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DRAFT NATIONAL RURAL EMPLOYMENT GUARANTEE ACT: Summary of Main Comments Received So Far

Many comments on the draft National Rural Employment Guarantee Act 2004 have already been received. This is a positive indication of public interest in this issue, and in the process of framing an effective law for guaranteed employment.

Some comments were incorporated in the draft Act before it was released for public discussion on 16 July 2004. Others express diverse viewpoints which call for further thought and discussion. A summary of these unresolved issues is presented below.

1. **Coverage of urban areas**: The present draft Act only covers rural areas (including "B and C Class municipalities"). The extension of guaranteed employment to large cities could either be incorporated in this Act or become the object of a separate "National Urban Employment Guarantee Act".
2. **Number of days of guaranteed employment**: The draft Act provides guaranteed employment throughout the year. In this respect it goes beyond the "100 days" guarantee proposed in the Common Minimum Programme (CMP). Some commentators have proposed an intermediate benchmark, e.g. 180 days.
3. **Further entitlements**: Various types of additional entitlements have been proposed, such as maternity benefits, advance wages, health insurance, social security, etc.
4. **Guaranteeing the payment of minimum wages**: Maharashtra's "Employment Guarantee Act" explicitly links wage payments with the quantum of work. However, many commentators were concerned about the non-payment of minimum wages in public employment programmes when wages are paid on a piece-rate basis. In the light of this problem, this draft Act does not require wage payments to be linked with the quantum of work.
5. **Extent and nature of decentralization**: Some commentators are in favour of complete devolution of the "employment guarantee programme" to the Gram Panchayats. Others feel that the involvement and accountability of the Block and/or District administration are essential. As things stand, the draft Act is somewhat flexible on this. It takes into account the Panchayati Raj structure without diluting the accountability of the district administration. Regular social audits by the Gram Sabhas are mandatory.
6. **Are "State Acts" also needed?** This draft Act builds on the fact that labour and employment issues are on the "concurrent list", so that the central government is competent to pass an all-India law. It dispenses with the need for state-specific Acts.
7. **Central versus state funding**: Most commentators recommend that the Employment Guarantee Programme should be fully or mainly funded by the central government. The draft Act assumes full funding by the central government except for the "unemployment allowance" (to be paid by the state government).
8. **Where will the money come from?** As of now, the draft Act leaves this open. In Maharashtra, the "employment guarantee scheme" is funded by ~~dedicated~~ taxes and a

mandatory matching grant (50-50) from the state government.- A similar formula could be envisaged at the central level.

9. **Labour-material ratios**: As of now there is no specific norm for labour-material ratios in the draft Act. This is to be added.
10. **Avoiding contractors**: The draft Act rules out private contractors, except in specific circumstances and with case-by-base permission. Some commentators favour a total ban.
11. **Level of the unemployment allowance**: There is no obvious benchmark for the "unemployment allowance". The draft Act states that the allowance should be no less than one fourth of the statutory minimum wage for agricultural labourers. Other benchmarks have been suggested, all the way up to the full minimum wage.
12. **Timely wage payments**: The draft Act states that wages must be paid weekly, in consonance with the provisions of the Payment of Wages Act. A provision could be added for an "advance" to be paid after the first day of work.
13. **Wage deductions for social security**: An earlier version of the draft Act provided for up to 10 per cent of the wages to be set aside for social security entitlements, e.g. health insurance or old-age pensions. This has been removed for now, as some commentators feared that social security funds might be misused.
14. **Distance norms**: The draft Act follows the Maharashtra norm of providing work "within five kilometres if possible", and in any case within the Block. Transport and daily allowances are to be paid if work is provided beyond 5 kilometres.
15. **Disqualification**: There are diverse views on the appropriate "penalty" that should be imposed, if any, when an applicant fails to turn up for work within the requisite number of days (as of now, 15 days), without applying for exemption, after being called for work. The draft Act states that such applicants are disqualified from applying for work, or from receiving the unemployment allowance, for a period of 15 days.
16. **Skilled and non-manual labour**: The draft Act gives guaranteed access to unskilled manual labour. The possibility of bringing certain categories of skilled and/or non-manual labour within the scope of the "employment guarantee programme" could be examined.
17. **Disabled persons**: It has been suggested that a clause should be added regarding special provisions for the employment of disabled persons, or other persons who are unable to do ordinary unskilled manual work on account of illness etc.
18. **Cash and kind**: The draft Act allows for wage payments in both cash and kind. Some commentators suggest that part payment in kind should be made mandatory.