

Draft Introductory Note for NAC WG on MGNREGA for 20th May

There is an urgent need to analyze the status of implementation of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and review the compliance to entitlements that it is mandated to deliver. Given below are some of the critical issues regarding the MGNREGA, which should be promptly addressed, to protect and strengthen its reach and impact.

1) Wage Policy and Wage Payments

- The Report of the “Working Group on Wages” of the Central Employment Guarantee Council (CEGC) highlighted the issues discussed below and made emergency recommendations to address each one of them. The recommendations have not yet been accepted, even though the consequences of these issues left unaddressed are only rising.
- Minimum Wages and the MGNREGA: The current policy governing the payment of wages under the MGNREGA (Section 6.1 of the Act) continues to contradict the Minimum Wages Act, and therefore continues to violate the constitutional guarantee of a worker to earn the minimum wage of the State. In fact, the Prime Minister in his letter to the Chairperson, National Advisory Council (dated 31st December, 2011) stated that “statutorily the wage rate under MGNREGA is delinked and independent of the provisions of the Minimum Wages Act.”. Though the move to index the current notified MGNREGA wage rate to the Consumer Price Index for Agricultural Labour is welcomed on account of the rapid increase in food prices witnessed in the last one year, it does not remedy the dilemma that is posed in front of the Government due to the absence of a guarantee of minimum wages to MGNREGA workers in a given State.
- Delay in Wage Payments: Under the MGNREGA a worker is entitled to receive wages as per the labour performed by him, within 15 days of the completion of his work cycle-failing which he/she is entitled to receive compensation for the delay in payment, and an interest payable on each day of delay. However, complaints of delay in wage payments continue to come from different States of the country. The payment of compensation for delay in wage payments serves as a provision to infuse accountability into the functionaries, in order to comply with processes that enable workers to receive the entitlements under the Law. However, lack of adherence to such provisions and inability to penalize errant officials for delay in wage payments undermines the potential of the Act as it discourages people from applying for work under the MGNREGA. Examples from Jharkhand and Rajasthan have shown us how the problem of delayed wage payments can be dealt with, in cases where the authorities have taken an initiative.

2) Social Audit

The notification of the Mahatma Gandhi National Rural Employment Guarantee Audits and Social Audits of Schemes Rules, 2011 is welcomed. The Social Audit Rules stress the need for social audits to be held in an open, participative and democratic environment to ensure peoples’ monitoring of the Act, and strengthen the demand for greater accountability and transparency in the implementation of the Act. The CEGC’s Working Group on Transparency and Accountability had made an emergency recommendation to the Ministry of Rural Development to draft model audit rules to encourage the Andhra Pradesh model of conducting social audits

through an independent, autonomous and powerful Directorate. The Social Audit Rules clearly express the need for State Governments to institutionalize a dedicated structure to look into the process of social auditing with respect to the MGNREGA.

3) Undermining of accountability provisions under the MGNREGA:

- The following accountability provisions-
 - Payment of unemployment allowance
 - Compensation for delayed wage payments
 - Penalty for erring officials for non performance of dutyare being consistently sidelined, and threaten to weaken the very principle of employment guarantee in the Act. Several cases of gross violation of these entitlements have been reported from different States. Creative solutions need to be thought of, in order to delineate processes to speeden grievance redressal in the Act and preserve the workers' trust in it. Initiatives like filling a uniform Form 6 while registering demand for work, and giving more teeth to the office of the Ombudsman need to be further discussed (English has gone quite wonky here)

4) Role of the Central Employment Guarantee Council:

The CEGC, constituted in March 2010, was intended to act as an independent watchdog for MGNREGA at the national level. It submitted its report to the Government of India in July 2010, offering detailed recommendations and suggestions to areas of mal governance and corruption that were discovered, and for each of the issues listed above. Most of these recommendations have not been taken on board yet, causing further deterioration of critical entitlements due to lack of taking action in time. The role and the mandate of the CEGC needs to be seriously reviewed and genuine efforts need to be made to strengthen its functioning with a dedicated Secretariat, supplementing its work with focused groups working on different aspects of the Act etc.

NAC