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**STANDING COMMITTEE ON
RURAL DEVELOPMENT
(2004-2005)**

FOURTEENTH LOK SABHA

**MINISTRY OF RURAL DEVELOPMENT
(DEPARTMENT OF RURAL DEVELOPMENT)**

**THE NATIONAL RURAL EMPLOYMENT
GUARANTEE BILL, 2004**

THIRTEENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

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(DEPARTMENT OF RURAL DEVELOPMENT)

THE NATIONAL RURAL EMPLOYMENT
GUARANTEE BILL, 2004

Presented to Hon'ble Speaker on 21.6.2005

Presented to Lok Sabha on

Laid in Rajya Sabha on



LOK SABHA SECRETARIAT
NEW DELHI

June, 2005/Jyaistha, 1927 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON
RURAL DEVELOPMENT (2004-2005)

Shri Kalyan Singh — *Chairman*

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24. Prof. Alka Balram Kshatriya
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28. Dr. Chandan Mitra
29. Vacant*
30. Dr. Faguni Ram
31. Prof. R.B.S. Varma

SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Shri P.D.T. Achary | — | <i>Secretary</i> |
| 2. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 3. Shrimati Sudesh Luthra | — | <i>Deputy Secretary</i> |
| 4. Shri A.K. Shah | — | <i>Under Secretary</i> |

@ *Vice* Shri Stephen Marandi ceased to be a member of Rajya Sabha *w.e.f.* 16 March, 2005 consequent upon his election to the Jharkhand Legislative Assembly *vide* Rajya Sabha Secretariat Notification No. RS. 10/2005-T dated 11 April, 2005.

* *Vice* Shri Keshubhai S. Patel ceased to be a member of the Committee *w.e.f.* 22 March, 2005 consequent upon his resignation from the membership of Standing Committee on Rural Development.

INTRODUCTION

I, the Chairman of the Standing Committee on Rural Development having been authorised by the Committee to present the Report on their behalf present this Thirteenth Report (14th Lok Sabha) on 'The National Rural Employment Guarantee Bill, 2004'.

2. 'The National Rural Employment Guarantee Bill, 2004' was introduced in Lok Sabha on 21st December, 2004 and was referred to the Standing Committee on Rural Development by the Hon'ble Speaker, Lok Sabha under Rural 331 E (1) (b) of the 'Rules of Procedure and Conduct of Business in Lok Sabha' on 23rd December, 2004 for examination and report.

3. 'The National Rural Employment Guarantee Bill, 2004' seeks to enhance the livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work. As per the proposed legislation, the State Government shall in such rural areas in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work, not less than one hundred days of such work in a financial year in accordance with the Scheme.

4. The Committee obtained written information on various provisions contained in the Bill from the nodal Ministry *i.e.* the Ministry of Rural Development (Department of Rural Development). The preliminary meetings of the Committee were held on 19 January, 2005 and 2 February, 2005 wherein the Committee were briefed about various provisions of the Bill by the nodal Ministry and other concerned Ministries, *viz.* Panchayati Raj, Agriculture, Labour and Employment and Tribal Affairs. The representatives of the Ministry of Finance (Department of Expenditure), Planning Commission and Ministry of Law and Justice (Legislative Department) also assisted the Committee by clarifying various legal and financial matters at the said sittings. As the Bill intends to bring about far reaching consequences for rural population, the Committee at their sitting held on 19 January, 2005 decided to invite the views of experts, organisations and individuals through print and electronic media.

(viii)

5. In response to Press Communiqué, the Secretariat received 610 memoranda out of which 105 were related to the Bill. Fifteen experts/representatives of organisations/associations and individuals comprising of leading economists, researchers, social workers and representatives of various organisations related to agricultural workers, women and disabled persons etc., deposited before the Committee at their sittings held on 31 May and 1 June, 2005.

6. The Committee, in view of the fact that the provisions enshrined in the Bill can be made applicable only with the cooperation of the State Governments/Union Territory Administrations decided to invite their views with the permission of Hon'ble Speaker, Lok Sabha in pursuance of direction 60 of 'Directions by the Speaker, Lok Sabha'. Fifteen State Governments and three Union Territory Administrations furnished their comments in this regard.

7. The Committee at their sitting held on 13 June, 2005 took oral evidence of the nodal Ministry. The representatives of the Ministries of (i) Panchayati Raj, (ii) Tribal Affairs, (iii) Finance (Department of Expenditure), (iv) Law and Justice (Department of Legal Affairs) and Planning Commission assisted the Committee during evidence. Subsequently, the Committee undertook clause-by-clause consideration of the Bill at the sittings held on 13 June and 14 June, 2005.

8. The Draft Report was adopted by Standing Committee on Rural Development at their sitting held on 20 June, 2005. The Committee was benefited immensely by the contribution made by the Members of the Committee for which I express my sincere thanks to them.

9. The Committee wish to express their thanks to the representatives of Ministry of Rural Development (Department of Rural Development) who appeared before the Committee and placed their considered views. They further wish to thank the officers of the other concerned Ministries as mentioned above, who assisted the Committee and offered their valuable suggestions. The Committee express their gratitude to officials of State Governments/Union Territory Administrations for furnishing valuable information and suggestions which the Committee desired in connection with the examination of 'The National Rural Employment Guarantee Bill, 2004'.

10. The Committee are greatly benefited from the perspectives/suggestions of various individuals/associations/experts on various provisions of the Bill. The Committee express their gratitude to experts/individuals who furnished memoranda or tendered evidence before the Committee.

(ix)

11. The Committee would also like to place on record their deep sense of appreciation of the invaluable assistance rendered to them from time to time by the officials of the Lok Sabha Secretariat attached to the Committee.

12. For facility of reference and convenience, the observations/recommendations of the Committee have been printed in bold type in the body of the report.

NEW DELHI;
21 June, 2005

31 Jyaistha, 1927 (Saka)

KALYAN SINGH,
Chairman,
Standing Committee on
Rural Development.

REPORT

PART 1

Background of 'The National Rural Employment Guarantee Bill, 2004'

1.1 The National Rural Employment Guarantee Bill, 2004 (*Appendix I*) was introduced in Lok Sabha on 21 December, 2004 and was referred to the Standing Committee on Rural Development on 23 December, 2004 for examination and report.

1.2 Productive absorption of under-employed and surplus labour force in the rural sector has been a major focus of planning for rural development. The gravity of the situation of unemployment has been compounded by the absence of social security mechanism. In order to provide direct supplementary wage-employment to the rural poor through public works, many programmes were initiated by the Government of India, namely, National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programme (RLEGP) and Jawahar Rozgar Yojana (JRY). Currently, Sampoorna Grameen Rozgar Yojana (SGRY) is being implemented all over the country with the objective to provide supplementary wage employment in rural areas, create durable rural infrastructure and to ensure food security. It has been indicated in the Statement of Objects and Reasons annexed to the Bill that the scale of employment generation under SGRY in 2002-03 and 2003-04 was barely adequate to provide an average 20 days of employment to each below poverty line (BPL) household in the rural areas.

Recognising the urgent need to ensure a certain minimum days of wage employment, the United Progressive Alliance (UPA) Government in its National Common Minimum Programme (NCMP) has declared as under:

“It (UPA Government) will immediately enact a National Employment Guarantee Act. This will provide legal guarantee for at least 100 days of employment, to begin with, on asset creating public works programmes every year at minimum wages for at least one able-bodied person in the rural areas, urban poor and lower middle class household.”

1.3 In the aforesaid background 'The National Rural Employment Guarantee Bill, 2004' has been introduced in Parliament. As stated in the Objects and Reasons of the Bill, the proposed legislation seeks to enhance the livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment to every poor household whose adult members volunteer to do unskilled manual work.

1.4 It has also been mentioned in the Objects and Reasons of the Bill that the proposed legislation takes into account the experience gained under the Employment Guarantee Scheme in Maharashtra. Further it has also been indicated that considering that a proposal of this kind is being contemplated on such a massive scale for the first time, it has to be necessarily implemented in phases so as to eventually cover all the rural areas of the country, subject to the economic capacity of the Central and State Governments.

1.5 The salient features of the proposed legislation are as under:

- (i) The State Government shall, in such rural areas in the State and for such period as may be notified by the Central Government, provide to every poor household guaranteed wage employment in unskilled manual work at least for a period of one hundred days in a financial year in accordance with the provisions made in the legislation;
- (ii) Every State Government shall, within six months from the date of commencement of this legislation, prepare a scheme to give effect to the guarantee proposed under the legislation;
- (iii) The one hundred days of employment under the legislation will be provided at the wage rate to be specified by the Central Government for the purpose of this legislation. Until such time a wage rate is specified by the Central Government for an area, the minimum wage rate fixed by the State Government under the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area;
- (iv) If an eligible applicant is not provided work as per the provisions of this legislation within the prescribed limit, it will be obligatory on the part of the State Government to pay unemployment allowance at the prescribed rate;

- (v) A Central Employment Guarantee Council at the Central level and State Employment Guarantee Councils at the State level in all States where the legislation is made applicable will be constituted for review, monitoring and effective implementation of the legislation in their respective areas;
- (vi) The Standing Committee of the District Panchayat, District Programme Coordinator, Programme Officers and Gram Panchayats have been assigned specific responsibilities in implementation of various provisions of the legislation at the Gram Panchayat, Block and District levels;
- (vii) The Central Government shall establish a fund to be called 'National Employment Guarantee Fund' for the purposes of this legislation. Similarly, the State Governments may constitute 'State Employment Guarantee Funds';
- (viii) Provisions for transparency and accountability, audit, establishment of grievance and redressal mechanisms and penalty of non-compliance are also envisaged;
- (ix) Provisions for minimum features of Rural Employment Guarantee Scheme and conditions for guaranteed Rural Employment under a scheme and minimum entitlements of labourers have been laid.

1.6 As stated above, 'The National Rural Employment Guarantee Bill, 2004' was referred to the Standing Committee on Rural Development (2004-2005) on 23 December, 2004. The Committee accordingly obtained written information on various issues which might have a direct bearing on the Bill from the nodal Ministry i.e. Ministry of Rural Development. The preliminary meetings of the Committee were held on 19 January, 2005 and 2 February, 2005 whereby the Committee were briefed about the various provisions of the Bill by the nodal Ministry i.e. Ministry of Rural Development (Department of Rural Development) and other concerned Ministries, viz. Panchayati Raj, Agriculture, Labour and Employment and Tribal Affairs. The representatives of the Ministry of Finance (Department of Expenditure), Planning Commission, Ministry of Law and Justice (Legislative Department) also assisted the Committee by clarifying various legal and financial matters. The Committee at their sitting held on 19 January, 2005 decided to invite the views of experts, organizations and individuals through print and electronic media since the provisions made in the Bill relate to the millions of poorest of the poor in rural areas. In response to Press Communiqué, the Secretariat received 610

memoranda out of which 285 memoranda were not related to the Bill. Besides 220 memoranda received were in regional languages whereas the Press Communiqué clearly indicated that the memoranda should be furnished in English and Hindi versions only. Fifteen experts/representatives of organizations/associations and individuals (the list indicated in *Appendix-II*) which include top economists, researchers, social workers and representatives of various organizations related to agricultural workers, women and handicapped persons etc., deposed before the Committee at their sittings held on 31 May and 1 June, 2005. The experts, representatives of organizations and individuals in the memoranda and during the course of oral evidence raised serious reservations on the various clauses of the Bill. Such issues include restricting the employment guarantee to BPL families, definition of family, lack of commitment in the Bill for a time bound expansion of the guarantee to the entire country, provisions empowering the government to switch off the guarantee anywhere at any time, insensitiveness to women and handicapped persons, limited role of Panchayat Raj Institutions, etc.

1.7 The Committee at their sitting held on 19 January, 2005 also noted that the provisions enshrined in the Bill have to be implemented by the State Governments/Union territory Administration. Besides, the State Governments have to bear some of the financial burden. The Committee in view of the fact that the provisions enshrined in the Bill can be made applicable only with the cooperation of State Government, decided to invite the views of State Governments and Union territory Administration with the permission of Hon'ble Speaker, Lok Sabha in pursuance of direction 60 of 'Direction by the Speaker, Lok Sabha.' 15 States Governments of Assam, Bihar, Chhattisgarh, Haryana, Himachal Pradesh, Kerala, Karnataka, Madhya Pradesh, Mizoram, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura and Uttar Pradesh and 3 Union territories of Delhi, Lakshadweep and Pondicherry have furnished their comments in this regard. The State Governments/Union territory Administrations too raised certain serious issues particularly the inability of the State Governments to bear the financial implication.

1.8 The Committee took oral evidence of the administrative Ministry *i.e.* the Ministry of Rural Development (Department of Rural Development) at the sitting held on 13 June, 2005. The representatives of the Ministries of (i) Panchayati Raj, (ii) Tribal Affairs, (iii) Finance (Department of Expenditure), (iv) Law and Justice (Department of Legal Affairs) and Planning Commission assisted the Committee during evidence. Subsequently the Committee undertook clause-by-clause

consideration of the Bill at the sitting held on 13 June (afternoon meeting) and 14 June, 2005.

1.9 The comparative position of the provisions indicated in the Bill and the Maharashtra Guarantee Act has been given at *Appendix-III*.

1.10 The Committee deliberated on the various provisions of the Bill in detail in view of the suggestions received from various quarters. The detailed position with regard to the deliberations alongwith the suggested amendments on the various clauses of the Bill has been given in the subsequent chapter of the Bill.

PART II

Analysis of 'The National Rural Employment Guarantee Bill, 2004'.

(i) Experience with regard to implementation of earlier rural employment schemes in the country.

2.1 As stated in Part-I of the report, a number of Centrally Sponsored Schemes have been implemented in past by the Ministry of Rural Development to address the problem of unemployment in rural areas in the country. At present Sampoorna Grameen Rozgar Yojana (SGRY) and National Food for Work Programme, the rural employment programmes are being implemented. When asked about the reasons for inadequate and ineffective implementation of earlier rural employment schemes, the Department indicated that in order to make the implementation of these schemes more effective and result-oriented, changes in the schemes have been made from time to time. As submitted by the Department of Rural Development, Evaluation studies of SGRY undertaken by independent agencies as well as the Ministry indicate that though the programme is well targeted and quality of assets created is satisfactory, the employment opportunities created under the programme are limited, given the thin spread of resources. The scheme provides wage employment, on an average of ten to thirty days per year, to persons requiring employment. Thus, sub-optimal level of funding is a major limitation of the existing wage employment programme.

Experience under Food for Work Programme

2.2 The Committee while examining Demands for Grants (2005-2006) had noted that 'National Food for Work Programme' alongwith Sampoorna Grameen Rozgar Yojana (SGRY) is being implemented at present in 150 selected districts. When the National Rural Employment Guarantee Act will be implemented, these two programmes will be merged together and shall be known by the name of the Act.

Experience of Maharashtra Employment Guarantee Legislation

2.3 As stated in Part-I of the report, the aforesaid legislation is based on the Maharashtra Guarantee Legislation. When asked about the experience of Maharashtra Guarantee Legislation, the Department of Rural Development informed that the Government of Maharashtra

had been requested to make available impact assessment studies/ evaluation studies undertaken on the implementation of Maharashtra Employment Guarantee Scheme. They had also been requested to share problems/constraints faced in its implementation. The same were, however, not made available to the Committee till the finalisation of the Report. Nevertheless, some of the views/comment of researchers and academicians on Maharashtra Legislation which were brought to the notice of the Committee, are given below.

The important achievements of the scheme reported are:

- (i) financial sustainability arising from separate funds;
- (ii) organisation of EGS workers and their impressive collective strength in some pockets;
- (iii) generation of supplementary income and employment for many workers by way of relief;
- (iv) some pockets of success in terms of agricultural growth, development of dairy industry, and horticulture through the assets generated under the programme; and
- (v) some of the sub-schemes of the EGS, like the Jawahar well scheme, horticulture scheme, and watershed development programmes have resulted in some pockets of success in the State.

In spite of these achievements, however, there have been the following reported failures of the scheme:

- (i) the programme still continues after 30 years without any decline in the demand for unskilled wage work under the scheme;
- (ii) modest impact in poverty reduction or in unemployment reduction in the State;
- (iii) distressed seasonal migration of workers from backward regions continues, as the guarantee is not really implemented in many cases;
- (iv) social security measures, maternity benefits, and facilities at work sites are implemented poorly;
- (v) skill training is given, if at all, on a negligible scale;

- (vi) unemployment allowance is not paid to anybody so far as
 - (i) continuous work of 75 days (which is a precondition for unemployment allowance) is not provided to most persons, and
 - (ii) even when provided, adequate records from one site to another are not maintained;
- (vii) quality of the assets created and their maintenance/use are frequently not satisfactory; and
- (viii) delay in payment of wages ranging from one month to three months.

2.4 The Department of Rural Development has informed the Committee that before bringing the Rural Employment Guarantee Bill, 2004, State Governments have not been formally consulted about the aforesaid legislation. It has also been stated that at a meeting of the State Secretaries of Rural Development, the State Secretaries expressed concerns about (a) capacity of the State Governments to provide their share of funds under the scheme, (b) capacity of the States to implement the programme at the ground level, and (c) the likely increase in the number of court cases due to the proposed legislation.

2.5 The Committee note that 'The National Rural Employment Guarantee Bill, 2004' is a path breaking piece of legislation brought forward by the Government of India. The Bill is one of the most important Bills introduced in Parliament after Independence. The proposed Bill is the first step of the Government towards ensuring some sort of economic and social security by way of guaranteed wage employment to the millions of poor in the rural areas in the country.

2.6 The Committee, however feel that before drafting such an important and historical legislation, adequate preparation should have been done. The Department did not even bother to obtain impact assessment/evaluation study of a similar scheme of the Maharashtra Government and problems faced by that Government in the implementation of that scheme. The success of the guarantee scheme proposed in the Bill depends on the cooperation of State Governments and Union Territory Administrations which may be implementing the provisions of the Bill. In spite of the fact that serious concerns were expressed by the State Secretaries in informal meetings with regard to the implementation of the guarantee legislation as enumerated above, the Department did not care to have formal consultation and find out ways to address various problems indicated by the State Governments.

Further experts, representatives of various organizations and individuals who submitted memoranda or deposed before the Committee were almost unanimous in expressing their concerns about restricting employment guarantee to households living Below Poverty Line (BPL), restrictive definition of family, lack of commitment on the part of the Government to implement the scheme in a time bound manner, provision in the Bill enabling the Government to switch off the guarantee, and not providing Panchayats the central position in implementation of the scheme etc.

The Committee after exhaustive deliberations at the sittings, the details of which have been given in Part-I of the report, are inclined to unanimously recommend a large number of amendments to certain provisions of the Bill. The suggested amendments to the respective clauses are given in the clause-by-clause analysis of the Bill which follows.

(ii) *To whom the provisions enshrined in the Bill will apply*
(Clause 3 (1) of the Bill read with clause 2 (f) 2 (k) and 2 (p) of the Bill)

2.7 The aforesaid legislation aims to provide at least one hundred days of guaranteed wage employment in every financial year to every below poverty line household whose adult members volunteer to do unskilled manual work. Further, as per clause 2(f) of the Bill, household has been defined as the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card. The definition of the poor household has been given in clause 2(k) of the Bill according to which poor household means a household living, during the relevant financial year, below the poverty line and includes the households of all primitive tribal groups as approved, by notification, by the Ministry of the Central Government dealing with tribal affairs. Clause 2(p) of the Bill defines rural area as any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force.

2.8 There was a universal view among the experts including economists and researchers that the applicability of the law should be universal and self targeting which means any one who offers for manual work should be provided employment at the specified rate of wages.

2.9 The rationale for suggesting universal application for the applicability of the guarantee as given by experts is as below:

- (i) BPL concept is defective. The results of BPL census 2002 are still to be made available due to Supreme Court direction. Further, as per the directions of Planning Commission an arbitrary cut off limit of identification of BPL persons has been imposed, according to which the number of BPL persons identified should not exceed those as identified as per 1999-2000 survey. However, an additional 10 per cent may be permitted to account for the transit period. Thus the benefits will not reach the targeted poor household.
- (ii) The wages offered for manual work in various States varies from Rs. 25 *i.e.* minimum in Nagaland to Rs. 134 *i.e.* maximum in Kerala. A person's willingness to work at such a low minimum wage is a clear indicator of his absolute poverty and no further indicators are required.
- (iii) The identification of BPL families requires a lot of administrative work. Moreover powers being provided to the agency/officer involved in the identification of BPL families may lead to corruption and malpractices. The experience with regard to the implementation of different poverty alleviation programmes in the country is an indicator of this aspect.
- (iv) There is no method for periodic evaluation of the data of Below Poverty Line (BPL) converting into Above Poverty Line (APL) and APL to BPL and as such it is very difficult to ensure that the benefits reach the genuine BPL category *i.e.* poorest of the poor.
- (v) By providing universal application, there will be a multiplier effect on employment in all the fields. Money in the hands of deprived millions of families will shoot up further demand for various consumable items thereby having a multiplier effect on demand and supply of goods in the economy resulting in overall growth in employment in all the sectors.
- (vi) National Common Minimum Programme (NCMP) of UPA Government promises at least 100 days of employment for at least one person in rural and urban poor, including lower

middle class households. The legislation in the present form is a dilution of the promises made in NCMP.

- (vii) Maharashtra employment guarantee legislation on which this Bill is based enunciates the principle of self targeting. As per section 3 of that Act, every adult person in rural areas has the right to work.
- (viii) The really needy class of society *i.e.* the poorest of the poor will be marginalized.
- (ix) It would be really very difficult to ascertain that a family/person availing benefits under the scheme is not getting the benefits under the plethora of other Centrally sponsored/State sponsored schemes of the Central/State Government.

The criteria for ascertaining below poverty line households in various States/Union Territories Administration for extension of the guarantee scheme to rural areas.

2.10 The Department of Rural Development has clarified that the issue of ascertaining the BPL status of rural households is a matter of detail and will be addressed while preparing the detailed rules or guidelines for implementation of the scheme under the proposed legislation. However, in the past, the Ministry of Rural Development has been conducting at the beginning of each Five Year Plan through the State Governments, a Below Poverty Line (BPL) census in rural areas all over the country to identify the BPL households. The list of BPL families prepared under the BPL census are vetted by the concerned Gram Sabhas. The BPL list may be used for ascertaining the eligibility of the household or a poor household under the proposed legislation.

2.11 The Committee have been apprised that the BPL census 2002 has already been completed but the BPL lists have not been made operational due to the stay by the Hon'ble Supreme Court. The Department has further stated that it is taking necessary steps to get the stay vacated at the earliest. The Department has further informed that although the BPL census is conducted once in five years, there is a provision for annual updation of the BPL list by the Gram Sabha. Besides, the Department is considering to include a provision for appeal by the affected households to the Gram Sabha and concerned district officials.

2.12 The Department has also informed that as per the methodology of BPL census 2002, all rural households have been graded in descending order based on a pre-determined formula based on thirteen socio-economic indicators. The State Governments have been allowed freedom to select the bottom most families of the poor households such that the total percentage of families selected is in consonance with the number of BPL households estimated by the Planning Commission. A margin of ten percent has been allowed over the Planning Commission's estimate. The cut off points to be determined by the State Governments can be at the district, block and any other level.

The position in tribal areas

2.13 As per clause 2(k) of the Bill, poor household includes the households of all primitive tribal groups. As clarified by the Ministry of Tribal Affairs, the criteria for identification of such primitive tribal groups are as under:

- (i) Pre agricultural level of technology;
- (ii) Very low level of literacy;
- (iii) Declining or stagnant population; and
- (iv) Economic backwardness

2.14 Based on the aforesaid criteria, 75 tribal communities were identified as primitive tribal groups spread over what are now 17 States and one Union Territory. The list of such identified communities alongwith their population according to different census figures are given at *Appendix-IV*. As per 1991 census, the population of primitive tribal groups is 24,12,664 constituting approximately 5 lakh families. The community-wise population as per 2001 census has not been released by the Registrar General of India. The State Government of Tripura in the comments furnished to the Committee has stated that the definition is too narrow in the context of Tripura as it excludes 'poor tribal Jhumias' (Shifting cultivators) who are as poor as primitive tribals and living in remote hill areas. The State Government has suggested that the word 'poor tribal Jhumias' may be added alongwith the last word 'tribal affairs'. The representatives of the Ministry of Tribal Affairs while briefing before the Committee advocated that tribal population at large which is eight per cent of the total population should also be fully covered.

The definition of household

2.15 Clause 2(f) of the Bill defines household as the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card.

2.16 The experts who deposed before the Committee expressed the following apprehensions:

- (i) such a provision would lead to a competition in the family for seeking employment and led to social tension. Besides, joint families will be in a disadvantageous position;
- (ii) women and handicapped persons in the family would be marginalized; and
- (iii) it is very difficult to find out whether the members of a family whose one member is an applicant under the guarantee scheme have not availed of the benefits of employment under any other Central Government Scheme.

Financial Implication

2.17 When asked for the data indicating the number of unemployed in the country and the data separately for unemployed BPL persons, skilled labourers and unskilled labourers in the country, the Ministry of Rural Development, the administrative Ministry of the Bill, stated that the said data is not being maintained. The National Sample Survey Organisation (NSSO) conducts quinquennial surveys to estimate the number of unemployed persons in the country. The representatives of the Ministry of Labour submitted before the Committee that number of persons who do not have a single day's job in a year is of the order of 95 lakh, majority of whom are in rural areas.

2.18 As per the Financial Memorandum appended to the Bill, if the whole country is covered under the legislation, the total requirement of funds on material and wage components including the State share of funds is estimated to be approximately thirty-eight thousand six hundred crore rupees of which the Central share will be thirty-four thousand seven hundred forty crore rupees (excluding administration expenses). Although the total expenditure would depend on the extent of coverage of areas of the country under the proposed legislation, it has been estimated that if the legislation is extended to 150 districts where the National Food for Work Programme is being implemented,

the requirement of funds will be approximately eight thousand nine hundred eighty-four crore seventy lakh rupees. The basis of calculation of financial implication has been stated to be the cost of providing 100 days of employment @ Rs. 100/- per manday which has been stipulated to be Rs. 10,000. It was clarified during the course of oral evidence that Rs. 100 include the average wage amounting to Rs. 60 and Rs. 40 as the material component.

2.19 As stated by the Ministry of Labour before the Committee the estimated outlay for urban and poor, in case the universal application is provided may be of the order or Rs. 98,000 crore. Further as per the data indicated by the Department of Rural Development, the number of rural persons in the age group of 18 to 64 is 38.91 crore, making their ratio of persons in the age group 18 to 64 to the total rural population as 0.52. Using this ratio on the number of total BPL persons in the rural areas, the estimated number of BPL persons in rural areas in the age group of 18 to 64 will be Rs. 10.04 crore. If all these persons are to be provided 100 days of employment @ Rs. 100 per manday, then Rs. 1,00,464 crore will be needed. However, as stated by the nodal Ministry, the general experience has been that all persons do not demand work through wage employment. The requirement of funds, if a certain percentage of persons demand work is given in the table below:

Sl.No.	Percentage of people demanding work	Requirement of funds
1.	100	Rs. 1,00,464.00 crore
2.	50	Rs. 50,232.00 crore
3.	30	Rs. 30,139.20 crore
4.	20	Rs. 20,092.80 crore

If we divide the number of persons below poverty line by 5 which is taken as equivalent to a nuclear family, the number of families comes to 3.86 crore. The cost of implementing employment guarantee for all these 3.86 crore families for providing 100 days of employment is estimated to be Rs. 39,372 crore (including administrative cost of 2 per cent of the programme cost).

2.20 When asked how the Government would arrange for the huge finances required for providing guarantee under the scheme, the Department of Rural Development has informed that Finance Minister

in his Budget Speech of 2005 has indicated that enough funds would be provided for implementation of the Employment Guarantee.

2.21 When the concerns expressed by various quarters as explained in the aforesaid paras of the report were brought to the notice of the Department of Rural Development, it conceded that considering the nature of guarantee being offered through unskilled manual work and the experience in implementing Jawahar Rozgar Yojana (JRY), Employment Assurance Scheme (EAS) and Sampoorna Grameen Rozgar Yojana (SGRY), if sufficient care is taken to implement the programme strictly, it will be possible to restrict the benefits to the really needy and removing the poverty qualification in the guarantee can be considered.

2.22 Further during the course of oral evidence, the Secretary of the Department of Rural Development agreed that the best option will be universal application and self-targeting. As regards the financial implication, representatives stated that the Government is committed to bear the financial burden. The representative of the Ministry of Finance (Department of Expenditure) too stated that Government is ready to bear the financial burden even if universal application is agreed to by the Government. Further, stressing on the need for universal application the Secretary stated:

“A suggestion has been received from the Committee that (* * *) any person who wants to work and is willing to work should be given employment. We will consider this suggestion. The Government in principle agrees to this..... I as a person think that it should be universal, in the sense that irrespective of even in the family, if there are four people who want to work, they all should be given work. There may be a family where may be one person is in a position to work that person should be given work. But as I mentioned to you, it was felt necessary initially to keep within certain limit some sort of financial discipline so that it does not exceed all our estimates (and all that, that it was kept). But I am quite certain that even that even if it is universal can be reconsidered****”

2.23 The Committee deliberated on the issue of applicability of the legislation in the context of beneficiaries to whom the benefits are proposed to be extended by the guarantee scheme at length with the experts, representatives of various organizations, individuals and the representatives of various Ministries of the Government of India. The Committee also took cognizance of the views furnished by some

of the State Governments/Union Territory Administrations. After considering the existing provisions specifically in clause 3(1), read with clauses 2(f), 2(k) and 2(p) of the Bill, in the light of the concerns expressed by various quarters, the details of which have been given above, the Committee note that the ideal position is universal application and self-targeting which means whoever offers himself/herself for work at the prescribed wages is to be provided guaranteed employment under the provisions of the Bill. The Committee also note that if such an amendment is made in the Bill, all the concerns expressed with regard to BPL concept, primitive tribals and restricted definition of family, etc. would be addressed. The scheme will be very simple. Minimum administrative machinery will be required as there will be no need for identification and selection of beneficiaries. Since it will be of universal application, the scope for corruption or misuse of power by the bureaucracy or the implementing agency involved will be minimised. Further, the universal application will ensure equal opportunity for men and women irrespective of caste consideration. There will be no social tension. Not only that, each adult member of the family who volunteers for work will be given employment and as such the apprehensions expressed by various quarters that the existing provision may tend to encourage competition in the family for seeking employment will be duly addressed.

2.24 The Committee are further happy to note that the nodal Ministry *i.e.* the Ministry of Rural Development (Department of Rural Development) also agrees that universal application is the desired and the best way of providing the guarantee under the scheme. Not only that the Department is ready to consider the universal application concept as acknowledged by the Secretary. Besides, the Committee are further pleased to note that, the Ministry of Finance (Department of Expenditure) has agreed to shoulder the financial liability under the Bill as acknowledged by the representative of the Department during oral evidence.

2.25 In view of what has been stated above, the Committee strongly recommend that application of the legislation should be made universal and self-targeting meaning clearly that whoever volunteers to do the work at the wages specified under the legislation will be provided employment under the provisions of the Bill. The Committee would like that the long title of the Bill, alongwith Clauses 3(1), 2(f), 2(k) and 2(p) and other relevant provisions should be suitably amended.

(iii) Extending the scope of the legislation

2.26 As per the provisions of the Bill, households in rural areas will be benefited by the Guarantee scheme. Further as per Clause 2(p) of the Bill, such area has been defined as any area in a State except those areas covered by any urban local body or a Cantonment Board established/constituted under any law for the time being in force.

2.27 Some of the experts who deposed before the Committee desired that B and C class Municipalities should also be included under the provisions of the Bill since these are not strictly urban and border on rural areas. It has further been contended that present legislation is a dilution of the NCMP agenda, since it proposed to provide such guarantee to every rural, urban poor and lower middle class household. The Department of Rural Development has stated that 'The National Rural Employment Guarantee Bill, 2004' aims to provide employment guarantee only in rural areas hence B and C class Municipalities cannot be covered at this stage.

2.28 The Committee appreciate the views expressed by some of the experts in favour of extending the said guarantee to B and C class Municipalities. However, the Committee find that the proposed legislation aims to provide employment guarantee only in rural areas. The Committee urge the Government to bring forward a suitable legislation for urban areas also which may cover B and C class Municipalities. The Committee would like that the concerns in this regard should be communicated to the Government.

*(iv) Date of applicability of the employment guarantee legislation
(Clause 1(3) of the Bill)*

2.29 Clause 1(3) of the Bill states as under:

"It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States of the different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area."

2.30 Experts, and organizations who submitted memoranda/gave evidence before the Committee expressed concern over the lack of commitment on the part of the Government to implement the legislation

throughout the country in a time-bound manner and regarding the provision empowering the Government to switch off the guarantee at any time in any State. There was a unanimous view among experts who deposed before the Committee that the provisions once applicable should not be withdrawn at the discretion of Central/State Government. Otherwise, it will be a mockery of the guarantee. The scheme could be withdrawn only by the approval of the Parliament. Further, it was also suggested that the legislation should be implemented in a time-bound manner. Most of the experts suggested that it should be implemented in all parts of the country in a stipulated time frame. This period should be specified in the legislation itself.

2.31 The Department of Rural Development contended that no time limit for extending the legislation to the whole country can be set at this stage. Further the Department has clarified that the proposed legislation constitutes a pioneering endeavour to secure wage employment for the poor households in the rural areas as a guaranteed entitlement on this scale. Considering that a provision of this kind is being contemplated on such a massive scale for the first time, it has to be necessarily implemented in phases so as to eventually cover all the rural areas of the country. It may be possible to provide a time frame for all India extension of the proposed legislation after experience of one year of its working.

2.32 As regards apprehension of experts with regard to switch off of the guarantee, the Department has stated that the basic objective of the proposed legislation is to provide supplementary wage employment to the rural poor while the mainstream employment would continue to be provided through normal channels of economy. Since the Indian economy is developing fast and special efforts are being taken to develop rural areas, it is envisaged that after some time, the need for providing supplementary employment through unskilled manual work will disappear. The Ministry has presumed that the demand for supplementary employment through unskilled manual work will disappear because of the growth in the Indian economy and the special efforts to develop rural areas. It is for this reason that an enabling provision has been kept in the Bill to implement the proposed legislation in an area for such period as needed. However, based on the experience of Maharashtra in implementing the Employment Guarantee, enforcing the proposed legislation in the notified areas for a specified period may be reconsidered. Further the evaluation of Maharashtra Guarantee legislation by researchers indicates that the programme continue even after thirty years without any decline in the demand for unskilled wage work under the scheme.

2.33 When the apprehension from various quarters with regard to applicability of the legislation as stated above was deliberated during the course of oral evidence, the Secretary stated as under:

“As far as the time-bound implementation is concerned, I am sure the Government would consider it. If the Committee recommend, the Government would seriously consider as to whether there can be some time-bound sort of a thing. Eventually it would be extended to the country as a whole.”

The Committee wanted to know as to whether the proposed employment guarantee scheme will be covering Schedule Fifth and Schedule Sixth areas of the Constitution. The representative of Planning Commission while deposing before the Committee during the oral evidence of the nodal Ministry stated that if the Committee so suggest, they can consider covering all Schedule Fifth and Schedule Sixth areas of the Constitution during the next phase of implementation of the provisions of the proposed legislation.

2.34 The Committee note that the Secretary during the course of oral evidence has acknowledged the need for making a provision for time-bound extension of the legislation to the country as a whole. The Secretary, also expressed sensitivity towards the concern of switch off of guarantee at any time. Considering the concerns expressed by various quarters and shared by the Secretary, Rural Development, the Committee strongly recommend that the provisions of the guarantee legislation once applicable should not be withdrawn at the discretion of Central/State Government. Otherwise the purpose of the guarantee will be defeated. The Committee also recommend that the scheme once applicable, could be withdrawn only with the approval of the Parliament.

2.35 As far as the time-bound extension of the legislation to the whole of the country is concerned, the Committee appreciate that a programme of this nature can be implemented only in phases. However, the Committee feel that there is an urgent need to indicate a specified time limit in the legislation itself so as to indicate clearly the government's intention to extend the legislation to each rural area in the country. Not only that, such a provision will reassure the parts of the country about the applicability of the legislation where it may not be applicable initially.

2.36 In view of this, the Committee would like to recommend that it should be clearly indicated in the legislation that the guarantee

will be extended to the rural areas in whole of the country within four years. The Committee would like that Clause 1 (3) of the Bill should accordingly be amended.

2.36A The Committee also strongly recommend that in view of the fact that the Schedule Fifth and Schedule Sixth areas in the country are the most backward and people residing there are the poorest, these areas should be included in the first phase of implementation of employment guarantee legislation.

*(v) Disbursement of daily wages
(Clause 3(3) of the Bill)*

2.37 Clause 3(3) of the Bill states as under:

“Save as otherwise provided in this Act, the disbursement of daily wages shall be made on weekly basis or in any case not later than a fortnight after the date on which such work was done.”

2.38 The Government of Kerala has suggested that the words ‘or in any case not later than a fortnight’ should be deleted to ensure that the wages are paid at least on weekly basis. Some of the experts/ organizations have also expressed concerns that fortnight is a long period and the workers may need wages on a daily basis.

2.39 The Committee after considering the suggestion made by the State Government of Kerala and experts, recommend that the words ‘or in any case not later than a fortnight’ should be deleted from Clause 3(3) of the Bill so that wages can be ensured on weekly basis.

*(vi) Period for notification of the Guarantee Scheme by States
(Clause 4 (1) of the Bill)*

2.40 Clause 4 (1) of the Bill states as under:

“For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme.”

2.41 The Government of Assam has stated that the time limit of six months is inadequate. The Union Ministry of Rural Development has stated that the aforesaid time limit is sufficient. However, as per the information provided by the Ministry, the State Secretaries during a meeting had expressed concern over the implementation of the guarantee legislation. One of the concern was the capacity of the States to implement the programme at ground level.

2.42 The Department of Rural Development has stated that the State Governments have been implementing the wage employment programme for a long time. The Centre will issue the necessary guidelines to facilitate the work of State Governments. Hence, it was felt by the Department that the period of six months was sufficient to prepare the scheme as envisaged in the Bill.

2.43 The Committee take note of the concern expressed by the Government of Assam. However, the Committee feel that six months' time provided under the legislation is enough and therefore they observe that *status quo* in this regard should be maintained.

(vii) *Wage rate*
(Clause 6 of the Bill)

2.44 Sub-clauses (1) and (2) of Clause 6 of the Bill provide as under:

(1) "Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Provided that different rates of wages may be specified for different areas.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

2.45 Some of the experts and representatives of various organizations in memoranda submitted to the Committee as well as under evidence expressed the opinion that the overriding authority given to Union Government in fixation of wages to be provided for the purpose of the legislation is not justified. Concerns have been expressed that the wages decided by the Union Government may be

lower than the wages fixed by the State Government. Besides, it has also been apprehended that in case the wages offered under the guarantee scheme are higher than the wages offered in that area for different schemes, then an unusual attraction may be for the works under the guarantee scheme which may create an imbalance in labour market in that area. As regards variation in wage rates in different States and Districts, most of the experts were in favour of the differential rate of wages in view of the variation in living standards and economy of that State/District. A view has also been expressed that provision should be made for periodic revision in the wage rate keeping in view the rise in inflation.

2.46 The representative of the Ministry of Labour and Employment submitted before the Committee that they have mooted the concept of national floor level minimum wage. Although the concept has not legal backing it has got persuasive value. The national floor level minimum wage was fixed at Rs. 35 in 1996 and subsequently increased to Rs. 40, Rs. 45 and Rs. 50 and now it stands at Rs. 66.

2.47 When asked for the justification of providing different rates of wages in different areas of the country, the Department of Rural Development has stated that labour market conditions and the cost of living varies from State to State. It is for this reason that different minimum wage rates have been fixed by different States. The proposed legislation, accordingly, provides for different wage rates in different areas of the country.

2.48 The Minimum wage rates prevalent in different State/UTs (as per the information made available by the Department of Rural Development) are given as under:

Minimum wages fixed by the State Governments under the SGRY

Sl.No.	Name of States/UTs	Rate of Minimum Wage
1	2	3
1.	Andhra Pradesh*	80.00
2.	Arunachal Pradesh	35.00
3.	Assam	48.00
4.	Bihar	58.64
5.	Chhattisgarh	52.66
6.	Goa	—
7.	Gujarat	61.00

1	2	3
8.	Haryana	80.00
9.	Himachal Pradesh	60.00
10.	Jammu and Kashmir	60.00
11.	Jharkhand	64.61
12.	Karnataka	46.25
13.	Kerala	134.00
14.	Madhya Pradesh	54.56
15.	Maharashtra	47.00
16.	Manipur	44.65
17.	Meghalaya	50.00
18.	Mizoram	84.00
19.	Nagaland	25.00
20.	Orissa	50.00
21.	Punjab	84.00
22.	Rajasthan	60.00
23.	Sikkim	50.00
24.	Tamil Nadu	54.00
25.	Tripura	50.00
26.	Uttar Pradesh	58.00
27.	Uttaranchal	58.00
28.	West Bengal	62.00
29.	Andaman & Nicobar Islands	70.00
30.	Daman & Diu Haveli	60.00
31.	Daman & Diu	57.50
32.	Lakshadweep	50.00
33.	Pondicherry	80.00

*Minimum wage rate varies from district to district. Rupees 80.00 is average wage rate for the State as a whole.

2.49 On the concerns expressed by various quarters regarding overriding authority given to Union Government in fixation of wages to be provided for the purpose of the legislation, the Department of Rural Development has stated that the minimum wages fixed by the State Governments under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area. Hence, the minimum wages to be paid and the wage rate to be specified by the Central Government is just an enabling provision to protect the interest of the rural poor in certain States whenever minimum wages may not keep up with the increase in costs or there is steep rise in the minimum wages which are not in consonance with the market wages. The Committee in their earlier reports have also expressed concern over the difference in wage rate which is not only inter-State but also inter-District (refer Para 34 of Eighth Report, Fourteenth Lok Sabha).

2.50 The Secretary during the course of oral evidence also submitted that the provision of fixation of wages by Union Government for the purpose of the Bill is an enabling provision and the Government has no intention of implementing it at present.

2.51 The Committee after considering the detail the provisions of 'The Minimum Wages Act, 1948', find that there is a lot of disparity in the wages fixed by the State Governments. Wages in certain States are as low as Rs. 25 (in Nagaland) and in certain other States as high as Rs. 134 (in Kerala). The Committee also took into consideration the concept of the national floor level minimum wage and found that the national floor level minimum wage at present is Rs. 66. The Committee noted that the national floor level wage has no legal backing but has got persuasive value. The Committee also noted that there is a system of periodic revision of the national floor level wage.

2.52 The Committee, in the aforesaid background, consider that the best option may be to consider the minimum wages fixed by the State Governments for agricultural labourers as the wages for the purpose of this Bill. The advantage of this system may be that there will be no disparity between the wages offered under the guarantee scheme and other Government schemes being implemented in a particular area, where guarantee scheme will be implemented. The Committee, however feel that there is an urgent need to address the problem of sharp disparity in the wages offered by different State Governments. As already stated, disparity is not inter-State

but inter-Region/District too. The Committee observe that this concern can be addressed, if a provision is made that the wages fixed by the State Government for the purpose of this Bill may not be lesser than the national floor level minimum wages. The Committee are, nevertheless aware that in case such a provision is made, it will add more financial implication.

2.53 After considering in detail the aforesaid factors, the Committee may like to recommend that the wages for the purpose of the legislation should be the minimum wages fixed by the State Government under Section 3 of 'The Minimum Wages Act, 1948' for agricultural labourers. However, a proviso may be added that such wages may not be lesser than 75 per cent of national floor level wage (Rupees 66 at present), which may come to around Rs. 49. The Committee have recommended for 75 per cent of the national floor level minimum wage keeping in view the fact that most of the State Governments have wages which are near Rupees 50 or more. Such a provision will add minimum of the financial implication. The wages may be fixed by the State Governments so that wages may either be 75 per cent of national floor level wage or the minimum wages of the State Governments, whichever is higher.

2.54 While recommending 75 per cent of the national floor level minimum wage as the minimum wage to be offered for the purpose of the Bill, the Committee would like to strongly recommend to the Government that national floor level minimum wage should be provided statutory backing. The matter should be decided in consultation with the Ministry of Labour and Employment.

*(viii) Sharing of Financial Implication by the State Governments
(Clause 7 and 12 of the Bill and para 27 of Schedule II of the Bill
read with Financial Memorandum of the Bill)*

2.55 As per Financial Memorandum of the Bill, the State Governments will bear twenty five per cent of the material component (including the wages of skilled and semi-skilled workers), expenditure with regard to unemployment allowance as per clause 7 of the Bill, administrative expenses for State Council to be constituted as per clause 12 of the Bill and the expenditure with regard to facilities of safe drinking water, shade for children, period of rest and first aid box with adequate material for emergency treatment as per para 27 of Schedule II of the Bill. As per the views furnished by the nodal Ministry, the liabilities of expenditure will not be more than 10 per

cent with regard to 25 per cent of the material component. Further maximum of 2 per cent may be the administrative expense. Besides as per clause 7 (2) of the Bill, the payment of unemployment allowance is subject to such terms and conditions of eligibility as may be prescribed by the State Governments and subject to the provisions of the Act and the Scheme and the economic capacity of the State Governments.

2.56 When asked whether any consultation with the State Governments was held before finalising the said legislation, the Department of Rural Development has stated that no formal consultations have been held with the State Governments. However in a meeting of the State Secretaries of Rural Development, the features of the proposed legislation were discussed. The State Secretaries expressed concern about capacity of the State Governments to provide their share of the funds under the scheme.

2.57 Most of the State Governments have expressed the inability to bear the financial implication as per the proposed Bill. Besides, some of the State Governments are of the view that administrative expenses in a programme of this nature may be much more. The Government of Kerala has stated that administrative costs may be upto 6 per cent of the project cost.

2.58 Most of the experts and State Government are of the view that 100 per cent expenditure with regard to the implementation of various provisions of the Bill should be borne by the Union Government keeping in view the financial position of the State Governments and specifically when the scheme is of the Union Government. The experts have however, suggested that unemployment allowance should be borne by the State governments since it will put a pressure on State Governments to implement the scheme.

2.59 The Secretary during the course of oral evidence while replying to the concerns of the Committee towards the inability of the State Governments to bear the financial implication arising out of the provisions of the Bill stated as under:

“I am sure, the Government will take it up in all seriousness and we will try to see that.”

2.60 The Committee find that as per the existing provisions made under the Bill, liabilities of expenditure of State Governments may

be over 10 per cent. The Committee after considering the apprehensions expressed by the various State Governments and experts feel that with the existing provisions, there is a danger that some of the State Governments may not be in a positions to implement the Employment Guarantee Scheme which may meet the same fate as most of the Centrally sponsored schemes. Not only that, since the wage employment is being provided through enactment in the form of guarantee, it may lead to unnecessary litigation.

2.61 Keeping in view all these factors, the Committee would like to recommend that 100 per cent financial burden should be borne by the Union Government. While recommending for 100 per cent financial burden on the Union Government, the Committee, however, would like that the expenditure on account of the unemployment allowance should be borne by the State Governments since it may act as a mechanism to put pressure on the State Governments to ensure employment to the applicants. However, the cost of unemployment allowance should be borne by the Central Government in the event where inability to provide work is due to the Central Government's failure to devolve requisite funds in time.

(ix) *Unemployment Allowance*
(Clause 7 of the Bill)

2.62 Clause 7 of the Bill provides as under:

- "7 (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.
- (2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Scheme and the economic capacity of the State Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.”

2.63 Some of the experts who deposed before the Committee were of the view that the rate of unemployment allowance was much low and it should be increased. They were also of the view that the payment of unemployment allowance should not be conditional.

2.64 The Committee after considering the opinion expressed by experts note that the question of payment of unemployment allowance will arise only when the State Government/Implementing Authority is not able to provide employment to an applicant. Such a provision is a mechanism to put pressure on State Governments to perform and deliver results. In view of the aforesaid background, the Committee feel that the rate of unemployment allowance prescribed in the Bill i.e. not less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one half of the wage rate for the remaining period of the financial year is too low specifically when the existing wage in some of the State governments is as low as Rs. 25 per day as in case of Nagaland. The Committee would, therefore, like to recommend that the rate of unemployment allowance should be increased to one half of the wage rate for the first thirty days during the financial year and not less than three fourth for the remaining period of the financial year.

2.65 Besides, the Committee note that as per the provisions made in Clause 7(2) of the Bill, payment of unemployment allowance is subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of the Act and schemes and economic capacity of the State Governments. The Committee observe that making the unemployment allowance conditional, will provide discretion to the State Governments/Implementing Agencies to delay or not to pay unemployment allowance. In view of this, the Committee strongly recommend that the payment of unemployment allowance should be unconditional. It should be made a mandatory provision, irrespective of the economic capacity of State Governments. Clause 7 of the Bill should be accordingly amended.

- (x) *Disentitlement to receive unemployment allowance in certain circumstances*
(Clause 9 of the Bill)

2.66 Clause 9 of the Bill states as under:

An applicant who-

- (a) does not accept the employment provided to his household under a Scheme; or
- (b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or
- (c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month, shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

2.67 The experts who deposed before the Committee were of the view that the aforesaid provision is unduly harsh on the poor jobless persons of rural areas especially women beneficiaries.

2.68 The Committee, after considering the suggestions of experts, feel that the said provision of debarring the applicant from unemployment allowance for such a long period of three months is not justified and as such the applicant should be debarred from unemployment allowance only for the period for which he does not report for work. The Committee, therefore, recommend that clause 9 of the Bill may be suitably amended accordingly.

- (xi) *Composition of Central Employment Council and State Employment Council*
Clause 10(3) of the Bill

2.69 As per third proviso to Clause 10 (3) of the Bill, not less than one-third of the non-official members of Central Employment Guarantee Council shall be belonging to Scheduled Castes, the Scheduled Tribes and Minorities. Similar provision has been made in the State Employment Guarantee Council.

2.70 The experts were of the view that provision for backward classes should also be included in the aforesaid provision.

2.71 The Committee feel that backward classes should also be adequately represented in the Central Employment Guarantee Council as well as State Employment Guarantee Council as suggested under Clause 10 and Clause 12 of the Bill. The formula for providing representation to backward classes in the said Council was debated widely by the Committee. After detailed discussion the Committee concluded that the following Clause may be added after Clause 10 (d) of the Bill;

“such number of representatives of backward classes as the Central Government may, by rule, determine in this behalf”.

2.72 Similarly, the following proviso may be added after second proviso to Clause 12 (1) of the Bill;

“Provided further that such number of representatives of backward classes as the State Government may, by rule determine in this behalf shall be members of the State Employment Guarantee Council.”

2.73 Besides as per Clause 10(3) (c) of the Bill not less than such number of representatives of the State Governments as may be determined by the Central Government shall be the members of the Central Employment Guarantee Council and State Employment Council. Further, Clause 10(3) (e) states that the said Council shall consists of such number of representatives of the States as the Central Government may, by rule, determine in this behalf.

2.74 The Department of Rural Development has clarified that the difference between Clauses 10(3)(c) and 10(3)(e) is that while representatives in Clause 10(3)(c) are from State Government, the representative under Clause 10(3)(e) may be representatives belonging to Panchayati Raj Institutions, Non-Governmental Organisations or other types of agencies. Again as per Clause 10(3)(d) of the Bill, such Council shall consists of not more than fifteen non-official members representing Panchayati Raj Institutions, organizations of workers and disadvantaged groups.

2.75 After considering the clarification furnished by the Department the Committee recommend for deletion of Clause 10(3)(e), of the Bill since, as per the Department, the intention of this Clause and Clause 10(3)(d) is the same. The word ‘Non-Governmental

Agencies' may, however be included in Clause 10(3) (d) of the Bill.

*(xii) Multiplicity of authorities vis-a-vis role of Panchayats
(Chapter IV and V of the Bill)*

2.76 A multi-tier and multi-agency bureaucratic delivery mechanism is proposed to be created for the implementation of the guarantee scheme. There will be a Central Council at the Central level, State Councils at the State level, Standing Committees at district level, District Programme Coordinator at district level and Programme Officers at Block level. Then 50 per cent of the works may be implemented by Panchayats. Besides National Employment Guarantee Fund at Central level and State Employment Guarantee Fund at the State level has to be created. Certain redressal mechanisms at block and district level have to be set up.

2.77 Most of the experts have expressed concern on Clause 16(4) of the Bill as per which Gram Panchayat should forward its proposals for the development projects to the Programme Officer for scrutiny and preliminary approval. Further, specific role has not been assigned to Intermediate Panchayats. Similar concerns have been expressed by almost all the experts including economists and researchers. The implementing mechanism suggested in the Bill is not in consonance with the spirit of Part IX of the Constitution. Many parallel bodies are proposed to be created.

2.78 As per Clause 16(5) of the Bill, the Programme Officer may allot at least fifty per cent of the works in terms of its cost under a scheme to be implemented through the Gram Panchayats. The Ministry of Panchayati Raj during the briefing before the Committee has strongly objected to the overriding powers provided to the Programme Officer. The Ministry has stated that as per provisions of the Bill, Panchayats are not central. It is the discretion of Programme Officer to allot the works to Panchayats.

2.79 The Committee note that almost all the works to be undertaken under the guarantee scheme are contained in the list mentioned in Eleventh Schedule to the Constitution, which are mandatorily to be devolved to Panchayats as per article 243 G of the Constitution. Thus the provisions made under the Bill are not in tune with the spirit of the Constitution. The Committee also feel that the guarantee scheme may be the best opportunity to empower the Panchayats.

2.80 The Committee debated the Implementing and Monitoring mechanism proposed in Chapter IV and Chapter V of the Bill in detail. After in depth consideration, the Committee find that the position of Panchayats is not central to the Scheme of the Bill. Clause 16(5) of the Bill provides discretion to the Programme Officer to allot a minimum of fifty per cent of the works in terms of its cost under a scheme to be implemented through the Gram Panchayats. Not only that, Clause 16(4) provides that the Gram Panchayat has to forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval. Besides, many parallel bodies at district and block level are proposed to be created under Chapter IV and Chapter V of the Bill.

2.81 In view of the aforesaid background the Committee strongly recommend as under:

- (i) PRIs should be the sole implementing and monitoring agencies. The bureaucratic structure at district, block and Panchayat level may assist PRIs in making plans and implementing the scheme.
- (ii) All the projects should be implemented by PRIs or through PRIs.
- (iii) Registration of applicants should be made by the Gram Panchayats.
- (iv) Initially the shelf of projects to be undertaken in a Panchayat should be decided by the Gram Sabha. The list of applicants alongwith the shelf of projects at a village level may be placed before Gram Sabha and approved at the Gram Sabha meeting. Intermediate Panchayat may consolidate the plans at block level. Similarly, District level Panchayat may consolidate the plan at the district level.
- (v) There should be constituted a Standing Committee of Panchayat at each level so that the proposals are processed by this Committee and are brought before the general body of the Gram Sabha or the general body of respective Panchayats at block and district levels for approval before, during and after the execution of the work.
- (vi) All Panchayats may maintain a separate and distinct Employment Guarantee Fund to account for the purpose

of implementing the provisions of the Bill including wages for the execution of work undertaken within the scheme and for payment of unemployment allowance. The Chief Executive Officer of the District Panchayat, the Executive Officer of the Intermediate Panchayat and the Secretary of the village Panchayat may be responsible for the funds placed at their disposal and maintain account of employment and expenditure.

- (vii) Utilisation certificates may be issued by the Panchayats as a whole and at the village level after securing the endorsement of the Gram Sabha.
- (viii) Village Panchayat should be made accountable to Gram Sabha.
- (ix) Social audit should be done at the Gram Sabha level whereby all accounts and list of beneficiaries shall be made available by public servants free of cost.

The Committee strongly recommend that the Chapter IV and V of the Bill may be redrafted in consultation with the Ministry of Panchayati Raj in the light of the aforesaid suggested provisions.

(xiii) *Appointment of the Programme Officer*
[Clause 15(1) of the Bill]

2.82 Clause 15(1) of the Bill states as under:

“For every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block.”

The functions assigned to the Programme Officer as given in Clause 15 (4) of the Bill are as follows:

- (a) monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;
- (b) sanctioning and ensuring payment of unemployment allowance to the eligible poor households;
- (c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

- (d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;
- (e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and
- (f) any other work as may be assigned to him by the District Programme Coordinator or the State Government.

2.83 The Committee note that Programme Officer has been provided a very important position in respect of the implementation of guarantee scheme. The Committee also find that it has been left to the State Government to appoint a person with such qualification and experience as may be determined by the State Government.

The Committee feel that in view of the important position assigned to the Programme Officer, certain qualifications should be indicated in the legislation. The Committee, therefore, recommend that it should be indicated in the Bill that the Officer appointed as Programme Officer by the State Government should not be below the rank of Block Development Officer (BDO). Clause 15(1) of the Bill may accordingly be suitably amended.

(xiv) Applicability of the legislation to areas under the Fifth and Sixth Schedule of the Constitution

2.84 In Scheduled areas under the Fifth Schedule and Tribal Areas under the Sixth Schedule of the Constitution, the constitution of local bodies is different after the implementation of PESA. Similarly, in some of the Sixth Schedule areas *viz.* Nagaland, Mizoram and Meghalaya where Part IX of the Constitution is not applicable, the constitution of local bodies is different. Besides, in Jharkhand and Pondicherry where Panchayat elections have not been held so far, the constitution of local bodies may be quite different. In Delhi and J&K too the status of local bodies is different. Nothing specific about the role of local bodies of such areas has been mentioned in the Bill. The Department of Rural Development has stated that a clarification in this regard may be included in the Bill.

2.85 The Ministry of Tribal Affairs has further suggested as under:

- (i) in each of the Monitoring Committee at Central, State and District/Block level, at least one member should be from Scheduled Tribes, instead of clubbing with Scheduled Castes and others.

- (ii) at the District/Block level, the Ministry has integrated Tribal Development Project (ITDPs)/Integrated Tribal Development Agencies (ITDAs) who should also be associated in the tribal areas.

2.86 The Committee note that the constitution of local bodies is quite different in areas falling under the Fifth and Sixth Schedule of the Constitution. Besides, in some of the States/Union Territories, Panchayat elections have not been held or have been deferred. In view of there aforesaid position, the Committee recommend that a clarification may be included in the Bill that where Panchayats are not in existence, the roles and responsibilities assigned to the Gram Panchayats shall be carried out by appropriate local bodies in those areas.

2.87 Besides, at the district/block level, Integrated Tribal Development Project (ITDPs) and Integrated Tribal Development Agencies (ITDAs) should also be associated in the tribal areas.

2.88 The Committee further note that demographic constitution in Fifth Schedule and Sixth Schedule areas is quite different. Population in said areas is Scheduled Tribes dominated. In view of this the Committee while agreeing to the suggestion made by the Ministry of Tribal Affairs recommend that in each of the Monitoring Committee at Central, State and district/block level at least one member should be from Scheduled Tribes, instead of clubbing with Scheduled Castes as provided in the Bill. The Committee would like that the concerned provisions of the Bill, in the light of what has been stated above, are suitably amended.

*(xv) Power to amend Schedules
(Clause 29 of the Bill)*

2.89 Clause 29 of the Bill provides as under:

- (1) 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.
- (2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

2.90 Most of the experts in their memoranda as well as during the evidence before the Committee were of the view that the matters indicated in Schedule I and Schedule II should be included in the main Bill so that these cannot be amended arbitrarily by the Union Government.

2.91 The Department of Rural Development has stated that the enabling provision to amend Schedule I and Schedule II has been kept to have flexibility to meet the future requirements of implementation of proposed legislation and make changes if necessary in expeditious manner.

2.92 The Committee find that Clause 29 of the Bill provides for amendment of the Schedules by the Central Government by way of notification. As per the provision made in the Bill, there is no need for bringing such amendment before Parliament for its approval. The Committee also find that all the matters indicated in Schedule-I and Schedule-II are the fundamental issues on which the Employment Guarantee Scheme will depend. The Committee, therefore recommend that the matters enumerated in Schedule-I and Schedule-II of the Bill should be included in the main body of the Bill so that any of the matters listed in these Schedules are not amended arbitrarily by the Union Government.

*(xvi) Penalty for non-compliance
(Clause 25 of the Bill)*

2.93 Clause 25 of the Bill provides as under:

“Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.”

2.94 The concerns expressed by experts with regard to the aforesaid provision made in the Bill are as under:

- (i) in case of officers responsible for implementation of the provisions enshrined in the Bill, the existing service rules are sufficient;
- (ii) the penalty of Rs. one thousand is too less. There should be provision for penalty for imprisonment, which may act as a strong deterrent for the officials;
- (iii) in case of persons holding public office other than the Government employees, it was suggested that the person

who contravenes the provision of the Bill should be debarred from that office for a particular period;

- (iv) concerns were expressed as to situation arising out of default by the State Governments/Union Government; and
- (v) some sort of protection should be provided to Government employees where the officer concerned is not able to implement the provision of the Bill due to the fact that funds have not been released by the State Government/ Union Government and the works can not be created due to the reasons beyond his control.

2.95 On the aforesaid concerns expressed by the experts, the Department of Rural Development has commented that it would be appropriate to prescribe penalty of upto Rs. one thousand considering the fact that the proposed legislation is a new piece of social welfare legislation. Besides, the Department has clarified that the persons holding public office are also covered by the penalty provision made under clause 25. Similarly, in case of defaulter States and Union Territories, there may be same officers or public representatives who will be at fault and they will be covered under clause 25 of the Bill.

2.96 The Committee find that a penalty of Rs. one thousand for contravening the provisions of the Act is too less. They feel that some sort of accountability should be fixed specifically with this type of legislation meant to provide guaranteed employment to millions of rural poor.

2.97 The Committee note that provision of imprisonment alongwith the financial penalty will act as a deterrent. The Committee, therefore, recommend that any official who contravenes the provision of the Act shall on conviction be liable to a fine of Rs. five thousand or three months imprisonment. Besides, the Committee also recommend that adverse entry in this regard should be made in the Confidential Report of the concerned official.

2.98 While recommending for penalty on the aforesaid lines, the Committee would like that sufficient protection should be provided to such cases where the official is not able to implement the provisions of the Bill not due to his own default but due to default of some authority constituted under the provisions of the Bill like office held by elected representatives, State Governments or the Union Government.

2.99 The Committee further find that in case of a public representative, the penalty as prescribed in Clause 25 may not be applicable. In case where a public representative contravenes the provisions of the Bill, provision should be made to debar such public representative from any public office for five years. The Committee would also like to recommend that provision should be made in the Bill whereby State Governments may frame rules for providing judicial mechanism to deal with the aforesaid cases of default by officials as well as public representatives.

2.100 The Committee further feel that in case the default is by the State Government/Union Territory Administrations, there should be some mechanism to put pressure on that Government to implement the provision of the Bill. Such cases of default may include (i) not notifying the Employment Guarantee Scheme within the prescribed period as per clause 4 of the Bill; (ii) not providing finances for the purposes of the Bill; and (iii) non-constitution of State Council etc. To put public pressure on the State Governments/ Union Government, provision may be made to lay on the Table of each House of Parliament a report indicating the achievements/ shortcomings under the scheme alongwith the budget documents of the Ministry. The report may be like Performance Budget of the Ministry. Similarly in case of State Governments, such report may be laid in each House of the State Legislature.

The Committee would like to recommend that Clause 25 of the Bill may be amended suitably so as to include all the aforesaid provisions.

2.101 Besides, Clause 8(1) of the Bill states that if Programme Officer is not in a position to disburse the unemployment allowance in time or at all, he shall report the matter to the District Programme Coordinator and display reasons on his notice board and notice board of Gram Panchayat. Clause 8 (2) states that every case of non-payment or delayed payment of employment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government alongwith the reasons.

2.102 Experts and public have observed that such lenient provision for non-payment of unemployment allowance makes a mockery of the guarantee.

2.103 The Committee feel that non-disbursement of unemployment allowance by an official should also be considered a default. The provisions made under the aforesaid clauses are not

sufficient. The Committee would like that more stringent provisions are made in this regard. Besides, the Committee would also like to recommend for an in built procedure whereby criminal liability on the implementing agency for non-payment of unemployment allowance should devolve. Clause 8(1) and Clause 8(2) of the Bill may be amended accordingly.

*(xvii) Provision made under Schedule I
(Para 1 and 2 of Schedule 1)*

2.104 Para 1 and 2 of Schedule-1 provides as under:

“(1) The focus of the Scheme shall be on the following works in their order of priority:

- (i) water conservation and water harvesting;
- (ii) drought proofing (including afforestation and tree plantation);
- (iii) irrigation canals including micro and minor irrigation works;
- (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes;
- (v) renovation of traditional water bodies including desilting of tanks;
- (vi) land development;
- (vii) flood control and protection works including drainage in water logged areas;
- (viii) rural connectivity to provide all weather access; and
- (ix) any other work which may be notified by the Central Government.

(2) Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.”

2.105 Most of the experts/organisations who deposed before the Committee maintained that the priority of list of works mentioned in Schedule-I is restrictive and all productive works should be permitted under the category. Productive works should be redefined in a broader sense to include all works that contribute directly or indirectly to the increase of production; the creation or maintenance of assets, the

preservation of environment or improving the quality of life. Experts have also made suggestion for creation of social assets including social infrastructure for improving the quality of life of the rural poor such as opening of primary schools and health centres. Observations of experts also brought to surface the view that creation of durable assets will be difficult with strict adherence to wage material ratio of 60: 40 and restricting performance of tasks to manual labour and not machines as mentioned in the Bill. A novel suggestion was made to expand the area of works by including employment to poor who may be skilled and semi-skilled in the Service Sector like Schools and Dispensaries, if such persons offer for employment at the specified wage.

2.106 Many State Governments have expressed reservations that listing of works under Schedule-I is inappropriate as it may not be possible for States to take up such works within the State due to different geographical and local conditions. Hence, most State Governments have made suggestion to remove prioritization of work under the scheme.

2.107 The Department of Rural Development however conceded that the present list of permissible works is appropriate and may be modified in future if the need arises. The Ministry has also stated that the list can be expanded to meet the incremental requirements based on the experience of implementation of the scheme.

2.108 The Committee while agreeing to the suggestion made by the experts and State Governments note that restricting the works to be undertaken for the purposes of the guarantee scheme may not be appropriate. Such restriction is not required specifically keeping in view the fact that different States/Union Territories have different geographical and local conditions. The Committee also note that specifications given in para 1 on works which include earthworks and water works is unnecessary. The list of works should also include works involved in the construction of social infrastructure, maintenance of assets as well as services like sanitation, etc. The Committee would, therefore, like to recommend that the State Governments/Union Territory Administrations should be provided flexibility in selection of the shelf of projects for the said guarantee.

The Committee would like to recommend that para 1 of Schedule I may accordingly be amended. The Committee further note that the main objective of the guarantee scheme is to provide employment to rural poor. As such the Committee feel that the existing provision made under Paras 9 and 12 of Schedule I according

to which the material component should not exceed forty per cent of the total project cost and as far as practicable the task should be performed by manual labour and not machines is appropriate and status-quo may be maintained in this regard.

*(xviii) Quality and quantity of work as specified under Schedule I
(Paras 7, 8 and 14 under Schedule I)*

2.109 Para 7, 8 and 14 of Schedule I provide as under:

“(7) When wages are directly linked with the quantity of work, the wages shall be paid according to the Schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.”

“(8) The schedule of rates of wages for unskilled labourers shall be so fixed that a person working diligently for seven hours would normally earn a wage equal to the wage rate.”

“(14) Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.”

Experts who tendered evidence before the Committee have suggested that Para 8 of the Schedule-I of the Bill is most dangerous as it will allow the most unreasonable productivity rate to be imposed on the workers. Besides, the said clause is discriminatory to persons with disabilities. Similar views were expressed by the experts as regards Para 14 of Schedule-I where wages shall be paid for completion of the work commensurating with the quality and quantity of work done.

2.110 The Committee find that Paras 7, 8 and 14 of the Ist Schedule specify certain standards for the works to be undertaken for the purposes of the Bill. The Committee note that the word diligently used in the Schedule can be interpreted adversely for the labourers by the implementing authority. The works to be undertaken under the guarantee scheme are usually earthworks and as such in unfavourable weather condition, it may not be possible for a labourer to work for seven or eight hours diligently. The Committee, therefore, recommend that the word diligently should be removed from Para 8 of the Schedule I and normally a person working for seven hours should earn a wage equal to wage rate.

2.111 Further the Committee feel that linking wage with the quality and quantity of work is not appropriate as it leaves scope for the implementing authorities to reduce the wages. Such standards should be excluded from Para 14 of Schedule I so as to ensure guaranteed wages to labourers for their well-beings. The Committee, therefore, recommend that paras 7, 8 and 14 of the Bill should be amended accordingly.

*(xix) Transparency and Accountability under Schedule I
(Para 15, 16 and 17 of Schedule I)*

2.112 Para 15, 16 and 17 of Schedule-I provide as under:

“(15) The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme.

(16) All accounts and records and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.

(17) A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the scheme.”

2.113 Most experts have expressed concern over the fact that as far as social audit of the scheme is concerned, implementing authority shall merely prepare an annual report regarding implementation of scheme, a copy of which shall be made available on demand by payment of fees. Hence it was suggested that the provision for payment of fee is against the right to information and transparency.

The Department of Rural Development has stated that the provision made under Right to Information Bill, 2005 will also be applicable under the said scheme. It has further been stated that Section 4 of the Right to Information Bill, 2005 provides that all materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information officer

or State Public Information officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

2.114 As already recommended in earlier paras of the report, the Committee would like to reiterate that Gram Sabha should be the designated elected body for the purpose of social audit. All facts and figures relating to the implementation of the scheme should be made available for public scrutiny in Gram Sabha. Besides, copies of the muster rolls of each scheme and project should also be made available to the people at the Gram Sabha meetings. Not only that, the information regarding works should be displayed in the Gram Panchayats for the information of the public from time to time but it should be ensured that the information is displayed on a monthly basis.

2.115 The Committee further find that as per Clause 16 of the Bill all accounts and records relating to the scheme shall be made available for public scrutiny after paying the prescribed fee. The Committee also note that the Right to Information Bill is yet to be enacted. The Committee also find that the provisions of said legislation when enacted will be applicable for the purposes of the Bill. In view of the aforesaid position, the Committee feel that there is no need of indicating fee in the guarantee legislation as it can be interpreted by the State Governments arbitrarily and unreasonable amount may be charged from the rural poor for accessing information. Provision made under the Right to Information Bill when enacted will take care of the cost for providing information.

The Committee would like to recommend that the paras 15, 16 and 17 of Schedule I may be amended in the light of the aforesaid recommendations.

(xx) *Compensation*
(Para 26 of Schedule II)

2.116 Para 26 of Schedule II provide as under:

“If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex-gratia* payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be”.

2.117 Experts have suggested that the *ex-gratia* payment of ten thousand rupees or such amount as may be notified by the Central Government in case of death or permanent disability should be enhanced.

2.118 The Committee note that the ex-gratia payment of Rs. ten thousand in case a person employed under the guarantee scheme dies or becomes permanently disabled by accident arising out of and in the course of employment is inadequate. The amount of compensation should be enhanced to Rs. twenty five thousand. Besides, the Committee also recommend to the Government to consider whether persons provided employment under the guarantee scheme can be covered by insurance. The Committee recommend that Para 26 of Schedule II should accordingly be amended.

*(xxi) Minimum number of persons required for commencement of a new work
(Para 13 of Schedule II)*

2.119 Para 13 of Schedule II states as under:

“(13) A new work under the Scheme shall be commenced only if—

- (a) at least fifty labourers become available for such work; and
- (b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation”.

2.120 Experts who deposed before the Committee or submitted memoranda have expressed almost unanimous opinion that the said provision displays highly centralised tendency and tries to unduly schematise and bureaucratise the guarantee. It was proposed that State Government should be provided flexibility to take work according to local and geographical conditions. Similar, views were expressed by State Governments/Union Territory Administrations, which submitted memoranda to the Committee.

2.121 The Department of Rural Development has conceded the point made by experts and opined that in view of varying socio-economic conditions across the country, the number of persons required for a new work may be reconsidered.

2.122 The Committee feel that the prescribed number of labourers i.e. 50 for starting a new work is very much on the higher side. Such a provision may restrict the scope of taking small works under the scheme. The Committee also note that the Department of Rural Development has agreed to reconsider the said provision. The Committee would like that the prescribed number of minimum labourers should be reduced to ten. Besides the implementing authority may be empowered to take up new work with even lesser than ten number of labourers. Para 13 of Schedule II may accordingly be amended.

(xxii) Provisions for women

2.123 Experts who deposed before the Committee categorically stated that under the Bill, specific provisions for women have been conspicuous by their absence. The Bill, they felt contained provisions, which are discriminatory to women. Some of the issues raised in this regard are as under:

- (i) Definition of 'household' for the purpose of targeting beneficiaries includes persons living under one roof and sharing a common ration card. Deserted, separated or divorced women in such a definition may be excluded from the guarantee scheme although they are the most needy.
- (ii) It was suggested that one third beneficiaries under the scheme should be women as stated in Planning Commission guidelines accepted by successive governments regarding all employment guarantee scheme. Experts and representatives of women's organizations also came forward with the idea that forty per cent reservation should be provided to women if BPL criteria for identification of beneficiaries is maintained under the said Bill.
- (iii) Experts were also of the view that works under Schedule I to be undertaken should include such works for which women are physically capable. Besides, productive assets should include assets which enhance the quality of life and which can easily be performed by women.
- (iv) Besides, it was suggested that harsh penalties for absence from work such as non-payment of unemployment allowance should not be made applicable for pregnant women.

2.124 The Committee in the earlier paras of the report have suggested for universal application of the provisions of the Bill. In case the aforesaid recommendation is accepted, the concerns expressed by various quarters relating to gender bias will be addressed since the employment will be available to a man/women who offers himself/herself for work irrespective of gender/caste or any other considerations.

2.125 The Committee further note that the works to be done under the guarantee scheme are usually manual work and as such women workers may be unwilling to do some of the works. To ensure employment to women, the Committee recommend that design of the works to be undertaken under the guarantee scheme should include such works which can be conveniently performed by women. Besides certain basic facilities like separate toilets and adequate safeguards for pregnant women etc should be made available to made the women labourers comfortable at the work site. The Committee would also like that pregnant women should be provided full wages for a specified period in line with the maternity leave.

The Committee would like to recommend that the aforesaid provisions should be included in the guarantee legislation to ensure gender sensitivity.

*Provision for creche facilities
(Para 28 of Schedule II)*

2.126 Para 28 of Schedule II states as under:

“(28) In case where at least twenty women are employed at a work site, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises.”

2.127 The experts were of the opinion that minimum requirement of twenty women for providing creche type facility was unjustified as maintaining rigidity of minimum of twenty women workers was considered too deterministic and restrictive.

2.128 The Committee note that the minimum number of twenty women workers for making creche type arrangements to look after the children of women labourers under the age of six years at the work site is very much on the higher side. The number is specifically high keeping in view the recommendation made in the earlier para

of the report to reduce the number of workers to ten for starting a new work. In view of this the Committee recommend that minimum number of women workers for providing aforesaid creche type facilities should be reduced to five. Para 28 of Schedule II may accordingly be amended.

(xxiii) Rate to be fixed for foodgrains component to be provided as wages

2.129 Para 32 of Schedule II states as under:

“(32) The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.”

2.130 Experts suggested that in case wages are paid in kind instead of cash under the scheme, the APL rate for calculation should not be used as it will reduce the amount of entitlement for beneficiaries under the scheme.

2.131 The Secretary during the evidence clarified that the intention of the Government is to fix BPL rate of foodgrains to be supplied as portion of wages to be paid to workers under the guarantee legislation.

2.132 The Committee appreciate the intention of the Government to fix BPL rates of foodgrains to be supplied as a part of the wages as per para 32 of Schedule II. The Committee strongly recommend that the intention of the Government should clearly be indicated in the Bill so as not to leave any scope for fixing APL/market rate for foodgrains by the State Governments. Para 32 of Schedule II may be amended accordingly.

(xxiv) Provision for disabled persons

2.133 The Bill does not contain any specific provisions for inclusion of persons with disability under the guaranteed legislation.

Experts have suggested that emphasis on manual work under works listed in Schedule I is unwarranted and will exclude disabled persons from the guarantee.

It was also suggested that organisations working in disability sector should be included in both implementing and monitoring of the scheme. Experts have made important suggestion that at least three per cent benefits should be made available to persons with disabilities under the scheme.

2.134 The Department of Rural Development has stated that issues regarding persons with disability shall be taken care of while formulating guidelines of the scheme and being demand based, it is not possible to provide reservation under the scheme.

2.135 The Committee note that the guarantee legislation is not sensitive towards handicapped persons. The Committee feel that the usual tendency of implementing agencies will be not to provide work to handicapped persons specifically when the works to be undertaken under the guarantee scheme are usually manual work. The Committee would like to strongly recommend that a provision may be made in the Bill whereby States in their respective Acts should be required to make specific provisions for inclusion of handicapped persons particularly as per 'Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1996'. Besides, it should also be provided in the Bill that the design of the work may be such that it includes the works to be done by physically handicapped persons.

(XXV) MISCELLANEOUS

(i) Expeditious enactment of the employment guarantee legislation

2.136 The Committee would like to strongly recommend to the Government that the said legislation should be considered by the Parliament and enacted expeditiously so that the employment guarantee envisaged in this Bill is ensured to the millions of poor in rural areas at the earliest.

(ii) Capacity Building of Panchayats

2.137 The State Governments in the comments furnished to the Committee have expressed concerns over the training and upgradation cost involved in capacity building of Panchayats. The Department of Rural Development has commented that the Central Government may consider meeting the cost of capacity building of Gram Panchayats and officials out of the administrative expenses.

The Committee in their earlier paras of the report have recommended that all the projects to be undertaken under the guarantee legislation should be implemented by Panchayati Raj Institutions. While making the aforesaid recommendation, the Committee are conscious of the fact that capacity building of Panchayats is the biggest challenge. The Committee also note that

the Department of Rural Development has conceded to meet the cost of capacity building of Gram Panchayats and officials out of the administrative expenses. The Committee hope that the Department may provide the adequate funds in this regard to the State Governments to enable Gram Panchayats to perform better and take up the challenge of implementing the provisions enshrined under the guarantee legislation.

(iii) Other related issues

2.138 The Committee while considering Demands for Grants (2005-06) of the Department of Rural Development had raised certain issues with regard to 'The National Rural Employment Guarantee Bill 2004'. The details of the recommendations made in the report and the comments of the Department of Rural Development on each of the issues are indicated at *Appendix-V*

2.139 The Committee would like to reiterate the following recommendations made in their Ninth Report (Fourteenth Lok Sabha) which are relevant in the context of rural employment guarantee Bill:

- (i) Sampoorna Grameen Rozgar Yojana should be merged with Food for Work Programme where at present Food for Work Programme is being implemented or when the guarantee scheme when enacted will be implemented;
- (ii) While selecting districts for the guarantee legislation, when enacted, it should be strictly ensured that parameters for selection of districts are such that first of all the most backward districts in a State get due priority under the programme;
- (iii) Due priority should be accorded to Sampoorna Grameen Rozgar Yojana which will continue to be implemented in the districts where National Food for Work Programme (NFWP) is being implemented or guarantee scheme when enacted is to implemented.
- (iv) The outlay under National Food for Work Programme should not be at the cost of Sampoorna Grameen Rozgar Yojana since the districts not covered by NFWP or Employment Guarantee Scheme, will be covered by the Sampoorna Grameen Rozgar Yojana (SGRY).

- (v) **Specific allocation and outstanding dues with regard to foodgrains supplied under Food for Work Programme and Employment Guarantee Legislation when enacted, to Food Corporation of India should invariably be indicated in the Budget documents irrespective of the fact whether payment is made by the Ministry of Finance to the Food Corporation of India or to the Department of Food and Public Distribution (Ministry of Consumer Affairs, Food and Public Distribution).**

NEW DELHI;
21 June, 2005

31 Jyaistha, 1927 (Saka)

KALYAN SINGH,
Chairman,
Standing Committee on
Rural Development.

APPENDIX I

AS INTRODUCED IN LOK SABHA
21 Dec. 2004

THE NATIONAL RURAL EMPLOYMENT GUARANTEE BILL, 2004

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2. Definitions.

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3. Guarantee of rural employment to poor households.

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5. Conditions for providing guaranteed employment.
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SCHEDULE I

SCHEDULE II

Bill No. 106 of 2004

THE NATIONAL RURAL EMPLOYMENT GUARANTEE BILL, 2004

A

BILL

to provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the National Rural Employment Guarantee Act, 2004.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) “adult” means a person who has completed his eighteenth year of age;

(b) “applicant” means the head of a household or any of its other adult members who has applied for employment under the Scheme;

(c) "Block" means a community development area within a district comprising a group of Gram Panchayats;

(d) "Central Council" means the Central Employment Guarantee Council constituted under sub-section (1) of section 10;

(e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;

(f) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;

(g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat Samiti, Gram Panchayat or any local authority or Government undertaking or non-governmental organization authorized by the Central Government or the State Government to undertake the implementation of any work taken up under a Scheme;

(h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area;

(i) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;

(j) "notification" means a notification published in the Official Gazette;

(k) "poor household" means a household living, during the relevant financial year, below the poverty line and includes the households of all primitive tribal groups as

approved, by notification, by the Ministry of the Central Government dealing with tribal affairs;

(l) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme in a Block;

(o) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;

(p) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;

(q) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4;

(r) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;

(s) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;

(t) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

Guarantee of rural employment to poor households.

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every

poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case to later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Employment
Guarantee
Schemes
for rural
areas.

Provided that until any such Scheme is notified by the State Government, the Annual

Action Plan or Perspective Plan for the *Sampoorna Grameen Rozgar Yojana* (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before such notification shall be deemed to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (1) shall provide for the minimum features specified in Schedule I.

Conditions
for
providing
guaranteed
employment.

5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.

(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

Wage rate.

6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act: 11 of 1948

Provided that different rates of wages may be specified for different areas.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area. 11 of 1948

7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

Payment of unemployment allowance.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under subsection (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as—

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at

least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority as the State Government may, by notification, authorise in this behalf.

(5) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-
disbursement
of
unemploy-
ment
allowance
in certain
circumstances.

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat at and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government alongwith the reasons for such non-payment or delayed payment.

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under subsection (1) to the concerned household as expeditiously as possible.

9. An applicant who—

(a) does not accept the employment provided to his household under a scheme; or

(b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month, shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

Disentitle-
ment to
receive
unemploy-
ment
allowance
in certain
circumsta-
nces.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

10. (1) With effect from such date as the Central Government may, by notification specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.

Central
Employment
Guarantee
Council.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The Central Council shall consist of the following members to be appointed by the Central Government, namely:

(a) a Chairperson;

(b) not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government;

(c) not more than such number of representatives of the State Governments as may be determined by the Central Government;

(d) not more than fifteen non-official members representing Panchayati Raj Institutions, organizations of workers and disadvantaged groups:

Provided that such non-official members shall include two chairpersons or District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities;

(e) such number of representatives of the States as the Central Government may, by rules, determine in this behalf;

(f) a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central council shall be such as may be prescribed by the Central Government.

11. (1) The Central Council shall perform and discharge the following functions and duties, namely:

Functions and duties of Central Council.

(a) establish a central evaluation and monitoring system;

(b) advise the Central Government on all matters concerning the implementation of this Act;

(c) review the monitoring and redressal mechanism from time to time and recommend improvements required;

(d) promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the(name of the State) State Employment Guarantee Council with a Chairperson and such number of official members as may be determined by the State Government and not more than fifteen non-

State Employment Guarantee Council.

official members nominated by the State Government from Panchayati Raj institutions, organizations of workers and disadvantaged groups:

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as may be prescribed by the State Government.

(3) The duties and functions of the State Council shall include—

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(f) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

13. (1) The Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district.

Standing
Committee
at district
level.

(2) The Standing Committee shall co-opt not more than seven representatives of intermediate panchayats, Gram Panchayats, organization of workers, women's organizations, non-governmental organizations and disadvantaged groups as special invitees.

(3) The functions of the Standing Committee shall be—

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Standing Committee in discharging its functions under this Act and any Scheme made thereunder.

District
Programme
Coordinator.

14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder.

(3) The functions of the District Programme Coordinator shall be—

(a) to assist the Standing Committee constituted under sub-section (1) of section 13;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Standing Committee;

(c) to accord necessary sanction and administrative clearance, wherever necessary;

(d) to coordinate with the Programme Officers functioning with his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Coordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the Standing Committee of the district panchayat.

15. (1) For every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block.

Programme
Officer.

(2) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(3) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(4) The functions of the Programme Officer shall include—

(a) monitoring of projects taken by the Gram Panchayats and other implementing within the Block;

(b) sanctioning and ensuring payment of unemployment allowance to the eligible poor households;

(c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

(d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;

(e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

(f) any other work as may be assigned to him the District Programme Coordinator or the State Government.

(5) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(6) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities of the Gram Panchayats.

16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer may allot at least fifty per cent of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with—

(a) the muster rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

Social audit
of work by
Gram
Sabha.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

Respon-
sibilities of
State
Government
in
implementing
Scheme.

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Grievance
redressal
mechanism.

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

CHAPTER V

ESTABLISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE FUNDS AND AUDIT

National
Employment
Guarantee
Fund.

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government.

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme.

State
Employment
Guarantee
Fund.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act.

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:—

Funding
pattern.

(a) the amount required for payment of wages for unskilled manual work under the Scheme;

(b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:—

(a) the cost of unemployment allowance payable under the Scheme;

(b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) the administrative expenses of the State Council.

Transparency
and
accounta-
bility.

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilization and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates.

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

Audit of accounts.

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Penalty for non-compliance.

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

Power to delegate.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

Power of
Central
Government
to give
directions.

27. The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

28. The provisions of this Act or the Schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue to such law:

Act to
have
overriding
effect.

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

Power to
amend
Schedules.

29. (1) 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.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

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Protection of action taken in good faith.

31. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20;

(d) the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

Power of
State
Government
to make
rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

(b) the procedure for payment of unemployment allowance under sub-section (6) of section 7;

(c) the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the number of members of the Standing Committee at district level and their terms and conditions of their appointment under sub-section (1) of section 13;

(e) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(f) the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21;

(g) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21;

(h) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(i) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(j) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(k) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the State Government by rules.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of
rules and
Schemes.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are

two Houses, and where there is one House of the State Legislature, before that House.

Power to
remove
difficulties

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:—

- (i) water conservation and water harvesting;
- (ii) drought proofing (including afforestation and tree plantation);
- (iii) irrigation canals including micro and minor irrigation works;
- (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes;
- (v) renovation of traditional water bodies including desilting of tanks;
- (vi) land development;
- (vii) flood control and protection works including drainage in water logged areas;
- (viii) rural connectivity to provide all-weather access; and
- (ix) any other work which may be notified by the Central Government.

2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.

3. The works taken up under the scheme shall be in rural areas.

4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.

5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.

6. Under no circumstances shall the labourers be paid less than the wage rate.

7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.

8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working diligently for seven hours would normally earn a wage equal to the wage rate.

9. The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent of the total project costs.

10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.

11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.

12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.

13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.

14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.

15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.

16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a

copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.

17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

1. The adult members of every household who—

- (i) reside in any rural areas; and
- (ii) are willing to do unskilled manual work,

may submit their names, age and the address of the household to the Gram Panchayat in the jurisdiction of which they reside for registration of their household for issuance of a job card.

2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.

3. The registration made under paragraph 2 shall be for such period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.

4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.

5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.

6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later.

7. Applications for work must be for at least fourteen days of continuous work.

8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.

9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.

10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.

11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Gram Panchayat Office.

12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if—

(a) at least fifty labourers become available for such work; and

(b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block, and the labourers shall be paid ten per cent of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particular of job cards and passbooks issued, name age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case where at least twenty women are employed at a work site, provisions shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily wages basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

STATEMENT OF OBJECTS AND REASONS

Productive absorption of under-employed and surplus labour force in the rural sector has been a major focus of planning for rural development. In order to provide direct supplementary wage-employment to the rural poor through public works, many programmes were initiated by the Government of India, namely, National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programme (RLEGP) and Jawahar Rozgar Yojana (JRY). Currently, Sampoorna Gramin Rozgar Yojana (SGRY) is being implemented all over the country with the objective to provide supplementary wage employment in rural areas, create durable rural infrastructure and to ensure food security. Though the SGRY is providing some relief to the rural poor, its reach has been inadequate in view of the dimension of the unemployment in rural areas. It has been observed that the scale of employment generation under SGRY in 2002-03 and 2003-04 was barely adequate to provide on an average 20 days of employment to each Below Poverty Line (BPL) household in the rural areas. Secondly, there is no guarantee that employment will be available to the rural households on demand as SGRY is an allocation based programme. The situation of unemployment has been compounded by the absence of any social security mechanism. There is, therefore, an urgent need to ensure at least some minimum days of employment in the shape of manual labour to every household in the rural areas. Recognizing the urgent need to ensure a certain minimum days of wage-employment, the United Progressive Alliance (UPA) Government has declared in its National Common Minimum Programme (NCMP) that it "...will immediately enact a National Employment Guarantee Act. This will provide a legal guarantee for at least 100 days of employment, to begin with, on asset-creating public works programmes every year at minimum wages for at least one able-bodied person in every rural, urban poor and lower middle class household." It is also necessary to empower the poor in the rural areas by appropriate enactment so that they can demand work on the strength of this legal entitlement.

2. The proposed legislation constitutes a pioneering endeavour to secure wage employment for the poor households in the rural areas as a guaranteed entitlement on this scale. It takes into account the experience gained under the Employment Guarantee Scheme in Maharashtra. Considering that a programme of this kind is being

contemplated on such a massive scale for the first time, it has to be necessarily implemented in phases so as to eventually cover all the rural areas of the country, subject to the economic capacity of the Central and State Governments.

3. In view of the above, it is proposed to enact a new legislation through the National Rural Employment Guarantee Bill, 2004. The salient features of the proposed legislation are the following:—

- (i) The objective of the legislation is to enhance the livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment to every poor household whose adult members volunteer to do unskilled manual work.
- (ii) The State Government shall, in such rural areas in the State and for such period as may be notified by the Central Government, provide to every poor household guaranteed wage employment in unskilled manual work at least for a period of one hundred days in a financial year in accordance with the provisions made in the legislation.
- (iii) Every State Government shall, within six months from the date of commencement of this legislation, prepare a scheme to give effect to the guarantee proposed under the legislation.
- (iv) The one hundred days of employment under the legislation will be provided at the wage rate to be specified by the Central Government for the purpose of this legislation. Until such time a wage rate is specified by the Central Government for an area, the minimum wage rate fixed by the State Government under the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.
- (v) If an eligible applicant is not provided work as per the provisions of this legislation within the prescribed time limit, it will be obligatory on the part of the State Government to pay unemployment allowance at the prescribed rate.
- (vi) A Central Employment Guarantee Council at the Central level and State Employment Guarantee Councils at the State level in all States where the legislation is made applicable will be constituted for review, monitoring and effective implementation of the legislation in their respective areas.

- (vii) The Standing Committee of the District Panchayat, District Programme Coordinator, Programme Officers and Gram Panchayats have been assigned specific responsibilities in implementation of various provisions of the legislation at the Gram Panchayat, Block and District levels.
- (viii) The Central Government shall establish a fund to be called 'National Employment Guarantee Fund' for the purposes of this legislation. Similarly, the State Governments may constitute State Employment Guarantee Funds.
- (ix) Provisions for transparency and accountability, audit, establishment of grievance and redressal mechanisms and penalty of non-compliance are also envisaged.
- (x) Provisions for Minimum features of Rural Employment Guarantee Scheme and conditions for guaranteed rural Employment under a scheme and minimum entitlements of labourers have been laid.

4. The Notes on clauses explain in detail the various provisions contained in the Bill.

5. The Bill seeks to achieve the above objects.

New Delhi;
The 17th December, 2004.

RAGHUVANSH PRASAD SINGH

NOTES ON CLAUSES

Clause 1.—This clause gives the short title of the Bill and the area to which it extends. Sub-clause (3) provides that the proposed legislation shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of the proposed legislation shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

Clause 2.—This clause contains definition of certain terms used in the Bill. The definitions of “adult”, “applicant”, “Block”, “Central Council”, “District Programme Coordinator”, “Household”, “implementing agency”, “minimum wage”, “National Fund”, “notification”, “poor household”, “preferred work”, “prescribed”, “Programme Officer”, “Project”, “Rural area”, “Scheme”, “State Council”, “unskilled manual work” and “wage rate” have been given in this clause. The expression “poor household” means a household living during the relevant financial year below the poverty line and includes the households of all primitive tribal groups as approved by the Ministry of the Central Government dealing with Tribal Affairs.

Clause 3.—This clause describes the guarantee of employment to poor rural households. As per this Clause, the State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This clause further provides that every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work on a weekly basis or in any case not later than a fortnight after the date on which such work was done. This clause also provides that the Central Government or the State Government may within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-clause (1), as may be expedient.

Clause 4.—This clause provides that for the purposes of giving effect to the provisions of clause 3, every State Government shall, within six months from the date of commencement of the proposed legislation, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under the proposed legislation and in the Scheme. This clause also requires that the State Governments shall provide adequate publicity to the Scheme in the areas where it is to be implemented. The minimum features of the Scheme are specified in Schedule I.

Clause 5.—This clause provides that the State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under the proposed legislation. The persons employed under any Scheme made under the proposed legislation shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

Clause 6.—This clause defines the wage rate for the purpose of this Bill. This clause also provides that notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government, may, by notification, specify the wage rate for the purposes of the proposed legislation, which may be different for different areas. Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.

Clause 7.—This clause lays down the terms and conditions for payment of unemployment allowance. If an applicant for employment under the Scheme is not provided employment as per the provisions of the proposed legislation within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this clause. The unemployment allowance payable shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council, provided that no such rate shall be less than one-fourth of

the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of the financial year. This clause further lays down the conditions under which the liability of the State Government to pay unemployment allowance to a household during any financial year shall cease. It also provides for the mechanism for payment of unemployment allowance.

Clause 8.—This clause provides for the measures to be taken if the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reasons beyond his control.

Clause 9.—This clause lays down the conditions which would make an applicant ineligible to claim the unemployment allowance payable under the proposed legislation for a period of three months. The applicant will, however, be eligible to seek employment under the Scheme at any time including that period.

Clause 10.—This clause provides that the Central Government shall, by notification, constitute a Council to be called the Central Employment Guarantee Council to discharge the functions and perform the duties, assigned to it by or under the proposed legislation. This clause further provides for the composition of the Central Council and the terms and conditions of appointment of the Chairperson and other members and the time, place and procedure of the meetings of the Central Council.

Clause 11.—This clause lays down the functions and duties of the Central Council.

Clause 12.—This clause provides that the State Government shall, by notification, constitute a State Council to be known as the...(name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of the proposed legislation at the State level. This clause further provides for the composition of the State Council and the terms and conditions of their appointment of the Chairperson and other members, the time, place and procedure of the meetings of the State Council and its functions and duties.

Clause 13.—This clause provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be laid

down by rules by the State Government, to supervise, monitor and oversee the implementation of the Scheme within the District. This clause further provides for the co-option of members, the functions of the Standing Committee and the role of the District Programme Coordinator to assist the Standing Committee in discharging its functions under the proposed legislation and any scheme made thereunder.

Clause 14.—This clause provides that the Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district. It further provides the responsibilities and functions of the District Programme Coordinator. It also prescribes various modalities to facilitate effective functioning of the District Programme Coordinator.

Clause 15.—This clause provides that for every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as the Programme Officer for implementing the Scheme in that Block. It further lays down the responsibilities and functions of the Programme Officers.

Clause 16.—This clause sets out the responsibilities of the Gram Panchayat in implementation of the provisions of the proposed legislation and the Scheme made there under. It also defines the role of the Programme Officer *vis-a-vis* the Gram Panchayat.

Clause 17.—This clause provides that the Gram Sabha shall monitor the execution of works within the Gram Panchayat and conduct regular social audit of all projects under the scheme taken up within the Gram Panchayat. The Gram panchayat shall make available all relevant documents to the Gram Sabha for the purpose of conducting the social audit.

Clause 18.—This clause provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Clause 19.—This clause relates to the grievance redressal mechanisms under the proposed legislation. The State Government shall, by rules, determine appropriate grievance redressal mechanisms

at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Clause 20.—This clause provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of the proposed legislation. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund. This Clause further provides that the amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government, by rules.

Clause 21.—This clause provides that the State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of the implementation of the Scheme. It further lays down the conditions for operationalisation and functioning of the State Employment Guarantee Fund.

Clause 22.—This clause lays down the funding pattern for implementation of the proposed legislation and defines the liabilities of the Centre and the State Government.

Clause 23.—This clause provides for various mechanisms for ensuring transparency and accountability in the implementation of the Scheme under the proposed legislation.

Clause 24.—This clause provides for arrangements to be put in place for audit of accounts of the Scheme at all levels.

Clause 25.—This clause relates to penalty for non-compliance. It provides that any person who contravenes the provisions of the proposed legislation shall, on conviction, be liable to a fine which may extend to one thousand rupees.

Clause 26.—This clause seeks to empower the Central Government to delegate its powers (except the power to make rules) to the State Governments or such officers of the Central Government or State Governments. Such delegation shall be subject to the conditions and limitation as may be imposed by the Central Government.

Clause 27.—This clause seeks to empower the Central Government to give directions to the State Governments, for effective implementation of the provisions of the proposed legislation.

Clause 28.—This clause provides that the proposed legislation will have over-riding effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of such law. It further provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural household consistent with the provisions of this Bill under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this legislation, the State Government shall have the option of implementing its own enactment.

Clause 29.—This clause seeks to empower the Central Government to amend Schedule I or Schedule II if that Government is satisfied that it is necessary or expedient to do so.

Clause 30.—This clause seeks to provide for protection of action taken in good faith by the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 31.—This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) thereof enumerates the matters in respect of which such rules may be made. The rule making under this clause is subject to previous publication.

Clause 32.—This clause empowers the State Government to make rules to carry out provisions of the proposed legislation. Such rules shall be consistent with the Act and the rules made by the Central Government. The rule making under this clause is subject to previous publication.

Clause 33.—This clause provides for laying of rules made by the Central Government before each House of Parliament and the rules and schemes made by the State Government before each House of the State Legislature.

Clause 34.—This clause empowers the Central Government to remove difficulties, if any, arising in giving effect to the provision of the proposed legislation by order. Such orders can be issued before the expiry of three years from the commencement of the proposed legislation.

Schedule I.—This Schedule lays down the minimum features of a Rural Employment Guarantee Scheme to be made under the provisions of the proposed legislation.

Schedule II.—This Schedule lays down the conditions for Guaranteed Rural Employment under a Scheme and the minimum entitlements of labourers.

FINANCIAL MEMORANDUM

Clause 3 of the bill provides that a State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This will require a large number of works to be taken up under the Scheme to be prepared in each State where the legislation is to be implemented. This will entail expenditure on execution of works on material and wage components of the projects. The wage component of projects will be entirely borne by the Central Government while seventy-five per cent of the cost of material components (including the wages of skilled and semi-skilled workers) would be borne by the Central Government. The expenditure under the Scheme will depend on the number of persons reporting for work, wage rate and the composition of the wage and material components of the works. Assuming that wage and material components would be in the ratio of sixty is to forty and the average wage rate would be sixty rupees per day, the cost of generating employment is estimated to be one hundred rupees per person per diem. Hence, the cost of providing one hundred days of employment to a poor household in a financial year is estimated to be ten thousand rupees. If the whole country is covered under the legislation, the total requirement of funds on material and wage components including the State share of funds is estimated to be approximately thirty-eight thousand six hundred crore rupees of which the Central share will be thirty-four thousand seven hundred forty crores rupees (this does not include administrative expenses). Although the total expenditure would depend on the extent of coverage of areas of the country under the proposed legislation, it has estimated that if the legislation is extended to 150 districts where the National Food for Work Programme is being implemented, the requirement of central funds will be approximately eight thousand nine hundred eighty-four crore seventy lakh rupees. The State Government will bear twenty five per cent, of the material component (including the wages of skilled and semi-skilled workers). Since the employment is to be provided every year this expenditure would be a recurring expenditure.

Clause 6 of the Bill provides that the Central Government may, by notification, specify the wage rate for the purposes of the proposed

legislation which may be different for different areas. Until such time the wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area. The wages under this legislation are to be paid to the labourers at the wage rate. At present, the minimum wage rates for agricultural labourers in the State vary from twenty-five rupees to one hundred thirty-five rupees. For the purpose of financial estimates, an average wage rate of sixty rupees per person per diem has been assumed. While fixing the wage rate, the Central Government may take into consideration the criteria and factors in addition to and other than those provided in the Minimum Wages Act, 1948. The financial liability of the Central Government will vary according to the wage rate fixed for the purposes of the proposed legislation.

Clause 7 of the bill provides that if an applicant for employment under the Scheme made under the proposed legislation is not provided employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance. The unemployment allowance shall be paid to the applicants of a household subject to the entitlement of the household as a unit at such rate as may be specified by the State Government, by notification, in consultation with the State Council provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of that year. The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year. The entire expenditure on account of unemployment allowance is to be borne by the State Government. However, the principal objective of the legislation is to guarantee wage-employment to the rural poor household and adequate provisions have been made enabling the State Government to formulate an appropriate Scheme in such a manner that the need for payment of unemployment allowance will be minimum.

Clause 10 of the Bill provides that there shall be constituted a Council to be called the Central Employment Guarantee Council to

discharge the functions, and perform the duties, assigned to it by or under this legislation. The Council shall have both official and non-official members. The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings of the Central Council shall be such as may be prescribed by the Central Government. The Central Government will bear all expenses of the Central Council which will be of a recurring nature and would be a part of the administrative costs permissible under the Scheme.

Clause 12 of the Bill provides that the State Government shall constitute a Council to be called the... (name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of this legislation at the State level. The Council shall have both official and non-official members. The terms and conditions subject to which the Chairperson and other members of the State Council may be appointed and the time, place and procedure of the meetings of the State Council shall be such as may be prescribed by the State Government. The State Government will bear all expenses of the State Council which will be of a recurring nature. In so far the State Councils for Union territories are concerned, the Central Government will have to bear the expenditure.

Clause 13 of the Bill provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district. This is the normal function of the District Panchayats and expenditure for this purpose would be borne by the District Panchayats.

Clause 15 of the Bill provides that for every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block. The Programme Officer would be a crucial person for the implementation of the Scheme. The salary and allowances of the Programme Officer and his supporting staff would be borne by the Central Government out of the admissible administrative expenses, which will be a recurring expenditure.

Clauses 16 and 17 of the Bill lay down the role and responsibilities of the Gram Panchayats in implementation of the Scheme made under

this legislation. In order to effectively carry out their responsibilities, the capacity building of the Gram Panchayats will be needed and its expenditure will be borne by the Central Government from the funds provided for administrative expenses.

Clause 18 of the Bill provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme. The cost of the staff support to the Programme Officers will be borne by the Central Government while all other incidental expenses, if any, needed to operationalise this clause will be borne by the State Government.

Clause 20 of the Bill provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this legislation. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

Clause 21 of the Bill provides that the State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of the implementation of the Scheme.

Clause 22 of the Bill provides the funding pattern of various costs of implementation of the proposed legislation Sub-clause (1) provides that the Central Government shall meet the costs of wages for unskilled manual work under the Scheme, upto three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that the material component does not exceed 40 per cent under the projects, and such percentage of the total cost of Scheme as may be determined by the Central Government towards administrative expenses, which may include the salary and allowances of the Programme Officers and their supporting staff, the administrative expenses of the Central Council, various facilities to be provided to the labourers and such other items as may be decided by the Central Government. It is estimated that if two percent of the programme cost is earmarked for administrative expenses, it would be adequate for effective implementation of the programme. Sub-clause (2) provides that the State Government shall meet the costs of unemployment allowance payable under the Scheme, one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that

the material component does not exceed 40 per cent under the projects, and the administrative expenses of the State Council. These costs will be of a recurring nature.

Clause 28 of the Bill provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Bill under which the entitlement of the Households is not less than and the conditions of employment are not inferior to what is guaranteed under this Bill, the State Government shall have the option of implementing its own enactment. It further provided that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the state would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented. It is estimated that there will be no additional financial liability for the Central Government under this clause.

Paragraph 24 of Schedule II of the Bill provides that if any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme. Paragraph 25 of Schedule II further provides that where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work. The expenditure on such medical expenses, hospitalisation and daily wages would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 26 of Schedule II provides that if a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be. The expenditure on such payments would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 27 of Schedule II provides that the facilities of safe drinking water, shade for children and periods of rest, first aid box

with adequate material for emergency treatment for minor injuries and for other health hazards connected with the work being performed shall be provided at the work site. These are normal amenities to be provided by any employer and as such State Government would be required to provide sufficient safeguards and meet consequential expenses, which will be a recurring nature.

Paragraph 28 of Schedule II of the Bill provides that in case where at least twenty women are employed at a worksite, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises. Paragraph 29 provides further that the person deputed under paragraph 28 shall be paid wage rate. The expenditure on such payments would be borne by the Central Government under the admissible unskilled wage component and will be of a recurring expenditure.

Paragraph 33 of Schedule II of the Bill provides that if any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, within the limit fixed for admissible administrative expenses, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government. The expenditure on such payments would be borne by the Central Government and will be of a recurring expenditure.

The Central Government will have to bear the expenditure in relation to implementation of the proposed legislation in so far as the Union territories are concerned.

Apart from the estimates given above, as the exact expenditure which will be involved in implementing the proposed legislation will depend upon the areas in which the Schemes will be implemented and these are required to be decided after the Bill is passed, it is not practicable to make an exact estimate of the recurring and non-recurring expenditure for the financial year 2004-05.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 4 of the Bill empowers every State Government to make a scheme for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under such scheme and whose adult members by application volunteer to do unskilled manual work. The scheme is intended to give effect to the provisions of clause 3 of the Bill. Sub-clause (2) of clause 4 requires that the State Government shall publish a summary of the scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which the scheme shall apply. Sub-clause (3) of clause 4 provides that the scheme should have the minimum features as specified in Schedule I of the Bill.

2. Sub-clause (1) of clause 29 of the Bill empowers the Central Government to amend Schedule I and Schedule II, by notification, if it considers it necessary or expedient to do so. Every notification issued under this sub-clause is required to be laid before each House of Parliament.

3. Sub-clause (1) of clause 31 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relates to the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10, the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the Central Council, under sub-section (4) of section 10, the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20 and the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22.

4. Sub-clause (1) of clause 32 of the Bill empowers the State Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the

proposed legislation. These matters, *inter alia*, relates to the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7, the procedure for payment of unemployment allowance under sub-section (6) of section 7, the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12, the number of members of the Standing Committee at district level and their terms and conditions of their appointment, under sub-section (1) of section 13, the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19, the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21, the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21, the manner of maintaining books of accounts of employment of labourers and the expenditure under sub-section (2) of section 23, the arrangement required for proper execution of Schemes under sub-section (3) of section 23 and the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24.

5. The scheme made by the State Government is required to be laid before the State Legislature. The rules which may be made by the Central Government or the State Government under the proposed legislation shall be subject to previous publication and shall be required to be laid before the Parliament and the State Legislature respectively.

6. The aforesaid matters in respect of which schemes or rules may be made or notification may be issued under clause 29 relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

(Shri Raghuvansh Prasad Singh, Minister of Rural Development)

APPENDIX II

STANDING COMMITTEE ON RURAL DEVELOPMENT

THE LIST OF EXPERTS/REPRESENTATIVES OF ORGANIZATIONS/
INDIVIDUALS WHO APPEARED BEFORE THE COMMITTEE

Sl.No.	Name of the experts/organizations
1	2
1.	All India Democratic Women's Association (i) Smt. Brinda Karat, Vice-President (ii) Smt. Subhashini Ali
2.	National Federation of Indian Women (i) Ms. Sehba Farooqui, General Secretary (ii) Ms. Primla Loomba
3.	(i) Dr. Jean Dre'ze, Honorary Professor (Delhi School of Economics) (ii) Shri Nikhil Dey (Mazdoor Kisan Shakti Sangathan)
4.	(i) Prof. Prabhat Patnaik, Professor (Centre for Economic Studies and Planning, School of Social Sciences, JNU) (ii) Prof. Jayati Ghosh, Professor (Centre for Economic Studies and Planning, School of Social Sciences, JNU)
5.	National Commission on Farmers, Ministry of Agriculture Shri Atul Sinha, Member Secretary
6.	Centre of Indian Trade Unions Shri W.R. Varada Rajan, National Secretary
7.	Centre for Women's Development Studies (i) Shri Narayan Banerjee, Director (ii) Smt. Indrani Majumdar
8.	Shri V.P. Singh, Former Prime Minister
9.	All India Agricultural Workers Union Shri Suneet Chopra, Joint Secretary

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10.	Hind Mazdoor Sabha Shri R.A. Mittal, Secretary
11.	Peoples Action for Employment Guarantee (i) Shri Subhash Bhatnagar, (ii) Smt. Annie Raja, (iii) Prof. Kamal Mitra Chinoy (iv) Shri R.A. Mittal, Hind Mazdoor Sabha
12.	Shri Bimal Jalan, M.P. Rajya Sabha
13.	Institute of Social Sciences Shri George Mathew
14.	National Federation of Blind (i) Shri S.K. Rungta, General Secretary, (ii) Prof. Miss Amita Dhanda
15.	Shri V.K. Saxena, Former Chief Secretary Government of Uttar Pradesh

APPENDIX III

COMPARATIVE STUDY OF MAHARASHTRA EMPLOYMENT GUARANTEE SCHEME AND THE NATIONAL RURAL EMPLOYMENT GUARANTEE BILL, 2004

Maharashtra Employment Guarantee Scheme	National Rural Employment Guarantee Bill, 2004
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Scope:

It extends to the whole of rural areas of the State of Maharashtra.

It extends to the whole of India except the State of J&K. In accordance with Clause 1(3) of the Bill, it shall come into force on such date as the Central Govt. may, by notification appoint and different dates may be appointed for different States or for different areas in a State.

Target:

It is self targeted.

In the present formulation the proposed Bill will target families living below the poverty lines in rural areas. However, considering the nature of guarantee being offered through unskilled manual work and the experience of the Ministry in implementing Jawahar Rozgar Yojana (JRY), Employment Guarantee Scheme (EAS) and Sampoorna Gramin Rozgar Yojana (SGRY), which shows that these programmes were self-targeting, if sufficient care is taken to implement the programme strictly,

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	it should be possible to restrict the benefits to the really needy by removing the poverty-qualification in the guarantee can be considered.
Extent of Guaranteed Wage:	
No minimum duration for the guaranteed wage employment is prescribed under the Act.	A minimum of 100 days of guaranteed wage employment in every financial year.
Every Adult person in the rural areas in Maharashtra has a right to work, <i>i.e.</i> a Right to get Guaranteed Employment for doing unskilled manual work and receive wages there. Where there is no able bodied adult member in a family, a minor member of such family, who has completed his age of fifteen years, shall also be entitled to register his name and address for employment and shall be paid wages according to the quantum of his work.	The Bill extends to every rural poor household whose adult members volunteer to do unskilled manual work.
Statutory Minimum Wages:	
Wages to be paid according to the schedule of rates which shall be fixed by the State Govt. for different types of work from time to time. The schedule of rates shall be so fixed that a person working diligently for 7 hrs. a day would normally get a total wage subject to the minimum wage for agricultural labourer as fixed by the State Govt. from time to time.	The Bill seeks to provide work at minimum wage rates for agricultural labourers as fixed by the State Governments. However, the Bill contains an enabling provision that the Central Govt. may specify the wage rate for the purposes of this Act provided that different rates of wages may be specified for different areas.
Unemployment Allowance:	
If within 15 days of the receipt of the letter for employment under	If an applicant is not provided employment within 15 days of

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<p>the scheme, the State Govt. is unable to provide employment subject to the conditions for employment, the person shall be entitled to receive from the Employment Guarantee Fund an Unemployment Allowance at such rate as may be fixed by the State Govt. from time to time but not less than Rs. 1/- per day.</p>	<p>receipt of his application subject to all other terms & conditions for eligibility as prescribed by the State Govt., the State Govt. shall pay unemployment allowance at a rate which shall not be less 1/4th of the wage rate for the first 30 days during the financial year and not less than 1/2 of the wage rate for the remaining period of the financial year.</p>
<p>Funding:</p>	
<p>Employment Guarantee Fund has been established for carrying out the purposes under the Act. The payments under the Fund are made as follows:-</p>	<p>The Bill provides for establishment of National Employment Guarantee Fund and State Employment Guarantee Fund for the purposes of the Act.</p>
<p>(i) Amounts transferred to the Fund under Section 30 of the Maharashtra State Tax on Professions, Trade, Calling and Employment Act, 1975 and under Section 4 of the Maharashtra Tax Acts (Amendments) 1975 and amounts of matching contribution made by the State Govts. as laid down in the said Acts.</p>	<p>The Central Govt. may, after due appropriation made by Parliament by Law in this behalf, credit by way of grants or loans such sums of money as the Central Govt. may consider necessary to the National Fund.</p>
<p>(ii) Any contributions/grants made by the State Govts., the Central Govt. or any local authorities.</p>	<p>The State Employment Guarantee Fund shall be established by the State Govt.</p>
<p>(iii) Any sums received from other Bodies or individuals whether incorporated or not.</p>	<p>Financial liabilities of the Central Govt.</p> <p>(i) Amount required for payment of wages for unskilled manual work under the Scheme.</p> <p>(ii) Upto 3/4th of the material cost of the scheme including payment of wages to skilled and semi skilled workers subject to the provisions of the Schedule II.</p>

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<p>Implementing Agencies: Any Deptt. of the State Govt., Zilla Parishad, any other local authority or State Govt. undertaking which is entrusted by State Govt. with the task of</p>	<p>(iii) Such percentage of the total cost of the scheme as may be determined by the Central Govt. towards administrative expenses which may include salary and allowances of the programme Officers and his staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and other items as may be decided by the Central Govt.</p> <p>Financial liabilities of the State Govt.</p> <p>(i) Cost of unemployment allowance.</p> <p>(ii) 1/4th of the material cost of the scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II.</p> <p>(iii) Administrative expenses of the State Council.</p> <p>Fiscal burden on States</p> <p>If the proposed legislation comes into force the fiscal burden of the State Government towards any Employment Guarantee Scheme of the State will be mainly shared by the Central Government.</p> <p>Besides Gram Panchayats the other implementing agencies for taking up various projects under the scheme can be deptts. of Central or State Govt., other Panchayati Raj Institutions, NGOs</p>

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implementing any works taken up under the scheme.	or any other local authority or Govt. undertaking.
Implementation Structure:	
The Maharashtra Employment Guarantee Act provides the following implementation structure:	The implementation structure suggested in the Bill is as under:
The Collector of the District shall be responsible for the implementation of the Scheme in the District and for this purpose all other officers of the State Government, the Zilla Parishad and other local authorities or bodies functioning in the District and having for their jurisdiction an area not bigger than the District shall be responsible to the Collector.	District Level: The Chief Executive Officer (CEO) of the District Panchayat or the Collector of the District or any other district level officer of equivalent rank as the State Govt. may decide shall be designated as the District Programme Coordinator for the implementation of the scheme in the district.
The Commissioner of the Division, or any officer or officers not below the rank of Assistant Commissioner designated by him in this behalf, shall be competent to supervise and review the implementation of the Scheme in the Division. The Commissioner shall be competent to issue directions to the Collectors, other officers (including divisional level officers), local authorities and other bodies regarding implementation of the Scheme, and it shall be incumbent on all of them to carry out such directions.	Block Level: The State Govt. shall appoint a Programme Officer for administering the scheme in the area. The Programme Officer would be responsible to the District Programme Coordinator.
	Gram Panchayat Level: The primary responsibility of the Gram Panchayat shall be to register the household and provide them job cards. Each Gram Panchayat shall identify the felt needs of their area and prepare a development plan. The Programme Officer may allot at least fifty percent of the works in terms of its cost under the Scheme to be implemented through the Gram Panchayats.

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<p>For the purpose of implementation of the Scheme, the Collectors, other officers, local authorities and other Commissioner to such extent and in such manner as the State Government may direct.</p>	
<p>Monitoring Authorities:</p>	
<p>For the purposes of periodical review and supervision of the implementation of the Act, there is a Council called Maharashtra State Employment Guarantee Council. The other functions of the Council are:</p>	<p>There shall be Central Employment Guarantee Council constituted by the Central Govt. and State Employment Guarantee Council constituted by the State Govt. for the purpose of monitoring various schemes formulated under the Act.</p>
<p>— To advise the State Govt. on all matters concerning this Act and the scheme for their implementation.</p>	<p>The Councils would periodically review, supervise and monitor the implementation of the Scheme, widely publicizing the Scheme, and would advise the concerned Governments on all matters concerning the implementation of the Act from time to time in their areas.</p>
<p>— To undertake an evaluation of the scheme and for this purpose collect Statistics pertaining to the rural economy of the State in general and the socio-economic condition of the rural labour and the implementation of the scheme in particular.</p>	<p>The Panchayat at District Level in every district shall constitute a Standing Committee to supervise, monitor and oversee the implementation of the scheme within the district. The District Programme Coordinator in a district shall be responsible for implementation of the schemes under the Act.</p>
<p>— To recommend to the State Govt. appointment of one or more study groups for undertaking a study of specific questions and problems connected with the implementation of the Act and the scheme.</p>	
<p>— To coordinate the working of the District Level Committees.</p>	<p>For every block a Programme Officer shall be appointed for monitoring the implementation of</p>

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<p>The State Government shall constitute a District Employment Guarantee Committee in every District and Panchayat Samiti area. These Committees shall, within their respective jurisdictions, supervise and review the implementation of the Scheme, from time to time and shall suggest to the State Government such steps as in their opinion are necessary for a more effective implementation of this Act. The Collector and the Samiti Officers concerned shall from time to time, report to the Committees the action taken by them or the State Government on the suggestions made by the Committees. Every District Level Committee shall co-ordinate the working of the Panchayat Samiti Committees in the District.</p>	<p>the scheme in that Block. He shall function under the directions of the District Programme Coordinator.</p> <p>The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.</p> <p>The Gram Sabha shall monitor the execution of works and shall conduct the social audit of all the works taken up under the scheme within the Gram Panchayat.</p>
<p>Planning:</p> <p>Every collector shall be asked to prepare blue prints shall be prepared by him as a part of the District plan, but be based on the Panchayat Samiti area development plans prepared with a view to give employment guarantee to all adult persons for unskilled manual work and to make use of natural resources actual or potential, which are readily available in the respective Panchayat Samiti areas. The Collector shall place the blue</p>	<p>Clause 16(3) of the Bill provides that every Gram Panchayat shall after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises. As per Clause 15(3) the Programme Officer is to prepare a plan for his Block by consolidating the project proposals prepared by the Gram Panchayat</p>

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<p>prints for approval before the District Level Committee, which shall give its approval after taking into consideration the view of the Panchayat Samiti Level Committees.</p>	<p>and the proposals received from intermediate Panchayats. The Standing Committee of Panchayat at district level is to finalise and approve Blockwise shelf of projects under the scheme. Hence, it may be seen that the approach is clearly bottom-up.</p>
<p>Registration:</p> <p>The Samiti Officer may direct any person who volunteer for employment under the scheme to do work of any type permissible under the Scheme.</p>	<p>The Gram Panchayat shall register the applicants. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.</p> <p>The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.</p> <p>Applicants who are provided with work shall be so intimated in writing by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Gram Panchayat Office.</p>
<p>Types of Work:</p> <p>Only productive works are taken up under the scheme. However, if in the opinion of the State Govt. it is necessary to provide employment in any area on any works to meet the conditions created by natural calamities like heavy rains, floods, earthquakes,</p>	<p>The type of work executed under the various schemes would be:</p> <ul style="list-style-type: none"> — Water Conservation & water harvesting — Drought proofing (including afforestation & tree plantation)

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<p>droughts, scarcity or cyclones, the State Govt. may permit such works being taken up under the scheme for such temporary period as the State Govt. may decide from time to time.</p>	<ul style="list-style-type: none"> — Irrigation canals including micro & mini irrigation works. — Provision of irrigation facility to land owned by households belonging to SCs/STs. — Renovation of traditional water bodies, including desilting of tanks. — Land Development — Flood control & protection works, including drainage in water logged areas. — Rural connectivity to provide all-weather access. — Any other work which may be notified by the Central Govt.
<p>Rationing Device:</p> <p>There are no such provisions under this Act.</p>	<p>There are no such provisions under this Bill. The aim is to provide wage employment to eligible applicants.</p>
<p>Public/Private Nature of Work:</p> <p>Works can be undertaken on private lands which would directly benefit the holders of the land.</p>	<p>The Bill provides for irrigation facility to land owned by households belong to the Scheduled Castes and Scheduled Tribes.</p>

APPENDIX IV

**PRIMITIVE TRIBAL GROUPS AND THEIR POPULATION IN
INDIA FROM 1961 TO 1991**

(Figures in actual)

States/ UTs.	Name of P.T.G.	Population			
		1961	1971	1981	1991
1	2	3	4	5	6
Andhra Pradesh	1. Chenchu	17609	24178	28434	40869
	2. Bodo Gadaba	21840	25108	27732	33127
	3. Gutob Gadaba	—	—	—	—
	4. Dongria Khond	21754	34382	39408	66629
	5. Kultia Khond	—	—	—	—
	6. Kolam	16731	26498	21842	41254
	7. Konda Reddi	35439	42777	54685	76391
	8. Kondasavara	—	28189	—	—
	9. Bondo Porja	—	—	—	—
	10. Khond Porja	9350	12347	16479	24154
	11. Parengi Porja	—	—	—	—
	12. Thoti	546	1785	1388	3654
	Total	123269	195264	189968	286078
Bihar (Including Jharkhand)	13. Asur	5819	7026	7783	9623
	14. Birhor	2438	3461	4377	8083
	15. Birjia	4029	3628	4057	6191
	16. Hill Kharia	108983	127002	141771	151634
	17. Korwa	21162	18717	219940	24871

1	2	3	4	5	6
	18. Mal Paharia	45423	48636	79322	86790
	19. Parhaiya	12268	14651	24012	30421
	20. Sauria Paharia	55605	59047	39269	48761
	21. Savar	1561	3548	3014	4264
	Total	257289	285719	325545	370638
Gujarat	22. Kolgha	—	29464	62232	82679
	23. Kathodi	—	2939	2546	4773
	24. Kotwalia	—	12902	17759	19569
	25. Padhar	—	4758	10587	15896
	26. Siddi	—	4482	5429	6336
	Total	—	54545	98553	129253
Karnataka	27. Jenu Kuruba	3623	6656	34747	29371
	28. Koraga	6382	7620	15146	16322
	Total	10005	14276	49893	45693
Kerala	29. Cholanaikayan	—	306	234	—
	30. Kadar	—	1120	1503	2021
	31. Kattunayakan	—	5565	8803	12155
	32. Koraga	—	1200	1098	1651
	33. Kurumba	—	1319	1283	1820
	Total	—	9510	12921	17647
Madhya Pradesh (including Chhattisgarh)	34. Abujh Maria	11115	13000	15500	—
	35. Baiga	—	6194	248949	317549
	36. Bharia	—	1589	1614	—
	37. Birhor	513	738	561	2206
	38. Hill Korwa	23605	67000	19041	—

1	2	3	4	5	6
	39. Kamar	—	13600	17517	20565
	40. Sahariya	174320	207174	281816	332748
	Total	209551	309295	564998	673068
Maharashtra	41. Katkari/Kathodi	—	146785	174602	202203
	42. Kolam	—	56061	118073	147843
	43. Maria Gond	—	53400	66750	—
	Total	—	256246	359425	350046
Manipur	44. Maram Naga	—	5123	6544	9592
Orissa	45. Chuktia Bhunjia	—	—	—	—
	46. Birhor	—	248	142	825
	47. Bondo	—	3870	5895	7315
	48. Didayi	—	3055	1978	5471
	49. Dongria Khond	—	2676	6067	—
	50. Juang	—	3181	30876	35665
	51. Kharia	—	1259	1259	—
	52. Kutia Khond	—	3016	4735	—
	53. Lanjia Saura	—	4233	8421	—
	54. Lodha	—	1598	5100	7458
	55. Mankirdia	—	133	1005	1491
	56. Paudi Bhuyan	—	4424	8872	—
	57. Saura	—	2845	2917	—
	Total	—	30528	77267	58225
Rajasthan	58. Saharia	23125	26796	40945	59810
Tamil Nadu	59. Irular	79835	89025	105757	138827
	60. Kattunayakan	6459	5042	26383	42761
	61. Kota	833	1188	604	752

1	2	3	4	5	6
	62. Korumba	1174	2574	4354	4768
	63. Paniyan	4779	6093	6393	7124
	64. Toda	714	930	875	1100
	Total	93794	105032	144366	195332
Tripura	65. Riang	56579	64722	84004	111606
Uttar Pradesh (including Uttaranchal)	66. Buksa	—	—	31807	34621
	67. Raji	—	—	1087	1728
	Total	—	—	32894	36349
West Bengal	68. Birhor	—	—	658	855
	69. Lodha	—	45906	53718	68095
	70. Toto	—	—	675	—
	Total	—	45906	55051	68950
Andaman & Nicobar Islands	71. Great Andamanese	—	—	42	32
	72. Jarawa	—	—	31	89
	73. Onge	—	—	97	101
	74. Sentinelesle	—	—	—	24
	75. Shom Pen	71	212	223	131
	Total	71	212	393	377
All India	Grand Total	773704	1403174	2042767	2412664

APPENDIX V

EXTRACTS OF PARAS FROM THE NINTH REPORT OF THE STANDING COMMITTEE ON RURAL DEVELOPMENT ON DEMANDS FOR GRANTS (2005-06) THE DEPARTMENT OF RURAL DEVELOPMENT

2.42 The Committee note that in the schemes meant for providing wage employment for manual labour work, like SGRY and Food for Work Programme the participation of women, may not be so encouraging. The data with regard to SGRY, as well as the observation of the Committee during the Study-visit to Varanasi and Lucknow in Uttar Pradesh substantiate this point. The Committee find that the Government propose to provide 100 days of wage employment to each family in rural area. To achieve this objective the Government has brought a legislation. 'The National Employment Guarantee Bill, 2004' which is under examination of this Standing Committee. At present National Food for Work Programme is being launched in 150 districts to achieve the said objective. The Committee feel that serious efforts have to be made by taking the suitable action in this regard so as to encourage participation of women under the Employment Guarantee Scheme. The Committee would further like to hear from the Government their experience under the National Food For Work Programme as well as the efforts envisaged to protect the interests of women at the work fields to enable the Committee to analyse the position and comment further in this regard.

Reply

The participation of women in manual labour work under SGRY and FFWP varies from State to State. In 13 States & UTs more than 30% women are getting employment under SGRY. The percentage varies between 20-30%. Only in nine States/UTs the employment generated for women is less than 20%. The SGRY guidelines have a provision for facilities for creches for children coming with working mothers. The National Food for Work Programmes also has a similar provision. The National Food for Work Programmes was launched in November 2004. The percentage to women worker under NFFWP is 34.25% in year 2004-05.

3.12 The Committee find from the information and clarification provided by the Department that at present National Food for Work

Programme along with Sampoorna Grameen Rozgar Yojana (SGRY) is being implemented in 150 selected districts. In the remaining district Sampoorna Grameen Rozgar Yojana is being implemented. When, the National Employment Guarantee Act will be applicable, these two programmes will be merged together and shall be known by the name of the Act. While nothing the aforesaid scheme of things, the Committee are at a loss to understand the plethora of schemes with the some objective. Not only that it is not clear where the National Employment Scheme will be applicable, indicating clearly where it is the replacement of Food for Work Programme. The Committee strongly recommend that SGRY and Food for Work Programme should be merged together in the 150 districts selected so far which will pave the way for 100 days guarantee. The merged scheme should be known as National Employment Guarantee Scheme which will ultimately be proposed to take the shape of legal guarantee after the aforesaid enactment.

Reply

The SGRY and Food for Work Programme would be merged in 150 districts after the National Rural Employment Guarantee Scheme comes in force in these districts. The National Rural Employment Guarantee Bill is already introduced in Lok Sabha.

3.13 The Committee find from the Budget documents as well as replies furnished by the Department that allocation and utilisation has been indicated state-wise. The Committee note that in view of the existing system of indicating and monitoring data, it is not possible to know the performance of the programme in the selected 150 districts. The Committee would like to recommend that district-wise physical and financial achievement should be indicated against each of the districts so as to know the impact of the programme in each of the districts. Such data will also enable the Government to know the various shortcomings in the programme which will ultimately be taking the shape of guarantee scheme.

Reply

The district-wise physical and financial achievements will be given at the time of submitting Action Taken Report on Paras.

3.14 The Committee further fail to understand the difference between the most backward districts selected by the Department for the purpose of National Food for Work Programme with those of 170 most backward districts mentioned by the Finance Minister in his

Budget speech. The Committee would like the Department to analyse the position in this regard and furnish explanation to the Committee. The Committee would also like to strongly recommend that while selecting the districts for National Food for Work Programme, it should be strictly ensured that parameters for selection of districts are such that first of all the most backward districts in a State get the due priority in the Programme.

Reply

The district under National Food for Work Programme was selected on the basis of exercise undertaken by the Planning Commission based on three para-metres namely; SC/ST populations, inverse of agricultural productivity and agricultural wage. The districts mentioned by the Finance Minister is a later exercise by the Planning Commission based on different para-metres.

3.15 The National Employment Guarantee Bill (2004) is being examined by this Committee and all related matters will be analysed and suitably recommended in the report. At this stage, the Committee would like to say that although the Government has started the Food for Work Programme in 150 districts meant to achieve the similar objective as of the said legislation, there is no planning on the part of the Government as to how the Guarantee Scheme will be applicable throughout the country. The Committee are constrained to find that so far no exercise has been made to know that the estimated outlay that will be required to cover the whole country with the said guarantee. The Committee fail to understand how the Government would be achieving the objective of such an ambitious legislation. The Committee strongly recommend that the Government should do the desired homework so that such a big programme with laudable objectives could be translated into reality.

Reply

The estimate of outlay has been given in reply to question No. of the questionnaire.

3.31 The Committee find that during 10th Plan under Sampoorna Grameen Rozgar Yojana Planning Commission has allocated for cash component Rs. 18,538 crores lesser than the proposed allocation. Similarly during 2005-06, the allocation is 1,428 crore lesser than the proposed allocation. Under National Food for Work Programme during 2005-06, the allocation for cash component is Rs. 573 crore higher than the proposed allocation. The Committee further note that SGRY will

be applicable in the districts where National Food for Work Programme which eventually will be converted into Guarantee Scheme is not applicable. In such a situation, the Committee hold the view that till the scope of NFFWP is further extended, the majority of the districts will be covered by SGRY. In such a situation the Committee recommend that due priority should be accorded to SGRY. The outlay under National Food for Work Programme should not be provided at the cost of SGRY.

Reply

Due priority shall continue to be given to SGRY and outlay of National Food for Work Programme will not be at the cost of SGRY.

3.32 The Committee further find that with regard to the payment for foodgrains component under SGRY as well as NFFWP, there is utter confusion. They note that as per the recent decision, the payment for foodgrains component will directly be managed by the Ministry of Finance. As per the data reported by the Secretary during evidence Rs. 15,000 crore is the outstanding payment to Food Corporation of India. The Committee also note that during 2005-06, no allocation has been indicated against the proposed allocation of Rs. 27,375.87 crore under SGRY and Rs. 2,313 crore under NFFWP for foodgrains component. In such a scenario the Committee fail to understand how the Government will fulfil the commitment of providing adequate allocation under the wage employment programme of the Department. The Committee feel that, the specific allocation and outstanding due to Food Corporation of India should invariably be indicated in the Budget documents irrespective of the fact whether payment is made by the Ministry of Rural Development or Ministry of Finance to the Food Corporation of India or to the Department of Food and Public Distribution (Ministry of Consumer Affairs, Food & Public Distribution) so as to know about the clear picture of the allocation. The Committee would like to be clearly informed how the Government propose to arrange for the outlay for the employment guarantee for which ambitious commitments have been made in the National Common Minimum Programme as well as in the Budget announcements.

Reply

Under the National Rural Employment Guarantee Bill, the foodgrains are not essential to be given as part of the wages.

3.33 The Committee are disappointed to note the implementation of SGRY in some of the States particularly Uts. The Committee are further constrained to note the reply of the Department stating that

Union Territories have never utilized their allocated resources to the fullest extent under SGRY and as such no district under Food for Work Programme was included for Union Territories. The Committee strongly recommend to analyse the reasons for poor performance in each of the States as indicated in the preceding para of the report and take the corrective action immediately. The Committee may also be kept informed about this. The Committee are unable to understand poor performance of SGRY in Union Territories which are directly under the administrative control of the Union Government. They would like the explanation of the Department in this regard.

Reply

The UTs are getting resources under various schemes and due to their small size, the demand for wage employment is less.

APPENDIX VI

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE
HELD ON WEDNESDAY, THE 19 JANUARY, 2005

The Committee sat from 1500 hrs. to 1730 hrs. in Committee Room
'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shri L. Ganesan
4. Shri Mohan Jena
5. Shri Hannan Mollah
6. Shri Dawa Narbula
7. Shri P. Chalapathi Rao
8. Shri S. Sudhakar Reddy
9. Shri Nikhilananda Sar
10. Shri Mohan Singh
11. Shri Sita Ram Singh
12. Shri Bagun Sumbrai

Rajya Sabha

13. Kumari Nirmala Deshpande
14. Prof. Alka Balram Kshatriya
15. Shri Penumalli Madhu
16. Shri Kalraj Mishra
17. Dr. Chandan Mitra
18. Dr. Faguni Ram
19. Prof. R.B.S. Varma

SECRETARIAT

1. Shri V.K. Sharma — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Deputy Secretary*
3. Shri A.K. Shah — *Assistant Director*

**Representatives of Ministry of Rural Development
(Department of Rural Development)**

1. Shri M. Shankar, Secretary
2. Shri V. Subramanian, Additional Secretary & Financial Advisor
3. Shri J.K. Mohapatran, Joint Secretary (SGSY)

**Representatives of Ministry of Law and Justice
(Legislative Department)**

1. Shri T.K. Viswanathan, Secretary
2. Shri N.K. Nampoothiry, Joint Secretary & Legislative Counsel

**Representatives of Ministry of Finance (Department of
Expenditure)**

1. Shri Anurag Goel, Additional Secretary
2. Shri Vivek Rae, Joint Secretary (PF-II)

Representative of Planning Commission

1. Dr. (Smt.) Rohini Nayyar, Advisor (RD)

2. At the outset, the Chairman welcomed the members to the sitting of the Committee convened for briefing by the representatives of Ministry of Rural Development (Department of Rural Development) on 'The National Rural Employment Guarantee Bill, 2004' referred to the Committee by the Hon'ble Speaker, Lok Sabha on 23 December, 2004.

3. The Hon'ble Chairman thereafter, outlined the importance of the Bill which seeks to secure wage employment for the poor households in rural areas as a guaranteed entitlement. He also highlighted certain critical areas which needed to be addressed carefully by the Committee. These included extension of the Act in a time bound manner, minimum wages, targeting Below Poverty Line (BPL) households for coverage under the said Bill, mobilization of resources etc.

4. The Chairman then invited the suggestions of the Committee for examination of the Bill. The Committee after deliberations decided to invite memoranda on the Bill from the public in general and experts/professionals/organizations/associations interested in the subject in particular through print and electronic media followed by oral evidence. The Committee also noted that the responsibility of implementation of various provisions of the Bill was with the respective State/UT Governments. Besides, as stated by the Ministry, 25 per cent of the material component, the expenditure to be incurred on unemployment allowance and administrative expenses etc. had to be borne by the respective State/UT Governments. The Committee noted with concern that in spite of all these factors, the nodal Ministry *i.e.* Ministry of Rural Development did not hold any formal consultation with the State Governments before finalisation of the said legislation. Since the cooperation of the State Governments and Union territory Administrations is the pre-requisite for the implementation of various provisions of the Bill, the Committee decided that views of all the State Governments/Union territory Administrations followed by evidence at a later stage should be taken by the Committee after seeking the permission of Hon'ble Speaker as per direction 60(1) of the 'Directions by the Speaker', Lok Sabha.

[The representatives of the Ministry of Rural Development (Department of Rural Development), Ministry of Law and Justice (Legislative Department), Ministry of Finance (Department of Expenditure) and Planning Commission were then called in].

5. The Chairman welcomed the representatives of the Ministries of Rural Development (Department of Rural Development), Law and Justice (Legislative Department), Finance (Department of Expenditure) and Planning Commission to the sitting and drew their attention to direction 55(1) of the 'Directions by the Speaker'.

6. The Committee was then briefed by the representatives of the Ministry of Rural Development. A presentation on the various aspects of the Bill was made by the Ministry. The main issues that came up during the course of briefing were role of the State Governments/Union territory Administrations with regard to implementation of the Bill, if enacted in terms of availability of funds, difficulty in implementation at ground level and likely increase in litigation, widening the scope of the Bill for the reach of beneficiaries, absence of time bound implementation of the Bill etc.

7. The Committee, thereafter, decided that officials of Standing Committee on Rural Development be invariably invited in review meetings of the Ministry of Rural Development convened for monitoring of different schemes of Rural Development in the country and in seminars being organised by the Ministry with a view to have closer view about implementation of schemes. The same was agreed to by the Secretary, Ministry of Rural Development.

8. The representatives thereafter withdrew.

9. The Committee then, decided to hold the next sitting on 2 February, 2005 for further examination of the Bill.

A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX VII

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE NINTH SITTING OF THE COMMITTEE HELD
ON WEDNESDAY, THE 2 FEBRUARY, 2005

The Committee sat from 1500 hrs. to 1730 hrs. in Committee Room
'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shri Mohan Jena
4. Shri Dawa Narbula
5. Shrimati Tejaswini Seeramesh
6. Shri P. Chalapathi Rao
7. Shri S. Sudhakar Reddy
8. Shri Nikhilananda Sar
9. Shri Mohan Singh
10. Shri D.C. Srikantappa

Rajya Sabha

11. Kumari Nirmala Deshpande
12. Prof. Alka Balram Kshatriya
13. Shri Penumalli Madhu
14. Dr. Chandan Mitra
15. Prof. R.B.S. Varma

SECRETARIAT

1. Shrimati Sudesh Luthra — *Deputy Secretary*
2. Shri A.K. Shah — *Assistant Director*

Representatives of Ministry of Panchayati Raj

1. Shri Wajahat Habibullah, Secretary
2. Shrimati Sudha Pillai, Additional Secretary & Financial Advisor

Representatives of Ministry of Labour & Employment

1. Shri K.K. Mittal, Director General (Employment & Training)
2. Dr. Ashok Sahu, Labour & Employment Adviser
3. Shri P.K. Ray, Deputy Director General (Employment)

Representatives of Ministry of Tribal Affairs

1. Smt. P. Jyoti Rao, Secretary
2. Shri S. Chatterjee, Joint Secretary

Representatives of Ministry of Agriculture (Department of Agriculture & Cooperation)

1. Shri Champak Chatterji, Additional Secretary
2. Shri M.M. Nampoothiry, Economic & Statistical Adviser
3. Shri Naved Masood, Joint Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee convened for briefing by the representatives of Ministries of (i) Panchayati Raj (ii) Tribal Affairs (iii) Labour & Employment and (iv) Agriculture (Department of Agriculture & Cooperation) on 'The National Rural Employment Guarantee Bill, 2004' referred to the Committee by the Hon'ble Speaker, Lok Sabha on 23 December, 2004.

3. The Chairman, thereafter pointed out that while examining the various provisions of the Bill, it was felt that besides the nodal Ministry, certain clarifications were required from various other Ministries *viz.* Ministries of (i) Panchayati Raj (ii) Tribal Affairs (iii) Labour & Employment and (iv) Agriculture (Department of Agriculture & Cooperation). He informed the members that the representative of the aforesaid Ministries would brief the Committee on issues related to the Bill, with specific reference to the matters under their jurisdiction.

[The representatives of the Ministries of (i) Panchayati Raj (ii) Tribal Affairs (iii) Labour & Employment and (iv) Agriculture (Department of Agriculture & Cooperation) were then called in.]

4. The Chairman welcomed the representatives of the aforesaid Ministries to the sitting of the Committee and invited their comments on pertinent issues related to their respective Ministries.

5. The Committee was then briefed by the representatives of the respective Ministries on various provisions of the aforesaid Bill, one by one. The representatives of the Ministries also responded to various queries raised by members. The main issues that surfaced during the course of discussion related to ambiguity regarding role and responsibilities of Panchayats, devolution of funds, functions and functionaries to Panchayats, threat of violation of spirit of Part IX of the Constitution by giving more power to the Programme Officer, updating of data related to primitive tribal groups for targeting beneficiaries, universal application etc. for implementation of provisions of the Bill.

6. The representatives thereafter withdrew.

7. The Committee then, decided to hold the next sitting on 14 February, 2005.

A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX VIII

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE HELD ON TUESDAY, THE 31 MAY, 2005

The Committee sat from 1100 hrs. to 1315 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Dawa Narbula
6. Shri A.F. Golam Osmani
7. Shri Anna Saheb M.K. Patil
8. Shri S. Sudhakar Reddy
9. Shri Nikhilananda Sar
10. Shri Mohan Singh
11. Shri Sita Ram Singh
12. Shri D.C. Srikantappa
13. Shri Bagun Sumbrai
14. Shri Mitrasen Yadav

Rajya Sabha

15. Kumari Nirmala Deshpande
16. Prof. Alka Balram Kshatriya
17. Shri Penumalli Madhu
18. Dr. Chandan Mitra
19. Dr. Faguni Ram
20. Prof. R.B.S. Varma

SECRETARIAT

- | | | |
|---------------------------|---|---------------------------|
| 1. Shri P.D.T. Achari | — | <i>Secretary</i> |
| 2. Shri V.K. Sharma | — | <i>Joint Secretary</i> |
| 3. Shrimati Sudesh Luthra | — | <i>Deputy Secretary</i> |
| 4. Shri A.K. Shah | — | <i>Assistant Director</i> |

Name of the experts who tendered evidence**1.All India Democratic Women's Association**

- (i) Shrimati Brinda Karat, Vice-President
- (ii) Shrimati Subhashini Ali

2.National Federation of Indian Women

- (i) Ms. Sehba Farooqui, General Secretary
- (ii) Ms. Primla Loomba

2. At the outset, the Chairman welcomed the members of the sitting of the Committee. He then informed the members of the status of examination of 'The National Rural Employment Bill, 2004.' The aforesaid Bill was referred to the Committee on 23 December, 2004. The Committee at their sittings held on 19 January, 2005 and 2 February, 2005 were briefed about the provisions of the Bill by the nodal Ministry as well as by the concerned Ministries. Thereafter, the views of experts/ organizations and public at large were invited through print and electronic media. In response to the Press Communique issued, the Secretariat had received 610 memoranda out of which 285 memoranda were not related to the Bill. Besides, 220 memoranda were received in regional languages; whereas the views were called only in English and Hindi version. Thus, 105 memoranda were related to the subject. Besides, the views of State Governments and Union territory Administrations were also invited with the permission of Hon'ble Speaker. The Secretariat had received communication from 15 State Governments and 3 Union territory Administrations.

3. The Chairman further informed the Committee that he had received a letter from Hon'ble Minister of Rural Department requesting him to expedite the report on the aforesaid Bill. Hon'ble Minister had also written to Hon'ble Speaker in this regard. Hon'ble Speaker had also communicated the intention of the Government to pass the Bill during the Budget Session as it had far reaching impact on large

sections of the rural areas. Besides, he had also received a letter from Shri Hannan Mollah, MP and member of the Committee signed by ten other members of the Committee suggesting expeditious finalisation of the report. The Chairman appreciated the intention of the Government as well as members of the Committee to expedite the finalisation of the report and apprised the Committee that much progress on the examination of the Bill could not take place as the Committee were busy with the examination of Demands for Grants 2005-2006 and Action Taken Report on Demands for Grants 2004-2005. Eight reports in this regard were presented to Parliament.

4. As soon as the work relating to Demands for Grants was over, the Secretariat was busy with the examination of the Bill. The sittings for the purpose were fixed on 5 and 6 May, 2005. However, the sittings had to be cancelled due to NDA boycott of Parliament and Parliamentary Committee. All these developments had been communicated to Hon'ble Speaker. Hon'ble Speaker *vide* his note dated 11 May, 2005 directed that the report on the aforesaid Bill be finalized by 24 June, 2005. The Chairman then sought the cooperation of the members of the Committee so that the report could be prepared by the deadline given by Hon'ble Speaker.

5. The Committee then took evidence of the following experts/representatives of organizations/individuals on the provisions contained in 'The National Rural Employment Guarantee Bill, 2004' at the time specified against each.

Name	From	to
1. All India Democratic Women's Association	1130	1215
(i) Shrimati Brinda Karat, Vice-President		
(ii) Shrimati Subhashini Ali		
2. National Federation of Indian Women	1230	1315
(i) Me. Sehba Farooqui, Genreal Secretary		
(ii) Ms. Primla Loomba		

Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of direction 55(1) of the 'Directions by the Speaker.'

6. The witnesses who deposed before the Committee expressed reservations on certain issues like restricting the employment guarantee to BPL families, definition of family, lack of commitment of the Government to expand the guarantee to the country in a time bound manner, provision empowering the Government to withdraw the guarantee, limited role of Panchayati Raj Institutions etc. The experts suggested suitable alternatives and amendments on the concerns raised by them on the aforesaid Bill. The experts also responded to the clarifications sought by members of the Committee. On some of the queries raised by members to which they could not respond at the moment, they were asked to send the replies to the Secretariat at the earliest.

A verbatim record of the proceedings was kept.

The Committee then adjourned to meet again at 1430 hrs.

APPENDIX IX

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE NINETEENTH SITTING OF THE COMMITTEE
HELD ON TUESDAY, THE 31 MAY, 2005

The Committee sat from 1430 hrs. to 1715 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Dawa Narbula
7. Shri A.F. Golam Osmani
8. Shri Anna Saheb M.K. Patil
9. Shri S. Sudhakar Reddy
10. Shri Nikhilananda Sar
11. Shri Mohan Singh
12. Shri Sita Ram Singh
13. Shri D.C. Srikantappa
14. Shri Bagun Sumbrai
15. Shri Mitrasen Yadav

Rajya Sabha

16. Kumari Nirmala Deshpande
17. Prof. Alka Balram Kshatriya
18. Shri Penumalli Madhu
19. Dr. Chandan Mitra
20. Dr. Faguni Ram
21. Prof. R.B.S. Varma

SECRETARIAT

1. Shri V.K. Sharma — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Deputy Secretary*
3. Shri A.K. Shah — *Under Secretary*

Name of the experts who tendered evidence

1. (i) Dr. Jean Dre'ze, Honorary Professor, Delhi School of Economics
(ii) Shri Nikhil Dey
2. (i) Prof. Prabhat Patnaik, Professor, Centre for economic Studies and Planning, School of Social Science, JNU
(ii) Prof. Jayati Ghosh, Professor, Centre for Economic Studies and Planning, School of Social Sciences, JNU.
3. **National Commission on Farmers, Ministry of Agriculture**
 - (i) Shri Atul Sinha, Member Secretary
 - (ii) Shri S.S. Prasad

4. Centre of Indian Trade Unions

Shri W.R. Varada Rajan

2. The Committee resumed evidence and the following experts/individuals/organizations deposed before the Committee one by one on the provisions of 'The National Rural Employment Guarantee Bill, 2004' at the time specified against each.

	Name	From	To
1	2	3	4
1.	(i) Dr. Jean Dre'ze, Honorary Professor, Delhi School of Economics	1430	1500
	(ii) Shri Nikhil Dey, Mazdoor Kisan Shakti Sangathan		
2.	(i) Prof. Prabhat Patnaik, Professor, Centre for Economic Studies and Planning, School of Social Sciences, JNU.	1500	1545
	(ii) Prof. Jayati Ghosh, Professor, Centre for Economic Studies and Planning, School of Social Sciences, JNU		

1	2	3	4
3. National Commission on Farmers,		1545	1630
Ministry of Agriculture			
(i) Shri Atul Sinha, Member Secretary			
(ii) Shri S.S. Prasad			
4. Centre of Indian Trade Unions		1645	1715
Shri W.R. Varada Rajan			

Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of direction 55(1) of the 'Directions by the Speaker.'

3. The experts who deposed before the Committee expressed serious reservations on the various provisions of the Bill. There was a unanimous view among the experts that there should be universal application of the employment guarantee. The guarantee should be self targetting. Besides, concerns were also expressed on lack of commitment of the Government for time bound extension of the legislation all over the country, wages to be provided for the purposes of the Bill, provision of switch off of guarantee, limited role of Panchayati Raj Institutions, lack of sensitivity towards women and physically handicapped persons etc.

4. The Committee, thereafter, decided to postpone the sittings of the Committee scheduled to be held on 10 and 11 June, 2005 to 13 and 14 June, 2005.

A verbatim record of the proceedings was kept.

The Committee then adjourned to meet on 1 June, 2005 at 1100 hrs.

APPENDIX X

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE TWENTIETH SITTING OF THE COMMITTEE
HELD ON WEDNESDAY, THE 1 JUNE, 2005

The Committee sat from 1100 hrs. to 1330 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Dawa Narbula
7. Shri A.F. Golam Osmani
8. Shrimati Tejaswini Seeramesh
9. Shri Nikhilananda Sar
10. Shri Mohan Singh
11. Shri Sita Ram Singh
12. Shri Mitrasen Yadav

Rajya Sabha

13. Kumari Nirmala Deshpande
14. Prof. Alka Balram Kshatriya
15. Shri Penumalli Madhu
16. Dr. Chandan Mitra
17. Dr. Faguni Ram
18. Prof. R.B.S. Varma

SECRETARIAT

1. Shri V.K. Sharma — *Joint Secretary*
 2. Shrimati Sudesh Luthra — *Deputy Secretary*

Name of the experts who tendered evidence**1. Centre for Women's Development Studies**

- (i) Shri Narayan Banerjee, Director
 (ii) Smt. Indrani Majumdar

2. Shri V.P. Singh, Former Prime Minister**3. All India Agricultural Workers Union**

Shri Suneet Chopra, Joint Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee convened to take oral evidence of the experts on 'The National Rural Employment Guarantee Bill, 2004.'

3. The Committee then took evidence of the following experts/representatives of organizations/individuals at the time indicated against each.

Name	From	To
1. Centre for Women's Development Studies	1130	1200
(i) Shri Narayan Banerjee, Director		
(ii) Smt. Indrani Majumdar		
2. Shri V.P. Singh, Former Prime Minister	1200	1230
3. All India Agricultural Workers Union	1230	1315
Shri Suneet Chopra, Joint Secretary		

Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of direction 55(1) of the 'Direction by the Speaker'.

4. The experts deposing before the Committee made crucial observations/suggestions regarding the various provisions of the Bill for the consideration of the Committee. On some of the issues such as making the guarantee self targetting under the legislation, extending the Bill to the entire country in a time bound manner, broadening the

scope of works listed under Schedule I etc. there was near unanimity among the experts.

5. The experts responded to the various queries raised by members of the Committee pertaining to the Bill. On some of the queries raised by members to which they could not respond at the moment, they were asked to send the written replies to the Secretariat.

A verbatim record of the proceedings was kept.

The Committee then adjourned to meet again at 1430 hrs.

APPENDIX XI

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE TWENTY FIRST SITTING OF THE
COMMITTEE HELD ON WEDNESDAY, THE 1 JUNE, 2005

The Committee sat from 1430 hrs. to 1730 hrs. in Committee Room
'C', Parliament House Annexe, New Delhi.

PRESENT

Prof. R.B.S. Verma—*in the Chair*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Dawa Narbula
7. Shri A.F. Golam Osmani
8. Shrimati Tejaswini Seeramesh
9. Shri Nikhilananda Sar
10. Shri Mohan Singh
11. Shri Sita Ram Singh
12. Shri Mitrasen Yadav

Rajya Sabha

13. Kumari Nirmala Deshpande
14. Prof. Alka Balram Kshatriya
15. Shri Penumalli Madhu
16. Dr. Chandan Mitra
17. Dr. Faguni Ram

SECRETARIAT

Shrimati Sudesh Luthra — *Deputy Secretary*

Name of the Experts who tendered evidence

1. **Hind Mazdoor Sabha**
Shri R.A. Mittal, Secretary
2. **Peoples Action for Employment Guarantee**
 - (i) Shri Subhash Bhatnagar
 - (ii) Smt. Annie Raja
 - (iii) Prof. Kamal Mitra Chinoy
 - (iv) Shri R.A. Mittal, Hind Mazdoor Sabha
3. Shri Bimal Jalan, M.P. (Rajya Sabha)
4. **Institute of Social Sciences**
Shri George Mathew
5. **National Federation of Blind**
 - (i) Shri S.K. Rungta, General Secretary
 - (ii) Prof. (Miss) Amita Dhanda
6. Shri V.K. Saxena, Former Chief Secretary, Government of Uttar Pradesh

2. In the absence of the Chairman, the Committee chose Prof. R.B.S. Verma to act as Chairman for the sitting under Rule 258(3) of Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee resumed evidence of the following experts/representatives of organisations at the time indicated against each.

	Name	From	To
1	2	3	4
1.	Hind Mazdoor Sabha Shri R.A. Mittal, Secretary	1430	1500
2.	Peoples Action for Employment Guarantee <ol style="list-style-type: none"> (i) Shri Subhash Bhatnagar (ii) Smt. Annie Raja (iii) Prof. Kamal Mitra Chinoy (iv) Shri R.A. Mittal, Hind Mazdoor Sabha 	1500	1530
3.	Shri Bimal Jalan, M.P. (Rajya Sabha)	1545	1615
4.	Institute of Social Sciences Shri George Mathew	1615	1640

1	2	3	4
5.	National Federation of Blind	1640	1700
	(i) Shri S.K. Rungta, General Secretary		
	(ii) Prof. (Miss) Amita Dhanda		
6.	Shri V.K. Saxena, Former Chief Secretary, Government of Uttar Pradesh	1700	1730

Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of Direction 55(1) of the 'Directions by the Speaker.'

4. The experts/representatives of the organizations and individuals who deposed before the Committee made some crucial observations on the various provisions of the Bill. The suggestions tendered before the Committee were almost on the same lines as suggested by experts in the earlier sittings of the Committee.

5. The Committee sought various clarifications on the certain provisions of the Bill from the experts. The experts were asked to send the replies to the queries raised by members, the information in respect of which was not readily available.

A verbatim record of the proceedings was kept.

The Committee then adjourned.

APPENDIX XII

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE TWENTY SECOND SITTING OF THE
COMMITTEE HELD ON MONDAY, THE 13 JUNE, 2005

The Committee sat from 1100 hrs. to 1315 hrs. in Committee Room
'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Subhash Maharia
7. Shri Hannan Mollah
8. Shri A.F. Golam Osmani
9. Shri Anna Saheb M.K. Patil
10. Shrimati Tejaswini Seeramesh
11. Shri Nikhilananda Sar
12. Shri Mohan Singh
13. Shri D.C. Srikantappa
14. Shri Bagun Sumbrai
15. Shri Mitrasen Yadav

Rajya Sabha

16. Kumari Nirmala Deshpande
17. Shri Penumalli Madhu
18. Shri Kalraj Mishra
19. Dr. Chandan Mitra
20. Dr. Faguni Ram
21. Prof. R.B.S. Varma

SECRETARIAT

Shrimati Sudesh Luthra — *Deputy Secretary*

**Representatives of the Ministry of Rural Development
(Department of Rural Development)**

1. Shri M. Shankar, Secretary
2. Shri V. Subramanian, Additional Secretary & FA
3. Shrimati Amita Sharma, Joint Secretary

**Representative of Ministry of Finance
(Department of Expenditure)**

Shri Anurag Goel, Additional Secretary

Representatives of Planning Commission

1. Dr. Pronab Sen, Principal Advisor (PP)
2. Dr. (Shrimati) Rohini Nayyar, Senior Consultant (RD)

**Representatives of Ministry of Law and Justice
(Department of Legal Affairs)**

1. Dr. D.P. Sharma, Additional Secretary
2. Dr. Santokh Singh, Additional Legal Advisor

Representative of Ministry of Tribal Affairs

Shri S. Chatterjee, Joint Secretary

Representatives of Ministry of Panchayati Raj

1. Shrimati Sudha Pillai, Additional Secretary
2. Shri T.R. Raghunandhan, Joint Secretary

2. At the outset, the Chairman welcomed the members and the representatives of the aforesaid Ministries to the sitting of the Committee convened to take oral evidence of the representatives of the Ministry of Rural Development (Department of Rural Development) on 'The National Rural Employment Guarantee Bill, 2004'. He also welcomed the representatives of the Ministry of Finance (Department of Expenditure), Ministry of Law and Justice (Department of Legal Affairs), Ministry of Tribal Affairs, Ministry of Panchayati Raj and Planning Commission present at the sitting to assist the Committee. The Chairman then drew their attention to direction 55(1) of 'Directions by the Speaker.'

3. The Chairman, thereafter, indicated in brief some of the major issues pertaining to the aforesaid Bill on which experts/representatives of organizations, individuals etc., who deposed before the Committee had expressed serious reservations. Such issues included universal application and self targeting of the employment guarantee emphasized in the Bill, lack of commitment on the part of the Government to a time bound extension of the guarantee to the whole of the country, provisions in the Bill enabling the Government to switch off the guarantee at any time, restricted role of Panchayats, minimum wages to be provided for the purposes of the legislation, financial implication etc.

4. The Committee then took oral evidence of the representatives of the nodal Ministry on the aforesaid Bill. The Secretary first of all responded to the issues raised by Hon'ble Chairman. He agreed that universal application of the employment guarantee was the desired and the best way of providing the guarantee under the legislation. Not only that, he assured the Committee that the Department was ready to consider the universal application concept. The representative of the Ministry of Finance (Department of Expenditure) too agreed to shoulder the financial liabilities under the Bill. Besides, the Secretary, Rural Development acknowledged the need for making a provision for time bound extension of the legislation to the country as a whole.

5. The Secretary (Department of Rural Development), thereafter, replied to the various queries raised by the members of the Committee on the provisions of the Bill.

6. The representatives of the Ministry of Tribal Affairs present at the meeting made various crucial suggestions with regard to tribal areas where the constitution of local bodies is quite different. He suggested that in each of the Monitoring Committees at the Central, State and district/block levels, at least one member should be from Scheduled Tribes, instead of clubbing them with Scheduled Castes and others. He also suggested that at the district/block level, the Ministry has Integrated Tribal Development Project (ITDPs)/Integrated Tribal Development Agencies (ITDAs) who should also be associated in the tribal areas.

7. The representatives of the Ministry of Panchayati Raj observed that as per the provisions made in the Bill, the position of Panchayat is not Central. He also stated that the provisions made in the Bill are not in tune with the spirit of part IX of the Constitution. He suggested that the Panchayats should be accorded Central position in the legislation.

A verbatim record of the proceedings was kept.

The Committee then adjourned to meet again at 1500 hrs.

APPENDIX XIII

COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

MINUTES OF THE TWENTY THIRD SITTING OF THE
COMMITTEE HELD ON MONDAY, THE 13TH JUNE, 2005

The Committee sat from 1500 hrs. to 1715 hrs. in Committee Room
'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Subhash Maharia
7. Shri Hannan Mollah
8. Shri A.F. Golam Osmani
9. Shri Anna Saheb M.K. Patil
10. Shrimati Tejaswini Seeramesh
11. Shri Nikhilananda Sar
12. Shri Mohan Singh
13. Shri D.C. Srikantappa
14. Shri Bagun Sumbrai
15. Shri Mitrasen Yadav

Rajya Sabha

16. Kumari Nirmala Deshpande
17. Shri Penumalli Madhu
18. Shri Kalraj Mishra
19. Dr. Chandan Mitra
20. Dr. Faguni Ram
21. Prof. R.B.S. Varma

SECRETARIAT

Shrimati Sudesh Luthra — *Deputy Secretary*

2. At the outset, the Chairman welcomed the members to the sitting of the Committee. He then outlined in brief some of the major issues that have emerged during the course of the examination of the aforesaid Bill. Further, the Chairman invited the members' suggestions with regard to modifications, amendments, additions or deletions pertaining to any of the clauses of the Bill.

3. The Committee, thereafter took up clause by-clause consideration* of the aforesaid Bill. The Committee decided to consider those clauses first on which reservations had been expressed from various quarters. The Committee considered clause 3(1) of the Bill read with clause 2(f), 2(k) and 2(p) of the Bill. After detailed deliberations, the Committee noted that certain concerns had been expressed from various quarters with regard to BPL concept, primitive tribals and restricted definition of family etc.

The Committee noted that all these concerns would be addressed if employment guarantee being provided under the Bill is made universal and self targeting which means whoever offers himself/herself for work will be provided employment at the specified wages. After detailed deliberations, the Committee decided that a recommendation be made for suitable amendment to the aforesaid clause of the Bill so as to provide universal application of the guarantee.

4. The Committee thereafter deliberated clause 1(3) of the Bill regarding date of application of 'The National Rural Employment Guarantee Bill, 2004'. The Committee noted that as per the existing provisions made in the Bill, there appeared to be lack of commitment on the part of the Government to implement the provisions of the Bill in a time bound manner. After deliberations, the Committee felt that there was an urgent need to indicate specified time limit in the legislation itself so as to indicate clearly the Government's intention to extend the legislation in each rural area in the country. The Committee therefore, recommended that the said clause should be amended.

5. The Committee then considered clause 6 of the Bill relating to wage rate to be provided for the purposes of the legislation. After detailed deliberations, the Committee decided that the wages fixed for the purposes of the Bill should be fixed by the State Government so

*The agenda scheduled to be considered by the Committee was to take further evidence of the Ministry of Rural Development (Department of Rural Development). Since the evidence was concluded in the forenoon meeting the Committee decided to undertake clause-by-clause consideration in the afternoon meeting.

that wages may either be 75 per cent of National floor level wage or the minimum wage level which may be higher.

6. The Committee thereafter considered clauses 7 and 12 of the Bill and para 27 of Schedule II of the Bill read with 'Financial Memoranda' of the Bill. The Committee noted that as per the existing provisions, State Government have to bear over 10 per cent of financial implication. Keeping in view the poor financial position of most of the State Governments, the Committee decided to recommend that 100 per cent financial burden should be shouldered by the Union Government. However, the expenditure on account of unemployment allowance amount should be borne by the State Governments to put a pressure on State Governments to provide employment.

7. The Committee thereafter considered clause 7 and clause 9 of the Bill and suggested some amendments to the aforesaid clauses of the Bill.

8. The Committee thereafter considered clause 10(3) of the Bill relating to composition of Central Employment Council and State Employment Council. The issue of making provision for inclusion of backward classes in the composition of the said Councils was debated at length by the Committee. The Committee could not decide on the said issue and decided to defer the issue to the next sitting of the Committee.

The Committee decided to resume further clause-by-clause consideration of the Bill at the next sitting of the Committee scheduled to be held on 14 June, 2005.

*The Committee then adjourned to meet again on
Tuesday, the 14 June, 2005.*

APPENDIX XIV

COMMITTEE ON RURAL DEVELOPMENT (2004-05)

MINUTES OF THE TWENTY FOURTH SITTING OF THE COMMITTEE HELD ON TUESDAY, THE 14TH JUNE, 2005

The Committee sat from 1030 hrs. to 1300 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Hannan Mollah
7. Shri A.F. Golam Osmani
8. Shri Anna Saheb M.K. Patil
9. Shrimati Tejaswini Seeramesh
10. Shri P. Chalapathi Rao
11. Shri S. Sudhakar Reddy
12. Shri Nikhilananda Sar
13. Shri Mohan Singh
14. Shri D.C. Srikantappa
15. Shri Bagun Sumbrai
16. Shri Mitrasen Yadav

Rajya Sabha

17. Kumari Nirmala Deshpande
18. Shri Ghanshyam Chandra Kharwar

19. Shri Penumalli Madhu
20. Shri Kalraj Mishra
21. Dr. Chandan Mitra
22. Dr. Faguni Ram
23. Prof. R.B.S. Varma

SECRETARIAT

1. Shri V.K. Sharma — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Deputy Secretary*

2. The Committee resumed consideration of the remaining clauses of 'The National Rural Employment Guarantee Bill, 2004.' These related to provisions under Schedule I and Schedule II of the Bill, power to amend these Schedules, penalty for non-compliance, transparency and accountability, commencement of a new work under the scheme and provisions for women and disabled persons under the guaranteed legislation. The Committee, considered each clause in detail and after exhaustive deliberation, suggested suitable modifications to the respective clauses contained in the Bill.

3. The Committee then took up for consideration the deferred issues relating to representation to backward classes in the Central Employment Council and State Employment Council. After detailed deliberation the Committee decided that such number of representatives of backward classes as the Central Government/State Government decide should be represented on such councils.

The Committee then adjourned to meet on 20 May, 2005 for consideration and adoption of the Draft Report on the aforesaid Bill.

APPENDIX XV

COMMITTEE ON RURAL DEVELOPMENT (2004-05)

MINUTES OF THE TWENTY FIFTH SITTING OF STANDING COMMITTEE ON RURAL DEVELOPMENT (2004-2005)

The Committee sat on Monday, the 20th June, 2005 from 1100 hrs. to 1300 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Sandeep Dikshit
4. Shri Mohan Jena
5. Shri Shrichand Kriplani
6. Shri Subhash Maharia
7. Shri Hannan Mollah
8. Shri Dawa Narbula
9. Shri A.F. Golam Osmani
10. Shri K.C. Palanisamy
11. Shrimati Tejaswini Seeramesh
12. Shri P. Chalapathi Rao
13. Shri S. Sudhakar Reddy
14. Shri Bagun Sumbrai
15. Shri Mitrasen Yadav

Rajya Sabha

16. Kumari Nirmala Deshpande
17. Shri Ghanshyam Chandra Kharwar
18. Prof. Alka Balram Kshatriya
19. Shri Penumalli Madhu

20. Dr. Chandan Mitra
21. Dr. Faguni Ram
22. Prof. R.B.S. Varma

SECRETARIAT

1. Shri P.D.T. Achary — *Secretary*
2. Shri V.K. Sharma — *Joint Secretary*
3. Shri A.K. Shah — *Under Secretary*

At the outset, the Chairman welcomed the members to the sitting of the Committee.

2. The Committee then took up for consideration of the Draft Report on 'The National Rural Employment Guarantee Bill, 2004' and deliberated on the recommendations contained in the Draft Report at length. The Draft Report was then adopted with some modifications.

3. The Committee then authorized the Chairman to finalise the aforesaid Draft Report and present the same to the Hon'ble Speaker.

The Committee then adjourned.