

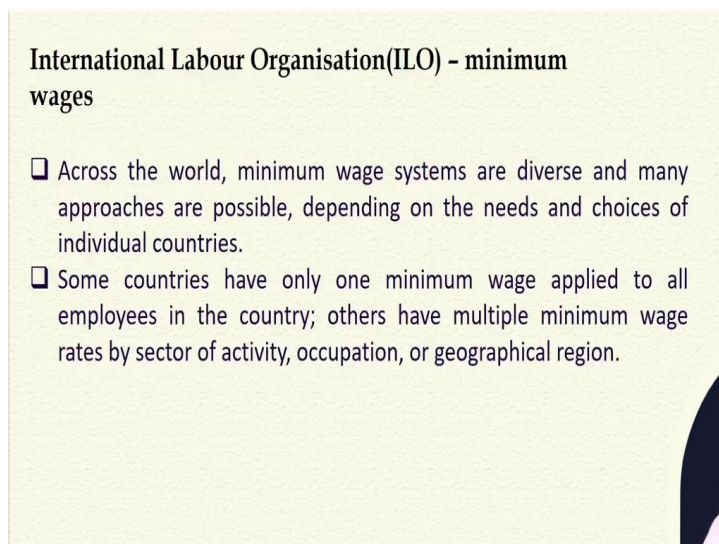
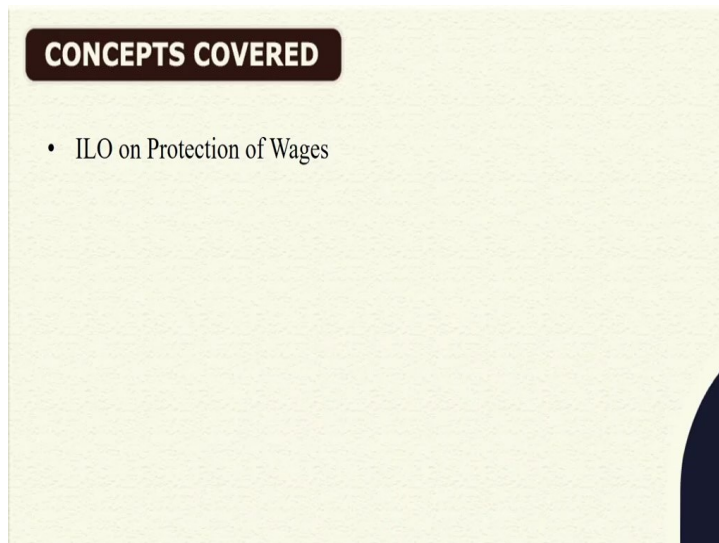
**New Labour Codes of India**  
**Professor K D Raju**  
**Rajiv Gandhi School of Intellectual Property Law**  
**Indian Institute of Technology, Kharagpur**  
**Lecture No, 28**  
**C: 95 - Protection of Wages Convention, 1949**

(Refer Slide Time: 0:19)



Dear students in this class, we are going to discuss about another level of the convention which is the Protection of Wages Convention 1949. So, this Convention also is related to the earlier conventions. So, how the minimum wage is to be protected and how it is to be fixed and how it can be paid? So, who is eligible for that, and whether there are any statutory deductions that can be made from the minimum wage? So, this we are going to discuss in this particular convention.

(Refer Slide Time: 0:54)



So, when we discussed the production of wages all over the world. So, we know that every country cannot pay equally for their sectors. So, minimum wages depend upon the sectoral wages implemented by many countries there are many approaches that are possible in the world and depend upon the choices of the countries and it depends upon their economic capabilities to pay the minimum wages. So, in some countries these minimum wages are applied to all employees and others apply minimum wage to sectors of activities or a specific class of workers or a specific class of occupations, some are implemented geographical regions of minimum wages, but many of the developing countries are implemented sectoral minimum wages, even the developed countries are implemented, rarely they implemented universal minimum wages.

So, sectoral wages, most of the preference is sectoral wages, because there are many reasons also. So, for all employees in the country minimum wages practically may not be possible, but there can be a minimum floor wage, which can be implemented, but still that minimum floor wage also may be on sectoral activities.

(Refer Slide Time: 2:43)

#### International Labour Organisation(ILO) - minimum wages

- ❑ Compliance with the principle of equal remuneration for work of equal value should be ensured, particularly when minimum wages are set by sector or occupational category.
- ❑ There may be discrimination, for example, when minimum wages are systematically lower in female-dominated sectors.
- ❑ Similarly, it is important to avoid wage discrimination against migrant workers and workers with disabilities.

So, it really depends upon the geographical regions and compliance with the principle of equal remuneration or compliance ensuring is a problematic issue because minimum wages set for each sector differs from place to place and country to country and region to region. So, if we calculate there may be discrimination in many areas, for example, wages systematically lowering for the female workers-dominated sectors. So, whether you take it as the textile sector or some specific class of sectors where females are dominated. So, purposefully reduce the minimum sectoral wages. Discrimination against migrant workers and workers with disabilities pay less should be eliminated.

(Refer Slide Time: 3:53)

### International Labour Organisation(ILO) - minimum wages

- ❑ There is also a link between equal pay for work of equal value and the existence in some countries of reduced minimum wages applicable to young workers below a certain age, set with a view to facilitating their entry into the labour market.

So, and also you can see that there is a link between equal pay for work of equal nature or equal value and some countries' minimum wages applicable to young workers below a certain age. In India also we can see that if you take the Plantation Labour Act, the old Plantation Labour Act, you can see that the wages for 18 and above is one wage and from 18 to 15 is another wage. So, this discrimination in the wages facilitates them to enter into this labour market at a lower rate and as far as India is concerned India has a problem with the definition of the child itself in many of the areas still they have not been resolved. So, this differentiated minimum wage is applicable to young workers. So, the many countries these are facilitated in many of the sectors, not in all sectors.

(Refer Slide Time: 5:14)

### International Labour Organisation(ILO) - minimum wages

- ❑ Within the specific circumstances and policy objectives of each country, it is recommended to keep minimum wages "as complex as necessary but as simple as possible",
- ❑ and to avoid wage differentiation between different groups of workers which are not based on objective valid reasons, such as educational objectives, work experience, or skills.

And also, specific policy objectives for every country. So, the ILO prescribes the minimum wage as necessary, you keep it as simple as possible, and do not make it as complex as necessary. So, wage differentiation between groups should be there must be no huge differentiation between these groups. So, it is not based on objective criteria and many times it depends upon subjective criteria like what we talked about the most the women workers works. It must be based on educational objectives, work experience skills, and objective reasons, and not subjective reasons like gender discrimination.

(Refer Slide Time: 6:10)

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

- Adoption: Geneva, 32nd ILC session (01 Jul 1949)
- Date of Entry into force: 24.09.1952
- 99 Ratifications
- 1 Denounced - by *United Kingdom of Great Britain and Northern Ireland* on 16.09.1983
- India** has not ratified this Convention

So, convention number 95 was adopted in 1949 and came into force in 1952 and UK has denounced this particular convention and India has not ratified this convention. So, in the series of conventions, India has ratified only one convention. So, this convention is not ratified by India.

(Refer Slide Time: 6:41)

### C095 - Protection of Wages Convention, 1949 (No. 95)

#### *Preamble*

- The General Conference of the International Labour Organisation,
- Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 32<sup>nd</sup> Session on 8 June 1949, and
- Having decided upon the adoption of certain **proposals concerning the protection of wages**, which is the 7<sup>th</sup> item on the agenda of the session, and
- Having determined that these proposals shall take the form of an international Convention,
- adopts this 1<sup>st</sup> day of July of the year 1949 the following Convention, which may be cited as the Protection of Wages Convention, 1949:

So, we will see the provisions of this particular convention then we analyze why India has not ratified this particular convention. So, this is mainly with the purpose of protecting wages. So, the only objective is to protect the wages in its member countries.

(Refer Slide Time: 7:02)

### C095 - Protection of Wages Convention, 1949 (No. 95)

#### *Article 1*

- In this Convention, the term *wages* means **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 employer to an employed person for work done or to be done or services rendered or to be rendered.**

And it defines wages it means, so, the provision says that Article 1 says that, 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 the employer to the employed person for work done or to be done or for services rendered or to be rendered. So, this is the definition of wage. So, if we look into our wage code, so, we have included the

basic wage, DMS allowances and retaining allowances as a component of all these, but we have not taken the ILO definition. So, we have specified what are those components.

So, the ILO definition is very clear, but the problematic area may be a written or unwritten contract. So, in the case of how you are going to define the wage in unwritten cases? In most cases, there are unwritten contracts only in the organized sector.

(Refer Slide Time: 8:39)

#### C095 - Protection of Wages Convention, 1949 (No. 95)

##### *Article 2*

1. This Convention applies to **all persons to whom wages are paid or payable.**
2. The **competent authority may, after consultation** with the organisations of **employers and employed persons directly concerned**, if such exist, **exclude** categories of persons whose circumstances and conditions of employment are such that the application of the said provisions would be **inappropriate and who are not employed in manual labour or are employed in domestic service or work similar thereto.**
3. Each Member shall indicate in its 1<sup>st</sup> annual report any categories of persons which it proposes to exclude.

We look into the other provisions and the competent authorities definitely in consultation with the employers and employed persons exclude the categories like who are employed in manual labour or are employed in domestic service or work similar to us that have manual labours. So, they exclude the appropriate authorities can exclude various sectors within this particular sector.

(Refer Slide Time: 9:10)

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

*Article 3*

1. Wages payable in money **shall be paid only in legal tender**, and payment in the **form of promissory notes, vouchers or coupons**, or in **any other form alleged to represent legal tender**, shall be **prohibited**.
2. The competent authority may permit or prescribe the payment of wages by **bank cheque** or **postal cheque** or **money order** in cases in which payment in this **manner is customary** or is **necessary** because of **special circumstances**,
  - or where a **collective agreement** or **arbitration award** so provides, or,
  - where not so provided, with the **consent of the worker concerned**.

And also, how are the wages to be paid? So, the money shall be paid only in legal tender, only in the legal tender in form of promissory notes, vouchers or coupons or in any other forms used to represent legal tender. So, any other forms are prohibited. So, in the case of payments in the form of promissory notes, vouchers or coupons are as other than legal tender all these are prohibited.

So, the payment of wages should be paid by bank cheque, postal cheque, or money order. And now, we can see that the modern technological methods whether it is NEFT or RTGS or it is transferring to the banks. So, here it is very clear with the advent of technologies new methods should be taken into consideration. So, what is the payment method? The consent of the worker should be taken into consideration.



(Refer Slide Time: 10:29)

#### C095 - Protection of Wages Convention, 1949 (No. 95)

##### *Article 4*

1. National laws or regulations, collective agreements or arbitration awards may authorise the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned; the payment of wages in the form of liquor of high alcoholic content or of noxious drugs shall not be permitted in any circumstances.
2. In cases in which partial payment of wages in the form of allowances in kind is authorised, appropriate measures shall be taken to ensure that
  - a) Such allowances are appropriate for the personal use and benefit of the worker and his family; and
  - b) The value attributed to such allowances is fair and reasonable.

And national laws and regulations of collective agreements, arbitration awards and may authorize partial payment of wages and partial payment in the form of allowances, especially allowances in kind. So, in most countries now, we can see that payment in kind is not acceptable. So, especially for people who are working in industries and occupations, customary or desirable customer allowances. So, payment in the form of liquor of high alcoholic content or noxious drugs shall not be permitted. So, I do not know which country in the world is making payment in the nature of liquor. So, specifically, the provision, Article 4 prohibits payment in the form of drugs and alcohol and also allowances, we mentioned about allowances.

So, these allowances must be for personal use and the benefit of the worker and his family. So, allowances must be used in the form of personal use and these personal allowances should be fair and reasonable. So, they donate this kind of allowances 50 percent can be these kinds of allowances.

(Refer Slide Time: 12:03)

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

*Article 5*

- Wages shall be **paid directly to the worker** concerned **except** as may otherwise provided by national laws or regulations, collective agreements, arbitration award or where the worker concerned has agreed to the contrary.

*Article 6*

- **Employers shall be prohibited** from **limiting** in any manner the **freedom** of the worker to dispose of his wages.

And the wages should be paid directly to the worker. So, otherwise, it is the provision says by regulation, collective agreement, there is no other pay person eligible to get the payment other than the worker and the freedom of the worker to dispose of his wages. So, no employer should restrict, or prescribe how the wages are to be spent. So, disposing of his wages, you cannot put conditions on how the employee should spend his wages.

(Refer Slide Time: 12:46)

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

*Article 7*

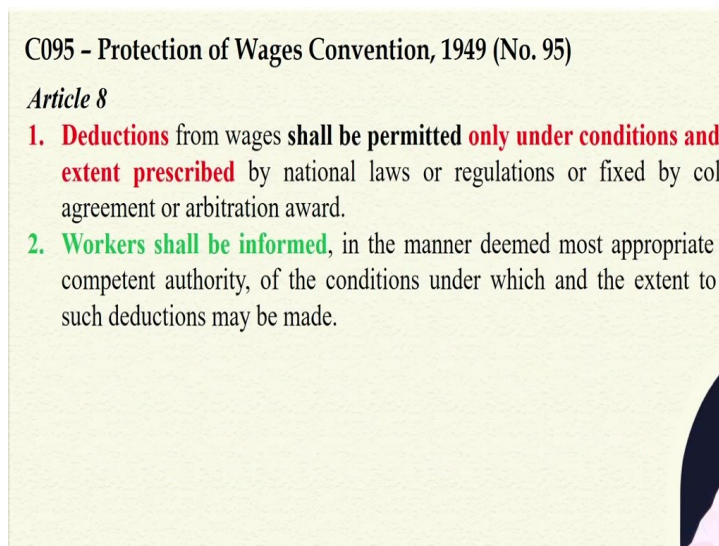
1. Where **works stores** for the **sale of commodities to the workers** are established or services are operated in connection with an undertaking, the **workers concerned shall be free from any coercion to make use of such stores or services.**
2. Where access to other stores or services is not possible, the **competent authority shall take appropriate measures** with the object of ensuring that goods are **sold and services provided at fair and reasonable prices**, or that stores established and services **operated by the employer are not** operated for the **purpose of securing a profit but for the benefit of the workers concerned.**

And works stores sale of commodities of workers and you can find these commodities workers in every establishment and the worker shall be free from any coercion. So, the workers should not put a condition that the workers should not be compelled to purchase or use the facilities of the store or the services, you should not make mandatory the use of the

store and the services mandatory. And the competent authority shall take appropriate measures with the object of ensuring goods are sold and services provided at fair and reasonable prices. And the services and such store services operated by the employer are not operated for the purpose of securing a profit, but for benefit of the workers concerned.

So, we can see every establishment there is a workers' cooperative society, the workers' cooperative societies are not working on the motto of profit. So, this society works independently, not the motto of profits and which is selling prices much below the market prices and such kinds of societies or stores are allowed. But the other way out, is not allowed.

(Refer Slide Time: 14:13)



Deduction from wages and many places we talked about authorized deductions and unauthorized deductions. So, deductions from wages shall be permitted only under conditions and prescribed by national laws and regulations. And in accordance with the collective agreement and arbitration awards and workers shall be informed of the appropriate means of direction or if any direction is made that should be informed to the worker. And so, in the case of all others deductions are permitted and we can see a long list of unauthorized deductions as well.

(Refer Slide Time: 15:03)

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

*Article 9*

- **Any deduction from wages** with a view to ensuring a direct or indirect payment for the **purpose of obtaining or retaining employment, made by a worker to an employer or his representative** or to **any intermediary** (such as a **labour contractor or recruiter**), **shall be prohibited.**

*Article 10*

1. **Wages** may be **attached or assigned** only in a manner and within **limits prescribed by national laws or regulations.**
2. Wages **shall be protected against attachment or assignment** to the extent deemed necessary **for the maintenance of the worker and his family.**

So, you can see that if there is any deduction of wages for ensuring direct or indirect payment, the purpose of obtaining or retaining employment is not allowed. So, if any employer or any representative is collecting or any intermediary, it can be a contractor it can be a recruiter. So, anybody who is collecting money for retaining the employee is prohibited. So, wages cannot be attached or assigned. So, it can be attached only by means of with the support of national laws or regulations or under a court order. And the wages are always protected against attachment or assignment to the extent which is necessary for the maintenance of the worker and his family. So, no court is going to attach the salary to the fullest or 100 percent. That must be regulated according to national laws.

(Refer Slide Time: 16:14)

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

*Article 11*

1. In the event of the **bankruptcy or judicial liquidation of an undertaking**, the **workers employed** therein **shall be treated as privileged creditors** either as regards wages due to them **for service rendered during** such a period prior to the bankruptcy or judicial liquidation as may be prescribed by national laws or regulations, **or as regards wages up to a prescribed amount** as may be determined by national laws or regulations.
2. **Wages constituting a privileged debt shall be paid in full before ordinary creditors may establish any claim to a share of the assets.**
3. The **relative priority of wages** constituting a privileged debt and other privileged debts **shall be determined by national laws or**

So, in the case of bankruptcy or judicial liquidation of the undertaking, so, the workers shall be considered as privileged creditors, and the first payment should go to the workers. So, during the bankruptcy proceedings, the first claims are for the workers, especially in the case of wages, the first claims are on wages. So, it is wages are always considered as privileged debt and should be paid in full before the ordinary creditors have the claims and which they claim on their shares in the assets of the company. So, the workers and their wages of the first claim privilege claim. So, in the case of debts, so, you can see that all these categorizations of debts should be done by national laws and regulations. So, in the case of bankruptcy, also the workers and the wages have a privileged it is considered as privilege debt and have the first claim on the assets of the company.

(Refer Slide Time: 17:28)

#### C095 - Protection of Wages Convention, 1949 (No. 95)

##### *Article 12*

1. **Wages shall be paid regularly.** Except where **other appropriate arrangements exist** which ensure the payment of wages at **regular intervals, the intervals** for the payment of wages **shall be prescribed by national laws or regulations** or fixed by collective agreement or arbitration award.
2. Upon the **termination of a contract of employment**, a final settlement of all wages due shall be effected **within a reasonable period of time** having regard to the terms of the contract.

And, the wages should be paid regularly. So, there must be appropriate arrangements should be made for payment of wages at regular intervals. So, it can be weekly, can be quarterly, and, even can be monthly. So, in accordance with the national laws or it can be according to the collective agreement as well. And in the case of termination of the contract of employment, the final settlement of the salary should be made within a reasonable period of time. And then, that is in accordance with the terms of the contract or terms of the contract and terms of the employment. So, in some provisions like the Indian code, we said that the wage period can be quarterly, weekly or monthly, but not more than two months. So, you cannot have a payment period of about two months.

(Refer Slide Time: 18:29)

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

*Article 13*

1. The payment of wages where made in cash shall be made on working days only and at or near the workplace, except as may be otherwise provided by national laws or regulations, collective agreement or arbitration award, or where other arrangements known to the workers concerned are considered more appropriate.
2. Payment of wages in taverns or other similar establishments and, where necessary to prevent abuse, in shops or stores for the retail sale of merchandise and in places of amusement shall be prohibited except in the case of persons employed therein.

So, here again, so, payment of wages, which can be made in cash shall be made in one working day and or at or near the workplace. So, it must be according to the national laws and regulations. So, the workers so, these provisions must be known to where these particular wages are paid should be known to the workers. And, in the case of wages, in case of taverns and we will see these preventing abuse in shops, stores for the retail sale of merchandise in places of amusement shall be prohibited. So, that means, you are providing a salary and salaries these wages will be taken back through the retail sale of merchandise and then the places of amusement. So, salary should not be taken away through this kind of means by the employer.

(Refer Slide Time: 19:36)

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

*Article 14*

- Where necessary, effective measures shall be taken to ensure that workers are informed, in an appropriate and easily understandable manner--
  - a) Before they enter employment and when any changes take place the conditions in respect of wages under which they are employed; and
  - b) At the time of each payment of wages, of the particulars of their wages for the pay period concerned, in so far as such particulars may be subject to change.

And so, it is article 14 which says that, so, the effective wishes shall be taken into consideration so the workers are informed in an easily understandable manner. And also, any kind of employment when changes in the employment terms and conditions, then should be informed to the employer in understandable language or if any payment of mode is changed, that should be informed to the workers. So, the payment should be informed to the workers in advance and if there are any changes.

(Refer Slide Time: 20:17)

#### C095 - Protection of Wages Convention, 1949 (No. 95)

##### *Article 15*

- The laws or regulations giving effect to the provisions of this Convention shall
  - a) Be **made available for the information of persons concerned**;
  - b) **Define the persons responsible for compliance** therewith;
  - c) **Prescribe adequate penalties** or other **appropriate remedies** for any **violation** thereof;
  - d) Provide for the **maintenance**, in all appropriate cases, of **adequate records** in an approved form and manner.

And also, we can structure article 15, which talks about the effect of the convention. So, all persons responsible for compliance must be informed about their duties and also the national legislation must impose adequate penalties and appropriate remedies in violation of non-implementation of these provisions. So, there must be appropriate records should be kept for the payment of wages.

(Refer Slide Time: 20:54)

**CONCLUSIONS**

- The Protection of Wages Convention, 1949(No. 95) has **not** been ratified by India.

**REFERENCES**

- C095 – Protection of Wages Convention, 1949

That is why we have the payment of wages registers in each and every establishment. So, this particular convention talks about how the payment of wages should be made. And also when it is to be made and how it is to be made. But, unfortunately, India has not ratified this particular convention even though India has enacted the Payment of Wages Act. So, in this particular convention, most of the provisions are implemented by the country concerned. Thank you.



