

MGNREGA AND MINIMUM WAGE DEBATE - A *fight for the right to get minimum wage*

The Government of India has introduced several social security schemes, but the Mahatma Gandhi National Rural Employment Guarantee (MGNREG) scheme is a landmark in itself. It is a flagship program of the UPA (United Progressive Alliance) government that directly touches the lives of the poor. The scheme is subsidized by a legislation that offers a commitment to rural poor, that even they can 'earn' a minimum standard of living. It aims at ensuring livelihood security to people in rural areas by guaranteeing 100 days of wage employment in a financial year. The benefits are open to any rural household whose adult members volunteer to do manual work. MGNREG Act, 2005 is the first ever law, internationally, that assures wage employment to the poor and it is a centrally funded program. The entire wage cost of unskilled workers and 75% for the skilled and semi-skilled workers is borne by the Centre. Since its inception, the scheme has become the largest employment generation program in India. In 2009-10, it generated employment for more than 50 million men and women and has spent ` 25,579 crores as wages paid to MGNREG workers¹ (see table 1).

Table 1: Financial statement of MGNREG scheme

Year	Budgetary Allocation (in Rs crores)	Expenditure on Wages (in Rs. crores)	Employment generated (in Rs. crores)
2008-09	30,000	18,200	4.51
2009-10	39,100	25,579	5.25
2010-11	30,100	15,924	4.36

But even MGNREG, a successful employment generation program is not free of criticisms. In the past few months, media has reported on local level corruption, irregularities in allotment of work, delay in wage payments and improper maintenance of records under the MGNREG scheme. However, lately the scheme attracted political, economic and legal attention on account of the formula adopted to pay wages.

¹ Refer Implementation Status Report (2009-10) & Financial Progress Report (2009-10)

The wage policy of the MGNREG scheme has been regulated under Section 6 of the MGNREG Act, 2005. A section has been alleging that the government itself has been violating the provisions of Minimum Wages Act, 1948 and Article 23 of the Indian Constitution - both of which gives a worker the right to get paid a legal minimum wage.

Section 6 of MGNREG Act provides following methods of wage rate fixation:

1. Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purpose of this Act:
 - a. Provided that different rates of wages may be specified for different areas
 - b. Provided further that the wage rate specified from time to time under any such notification, shall not be at a rate less than sixty rupees per day.
2. Until such time as a wage rate is fixed by the Central Government in respect of any area in a state, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.²

THE DEBATE

It is clear that the scheme's wage policy provide for two distinct methods of wage fixation. Till 2008, MGNREG workers were paid the same "minimum wages" as notified by the state governments under the Minimum Wages Act, 1948. They were paid minimum wages applicable for agricultural labourers. But during 2007-08 and 2008-09, frequent upward revision of minimum wage rates by some states, particularly Uttar Pradesh, Rajasthan and Madhya Pradesh had significant financial implications on Centre's budget, thereby increasing its volatility². Therefore in January 2009, the Central Government *delinked* Minimum Wages Act with MGNREG Act, by exercising its power under section 6(1) and froze the wage rates applicable to MGNREG workers in different states. But this action attracted public and political criticism and allegations about violation of decent work conditions because in swapping from section 6(2) to 6(1) of the Act, the Centre Government was undermining the Minimum Wages Act, an important central legislation. MGNREG Act₂ in its current framework guarantees not only 100 days of employment but also a real wage of Rs. 100₂ as promised by the Finance Minister in the budget speech of July 2009. While in 19 states

² Refer Ministry of Rural Development notification no. J-11011/5/2008-NREGA

MGNREG wage rates were less than the respective states minimum wage rates and in 5 states they were even below the National Floor level of minimum wage (before price indexation, see table 2)

Table 2: Wage rates (in rupees) for different states under MGNREG Act and Minimum wages Act

States		(as on 25 January 2011)		MGNREG wage rate in comparison to MW rate	
				Before indexation	After indexation
Andaman	130	196	170	Lower	Lower
Andhra Pradesh	100	Lowest 112 - 119	121	Lower	-
		Highest 118 - 261			
Arunachal Pradesh	Area I - 80	Area I - 80	Area I - 118	-	Higher
	Area II - 80	Area II - 90	Area II - 118		
Assam	100	100	130	-	Higher
Bihar	100	109 - 151.34	120	Lower	-
Chandigarh	140	176.98	174	Lower	Lower
Chhattisgarh	100	100	122	-	Higher
Dadar & Nagar Haveli	108.2	130.4	138	Lower	Higher
Daman & Diu	102	-	126	-	-
Delhi		203		-	-
Goa	110	157	138	Lower	Lower
Gujarat	100	100	100	-	-
Haryana	141.2	167.23	179	Lower	Higher

Himachal Pradesh	Non-scheduled area - 100	120	Non-scheduled area - 120	Lower	-
	Scheduled area - 125		Scheduled area - 150	Higher	Higher
Jammu & Kashmir	100	110	121	Lower	Higher
Jharkhand	99	144.43	120	Lower	Lower
Karnataka	100	133.8	125	Lower	Lower
Kerala	125	Light work - 150	150	Lower	-
		Hard work - 200			Lower
Lakshadweep	115	-	138	-	-
Madhya Pradesh	100	141.81	122	Lower	Lower
Maharashtra	100	100 - 120	127	-	Higher
Manipur	81.4	81.4	126	-	Higher
Meghalaya	100	100	117	-	Higher
Mizoram	110	132	129	Lower	Lower
Nagaland	100	80	118	Higher	Higher
Nicobar	139	207	181	Lower	Lower
Orissa	90	90	125	-	Higher
Puducherry	100	Light work - 80	119	Higher	Higher
		Hard work - 150		Lower	Lower
Punjab	100 - 105	141.98	124 - 130	Lower	Lower
Rajasthan	100	135	119	Lower	Lower
Tamil Nadu	100	80	119	Higher	Higher

Tripura	100	100	118	-	Higher
Uttarakhand	100	117.02	120	Lower	Higher
Uttar Pradesh	100	100	120	-	Higher
West Bengal	100	127	130	Lower	Higher

Source: (Data as on April 10, 2010, from www.paycheck.in)

The new wage policy conflict created discontent in some sections of society. A writ petition (WP no 11848 of 2009) was filed by some labour groups on the issue of non-payment of minimum wages, based on which Andhra Pradesh High Court suspended the operation of section 6(1) under MGNREG Act stating that minimum wage is the constitutional right of a worker and the Government being the agency for implementing minimum wages, itself cannot violate minimum wages. Article 23 of the Constitution of India implies that any remuneration less than minimum wage paid to a worker would be equivalent to “forced labour”³. The Court also ordered Ministry of Rural Development to make payment for the differential amount of wages paid since 3.07.2009 to wage seekers. The Chief Minister of Andhra Pradesh also wrote a letter to the Prime Minister of India requesting for compliance with the High Court’s judgment.

In Rajasthan also, some social activists (including Ms. Aruna Roy a member of the National Advisory Council (NAC) to UPA and founder of Mazdoor Kisan Shakti Sang (MKSS)) along with thousands of labourers from various districts and MKSS activists protested continuously for 47 days against the Central Government’s freezing of MGNREG wage rate at Rs. 100. The protest was provoked by the case in Tonk district where around 99 workers were paid only Rs. 1 per day for 11 days of work⁴. One of the motivations for this protest was also the announcement by the state government to increase statutory minimum wage rate for unskilled agricultural labourers to Rs. 135 per day w.e.f. 1st Jan, 2011 while MGNREGA wages were expected to remain the same. The Chief Minister of Rajasthan also wrote to the Prime Minister of India, justifying the demands of workers and requesting to link state’s minimum

³ As interpreted in Supreme Court’s Judgment under cases: People’s Union for Democratic Rights V. Union of India (1982) and Sanjit Ray V. State of Rajasthan (1983)

⁴ “Why NREGA workers got Re 1 per day!” (August 24, 2011) Rediff. com

wage rates as notified under Minimum Wages Act with the MGNREG wage rates. The additional financial implications for the same had to be borne by the Central government.

This wage dispute intensified when despite the High Court's order and large scale protests, Ministry of Rural Development stuck to its decision of not paying minimum wages to MGNREG workers. Even the academic experts working on social security schemes questioned the government. Prof. Jean Dreze,⁵ promoter of the idea of NREG scheme and Chairman of (Central Employment Guarantee Council) CEGC's Working Group on Wages, also openly criticized the government policy of freezing the nominal wage rates at Rs. 100, which is not only lesser than minimum wages in many states but is also deteriorating the real value of wages with every single point increase in inflation. However, the working group on wages, chaired by Dreze, under Central Employment Guarantee Council offered the recommendation of linking MGNREG wage rates to prices using Consumer Price Index for Agricultural Workers (CPI-AL), as an immediate measure to calm the ongoing wage debate and later think of reconciling both the Acts. But Ministry rejected the recommendations.

POLITICS OF WAGES

The minimum wage conflict had turned into a political issue. After various meetings and inter-ministerial discussions, the Chairperson of NAC, arrived at a general consensus that, workers under MGNREG Act need to be paid minimum wages. NAC Chairperson recommended that MGNREG scheme should be notified as a scheduled employment under Schedule II⁶ of the Minimum Wage Act, 1948 and as an immediate resolution to the issues of payment of wages to MGNREG workers minimum wages may be indexed to CPI-AL.

The Prime Minister announced his verdict on the wage conflict through a letter written to Chairperson of NAC dated 31.12.2010. Though PM accepted recommendation of indexing wage rates under MGNREG Act to CPI-AL (from 1st Jan 2011), till a satisfactory index was proposed by the expert committee⁷, chaired by Pronab Sen, but he choose to maintain the distinction between MGNREG wages and wages rates notified under Minimum Wages Act.

⁵ Refer to page 55-58 of Minimum Wages and Mazdoor Haq Satyagrah booklet.

⁶ Schedule I and II enlists various occupations which are entitled to legal minimum wages under the Minimum Wages Act, 1948.

⁷ The committee was formed by Ministry of Rural Development Ministry of Statistics and Programme Implementation to link NREGA wages with real wages.

As per the new wage policy, wages under MGNREG Act will be revised annually but the base wage, i.e. the real wage of Rs. 100 will be revised only after 5 years.

Though there has been increasing pressure on the government to link the MGNREG wages to Minimum Wages Act, the fear that the state governments may arbitrarily raise minimum wages thereby affecting the Union budget countered that. However, the new wage policy has also put an additional budgetary burden of Rs. 3,500 crores since MGNREG wages have increased around 17-30% (varying from state to state). The largest welfare program will now also be one of the most costly programs, (the budget allocation went up from Rs. 40,100 crore during 2010-11 to Rs. 48,000 crore, for 2011-12.⁸) Moreover, when food inflation is high in the country, this policy has also raised the risk of creating a ‘wage-price spiral’ in the economy because CPI-AL gives heavy weight to food products. Thus instead of framing a sustainable wage policy for MGNREG Act that respects the Minimum Wages Act, 1948 the Government has added a risk to the economy.

TWO LAWS & DECENT WORK

It is impractical to provide an opportunity of work unless the work quality or basic work rights are assured. Though under the new policy MGNREG wages increased, but still in 10 states it is less than the notified minimum wages (see table 2 above), and here workers are denied their constitutional right. The debate illustrates a case where the lawmaker itself is violating the law, by disrespecting a Court order. It is not a fight between two wage policies, but rather two legislations both created to protect workers’ rights. Linking MGNREG wages to price index was definitely required to protect the poor rural households from rising inflation. At the same time the government should also realize that though it has the power to amend the law and facilitate social upliftment and rule of law, but it should not challenge the law for narrow political gains.

⁸ FM's Budget speech 2011. (28 February 2011) Times of India.