

## **A Fact Sheet on the Right to Work and Employment Guarantee\***

### **Is the Right to Work a Utopian demand?**

Regular employment at a living wage is the dream and the first demand of the poor in our country. A majority of the poor in India continue to live in rural areas and depend on wage labour for their survival. Guaranteeing the right to work calls for an "Employment Guarantee Act" (EGA), whereby the Government is legally bound to provide work to all those who are able bodied. This would enable people not only to feed themselves and their families, but also to achieve a minimum standard of living. This is not a Utopian idea. Indeed, the state of Maharashtra passed an Employment Guarantee Act as early as 1979. Since then, it has been providing employment to lakhs of the rural poor every year under the "Employment Guarantee Scheme" (EGS).

### **What is the Maharashtra Employment Guarantee Act?**

According to article 3 of this Act, "Every adult person in the rural areas in Maharashtra shall have the right to get a guaranteed employment for doing unskilled manual work and to receive wages thereof weekly, or in any case, not later than a fortnight".

To get work, all unemployed rural adult persons are to be given an identity card after registration at the nearest block office. Work is to be provided within a fortnight after registration within five kilometres of the worker's house. The worker is paid a wage equal to the minimum wage for agricultural labourers for the lowest zone in Maharashtra as fixed by the State Government from time to time. Where the Government is unable to provide employment, an unemployment allowance of Rs. 2 per day is paid.

### **What are the other facilities available for workers under the Maharashtra EGA?**

Other facilities provided are free medical facilities and half the daily wage rate for injuries; in case of death at the work-site, Rs. 5000/- to the next of kin of the deceased; in case of disablement, an ex-gratia payment, which in any way will not exceed Rs. 5000/-. Crèches temporary accommodation and water are also to be provided at work sites.

### **How did the scheme start ?**

Progressive politicians, bureaucrats and social activists began experimenting with EGA type pilot projects in 1965 in order to tackle the problem of rural poverty. These experiments were given a boost during the major drought that affected Western Maharashtra during 1972-74. The massive and relatively successful public works programme provided a stimulus for its continuation in the post drought period. There were also agitations by left parties and trade unions for drought relief. This movement also supported the demand for a permanent programme like the EGS. This finally led to the passage of the Maharashtra Employment Guarantee Act of 1977.

### **How is the scheme financed?**

The Maharashtra State Tax on Professions, Trades, Callings and Employments Act of 1975 details the financial mechanisms through which EGA is to be supported. The Act provides an exclusive revenue stream for the scheme. There are five specific taxes under the act, of which the most important is the 'professional tax' that is borne mainly by registered professionals

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\* Note received from Paschim Banga Khet Majoor Samity, April 2003.

and formal-sector employees in the urban sector. The state government makes a contribution to the EGS Fund that matches the yield from these dedicated taxes.

### **Is the Maharashtra EGA a complete success?**

In spite of these progressive provisions, Maharashtra EGA has not been a success story all along. Shortcomings include low wage rates; low turnout of the unemployed at the work sites due to lack of information; non-payment of compensation to the registered job seekers owing to lack of organised demand; submission of false and inflated muster rolls by Government officials etc. Unless rural labour is organised, it is very difficult to remove flaws and to raise the government-fixed minimum wages to a level that ensures a minimum standard of living. In spite of the provision that wages should be paid within two weeks of completion of the job, there are inordinate delays in the payment of wages also.

### **Why are we asking for an Act like the Maharashtra EGA in spite of these problems?**

The experience with employment schemes like NREP, RLEGP, JRY, EAS and now Sampurna Grameen Rozgar Yojana (SGRY) has been even worse than with the Maharashtra EGA. Funds can be reduced or increased at the whim of the Government in power. Work is often not given to those asking for it even if funds are lying unutilised, and workers cannot force the Government to give them work as no rights accrue from these schemes. In contrast, EGA provides rural labour with a right to employment enforceable through a court of law – something that cannot be taken away with a change of Government. This is the biggest advantage of EGA, as activists see it. Secondly, the funds under the Act cannot be used for any other purpose. And lastly, it also means that a large number of rural workers, instead of working for many different employers, work together at a single site, making them easier to organise.

### **What is the history of the demand for an EGA type Act in other parts of India?**

The movement for EGA at the national and state levels was especially strong in the late 1980s and early 1990s. Amongst the national-level actions was a national seminar in Kolkata in 1989, a cycle rally with over 1000 cyclists from various parts of India to Delhi in 1989, a national convention at Delhi that was attended by the then Finance Minister Madhu Dandavate, and various campaigns in the states of Tamil Nadu, Andhra Pradesh, Orissa, West Bengal, Karnataka and Maharashtra. During that period, all Left and socialist unions also held a huge rally at Delhi demanding the Right to Work.

### **What has been the response of the Government?**

The movement for EGA also began to have an impact on the Government. At the State level, both Tamil Nadu and Andhra Pradesh adopted pilot schemes in a few districts. At the Central level, a meeting of the National Development Council (NDC) in October 1990 endorsed the principle of making employment generation the central focus of development planning in order to achieve the goal of Right to Work for all. It was also suggested that legislation be adopted to provide an immediate work guarantee to the poorest people. This legislation and the schemes suggested were in line with the Maharashtra EGA. The National Development Council also set up a committee to examine the legal, operational, organisational and financial aspects of the approach and to give it a practical shape. Estimates were also made of the funds required for the scheme at the national level. The Central Government, however, fell soon afterwards, so the plan was shelved.

On 31 July 1991, the National Commission on Rural Labour (NCRL) submitted its report and recommended that for the betterment of agricultural labourers, the Right to Work should be accepted as a Fundamental Right with certain qualifications and an Employment

Guarantee Act should be enacted to implement this.

A few years later, the Central Government adopted the Employment Assurance Scheme (EAS) as a limited way of providing guaranteed employment for 100 days, though it did not receive any statutory backing.

### **Why are we raising the demand for an EGA type Act today?**

The demand for an EGA is particularly timely for several reasons. First, planners and policy-makers seem to think that “micro-credit” schemes are the ideal way of dealing with poverty and unemployment. This is in spite of consistent evidence that these schemes by-pass those who have labour as their only asset. Experience also shows that micro-credit can at best provide a small supplementary income to a few families and cannot deal with large-scale unemployment and poverty. It is important that the demand for employment guarantee be raised today to counter such thinking.

Secondly, the Supreme Court hearing on the right to food (PUCL vs Government of India and others, 2001) has already focused attention on the huge stockpiling of foodgrains and the problems in utilising these. Employment Guarantee Schemes where half the wages are paid in kind are a constructive way of dealing with these stocks. In addition, the Supreme Court has also given orders on the Sampoorna Grameen Rozgar Yojana, providing some assurance of work.

Thirdly, there is a crying need for employment in drought-affected areas, where rural labourers have been deprived of employment for long periods of time. Drought conditions have led to intensified hunger, poverty and unemployment in large parts of the country.

Finally, employment opportunities in the agricultural sector have shrunk over the last decade of economic reforms. With few jobs being generated in other sectors, unemployment is the most burning problem facing the rural poor.

### **How much would a national Employment Guarantee Act cost?**

There are several ways of estimating the cost of a national EGA. Different methods lead to different results, but most of them suggest that the total annual cost would be of the order of 1.5 to 2 per cent of India’s GDP. An illustrative calculation is presented below.

Experience shows that not all the rural poor take up wage employment under an Act such as the EGA. In Maharashtra, about one fifth of all eligible persons report for work. If similar participation rates apply elsewhere, and if people below the poverty line are taken as the target group, the number of person-days of employment to be generated would work out as follows.

	(in crores)
Total rural population as per 2001 Census	74.2
Total rural population below the poverty line (27%)	20.0
Total adult working population below the poverty line (40% of the population below poverty line)	8.0
Number of people reporting for work (20% of the adult working population)	1.6
Total person-days to be generated, @ 200 person-days per year (assuming that each worker gets 90-100 days of work elsewhere)	320

Assuming an average cost of Rs 100 per day (say, Rs 60 for wages and Rs 40 for materials), the total cost of an EGA would therefore be of the order of Rs 32,000 crores per year. This is about 1.5% of India's total GDP.

If, say, half of the wages are paid in kind in the form of 5 kgs of grain valued at Rs 6 per kg, the total cost can be further broken down as Rs 22,400 crores plus 16 million tones of grain. The grain component should not be difficult to meet in the near future, given the availability of enormous food stocks, and the cash component would come down to 1% of India's GDP.

### **What are the possible demands of a campaign for the Right to Work?**

The demands that can be put forward by the campaign are as follows:

- i. The enactment of an Act guaranteeing employment for rural workers in all States and at the Central level on the lines of the Maharashtra Act;
- ii. Employment must be given at a minimum wage that ensures a decent standard of living for all workers for 8 hours of work;
- iii. If employment is not provided within 15 days of application, workers must be compensated at the minimum wage;
- iv. The participation of rural people in the planning and implementation of works should be made compulsory by the Act;
- v. Accounts under the Act must be open to public scrutiny;
- vi. All policies that are labour displacing must be stopped and reconsidered;
- vii. All funds under the Sampoorna Grameen Rozgar Yojana must be utilised to provide work immediately and must not lie unspent.