

NATIONAL RURAL EMPLOYMENT GUARANTEE BILL 2004 Comparison with the "NAC Draft"

The National Rural Employment Guarantee Bill 2004 was tabled in Parliament on 21 December 2004. This note examines the differences between this document (the "GoI draft") and the draft National Rural Employment Guarantee Act prepared by the National Advisory Council (the "NAC draft").¹ It does not deal with the shortcomings of the NAC draft itself, e.g. the restriction of the employment guarantee to "100 days per household per year", the exclusion of urban areas, and the heavy financial burden on state governments.

1. Main Restrictions of GoI Draft vis-s-vis NAC draft

1. Employment guarantee conditional on "notification": In the NAC draft, the Act was to be gradually extended to the whole of rural India within five years; from then on, every rural household would be covered. By contrast, in the GoI draft, the Act comes into force in a particular area *"on such date as the Central Government may, by notification in the Official Gazette, appoint"*. Moreover, even where the Act comes into force, the guarantee of employment applies only *"in such rural area in the State and for such period as may be notified by the Central Government"*.

2. Targeting: In the NAC draft, there was no "targeting" – all households are entitled to the employment guarantee and the unemployment allowance. In the GoI draft, both are (or at least can be) restricted to "poor households", defined as households below the poverty line during the relevant financial year. This defeats the basic principle of an Employment Guarantee Act - universal entitlement and "self selection".

3. No minimum wages: In the NAC draft, labourers were entitled to the statutory minimum wage of agricultural labourers in the State, in all circumstances. In the GoI draft, this can be superseded by a central norm (*"the Central Government, may, by notification, specify the wage rate for the purposes of this Act"*).

4. Restrictive definition of permissible works: In the NAC draft, "productive works" were broadly defined as works that contribute directly or indirectly to *"the increase of production, the creation of durable assets, the preservation of the environment, or the improvement of the quality of life"*. This has been considerably narrowed down in the GoI draft, where the focus is on specific types of work, concerned mainly with the creation of durable assets.

5. Reduced transparency provisions: In the GoI draft, the transparency provisions of the NAC draft have been seriously diluted. For instance, muster rolls and other records are accessible to the public only *"after paying such fee as may be specified in*

¹ For the full text of these documents, see www.righttofoodindia.org

the Scheme". Similarly, completion and utilization certificates from the Gram Sabha are no longer required.

6. Exclusion of B and C Class municipalities: In the NAC draft, Class B and C municipalities were included in the definition of "rural areas", so that these municipalities came under the purview of the Act. In the GoI draft, however, Class B and C municipalities are excluded.

7. Inadequate safeguards for women: In both drafts (NAC and GoI), the employment guarantee is restricted to "100 days per household per year", in line with the Common Minimum Programme. The household approach involves a risk that women will be marginalized. In the GoI draft, this problem is exacerbated by a narrow definition of "household": nuclear families living together as a joint family are not to be treated as separate households unless they have separate ration cards. Further, the GoI draft omits an important clause of the NAC draft, which made explicit provision for a possible transition to individual entitlements in due course.

8. Sidelining of Panchayati Raj Institutions: The NAC draft gave a central role to Panchayati Raj Institutions (PRIs) in the planning and monitoring of the Employment Guarantee Programme. In the revised draft, the role of PRIs has been considerably diluted. For instance, the Block-level "Programme Officer" and the District Coordinator are no longer accountable to elected bodies (Intermediate Panchayat and Zila Parishad, respectively). The role of Gram Panchayats and Gram Sabhas has also been reduced.

9. Flexible "Schedules": The GoI draft has two "schedules": Schedule I on "Minimum Features of a Rural Employment Scheme" and Schedule II on "Conditions for Guaranteed Rural Employment Under a Scheme and Minimum Entitlements of Labourers". Further, Section 29(1) states: "*If the Central government is satisfied that it is necessary or expedient so to do, it may, by notification, amend schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly*". In other words, modifying the provisions of Schedule I or II does not require an amendment of the Act – only a notification. In the NAC draft, by contrast, all these provisions were part of the text of the Act, and could not be modified without an amendment of the Act.

10. Wide discretion: Aside from flexible "Schedules", there is a general tendency, in the GoI draft, to give maximum discretion and power to the government (particularly the Central Government). The government has wide latitude to modify or restrict almost every aspect of the employment guarantee through suitable notifications, Rules, guidelines, etc. This defeats one of the central objectives of an Employment Guarantee Act – giving labourers some bargaining power vis-à-vis state authorities.