

National Employment Guarantee Act, 2004

The UPA government has promised in its common minimum programme that it will implement legislation for guaranteeing employment to the lower and middle income households. This is expected to benefit the rural and urban unemployed, who are often pushed into poverty because of their unemployment status. The act would guarantee a minimum 100 days of employment during the year at the minimum wage corresponding to the state where the employment is created. It has also been stated that such employment will be in public works projects.

Hundreds of other such programmes already exist which have not been able to perform to the expected level. In this situation the introduction of yet another employment generation programme has raised many doubts, which need to be clarified.

The first issue is whether such a programme makes sense. The answer is clearly yes. The process of reforms affects existing labour in many sectors as industries downsize to become more efficient, or completely close down to make capital available in other sectors. It is much more difficult for labour to make this transition as labour demand may fall in certain geographical regions, or skills, and increase in other regions or in those requiring other skills. For the success of the reform process, it is essential that such displaced labour is taken care of before it can be rehabilitated elsewhere or retrained in other skills. Most countries have some sort of insurance for these events --- we have none. The added problem in India is that displaced worker households are often at the margin where the loss of a job pushes them below the poverty line.

The second issue is how this is different from the earlier attempts made by the government. Further, since we know that the earlier programmes have not been able to achieve their targets, what is different in the present plan that increases the probability of success? The answer to this is the legal guarantee of employment that the programme promises to give. The earlier programmes though were initiated with the same objectives, yet didn't impose a legal binding on the government to achieve its targets and to provide employment to all who meet the eligibility criterion.

The next issue is regarding the cost of the programme. Since we are worried about marginal households, the focus has to be, as it is in the CMP, the poor and low middle class households.

The NSS data give us the number of households in each expenditure class. The Planning Commission publishes the state-wise and sector-wise (rural/urban) poverty lines. We decided to take two (adjacent) expenditure classes above each state level poverty line to constitute the lower middle classes. For each sector in each state, we took the number of households who constitute the poor and middle classes. The annual cost of this programme for each adult participating in it is 100 (the number of days) times the minimum wage in the sector of the state where the

adult resides. If every single household among the poor and middle classes avail of this programme then the total cost to the government is INR 283 billion (INR 28261 crores) for the rural areas and INR 68 billion (INR 6815 crores) for the urban areas. The total cost for the whole country is INR 351 billion (INR 35076 crores).

The above calculations are for the wage costs only. Let us assume that the non-wage costs will be 20 per cent of the total wage costs. Adding this to the wage cost, we have a total bill of INR 339 billion (INR 33913 crores) for the rural sector and INR 82 billion (INR 8178 crores) for the urban sector. The total then is INR 421 billion (INR 42091 crores).

Critics of the programme refer to its high cost. Let us look at this cost more closely. Since this is a guarantee by the state, an adult has to voluntarily opt to participate in the programme. The calculations given above will become effective *if every single poor and low middle class household avails of it*. For an adult to avail of it, he, or she, must either be out of a job or, be earning less than 100 times the minimum wage in a year. For the second, observe that this will be the case if the adult is employed for less than 100 days, or employed for more than 100 but at a wage that is correspondingly lower than the minimum wage. For example, this programme will be attractive to somebody who is already employed through out the year at a wage that is less than 27 ($=100/365$) per cent of the minimum wage. While this is possible, it cannot be that prevalent as to attract every single household into the programme! A more realistic situation is that people who are seasonally employed and for less than 100 days, will avail of this programme. However as we look at it, it is highly unlikely that every single potential household will avail of this programme. The cost calculations above are the maximum cost that the government has to bear.

On the other hand, once this programme is implemented, there is very little reason to have all the other poverty alleviation programmes --- especially those related to employment among the poor. There would then be a corresponding savings from these existing programmes. The total amount of funds allocated for the poverty alleviation programmes in India for the year 2003-04 was INR 164 billion (INR 16395 crores).

Another criticism that has been forwarded is that employment is guaranteed only for 100 days, which is less than one third of the year. The obvious question is regarding the responsibility of the state, once the period of 100 days is over. Since the programme doesn't specify anything in this regard, an individual may prefer to work at another project which though giving less wage, but gives employment for a larger part of the year.

The other worry is that in the zeal to implement the programme, one may lose sight of its original purpose. It is an insurance programme against the risk of sliding into poverty. That was the idea in the CMP and that was what is

commendable about it. Unfortunately, in its implementation, there seems to be too much emphasis on local “asset creation”. There are two reasons why one should be wary of this. First, not all asset creations may take 100 days! Alternatively, why should a person who is on minimum wage for 266 days not avail of this programme for 99 days? Why must some one be forced to be on this programme even when he, or she, has obtained a job at higher wages before the 100 days run out? On the other hand, many such asset creation activities may require more than 100 days. What happens then? While it is good that the local authorities are going to decide on the projects, they should have the flexibility to decide whether to generate tangible assets or, e.g., to use the labour to provide some services instead. Or, as radical as it may sound, why not consider it simply as a transfer to the poor? After all, if the programme is viewed as an insurance against poverty, any asset creation is a bonus rather than the deciding factor. The second reason why the emphasis on asset creation should be toned down is more philosophical. A major problem in India is that all good programmes get diluted because we try to attain too many objectives with the same idea. Multiple objectives often lead to the programme being used for purposes other than its main objective, leading to inefficiency and waste.

Appendix 1:

Draft of the Act:

Guarantee of employment to all households in rural areas:

Every household in the rural areas of India shall have a right to at least 100 days of guaranteed employment every year for at least one adult member, for doing casual manual labour at the statutory minimum wage, and to receive the wages thereof within 7 days of the week during which work has been done, in accordance with the provisions of this Act and the Programme made there under.

Definitions:

In this Act, unless the context otherwise requires:

- “adult” means a person who has attained the age of eighteen years;
- “household” means a nuclear family, or a family of persons normally residing together and sharing meals or holding a common ration card;
- “Central Council” means the Central Employment Guarantee Council constituted;
- “State Council” means the State Employment Guarantee Council constituted;
- “Programme” means the Employment Guarantee Programme prepared and published and for the time being in force;
- “applicant” means a person who has applied for employment under the Employment Guarantee Programme;
- “project” means any work taken up under the Programme for the purpose of providing employment to the applicants;
- “rural areas” includes B and C class municipalities;
- “implementing agency” includes any Department of the Central Government or State Government, the Zila Parishad, the Panchayat Samiti, the Gram Panchayat, or any other local authority or Government Undertaking which is entrusted with the task of implementing any work taken up under the Programme;
- “Programme Officer” means the officer appointed to supervise the implementation of the Programme in a particular Block.

- “productive works” means any works which, in the opinion of the State Council, will directly or indirectly contribute to the increase of production, the creation of durable assets, the preservation of the environment, or the improvement of the quality of life;
- “casual manual labour” means a casual job essentially involving physical labour but possibly including basic skills that are required for productive works;
- "National Fund" means the National Employment Guarantee Fund established;
- “State Fund” means the State Employment Guarantee Fund established;
- “Prescribed” means prescribed by Rules made under this Act.

Essential features of the Programme:

- For the purpose of giving effect to the employment guarantee mentioned above, each State Government shall prepare, within six months of the commencement of this Act, an Employment Guarantee Programme for providing employment to all adults residing in the rural areas who volunteer to do casual manual work, subject to the conditions laid down by or under this Act or in the Programme.
- The Rules of the Programme shall be published in the Official Gazette, and a summary thereof shall also be publicised through regional and local newspapers and other means.
- The essential features of the Programme shall include the following:

Only productive works shall be taken up under the Programme. The State Council shall prepare a list of permissible works as well as a list of “preferred works”. The identification of preferred works shall be based on the economic, social and environmental benefits of different types of works, their contribution to social equity, and their ability to create permanent assets.

1. The works taken up under the Programme shall be in rural areas. It shall, however, be lawful for the State Government to direct that certain categories of works may be taken up in areas other than rural areas, as advised by the State Council.

2. The Programme may also provide, as far as possible, for the training and upgradation of the skills of unskilled labourers.
3. In no circumstances shall labourers be paid less than the statutory minimum wage of agricultural labourers applicable in the State.
4. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates, which shall be fixed by the State Government for different types of work every year, subject to the approval of the State Council. The schedule of rates for unskilled labourers shall be so fixed that a person working diligently for 7 hours would normally earn a wage equal to the statutory minimum wage of agricultural labourers applicable in the State at that time.
5. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applies for employment under the Programme to do work of any type permissible under the Programme.
6. Contractors shall not be used for the execution of projects taken up by Gram Panchayats under the Programme.
7. Contractors shall not be used for the execution of projects taken up by Programme Officers under the Programme, except for specific types of work to be specified in the Programme Rules and with case-wise permission from the concerned monitoring agencies. When contractors are used, wages shall be paid directly by the government to the labourers, and in all other respects the Contract Labour, Regulation and abolition Act will apply.

Conditions for guaranteed employment:

- Every adult person who
 1. resides in any rural area;
 2. is willing to do casual manual work at the statutory minimum wage;
- May submit his/her name and address to the Gram Panchayat and apply for registration. It shall be the duty of the Gram Panchayat to register him/her and issue him/her a job card with date and photograph. The registration shall be for such period as may be laid down in the Programme, but in any case not less than five years, and may be renewed from time to time. Different persons belonging to the same household shall share the same job card.

- Every registered person shall be entitled to employment at the statutory minimum wage, in accordance with the Programme for the time being in force, for as many days as the applicant requests, up to 100 days per household in a given financial year.

- It shall be the responsibility of the State Government to provide employment in accordance with the provision of the Programme to every such person within 15 days of receipt of an application.

- The liability of the State Government to pay unemployment allowance shall commence after the expiry of 15 days from the date of application (or 15 days from the date from which employment is sought, in the case of advance applications). It shall cease as soon as
 1. the applicant is directed by the Gram Panchayat or Programme Officer to report for work,
 2. the period for which employment is sought comes to an end, or
 3. The applicant's household has received 100 days of work within the financial year.

Establishment and utilisation of National Employment Guarantee Fund:

- On the date of commencement of this Act, a non-lapsable fund to be called the National Employment Guarantee Fund shall be deemed to be established.

- Any amount transferred or credited to the National Fund shall be charged on the Consolidated Fund of India.

- The amount standing to the credit of the National Fund shall be expended in such manner and subject to such conditions as may be prescribed for the purpose of implementing the Programme.

Appendix 2:

Budgetary allocation by the Central Government on Rural Employment Programmes:

T	1998-99		1999-2000		2000-01		2001-02		2002-03		2003-04		2004-05
	BE	RE	BE	RE	BE	RE	BE	RE	BE	RE	BE	RE	BE
Swarnajayanti Gram Swarojgar Yojana*	740	651	859	950	900	370	450	480	656	656	720	720	900
Total Rural Employment	4085	4050	3795	3729	2655	2798	2925	4225	4596	9502	4488	9640	4590
Sampoorna Gramin Rozgar Yojana							2925	3425	3996	8642	4488	9640	4590
<i>Cash Component</i>							2925	3425	3375	3375	3713	3713	4050
<i>Food grain Component</i>							-	-	621	5267	775	1039	260
<i>Special Component</i>							-	-	-	-	-	4889	280
Jawahar Gram Samridhi Yojana	2099	2060	2095	1689	1485	1345							
Employment Assurance Scheme (including Food for Work Programme)	1990	1990	1700	2040	1170	1453		800	600	860	-	-	-
<ul style="list-style-type: none"> Allocation for 1998-9 refers to Integrated Rural Development Programme, which was replaced by a new rural self-employment programme, Swarnajayanti Gram Rozgar Yojana, in the millennium year. BE: Budget Estimate; RE: Revised Estimate. The figures are in Rupees Crores 													
Source: Expenditure Budget, Volume 2, Government of India (various years)													

schemes was justified on the grounds that it was expected to serve the twin purpose of providing employment opportunities as well creation of rural infrastructure. Further these programmes also put an upward pressure on market wage rates by attracting people to public works programmes, thereby reducing labour supply and pushing up demand of labour. Another factor in favour of these programmes was that they were self-targeting. This was because only the poor, who didn't have any alternate means of employment, would come to work at the minimum wages that were being offered here.

Appendix 3:

In order to have a better picture of the performance of the programmes, we take a look at how they fared in achieving the targets that were set for them. A closer look at the table below shows that most states were not being able to meet the targets of employment generation. This could be either due to the fact that the targets set were unrealistic and difficult to achieve given the resources that were available to the states. The other could be the inefficiency with which the programmes were implemented.

Even for few states where the targets were met in the year 2000 and 2001, they failed to maintain their performance. This reflects negatively on the efficiency with which these programmes were being implemented.

State-wise Target and Employment Generated under Prime Minister's Rozgar Yojana in India								
(1993-2002 and 2000-01 to 2003-04)								
States/UTs	Year							
	1993-2002	2000-2001		2001-2002		2002-2003**		2003-2004
	Employment Generation ***	Target* Nos.	Employment Generation ***	Target* Nos.	Employment Generation ***	Target* Nos.	Employment Generation ***	Target* Nos.
Northern Region								
Haryana	78843	8600	9170	8800	9681	9200	7736	8100
Himachal Pradesh	28599	2500	2943	3000	3620	2700	2807	4000
Jammu & Kashmir	15807	4000	1004	1300	1241	4000	828	3000
Punjab	107517	9000	11718	9000	12048	9000	8196	8200
Rajasthan	126315	16600	17828	16400	18188	16600	12639	16200
Chandigarh	1437	100	74	100	186	100	42	100
Delhi	12665	5000	1173	4600	1029	4600	801	4400
North Eastern Region								
Assam	75134	6600	5427	6600	4280	15000	2262	10000
Manipur	9749	1000	38	1100	159	1300	111	1200
Meghalaya	4031	600	330	2000	375	300	110	350
Nagaland	2436	200	44	500	65	700	119	1000
Tripura	5732	1300	525	3000	933	3000	83	3000
Arunachal Pradesh	2994	500	398	500	512	550	191	400
Mizoram	1874	250	113	375	72	1000	102	200

Sikkim	894	50	66	50	57	50	38	100
Eastern Region								
Bihar	141054	21900	13446	18000	11237	18100	10194	14400
Jharkhand	9378	-	-	9000	5084	9000	4295	9000
Orissa	64140	15500	10350	12050	5154	12850	1526	13200
West Bengal	55697	22500	3320	22000	3486	21100	2432	20000
Andaman & Nicobar Islands	1173	150	173	200	215	175	117	200
Central Region								
Madhya Pradesh	263568	32400	30234	28000	22853	28600	13005	23500
Chhatisgarh	5381	-	-	6210	2526	6000	2855	4600
Uttar Pradesh	429087	52200	54834	50200	54984	50900	44616	45900
Uttaranchal	10784	-	-	5000	5400	6000	5384	6000
Western Region								
Gujarat	111993	14700	12078	16250	11219	11950	11684	13000
Maharashtra	348692	45000	34875	27900	25971	27650	20027	22800
Daman & Diu	254	50	29	50	12	50	3	50
Goa	4274	625	423	500	237	500	485	400
Dadra & Nagar Haveli	855	50	33	50	15	50	15	50
Southern Region								
Andhra Pradesh	218672	33800	18405	33200	15870	35800	14052	36800
Karnataka	167018	22000	17316	18700	16781	18400	9317	20000
Kerala	154667	23700	15953	22000	13836	19250	13004	20350
Tamil Nadu	162195	18500	14564	20000	14604	20000	13968	20000
Lakshadweep	326	50	24	50	38	50	12	50
Pondicherry	3774	625	318	450	314	550	312	750

Note: * employment opportunities generation is expected to be 1.5 times of the target.

** Provisional

***employment generation is estimated at the @ 1.5 per case disbursed.

Appendix 4:

Financial & Physical Performance under Poverty Alleviation Programmes IRDP/SGSY, JRY/JGSY and EAS										
during Eighth and Ninth Plan-Year wise										
(Rs. crores)										
SI	Years	IRDP/SGSY			JRY/JGSY			EAS		
		Total Allocation (Centre + State)	Total Expenditure	Lakh Families Swarozgaries	Total Allocation (Centre + State)	Total Expenditure	Employment in Lakh Man days	Total Allocation (Centre + State)	Total Expenditure	Employment in Lakh Man days
Eighth Plan										
1	1992-93	662.22	693.88	20.69	3169.05	2709.59	7821.02	0		
2	1993-94	1093.43	956.65	25.39	4059.42	3878.71	10258.4	0	183.75	494.74
3	1994-95	1098.22	1008.31	22.15	4376.92	4268.33	9517.07	0	1235.45	2729.56
4	1995-96	1097.21	1077.16	20.89	4848.7	4466.91	8958.25	0	1720.61	3465.27
5	1996-97	1097.21	1131.68	19.24	2236.79	2163.98	4006.32	0	2160.41	4030.02
Total		5048.29	4867.68	108.36	18690.88	17487.52	40561.06	0	5300.22	10719.6
Ninth Plan										
1	1997-98	1133.51	1109.54	17.07	2499.21	2439.38	3955.89	2460.48	2904.97	4717.74
2	1998-99	1456.28	1162.28	16.77	2597.03	2525.48	3766.41	2485.15	2882.18	4279.36
3	1999-2000	1472.34	959.86	9.34	2205.58	2032.45	2683.08	2431.46	2182.61	2786.17
4	2000-2001	1332.5	1116.27	10.3	2192.96	1929.23	2683.17	2082.27	1861.11	2183.92
5	2001-2002	774.5	555.15	6.25	2493.01	699.07	860.79	1730.92	530.92	666.27
Total		6169.13	4716.17	56.92	11687.93	9625.61	13949.34	11190.28	10361.79	14633.5

Note: 2001 – 02 - SGSY - upto January, 2002
 2001-- 02 - JGSY - upto October, 2001
 2001 -02 – EAS - upto September, 2001

Source: Ministry of Rural Development

The above table gives the allocation made, the expenditure incurred and the employment generated under various programmes. For all programmes the expenditure incurred is less than the allocation made, implying that partial utilization of the resources that were available. Another thing worth observing is that the employment generated under the Integrated Rural Development Programme (IRDP) and the Jawahar Rozgar Yojana (JRY) decreased drastically from the eighth plan to the ninth plan. This could be attributed to the fall in the expenditure incurred under the programmes during the two plan periods. Yet it needs to be observed that the proportionate fall in the employment generated is more than that for the expenditure. This may indicate to the inefficiency of the programme. Lower numbers being employed could also be because the minimum wage rate increased substantially over the period due to inflation for which smaller numbers could be employed.

Appendix 5:

The new programme promises to provide job opportunities to all lower and middle income households, in rural and urban areas. The following tables give some estimates of the costs that the government will have to incur for the programme.

For this we do some simple calculations. First of all we take the number of households in the lower and middle income category for different states. Here we note that it is better to do a state-wise analysis as the poverty line and the minimum wages are defined differently. We simply multiply the number of targeted households with the minimum wage per day and then by 100 to account for the minimum number of days an individual will be employed. This gives us the cost that the government may have to incur for the programme. Further a similar exercise is done for the rural and urban areas separately as both the poverty line and the minimum wages are defined differently for them.

Cost of the Scheme in the Rural Areas						
States	Per 1000 Households in the lower middle and below category	Percentage of Households in the lower middle and below category	Total number of Households in the state (1999-2000)	Households targeted under the scheme	Minimum Wages (2000)	Cost
Andhra Pradesh	374	37.4	12718840	4756846.16	30	14270538480
Assam	638	63.8	3690328	2354429.264	45	10594931688
Bihar	646	64.6	15002525	9691631.15	37.88	36711898796
Gujarat	272	27.2	5924297	1611408.784	34	5478789866
Haryana	208	20.8	2479875	515814	74.3	3832498020
Himachal Pradesh	203	20.3	1071937	217603.211	26	565768348.6
Karnataka	396	39.6	7057215	2794657.14	26	7266108564
Kerala	192	19.2	4436972	851898.624	30	2555695872
Madhya Pradesh	619	61.9	11195563	6930053.497	49.46	34276044596
Maharashtra	410	41	11625438	4766429.58	39	18589075362
Orissa	694	69.4	6346920	4404762.48	42.5	18720240540
Punjab	164	16.4	2763078	453144.792	69.1	3131230513
Rajasthan	364	36.4	6365576	2317069.664	60	13902417984
Tamil Nadu	416	41.6	9370087	3897956.192	54	21048963437
Uttar Pradesh	481	48.1	22410822	10779605.38	47	50664145295
West Bengal	585	58.5	11261186	6587793.81	62.1	40910199560
Delhi	14	1.4	706125	9885.75	93	91937475
Total Cost						2.8261E+11

Cost of the Scheme in the Urban Areas						
States	Per 1000 Households in the lower middle and below category	Percentage of Households in the lower middle and below category	Total number of Households in the state (1999-2000)	Households targeted under the scheme	Minimum Wages (2000)	Cost
Andhra Pradesh	474	47.4	5045768	2391694.03	25.96	6208837707
Assam	245	24.5	561167	137485.915	50	687429575
Bihar	534	53.4	2340711	1249939.67	27.3	3412335310
Gujarat	339	33.9	3064521	1038872.62	34	3532166905
Haryana	215	21.5	1117903	240349.145	73.65	1770171453
Himachal Pradesh	59	5.9	155679	9185.061	26	23881158.6
Karnataka	440	44	3015286	1326725.84	21.5	2852460556
Kerala	318	31.8	1639991	521517.138	23.4	1220350103
Madhya Pradesh	551	55.1	3352027	1846966.88	39	7203170820
Maharashtra	410	41	7584165	3109507.65	5	1554753825
Orissa	606	60.6	1314946	796857.276	40	3187429104
Punjab	216	21.6	1604425	346555.8	62.25	2157309855
Rajasthan	435	43.5	2008017	873487.395	47.05	4109758193
Tamil Nadu	398	39.8	5207700	2072664.6	47.05	9751886943
Uttar Pradesh	464	46.4	6376295	2958600.88	35	10355103080
West Bengal	325	32.5	3821409	1241957.93	48.21	5987479156
Delhi	219	21.9	2032473	445111.587	93	4139537759
Total Cost						68154061503

The number of households has been taken from the NSS data for the year 1999-2000.

The tables indicate that a total of Rs. 283 billion for the rural areas, Rs. 68 billion for the urban areas, and a total of Rs. 351 billion for the country as a whole.

Further we add the non-wage cost that the government may incur in order to implement the public works programmes. This we may assume to be 20% of the wage cost. Adding this to the wage cost, gives us a total of Rs. 421 billion.