

Report of State level Workshop on National Rural Employment Guarantee Act, 2005 held at CYSD-DRTC Conference Hall, Bhubaneswar on 21st Feb. 2006 under the aegis of Orissa Right to Food Campaign

Needless to say, the recently enforced National Rural Employment Guarantee Act 2005 is the outcome of a long persisting movement launched by the people's organizations all over the country spanning decades. Since independence, the Act is the first of its kind that recognizes the legal entitlement of rural households, each to get 100 man-days of unskilled employment in a year. And in case of failure of the State to provide the said employment, the registered labourers are entitled to get unemployment allowance. The Act also has provisions for a grievance redressal mechanism, transparency in transactions and social audit of the concerned projects to ensure smooth operationalisation of the objectives of the Act. This Act has already started to be implemented throughout the country with effect from 2nd Feb, 06. The Govt. of Orissa has also started implementing it through a Scheme called Orissa Employment Guarantee Scheme.

Though this Act is highly acclaimed in various quarters of the country, it has however left many undefined and underdefined matters, which may be addressed to by an appropriate set of Schemes and Rules to be made under the Act. The experience shows that, unless an appropriate set of Rules be in place, following widescale debate and discourse at various levels, the Act can not be implemented in its true letter and spirit. Secondly unless the people are aware enough about the snags and knittigritti of the Act, Scheme and Rules, the true purpose of the enactment can't be achieved at all. Thirdly, a multilevel, and multiplayer perspective plan is barely required for operationalisation of the provisions of the Act. Implementation by a band of bureaucrats at different levels, may prove counterproductive, just as we have witnessed in case of so many development programmes starting from IRDP to SGR. Under a bureaucracy-driven dispensation, corruption, non-transparency, absence of a proper redressal mechanism and low participation of the target groups etc. become the order of the day. If proper safeguards are not built into the mechanism of implementation, the NREGA shall also turn out to be a big fiasco like so many other Schemes in the past.

Keeping all this in view, a State level Workshop was organized to debate and discuss various aspects of the Act and its implementation in the State. The Workshop was held at CYSD-DRTC Conference Hall, Bhubaneswar spread in two sessions pre-lunch and post-lunch on 21.2.06. Around 100 participants hailing from 19 districts, and representing NGOs, PRIs, political parties, media and intelligentsia had participated in its deliberations. Prominent among them were Mr. Panchanan Kanungo, former Minister of State for Finance, Mr. Rabi Das Editor 'The Paryabekhak', Mr. Santosh Das, Member State Committee of CPI(M), Mr. Chitta Behera a Social Scientist, Prof. Digambar Satapathy, Mr. Pradip Jena, State Representative of UNDP and Mr. Jagadananda, Member Secretary, CYSD. Ms. Supriya Akerkar, Regional Manager, Action Aid Orissa presided over the pre-lunch session.

The business of the Workshop started with Mr. Pradip Pradhan, State Convener, Orissa Right to Food Campaign giving a note of welcome to all. He was followed by Mr. Shyam

Sundar Rout, Secretary SGUP, who gave an introductory note on NREGA and the role of Shakti Network in Sundargarh district in disseminating the message of the Act among the rural poor. Then Mr. Pradip Pradhan gave a concise power-point presentation on the salient features of NREGA.

Then the house listened to the talks made by a select number of guest speakers dealing with different aspects of the Act and Scheme.

Mr. Panchana Kanungo

First of all he observed that the measuring rod for poverty differs from country to country. For example, the man who spends one-third of the income on food is considered poor in USA while in China it is 40%. But in our country, overwhelming mass of people spend almost the whole of their income only after food, leaving out little for other requirements of a civilized living, such as housing, dress, health and education etc. Thus the poverty we have here in India is just phenomenal.

However different development programmes here in the past have been designed to address the essential needs of a person's survival such as land, work and food. But the net output of these programmes has been dismally low.

The NREGA not only guarantees employment to the people but also introduces a new kind of relationship between the State as an employer and people as employees.

He said that the minimum wage is fixed on the basis of Minimum Wage Act. There are a Central Minimum Wage Act and a State Minimum Wage Act. A State Council under Minimum Wage Act sits from time to time to decide the minimum wage. When he himself was a Member of the State Council in 2002, he had suggested Rs.87/- as minimum wage, which was however not accepted by the Govt.

Then he discussed about some important provisions of the Act like Minimum Wage, Unemployment allowance, role of Panchayat in registering laborers etc. and spoke about some concerns which need to be reflected in the Scheme and Rules under the Act.

- In case of any injury or death, there should be a detailed procedure for compensation under the Workman Compensation Act.
- Adequate social security provisions should be built into the Scheme.
- A detail procedure should be in place to deal with a case of injury to a person during the work,
- The provisions of Employees State Insurance Act should be extended to NREGA
- Provision of Provident Fund may be incorporated in the scheme.

He also said that there should be a proper planning for execution of any project under the Scheme at the Panchayat level. Unless there be sound planning at microlevel, the scheme is bound to fail. Moreover, the Scheme should also provide for accommodating the semi-skilled labourers available in a village under the Scheme of NREGA. The 100 days of guaranteed employment shall create a huge stock of durable assets and social capital in

rural areas. So we should pay attention to the need for appropriate management procedures for common property resources to be generated in the process of guaranteed employment.

Mr.Santosh Das, CPI(M)

In his brief talk, Mr. Das emphasized that mere enactment of NREGA shall not lead to the percolation of its benefits to the rural poor. The success of an Act depends primarily on the kind of Schemes or Rules to be made under the Act. So many well-intentioned legislations at national and State levels have failed due to inappropriate Rules. In the present context, the people of Orissa should therefore be vigilant on what sort of rules the Government of Orissa is going to make to implement NREGA in the State.

Mr.Rabi Das, Editor Paryabekhyak

He opined that next to Right to Information Act, the National Rural Employment Guarantee Act is a uniquely progressive law, made in the post-independence period. But just as the RTI has floundered in Orissa due to various reasons including the faulty Rules made by the State Government, so also the NREGA might turn out to be a fiasco due to faulty Scheme or Rules to be made thereunder.

The NREGA so far it recognizes though partially a citizen's right to work as a fundamental right, is no doubt a very laudable law in itself. But its success is highly doubtful in the situation of Orissa where the bureaucrats corner away the lion's share of the resources put under any Scheme. It is only the civil society groups who can make the people aware about the essentials of the new law and thereby enable them to assert their rights and opportunities allowed under the Act.

Mr. Pradip Jena, State Representative, UNDP Orissa

An estimated number of 8 lakh mandays will be provided to the people under NREGA in Orissa. There will be expenditure of around 2900 to 3000 crores in a year. Thus a huge fund will be circulated in the rural areas, a fact which brings to one's mind several worrisome concerns. The NREGA shall certainly lead to growth if the projects under it are properly managed, keeping in view the ground reality. Otherwise it may prove another grand fiasco for the State.

Before executing the works under NREGA, the possibility should be explored to establish linkage with various departments and also points of convergence among the Govt., civil society organisations and Panchayats.

He suggested the following action points to strengthen the campaign for NREGA:

- To develop a forum at district level to promote time-to-time dialogue among the Govt. , NGOs and PRI representatives.
- Demand to set up independent grievance redressal mechanism at Block and District levels.

- Procedure of social audit to be followed to maintain utmost transparency and accountability in the works taken up under the project.
- A state level body should be formed to continue dialogue with the Government on the issues relating to the operationalisation of NREGA and suggest to the Govt. from time to time reforms if any necessary.
- Assisting the PRIs to do proper planning at grass root level.

He also shared what the UNDP wants to do with Govt., namely-

- Massive awareness programme
- Developing publicity campaign materials
- Social Audit, Public Hearing and Transparency
- Networking among Govt., NGOs and UNDP personnel for collaboration to ensure proper implementation of the Act.

Mr. Chitta Behera, Social Scientist.

First of all, he said that none of the speakers including the Orissa representative of UNDP seemed to be apprised of the details of the Scheme that the Government of Orissa have already made and floated on its website under the NREGA.

He made a few critical comments on the Scheme already made under the Act by the Government of Orissa, who have declared the said Scheme without holding any consultation with the civil society groups working on the subject.

- As the Orissa Scheme says, only 50% of the total allocations shall be spent through the Panchayats. It remains ambiguous as to where and how shall the remaining 50% be spent?
- Secondly, the subjects that should be covered by the Rules have already been dealt with the Scheme, and as a result, a messy situation has been created. The Act has specified the areas about which the Rules as such should be made. But the arbitrary manner in which the Government of Orissa has incorporated the Rules under the Scheme, and that too without inviting public opinion is patently illegitimate.
- Thirdly, as per the Scheme, a Complaint Box shall be installed at Block and District Offices, and the aggrieved people are supposed to drop their complaints in the said boxes. The key of the complaint boxes shall be kept obviously with the BDO and Collector respectively, since they are the adjudicating authorities to dispose of the complaints under the Act. And obviously under a complaint box system there can't be any scope for issuing acknowledgement receipt to the complainant. The question arises, how a complainant can prove at all that he made a complaint? And the next important question- can an officer at all receive a and register a complaint which is directed against him, and further who is supposed to pass a judgement, if need be, against himself? Thus the complaint box system, as proposed by the Orissa scheme has made a mockery of the complaint disposal process by assigning the role of a thief, of a police and of a judge to the same officer.

Fourthly, the real authority i.e. the power of sanction, administrative clearance, and inspection is not with the Panchayats but with the District Programme Coordinator and Block Programme Officer who are Collector and BDO respectively. The Panchayats shall be reduced to the status of mere executors of the programmes thrust from above by the above officers.

Then Sri Behera pointed out that the Act also suffered from an in-built deficiency for an effective and independent appellate mechanism. When a person gets deprived of job or unemployment allowance under the Scheme for the reason of acts of omission and commission of the officer where shall he go to put forth his grievance? The so-called penalty clause speaks in one sentence that whoever contravenes the provisions of the Act shall on conviction be fined upto Rupees one thousand. But both the Act and Orissa Scheme are conspicuously silent about how and where the 'conviction' shall take place. And every body knows how many years a case takes to be disposed of resulting in acquittal or conviction in a court in India. Moreover, since there is no criminal liability, an officer can indulge in embezzling, say Rupees 50 thousand and get away scot-free by paying only a fine Rupees one thousand, and that too if he is at all convicted following a long trial in a civil court. Thus the so-called penalty clause shall lead only to encouraging corruption at an unheard-of scale at every level of administration of the scheme.

Sri Behera concluded by saying that if the civil society groups really want that the right to employment or unemployment allowance be made into a legal and constitutional right in genuine sense of the term, then they should critically examine the existing Orissa Scheme and press for appropriate set of both Scheme and Rules be made by the Government of Orissa in keeping with the true intentions of the law.

POST-LUNCH SESSION

The post-lunch session of the Workshop was basically devoted to evolving an Action Plan for future. First of all, **Mr. Biren Nayak, Programme Officer, Action Aid Orissa** made a power-point presentation on Social Audit, as an in-built instrument of the Act to maintain transparency in all the transactions to be conducted under any Programme of the Act. He emphasized that the social audit in stead of being taken as a final post-mortem activity of a programme, should be viewed as an ongoing process vis-à-vis the programme as a whole beginning from its start to the finish. The NGOs and civil society groups interested to facilitate social audit at Palli Sabha/Gram Sabha level as envisaged under the Act should first of all develop their own capacity for undertaking the same.

Then followed the suggestions put forth by the assembled representatives of different groups, one after another, moderated by Sri Pradip Jena. Following were the broad components of a composite Action Plan that emerged on the consensual basis of the suggestions so put forth:

Suggestions for Action Plan

- Media Interface on NREGA and Orissa Scheme to be organized,
- E-MAIL group network to be opened for communication among the members,
- Massive awareness programmes at grass root level,
- NGOs to play a watchdog role at every level of programme implementation,
- Facilitating Panchayat bodies to carry out the planning under the Act,
- To build up and maintain co-ordination at District level involving NGOs, Govt. and Panchayat functionaries,
- District level co-ordination meeting once in every two months.
- Developing IEC material in local language on NREGA,
- Developing state level co-ordination meeting among GOs and NGOs,
- Developing para-professionals for training on NREGA,
- Demonstration field at least one or two GPs in each district,
- Designing advocacy strategy at grass root level,
- Developing an FAQ and widescale publicity through various media,
- Formation of the sub-groups at state level on Campaign Material, Advocacy Strategy and Social Audit
- Identifying a pool of Resource Persons on NREGA at State level,
- Using various folk and cultural media for disseminating the message on NREGA.