancing awareness about fewer rates among workers and employers are expected to improve compliance and might even provide space for collective bargaining. However, the process of achieving this may not be as straightforward as it seems, given the long historical development of different rates of wages at the state and central levels. This will need a careful approach and technical support to the state governments.

The combined effect of the above key reform measures is expected to deliver the significant first-order outcomes that may be anticipated from any wage policy, in terms of reduced inequality and poverty. The wage code, therefore, enables minimum wage policy as an important redistributive tool that is expected to improve the standards of living and welfare of low-paid workers. This inference is attested to by various empirical investigations and, most importantly, in a detailed study undertaken by Belser and Rani (2011) in the context of India. This study, under the assumption of full implementation, found that the extension of legal coverage can reduce wage inequality by ten percentage points; reduce poverty among low-paid workers by eight to nine per cent; and compress the gender wage gap by six percentage points among regular and eighteen percentage points among casual workers. Empirical evidence from other emerging economies such as Brazil and China also suggests that minimum wage policy may contribute to a reduction in income inequality by raising the earnings of low-paid wage workers (Engbom and Moser 2018; Lin and Yun 2016).

Admittedly, the extent of the effect of these redistributive outcomes will be contingent on the level at which floor and minimum wages are set and on the

degree of compliance. Usually, these two factors tend to move in different directions, especially if minimum wages are set too high. In India, it is perceived that the prevailing minimum wages across states are low and hence one important discussion on minimum wages has always been around the question of an “appropriate level of minimum wage” which could provide a decent standard of living (Belser and Rani 2011). Similarly, compliance is another issue that has been widely debated, with poor compliance being attributed to weak enforcement

regimes (Soundararajan 2019). The Economic Survey 2018–2019 provides evidence to this effect and states that 20 per cent of regular and 42 per cent of casual workers earned below the non-statutory National Floor Level Minimum Wage³ (NFLMW) in 2012 (GoI 2019b). As the level of floor and minimum wages and compliance depend on the implementation mechanism and elements therein, in the next section, we have examined the wage rules that contain these elements and question their relevance in improving the redistributive outcomes of the wage code.

3 The NFLMW was established as a non-binding and advisory measure in 1996 to address the prevalence of undue low wages and inter-state variations in minimum wage rates. The NFLMW is benchmarked to the rural poverty line and was fixed at 176 rupees per day with effect from June 2017.

► 3. Wage rules, shortcomings and their implications

The wage rules have 58 provisions and have amalgamated eight different former rules under the four wage-related regulations. Various sections and sub-sections of the wage rules outline the implementation mechanisms for the corresponding provisions of the wage code. Of all the provisions in the wage rules, we examine two crucial aspects upon which improvement of workers' welfare is contingent: on the one hand, the elements related to determining the minimum wage level, that is minimum wage revision and adjustment, including the proposed criteria, and on the other, the enforcement strategy. Both aspects would govern simultaneously the level at which minimum wages are set and the degree of compliance. On the basis of the above examination, we have identified shortcomings in the wage rules that may affect the effectiveness of wage policy and thus workers' welfare. Based on the recommendations of the Expert Committee (2019a) and past implementation experience, we have outlined some additional features, which, if integrated into the wage rules, will provide the wage code with more teeth in terms of setting adequate minimum wages and improving compliance, thereby benefitting millions of low-paid workers.

3.1. Minimum wage fixation: revision, adjustment and criteria used

Unlike the earlier minimum wage regulations, the wage rules have, for the first time, included basic criteria and mechanisms related to fixation, revision and adjustment of floor and minimum wages under their ambit. This was a long-time demand of all the central trade unions and was expected to bring uniformity in the wage fixation criteria and adjustment processes across states. However, a close scrutiny of the wage rules suggests that on each of these three counts the wage rules are a mixed bag – they have included some elements, excluded some, and left certain other elements open-ended – which raises questions about the effectiveness of the minimum wage policy under such circumstances.

Firstly, the wage rules do not outline the exact criteria and methods for fixation of floor wage rates by the Central Government, except for stating some broad components such as food, clothing, housing and any other factors considered appropriate in Rule 11(1). India, with more than 70 years of experience in implementation of minimum wage regulation and 24 years of implementing the NFLMW, cannot afford to leave the floor wage fixation criteria ambiguous in the wage rules. Instead, it should lead the world in setting such benchmarks. This is all the more critical when the Expert Committee appointed by the Government has already, in its 2019 report, recommended an evidence-based methodology that needs to be considered for fixation of such a floor wage (GoI 2019a).

The Expert Committee for fixing a national floor had, amongst other things, recommended shifting towards a nationally representative and culturally palatable balanced diet approach.⁴ The updated evidence established a recommended intake of 2400 calories, 50 grams of protein and 30 grams of fat per day per person for estimating the cost of a food basket. Applying this methodology to the Consumption Expenditure Survey (CES) data for 2011/12 (NSSO 2014), the Expert Committee had recommended setting the national floor wage at 375 Indian rupees per day (9750 rupees per month) as per July 2018 prices, irrespective of skill level, occupation and location (refer to table). If this is updated to January 2020 prices, the level of floor wage will increase to 413 rupees per day (10,738 rupees per month). Besides, the Expert Committee had also suggested five regional⁵ floor-level minimum wage rates given the vast diversity in socio-economic and labour market situations across various regions. In a certain way, regional recommendations took into account the economic factors (discussed later) that address state disparities; pointing out that better-off states can push for higher minimum wages (above 375 rupees per day) and that the least developed and poorer states would need to start off with lower minimum wage levels, not compromising the level of minimum wage compliance. Therefore, it is crucial to have a closer look at this report and incorporate its recommendations as appropriate

4 The balanced diet approach for floor wage-setting allows for a minimum recommended intake of 2400 calories, 50 grams of protein and 30 grams of fat per adult person per day for 3.6 consumption units per family. As far as non-food costs are concerned, the Expert Committee divided them broadly into two categories: essential non-food items and other non-food items. It recommended that the required expenditure on essential non-food items be equal to the median class of the expenditure distribution, and that on the other non-food items be equal to the expenditure for the sixth fractile (25–30 per cent) of the distribution in the NSSO-CES 2011/12 survey data. (GoI 2019a: 33-52).

5 The report of the Expert Committee (GoI 2019a: 43-47) provides a detailed account of the methods related to categorization of states into regions and the estimation of regional floor minimum wage rates. The regional floor is to accommodate economically underdeveloped regions, enabling them to catch up gradually if they seek time to implement the national floor.

in the wage rules stating the exact methods of fixation of floor wage. This would enable the setting of the floor wage at an appropriate level after the wage code takes effect and would facilitate gradually catching up with the central trade unions’ demands to set the national floor at 18,000 rupees per month.

► Level of national and regional floor minimum wage rates (in INR) as per the balanced diet approach				
Floor minimum wages	Daily wage rates/day	Total monthly wages/day	Daily wage rates/day	Total monthly wages/day
	July 2018 prices *		January 2020 prices #	
National	375	9 750	413	10 738
Region 1	342	8 892	375	9 750
Region 2	380	9 880	417	10 842
Region 3	414	10 764	455	11 830
Region 4	447	11 622	490	12 740
Region 5	386	10 036	423	10 998

Source: Report of the Expert Committee on Determining the Methodology for Fixing the National Minimum Wage (2019) and author’s calculation

Note: : * as estimated by the Expert Committee; # as per author’s calculation after updating with January 2020 prices using the Consumer Price Index-Industrial Workers (CPI-IW)

Secondly, the wage rules are not very firm and categorical about the periodicity of revision and adjustment of the floor wage. They simply state that the floor wage “may” be revised ordinarily every five years and that adjustment for cost of living may be undertaken “periodically” in Rule 11(4). The use of uncertain terms opens the door to the delaying of revision. This may lead to stagnation of the floor wage in future, after its initial setting, thereby defeating the very purpose for which it has been instituted. Many countries establish shorter periods of revision and also demark the dates when the minimum wage shall come into force, leaving no space for ambiguity. Furthermore, the five-year period of revision of floor wage is not only too long (as presently the NFLMW gets revised every two years) but coincides with the revision period of the minimum rate of wages. As state governments have to set and revise their minimum rates of wages within five years either equal to or above the floor as per the wage code, this demands setting and revision of the floor wage at an earlier interval.

Thirdly, the wage rules must provide conceptual clarity regarding the “manner of calculating minimum rates of

wages” in Rule 3. They need to recognise that a “minimum rate of wages” is the total of its two components as per the wage code, that is the “basic rates of wages” and the “dearness allowance”. Hence, changes in the minimum rate of wages can be effected by changing either of these two components. The wage rules for the first time include a provision to adjust the dearness allowance concerning inflation every six months, which is a significant step that prevents any deterioration of workers’ purchasing power. Therefore, the other component that needs to be set initially and revised ordinarily within every five years is the basic rate of wages. This confusion in the wage rules, which has persisted for the last 72 years, needs to be corrected. Wage earners have borne the cost of this confusion, as many states, by taking advantage of this situation, do not revise their basic rates of wages for many years altogether, a practice that is essential for improving workers’ living standards. For instance, the Delhi and Maharashtra Governments revised their basic rate of wages after 22 and 9 years respectively. By delaying the process, these two state governments did not violate the minimum wage regulation as they effected changes in the overall minimum rate of wages through the dearness allowance and not through the basic rate of wages. This defeats the very purpose of having such a regulation and is one of the reasons for the prevalence of a low level of minimum wages in many states.

The fourth issue with the wage rules is related to the criteria for setting the minimum rate of wages. The rules include the need-based criteria recommended by the 15th Indian Labour Conference (ILC 1957) and subsequently expanded by the Supreme Court judgement of 1992 into its fold in Rule 3(1).⁶ However, the rule needs to recognise that the needs of the workers and their families, as defined in 1957, lack relevance in the present context owing to changes in economic development,⁷ demography, family size, consumption patterns, nutritional intakes and work intensity. Therefore, to set the minimum rates of wages at an adequate level above the floor wage, a new set of criteria and methodology are required in the present context. Moreover, the Expert Committee report provides strong evidence and assiduous scenario analysis to this effect. Apart from recommending the floor wage levels as discussed earlier, the Expert Committee report, with the use of evidence, has also recommended enhancing the consumption unit from 3 to 3.6 units per family and has estimated the possible level of minimum rate of wages corresponding to 2700-calorie levels (per day

6 See section 3 and sub-section 1 of the draft Wage Code (Central) Rules (GoI 2020) for detailed criteria.

7 Engel’s law is an economic observation stating that the proportion or share of income spent on food decreases as income rises, even if absolute expenditure on food rises. Economic development will reflect in higher incomes and therefore the average proportion of food in overall expenditure is likely to fall.

per consumption unit) with a balanced diet approach⁸ (GoI 2019a:82). It has also proposed to estimate the cost of non-food items as per household consumption behaviour and not as a fixed percentage of food and clothing cost, as is done presently. Thus, it is of utmost importance to rethink adopting a new approach supported by evidence and tripartite social dialogue. On the former, the Expert Committee report presents multiple options for zeroing in on evidence-based and contemporary criteria, for fixing not just the floor wage but also the minimum rate of wages.

The fifth element relates to article three of the ILO's Minimum Wage Fixing Convention, 1970 (No. 131), which does not find any mention in the wage rules. The provision calls for a balanced list of elements to consider when setting the minimum wage. While emphasising that the needs of the workers and their families are an essential part of determining the minimum wage, on equal footing, it urges consideration of economic factors too, including levels of productivity and the need to promote employment. Even if needs are adequately addressed, the minimum wage impact may compromise the requirements of economic development, and effective minimum wage enforcement may not be achievable. Therefore, consideration of these two criteria is nearly universal in practice.

In the context of India, by taking into account only the needs of workers and their families, regardless of the economic circumstances, levels of productivity, and levels of employment across states in the country, the wage rules focus on too narrow a criterion. As the wage code's objective is to promote both workers' welfare and sustainability of enterprises, thereby contributing to economic growth and employment, it would be appropriate to consider economic factors as well in the setting of both floor and minimum wages. This may also contribute to factoring labour productivity into the adjustments of the revised minimum wage levels when stakeholders consider this, as a mechanism to share the fruits of progress. Therefore, the wage rules may establish within their ambit the circumstances or indicators to be considered so as to address the economic environment that may enable stakeholders to arrive at minimum wage decisions through an evidence-based social dialogue, balancing the needs of the workers and their families against economic factors. This would enable the setting of floor and minimum wages at a feasible level, as well as improve compliance and enhance the effectiveness of the minimum wage system.

The sixth issue looks into the consultation process for setting the floor wage and minimum wages. Full consultation with social partners on a basis of equality

and, if possible, their direct participation in the operations of the minimum wage system is a central element of ILO Convention No.131. In accordance with this convention, the wage code provides for the constitution of minimum wage advisory boards by the appropriate government, comprising an equal number of representatives from employee and employer organizations and independent members, for fixing and revising minimum wages and other connected matters through consultation. Additionally, it goes on to state that one-third of the members of the advisory boards shall be women. The wage rules in Chapter VI provide a detailed procedure for the constitution and functioning of the advisory boards and the terms of office of the members. In the context of the floor wage, the wage code and wage rules provide that the Central Government may obtain the advice of the Central Advisory Board and consult with state governments before its fixation. However, suggestions on how consultation could be enhanced should be directly addressed to workers and employers' organizations so as to leave no loose ends.

Notwithstanding the enabling provisions in the wage code and the wage rules, past experience suggests various problems associated with the functioning of advisory boards and committees formed thereunder. Some of the important issues with advisory boards are as follows: (a) constituted on an ad-hoc basis, meet infrequently, with wide variations in their functioning across states; (b) not adequately backed by technical experts to undertake evidence-based enquiry and wage fixation; (c) do not undertake studies on monitoring and impact of minimum wages and their enforcement across sectors, occupations and states; (e) lack of co-ordination and interaction between central and state advisory boards; and (e) inadequate funding for boards' functions, no independent technical secretariat for record-keeping and smooth functioning of the board. Therefore, the Committee on the Functioning of the System of Wage Boards (1968) reported that a majority of the wage boards had not found it feasible to fix the "need-based minimum" of the 15th ILC. Similarly, the National Commission on Rural Labour (NCRL) in 1991 enquired into this issue and observed that wide disparities in minimum wages reflect the varied perceptions of the concept of the minimum wage in the states and at the Centre (GoI, 1991).

This paper earlier suggested that setting the floor wage and minimum wages should be grounded in sound criteria and evidence-based methodologies. However, the final decision requires the engagement of the tripartite stakeholders and a process of full consultation to arrive at the final decision. Therefore, the wage rules may create room to incorporate some technical capacity

⁸ The balanced diet approach for the minimum rate of wages setting allows for a minimum recommended intake of 2700 calories, 50 grams of protein and 30 grams of fats per adult person per day for 3.6 consumption units per family. Including the non-food expenditure, this method of the committee estimates the possible level of minimum rate of wages at 407 rupees per day as of July 2018 prices (or 447 rupees as of January 2020 prices) for rural unskilled labourers (GoI 2019a: 33-52).

into the central and state advisory boards, which may enable the boards to make decisions grounded in studies, information and official data that support any deliberation and argument. The rules may also provide mechanisms for regular interactions between central and state advisory boards on issues related to wage fixation, monitoring the implementation and impact of minimum wage. The Expert Committee Report points out various international experiences where technical boards make a contribution by formulating sound evidence-based studies, information and analysis that provide technical support for the social partners in their deliberations.

The seventh element that needs to be addressed in the wage rules is the procedure for adjustment of dearness allowance. While the wage rules have made it statutory in Rule 5 to adjust the dearness allowance every six months, they do not elaborate upon the price indices to be used and the exact procedure to be followed for effecting changes in the dearness allowance. As minimum wages will now be fixed for workers living in metropolitan, non-metropolitan and rural areas, the Expert Committee had recommended using Consumer Price Index numbers (rural, urban and combined) published by the National Statistical Office (NSO) with the latest 2012 base (GoI 2019a). As the state governments design their state-specific rules based on the Central rules, in order to maintain uniformity across states, it would be appropriate to include in the rules the price indices to be used and the procedure for dearness allowance adjustment. Under the previous legislation, states have used the Consumer Price Index for Agricultural Labourers (CPI-AL), the Consumer Price Index for Rural Labourers (CPI-RL), the Consumer Price Index for Industrial Workers (CPI-IW), and the Wholesale Price Index (WPI) without distinction, for adjusting the dearness allowance depending on the scheduled employment. This measure is also vital to protect the real wages of workers across the country through a uniform yardstick.

Finally, in terms of defining skill levels of employees (unskilled, semi-skilled, skilled and highly skilled), the wage rules provide for the constitution of a technical committee to advise the Central Government as per the National Skills Qualification Framework (NSQF) and the National Classification of Occupation (NCO) in Rule 4(2). This change in approach will ensure objective classification of skill categories so that higher levels of

skills, competencies, experiences and qualifications are appropriately identified and rewarded through higher minimum wages. However, at the same time, the wage rules, in the definition section, have retained the earlier subjective definition of skill levels, which caused numerous problems in identifying the updated skills found in the Indian labour market. Thus, retaining two different but parallel proposals for minimum wage setting for various skill categories will be counterproductive and will affect the wage setting process for workers across various skill categories.⁹ Therefore, the wage rules must clearly state that the subjective definition of skill levels as given in the definition section shall be removed once the technical committee provides a new objective classification. Similarly, for maintaining the tripartite character of the wage code, it is proposed to include at least one technical expert each from the trade unions and employers in the technical committee for determination of skills categorization. Additionally, as the wage code seeks universal coverage, implying that any wage employee shall be protected by a minimum wage, the wage rules should ensure that if an employee's occupation is not addressed as per the technical committee, the NSQF or NCO, the employee will still be protected by the lowest minimum wage fixed by the appropriate government.

3.2. Enforcing minimum wages

Ensuring a high rate of compliance is dependent as much on a simplified minimum wage system as on a coherent enforcement strategy involving the awareness and provision of information, effective labour inspections and punitive sanctions in case of violation. As discussed earlier, the wage rules and the wage code, by universalizing the minimum wage application, rationalizing the minimum wage structure and setting uniform criteria, have attempted to simplify and redesign the minimum wage system, which should improve compliance. However, the same cannot be said about the enforcement strategy,¹⁰ which should involve provisions related to awareness raising, the use of statistical information, and an inspection system, which have been dealt with in the following paragraphs.

Raising awareness about the various provisions of the code among workers and employers and the use of statistical information to monitor non-compliance and undertake focused inspections are vital aspects of

⁹ A similar problem can also be seen in Schedule E of the wage rules, where various occupations have been classified under skill categories. No rationale has been provided for how these categories have been arrived at. Further, many occupations have not been included in the list. These include occupations overrepresented by women, such as domestic worker and child care occupations. This calls for reviewing Schedule E, so that all occupations can be included in the list and their skill content can be classified appropriately.

¹⁰ The wage code has dealt with sanctions in case of violation relatively better than the other two elements of the enforcement strategy, namely the use of statistical information and the inspection system. It has strengthened the concept of graded penalty and enhanced the penalty, especially the fine amount, manifold compared to existing regulations. If the offence is related to non-payment of wages and a repeat offence is committed by the employer, the wage code sanctions a maximum penalty of imprisonment up to a period of three months or a fine of up to one lakh rupees or both, with no provision of compounding of offence. However, this increase in the maximum penalty amount was found inadequate in the present context by the Parliamentary Standing Committee on Labour, which examined the draft wage code bill (GoI 2018:xi).

enforcement and compliance. The wage rules in their present form are silent on them.¹¹ Therefore, the wage rules should encourage putting in place a minimum wage policy campaign strategy with adequate provision of resources. In light of the preponderant informal labour market and the pervasive levels of sub-minimum wages, facilitating an understanding of the provisions of the law becomes most relevant for enforcing minimum wages. This strategy should ensure dissemination of relevant information through print and electronic media, including hotlines reaching out to every worker and employer in the country, so that they have a clear understanding of the law, thereby promoting a culture of compliance. Further, the wage rules should also outline the mechanism and procedure for identifying non-compliance gaps and patterns, so that appropriate interventions for enforcing provisions of the wage code can be undertaken to improve the degree of compliance. In this regard, the wage rules may provide for the use of technology and big data (compilation of surveys and administrative data) to monitor the effectiveness of the minimum wage policy and the extent of non-compliance and to undertake planned and focused labour inspections.

The second critical element critical for achieving compliance is an effective and efficient labour inspection system. In this regard, the wage code has introduced major cultural changes to the inspection system to deal with corrupt and arbitrary inspections. The code provides for the appointment of an inspector-cum-facilitator to not only inspect and impose fines but also provide information and advice to the workers and employers. It has also

introduced a web-based inspection scheme, involving requests for information electronically and conferment of jurisdiction to the inspector-cum-facilitator based on a randomized selection. However, the wage rules are silent on the detailed implementation mechanism, and Rule 58(1) merely states that a detailed inspection scheme shall be formulated by the Chief Labour Commissioner (Central) at a later date with the approval of the Central Government. Further, the web-based inspection scheme as the only form of inspection is not compatible with the ILO's Labour Inspection Convention, 1947 (No 81), which India has ratified in 1949. Therefore, the wage rules must provide the details of the inspection scheme, which should not only be tied to a web-based scheme but also include other options, such as complaint-based inspection, surprise inspection and risk-based inspection, so that non-compliance is detected through this wide range of measures, especially in the informal economy. In addition, provision of an online grievance redressal mechanism and creation of a national dashboard as an information hub would help in improving compliance greatly.

Thus, it is of paramount importance for the Government to revisit the wage rules in order to adequately include provisions relating to awareness generation and statistical information and to widen the scope of the inspection scheme, which will lead to effective enforcement and improved compliance. These changes, by strengthening the wage rules, will enhance the effect of the redistributive outcomes of the wage code and hence will further improve the welfare of low-paid workers.

11 The only medium of awareness-raising at present is through the inspector-cum-facilitator or through gazette notification. Given the limited number of these officials, their reach would be very limited, and hence the need for a much broader awareness-raising strategy.

► 4. Conclusion

The wage code and wage rules have introduced many elements of reform that will strengthen the minimum wage system of the country. The wage code has universalised the due application of minimum wages and payment of wages to all employees and simplified the minimum wage structure. Similarly, the wage rules have established the criteria and methods related to fixation, revision and adjustment of floor and minimum wages. These are positive steps forward and have been a long-time demand of the central trade unions.

These reforms offer the hope that the redistributive effects of the code will be relatively stronger now compared to previous regulations. This could potentially produce first-order outcomes that may be expected from any wage policy in terms of reducing inequality, poverty and the gender pay gap. However, the extent of the effect of these redistributive outcomes on the overall welfare of low-paid workers through an effective wage policy depends directly on the level at which floor and minimum wages are set and the degree of compliance. The provisions related to the setting, revising and adjusting of the floor wage and the minimum rate of wages in the wage rules are based on the old framework. Similarly, the enforcement and compliance provisions in the wage rules are narrow in scope and have some missing elements. These loose ends in the wage rules pose questions about the effective application of the wage code in practice and the adequacy of the level at which floor and minimum wages are to be set.

These concerns call for strengthening and refining the relevant provisions of the wage rules related to the setting of floor wages and minimum wages at an adequate level and ensuring meaningful compliance. This policy paper, by drawing from the report of the Expert Committee, provides a host of constructive suggestions to further strengthen the wage rules by making the floor wage and the minimum wage fixation and adjustment criteria scientific, evidence-based, and guided by social dialogue. The evidence and analysis in the Expert Committee report are based on official statistics and therefore provide opportunity to the social partners to provide their independent suggestions to the Government based on this evidence and analysis. Further, to make the minimum wage enforcement more coherent, the wage rules must include a section related to awareness generation and minimum wage policy campaign strategy, with adequate provision of resources. They must also clearly outline an inspection scheme, which should not only focus on web-based inspection but must also include complaint-based inspection and planned inspections. It is hoped that the incorporation of the suggested changes in the wage rules along with enabling provisions in the wage code will mutually reinforce each other. Effective application of these refined and strengthened tools will allow India to deliver improve the welfare conditions of millions of low-paid workers in the coming years.

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