

Recommendations for the Amendment of the Employment Guarantee Act (EGA)

(Outcomes of the workshop on 'Gender Sensitivity of the Employment Guarantee Act', January 28, 2005, MSSRF, Chennai)

S. No.	Reference	Description in the EGA	Recommendation
1.	Chapter I Point 1 (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	This clause has to be deleted and a new clause has to be inserted that ensures gradual extension of EGS to the whole of rural India within five years, starting from a stipulated number of backward districts known to have high levels of poverty. ⁱ
2.	Chapter II Point 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.	Save as otherwise provided, the State Government shall, in such rural area in the State as may be notified by the Central Government, provide to every household whose adult members volunteer to do unskilled manual work not less than one hundred and eighty days of such work in a financial year in accordance with the Scheme made under this Act, leaving the decision as to which member of the household should report to work to be decided by the household itself. ⁱⁱ
3.	Chapter II Point 3 (3)	Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not later than a fortnight after the date on which such work was done.	The disbursement of daily wages should be made within seven days of the week during which work has been done.
4.	Chapter II	Clause to be added	At least 50 percent of the person days of employment should be reserved for women. ⁱⁱⁱ
5.	Chapter III	Clause to be added	Thirty days of compensation (including prenatal & post natal periods) for loss of wages for pregnant & lactating women must be paid out, when the women is the sole bread winner of the household. She should be allowed to return to work when she requires work to complete the

			quota of the stipulated number of days.
6.	Chapter III Point 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: Provided that different rates of wages may be specified for different areas.	Central government has to specify a uniform wage rate for the purpose of the Act. In case specified EGS wage is lower or higher than the statutory minimum wage of agricultural labour in that State, the higher wage of the two may be paid. ^{iv}
7.	Schedule I Clause 1	The focus of the Scheme shall be on the following works in their order of priority: a) water conservation and water harvesting; b) drought proofing (including afforestation and tree plantation); c) irrigation canals including micro and minor irrigation works; d) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes; e) renovation of traditional water bodies including desilting of tanks; f) land development; g) flood control and protection works including drainage_in water logged areas; h) rural connectivity to provide all-weather access; and i) any other work which may be notified by the Central Government	In addition to the works mentioned, the scope of work should be expanded to include services in education, health care, sanitation, provision of drinking water, and other community services, depending upon the need of the communities. ^v
8.	Schedule I Clause 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.	Wages should not be paid according to piece rate. It should always be time linked. ^{vi}
9.	Schedule II Clause 13 (A)	A new work under the Scheme shall be commenced only if (a) at least fifty labourers	A new work under the scheme shall be commenced only if at least twenty persons become

		become available for such work.	available for work. ^{vii}
10.	Schedule II Clause 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.	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 and this should be verified and approved by the Gram Sabha. ^{viii}
11.	Schedule II Clause 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.	Provision for childcare should be made for all children below six who are brought to the site. The women caring for the children should be paid the same EGS wages and may be selected from among those who apply for work, the number required for childcare being related to the number and age composition of children on the site. They may receive brief orientation from the nearest ICDS worker/ health worker/ or other crèche worker in the area. In addition, a safe shelter, safe drinking water, minimum equipment for cleanliness, hygiene and play, and recurring expenses for adequate nutrition per child per day should be provided as part of the scheme. ^{ix}
12.	Schedule II Clause 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.	The Wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least half of the wages shall be paid in cash only and the food component should be calculated at the Antyodaya Anna Yojana rate.

ⁱ The District level Poverty figures are not reliable and hence the best option is to immediately start EGS in all the 148 districts notified for Food for work Program. The latest list of districts available on the website of the Department of Rural Development in the Annexure 1 includes 2 districts of J& K for which the EGS Act is not made applicable. The poverty levels of some districts in Punjab and Kerala could be lower. The expected wages could also be high in these States.

ⁱⁱ The EGS act guarantees work for a stipulated number of days to the members of the household that offer themselves as manual labourers. The Act does not say that this work would be guaranteed to one person only. This helps all the adults of the household to volunteer for manual work and send one or two persons for work depending upon their labour demand elsewhere. In such cases a guarantee of 180 days instead of 100 days for the family gives them an opportunity to earn more as well as the flexibility for an individual to choose between EGS work and other work. For example in lean season of three months, two persons could work per family and earn more while they can go for high paid agricultural work in the peak season. Alternately one person could go for the agricultural work and the other person can come for EGS work for all 180 days. The point that we want to make is that 100 days per family is too low to make any dent on the poverty alleviation. If the household is made the base, and employment is guaranteed to the household and not to the individual, the authorities should only indicate whether work is offered to a woman or man or both and for what duration. The household should decide who among them should report to work. If person-days of employment have to be ensured, then the individuals should not be stipulated by the authorities. In the case of household being the base for EGS, it should allow the flexibility for the family to adjust the work pattern.

An alternative recommendation was to shift the base to the individual and keep the employment guarantee to a minimum of 100 days instead of 180 days. Both the options involve higher allocation of funds by the authorities.

ⁱⁱⁱ This question was debated at length in the workshop. It was felt that the backward districts are likely to have more women as agricultural labourers, and hence a 50 percent reservation of work is necessary for women. The 201 census data shows that out of the 150 districts previously selected for Food for work programme 102 district had more women agricultural labourers than men labourers. In the rural areas. In the revised list that included states such as J&K and Kerala and Punjab, 85 districts have more women than men working as agricultural labour.

If the base is shifted from households to individual, then the 50% reservation for women has no meaning, since all those who volunteer to work as manual labour need to be guaranteed work. The share may be more, or less, as per the number of men and women who volunteer for manual work in that region. Person-days of employment is appropriate, when the problem is that of underemployment in rural areas. 50% reservation of person days is also symbolic of gender equity.

^{iv} If a uniform minimum wage is not stipulated, poverty reduction becomes a far cry. There is a danger of the wage being manipulated in a way that there are no takers for EGS work. (There are other ways of manipulation apart from wage to ensure that there are no takers for the EGS work.) An EGS wage rate has the unique advantage of giving more employment to the needy in the states with low market wages and help in poverty

reduction. In the States where the market wages are higher than the EGS rate, fewer people offer themselves to work. In the states of Punjab and Kerala for example if EGS wage rate is lower than not only the market rate but also the minimum agricultural wage rate in the State, the scheme is of no use to that State. Hence if the EGS has to serve the goal of Poverty reduction with gender equity, it is important to stipulate minimum wage as well as the reservation of work for women. Guarantee of person days of employment per household without any reservation for women would lead to total exclusion of women, if the EGS wage is higher than the market wage. In the Maharashtra guarantee scheme it was alleged that higher EGS wage from the workers organizations led to reduced work offered due to budgetary constraints. Thus unless the four following clauses in the Act are in place the EGS act becomes redundant. The four clauses are: 1. Guarantee of Employment without the fear of withdrawal by the government at will, 2. Stipulation of person days of employment per year per household, 3. Stipulated EGS wage and 4. Fifty percent of person days reserved equally for men and women.

^v The participants felt that this recommendation needs further discussions but it is an important aspect, since services such as those listed below are valuable and they do not need any capital component. They could give quantifiable outputs and better suited for women. Hence they could be brought under the EGS eventually. Some times Gram Sabhas and Gram Panchayats may value community services. A variety of service such as

1. Sweeping the roads,
2. Collection and disposing of garbage,
3. Clearing the clogged drains,
4. Helpers for cattle grazing to reduce school drop outs
5. Helpers to facilitate 100 percent immunization
6. Helpers in cooking and distributing mid day meals
7. Helpers in providing ICDS services
8. Women to look after the young children of working women so that the elder siblings can go to school.

It has been argued by some that two of these services are now performed by Anganwadi workers who are paid only an honorarium and if EGS wage is higher than the payment to Anganwadi workers; it may lead to wage discrimination by the government for the same work. Others feel that it is no different from the EGS wage and the market wage now offered for the services. Expansion of definition of work to services will only help the situation in many backward states, ending undue exploitation at low salaries. No doubt there could be some substitution of work, but it helps poverty reduction. It was felt that the funds from EGS would provide additional resources to the sectors of health and nutrition. Since the Gram Panchayat is the deciding authority, these services are offered under EGS only in the districts in which considerable coordination and concern for community services exists. More over it is felt that such innovative work opportunities with very little capital requirement are tailor made for women and reflect the need of the hour for improving the nutrition and sanitation situation in the villages.

^{vi} Work related to piece rate is often manipulated to the disadvantage of the workers and particularly to women workers. If different types of works have different wage rates, the number of hours of work is adjusted to get the EGS wage rate per person per day. Thus to get EGS rate one person may have to work longer hours or accept a lower wage per day.

While it is important to ensure the quantity of work, most of the works should have similar rates so that an eight hour work schedule gets the person the stipulated EGS wage.

^{vii} If the definition of work is expanded to include services, then it would make this clause unnecessary. Then it is possible for guaranteed employment, even if one person reports to work. Considerable planning has to go into the organisation of work to suit the existing demand pattern in the region.

^{viii} The Gram Panchayat should prepare the list of persons seeking employment, but it has to ensure that it is approved by Gram Sabha. Transparency in operations is of utmost importance. Such list also has to be displayed in the office of the Panchayat and grievances of Omission and Commission have to be addressed.

^{ix} While ensuring work to women, it is of utmost importance that young children who are brought to the work site be looked after. Provision must be made even if there is only one child on the site. This will ensure recognition of women's multiple roles and free them from anxiety and childcare role while at work, but allow them to continue breastfeeding as needed. Support services for women workers in the form of childcare would be the single most important indicator of the gender sensitivity of the scheme.