SUBMITTED BY CHAIRPERSON
CEGC WORKING GRP ON WAGES

23 May 2010

Dr. B.K. Sinha
Secretary, Rural Development
Krishi Bhawan
New Delhi 110 001

Dear Dr. Sinha,

Emergency Recommendations on NREGA Wage Policy

The deliberations of the "Working Group on Wages", formed under the auspices of the Central Employment Guarantee Council, are in full swing, and the working group's report is being drafted. Meanwhile, the working group unanimously decided (at its first meeting, held in Delhi on 3 May 2010) to make three emergency recommendations. These are:

(A) Indexing of NREGA wages: As you know, paying a real wage of (at least) Rs 100 per day is a long-standing promise of the UPA-2 government. It was made, inter alia, in the Finance Minister's Budget Speech on 6 July 2009: "We are committed to providing a real wage of Rs 100 a day as an entitlement under the NREGA". But instead, NREGA wages have effectively been frozen at Rs 100 per day in nominal terms (i.e. without any periodic adjustments for inflation). With prices increasing by leaps and bounds, especially food prices, this freeze is eroding the real value of NREGA wages month after month. The erosion of real wages threatens to undermine the entire programme, and in any case, it is a gross injustice to NREGA workers, all the more so when millions of them are struggling to survive under severe drought conditions.

Meanwhile, we understand that the Ministry has appointed a "task force" (chaired by Dr. Pronab Sen) to examine the possibility of creating a separate price index for NREGA workers. This is a misguided initiative. As pointed out by several members of the Central Employment Guarantee Council at its last meeting (on 22 February 2010), a suitable price index already exists: the Consumer Price Index for Agricultural Labourers (CPIAL). The working group unanimously felt that this price index is adequate for the purpose of indexing NREGA wages, and that there is no need to devise a separate price index for NREGA workers. Aside from being unnecessary, this would lead to further delays in the process of indexing (an informal communication from Dr. Pronab Sen suggests that it may take up to a year to devise and compute a separate index).

Our considered recommendation is as follows:

(1) NREGA wages should be immediately indexed to the price level, using the Consumer Price Index for Agricultural Labourers (CPIAL), with 1 April 2009 as the "base", so that the real value of the wage is at least Rs 100 per day at April 2009 prices. As long as NREGA wage rates are set by the Central Government, they should be promptly revised upwards every six months – or at most every twelve months - in line with the CPIAL. (States that had wages notified at more than Rs 100/day at the time of the 1 January 2009 notification should have their wages indexed with their notified wage as a base.)

(B) Compliance with Minimum Wages Act: The working group is also very concerned about the implicit "overriding" of the Minimum Wages Act 1948 involved in switching from Section 6(2) to Section 6(1) of NREGA, as a basis for setting wage rates. The relevant sections of NREGA are as follows:

> *6.(1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:*
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> *Provided that different rates of wages may be specified for different areas:*
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> *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.*
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> *(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.*

Until January 2009, Section 6(2) was the basis of NREGA policy - state governments were setting minimum wages for NREGA. On 1 January 2009, however, the Central Government issued a notification that effectively "froze" the NREGA wages state-wise. Later, state governments were allowed to raise the NREGA wages up to Rs 100 per day (if it was below that on 1 January 2009). This new policy effectively activates Section 6(1) of the Act, which involves a potential if not actual overriding the Minimum Wages Act. Indeed, it would be illegal for any state governments to pay NREGA workers anything less than the minimum wage for the relevant occupation. And it is the prerogative of state governments (not the Central Government) to set minimum wages. The Central Government's commitment, for its part, does not go beyond Rs 100 per day. An unacceptable situation is thereby arising where NREGA workers in some states are being paid less than the statutory minimum wage. There is, thus, a potential conflict between the current wage policy and the Minimum Wages Act. This potential conflict needs to be resolved at the earliest, by amending NREGA is need be, but in the meantime, what is of paramount importance is to avoid any actual overriding of the Minimum Wages Act, so that the sanctity of this Act (affirmed by the Supreme Court) is respected. In short, our recommendation is as follows:

> **(2) NREGA policy must be consistent with the Minimum Wages Act. In no circumstances should this Act be overridden.**

(C) Shorter work hours: A third urgent concern is the prolongation of NREGA working hours from "seven hours" (the initial formulation, under Para 8(1) of Schedule I) to "nine hours" (the new formulation, as per notification of 14 January 2008, amending Para 8(1) of Schedule I). Considering the exacting nature of NREGA work, and the fact that many NREGA workers are undernourished, this new provision is unfair and unnecessary, even if the said nine hours including one hour of rest, as was subsequently clarified by the Ministry of Rural Development. We recommend a return to the initial formulation:

> **(3) Para 8(1) of Schedule I of NREGA ("The Schedule of Rates of wages for various unskilled labourers should be so fixed that an adult person working for nine hours would normally earn a wage equal to the wage rate") should be amended so that the words "nine hours" are replaced with "seven hours".**

We would be grateful if you would give urgent and positive consideration to these emergency recommendations.

Yours sincerely,

J Dreze

Jean Drèze
(Member, Central Employment Guarantee Council and Chairperson, Working Group on Wages)
on behalf of the Working Group

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