

## Will Employment Guarantee Deliver?

Not unless the black box of the Schedule of Rates is opened and the rates revised urgently in a transparent manner

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On the 2<sup>nd</sup> of February 2006 the most ambitious rural employment guarantee programme ever attempted was launched in 200 districts of India. Based on the National Rural Employment Guarantee Act (NREGA) passed by Parliament last year, it makes work a constitutional right for millions of rural unemployed in the country. In an atmosphere scorched by farmers' suicides and starvation deaths of children, the programme has raised hopes of the poorest and most neglected people of India. Apart from the work guarantee at statutory minimum wages, the unique features of the programme include a ban on contractors, as also a restriction on the use of labour-displacing machines.

Early reports from the districts where the programme has been initiated speak of problems in providing labourers their legal entitlements. Workers are unable to earn minimum wages. As Adviser to the Commissioner (appointed by the Supreme Court in the Right to Food case), it is my responsibility to monitor the functioning of the NREGA in Madhya Pradesh. I have just received a report that labourers who had applied for employment under NREGA in Dhar district refused to come for work when they found the wages too low. Similar accounts are coming in from across the country. Apart from instances of deliberate non-payment that can be conceivably overcome through social audits and civil society action, there appears to be a genuine difficulty, a deep contradiction at the heart of NREGA implementation. And that lies in the way work done by labour is measured.

Ever since Independence, work done on rural employment programmes has been measured through the Schedule of Rates (SoR). This is a schedule that provides rates at which work done by labour is to be valued. People are paid according to the value placed on their work by the SoR. How the rates in the SoRs are arrived at and how the SoRs are used is neither very well-known nor easily amenable to popular understanding. But what they contain can make or break the interests of those who get work under NREGA. Based on their experience of watershed work on half a million acres, my colleagues P.S. Vijay Shankar, Nivedita Banerji and Rangu Rao have shown, in a recent article in the *Economic and Political Weekly*, that the way SoRs are presently conceived makes mechanisation and the use of contractors almost inevitable. And payment of minimum wages virtually impossible. They say this on the basis of a careful study of SoRs of nine NREGA states.

SoRs are brought out by state government departments that have implemented public works programmes over the years. Historically, these have been relief and welfare programmes dependent on the munificence of the state, generally executed by contractors. But the NREGA is different. For the first time, it is workers who have to demand work and the state is legally obliged to provide it to them. The entitlements under NREGA are legally enshrined in the constitution. It is not inconceivable,

therefore, that courts all over the country are flooded with PILs by aggrieved workers alleging violations of NREGA. That is why there is an urgent need to reform the SoRs to bring them in line with legal entitlements under NREGA.

The notions of “average” underlying the SoRs are endemically unjust. The amount of work performed by a hypothetical *average* worker acts as the implicit productivity norm for all workers to adhere to. To earn the statutory minimum wage, each worker has to work at a pace equal to that of the *average* worker. The slower she works, the wider will be the gap between actual earnings and the statutory minimum wage. Many factors specific to the location of work could be responsible for slowing down the pace of work. Earthwork excavation takes place across geological strata that vary in hardness and compaction. Geological strata in hard rock areas vary quite substantially within even a small micro-watershed. SoRs as they exist now are unable to address these variations as they lump strata into a few categories. But nature cannot be straitjacketed in this manner. The problem becomes very acute when there are sharp jumps in rates of excavation between strata. Rates need to be devised in a more location-specific manner reflecting more accurately the graduations in geological strata.

Average rates prescribed in the SoRs also have no reference to the climatic conditions where work takes place. For instance, in areas characterised by hot summers, work slows down considerably during peak summer months. In coastal plains and hot sub-humid regions, humidity can be a very important factor reducing the quantum of work done in a day. None of these considerations are factored into the SoRs of these areas. The underlying notion of the SoRs is also that the workforce is healthy and capable of hard work ("good workers"). The daily productivity of a poor, malnourished and physically challenged worker will be lower than this average. Hence, even when the SoRs are strictly implemented, such persons ("slow workers") get weeded out. The notion of the average worker does not allow for gender and age differences in productivity. Studies have shown that particular communities such as the Primitive Tribe Groups (like the Sahariyas in MP and Rajasthan) have for a variety of historical reasons inherited a weaker physical constitution. In all such instances, payments should be made only on time-rates and no reference will be made to the Schedule of Rates. Special provisions for extra rates above the normal should be provided in the SoRs for work undertaken in severely drought-prone, malnourished, hazardous, disability-prone and tribal areas.

In all such cases contractors would typically pay less than minimum wages on the grounds that "the workers have not worked enough". Alternatively, the contractor would extend the working day so that the average productivity norm is achieved. At times, this happens "invisibly", whereby the productivity target is given to a group of workers and they are asked to do it "at their convenience". This means that the time taken for the task is not reflected in the payment made or in other words, no compensation is provided for "overtime" work. Unpaid work is sometimes also increased by contractors employing children. If we want to prevent this under NREGA, the labour rates in the SoRs will have to be revised upwards.

The task rates in the SoRs are supposed to be derived from the statutory minimum wage of the district. But since SoRs are revised only once or twice in a decade, they are often pegged to very outdated minimum wages. A standard indexing procedure needs to be followed by which SoR rates must always be raised in tandem with the rise in statutory minimum wages.

Very often the list of tasks in SoRs includes composite items within which many different activities are lumped together. At times certain activities are not mentioned at all. Many of these end up becoming under-paid activities. There is a need to break up these kinds of composite items into distinct

activities, many of which have (or need to have) separate rates within the SoRs. The most onerous sub-activity should be pegged at the minimum wage. SoR rates contain an in-built incentive to replace labour with machines. Since the productivity of machines is higher than that of labour, the required quantity will be achieved faster and at a lower cost by employing machines. Once machines are banned, with the existing rates it will be impossible to meet the costs of employing labour that is paid minimum wages.

If rates are not revised upwards, Village Panchayats who pay statutory minimum wages and avoid using machines under NREGA, will find it impossible to complete works within their sanctioned costs. This will act as an incentive for corrupt practices, such as exaggerating the physical quantity of work done. Outlays will not be matched by outcomes (except on paper). Or labourers will not get their due.

Indeed, the entire process of arriving at these rates needs to be made much more transparent and participatory. The making and revising of SoRs is entirely shrouded in mystery. The SoRs never come out in the open about how rates for different works are arrived at. This is a highly centralised departmental affair. The SoRs generally prescribe a "Competent Authority" (usually a Government Executive Engineer) who can effect a change in the SoR. Under NREGA, a Working Group should be set up in each district to carry out this exercise. This Group should include Village and District Panchayat representatives, local NGOs, independent professionals and government officials and engineers. The role of this Group should not only be to prepare and revise the District Schedule of Rates but also to arrange for the dissemination of these rates in Gram Sabha meetings across the district. Only this way can the black box of SoRs be opened up and a check placed on a major source of corruption in NREGA.