

The Right to Work, State and Society: Study of MGNREGA

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Abstract

Development of people's rights in a representative democracy like India's is a complex historical process. It could be distinguished between two kinds of rights (customary and legal rights). The former refers to rights based on customs and rituals and the later refers to rights sanctioned by the state. Usually such rights are enshrined in the constitution. The anti-colonial struggle and the post-independence India opened up streams of democratic consciousness and it spread new visions of social transformations, giving concrete socio-economic content to the agenda of freedom struggle. Creative society thus emerged as a theatre of intense struggle between forces of freedom and forces of domination. Here, the paper has discussed about legal rights (in the context of modern nation states) especially with reference to the right to work in India through a case study of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

Keywords: Rights, state, society, employment, MGNREGA

The right to work is relatively a modern concept. In ancient times, manual labour was considered degrading and was often forced upon people by the rulers. For example, the ancient Greeks and Romans considered all forms of manual labour (both paid and unpaid) a degrading activity. It was associated with slavery and unfreedom. There are instances in history where people were even punished by making them do public works. It is too visible in the Brahminical tradition of modern India, where intellectual work is glorified and manual work degraded. It is in the French Constitution of 1793, which empowered the people to choose a job freely without losing dignity and recognized as a right. This culminated in the Constitution

of 1848, from which the right to work slowly started gaining acceptability. Some claim it was one of the social characteristic of ‘bourgeois revolution’ and nascent capitalism signifying the end of feudal era. It was in 1948, that the newly born United Nations (UN) universalized the concept by recognizing the right to work as human rights (Banerjee 2011: 135).

However, it is not free from contestation, as Marx argues that the social ownership of all means of productions leads to tension between the state, the markets and the workers. The issue largely revolves around the extraction of surplus. In the context of capitalism, Marx had analysed how labour was formally ‘free’ but gradually subject to subsumption under capital. Until roughly the Great Depression of the 1930s, the right of the individual to employment under capitalism was considered entirely in the context of market economy. However, it changed afterwards with the changing circumstances, especially the full employment policies of the Soviet Union. The emergence of welfare state during the Post-Second World War put the right of the individual to employment under state’s responsibility and it raised numbers of employment. The public policy interventions to increase employment however gave rise to fundamental tension between workers and capitalists over time. The lower unemployment, higher wages and more bargaining power of workers and unions sustained through public policy make capitalists wary of such rights (*ibid*: 136-137).

The Right to Work, State and Society

The twentieth century has been a century of democratic upsurge. Classical forms of imperialism and colonialism were overthrown in Asia and Africa in the course of struggles for liberation and the right to independence of nations and self-determination of people acquired the status of basic human rights. The revolutions in Russia, China, Cuba, Vietnam and elsewhere challenged the foundations of class oppression by landlords and capitalists, and created visions of equality and freedom as cherished values for social reconstruction. The anti-colonial struggle opened up streams of democratic consciousness thus unfolding a creative society. The ideas of the great revolutions spread new visions of social transformations giving concrete socio-economic content to the agenda of freedom struggle. The last three decades of this century have seen the steady emergence of new types of social movements—movements of women, tribal, dalits, the environmental movements, movements of displaced people etc. The contemporary movements too challenged patriarchy, ethnic, racial and caste domination, and questioned the dominant model of capitalist modernization for generating new inequalities and fresh sources of alienation. Creative society thus emerged as a theatre of intense struggle between forces of freedom and forces of domination (Mohanty 2010: 303-322).

The concept of ‘creative society’ refers to a phase of development of a society in which a large number of potential contradictions became articulate and active. It embodies a methodology of viewing society in terms of liberation from multiple dominations – class, caste, race, ethnicity, gender and many more yet to be discovered sources of domination, and seeking to reconstitute society. This is most evident when oppressed and social groups get politically mobilized and demand their rights. The forms of social movements and their intensity may vary from country to country and place to place within a country. But the very presence of movements for social transformation in various spheres of a society indicates the emergence of a creative society in a country. The existing structure and process of domination are shackles on human creativity, therefore they are sought to be removed (*ibid*).

Soon after getting independence, the post-colonial states were preoccupied with the task of defending sovereignty and achieving economic development which were important in themselves. The mode of development and nation building adopted by them were such that often demand of a creative society got little attention of the ruling class. The most striking aspect is that the elite in general including the leaders of the social movements themselves hardly realized the implications of being placed in a creative society. However, the social movement plays a great role in exposing the multi-faceted structures and processes of dominations, seek to overthrow and replace it with democratic states facilitating multidimensional liberation (*ibid*).

The declaration of Indian Constitution, especially in the chapters of Fundamental Rights and Directive Principles of State Policy and some of the creative judicial constructions on them and also the positive political affirmations were, and still are, to a large extent, responses to a creative society in India. Social movements in contemporary India have constantly demanded their firm and just execution. There have been constant efforts by social movements and political organizations (duality of state process) in order to bring reforms. However, the response of the Indian state has been increasingly repressive and violent. This is largely due to the non-recognition of the character of the creative society and therefore the social movements in a creative society has produced exclusiveness and reduced their effectiveness. On the other hand, the perceived role of the state by its managers as defender of peace and order has, in practice pushed it on an authoritarian path and reduced its capacity to realize its democratic possibilities. Though the very definition of creative society implies that democratic demands by the oppressed groups have salience in it, however, some political forces can also use the democratic space and democratic discourse to pursue hegemonic objectives. Much of the present dilemma in the creative society in the developing world is the result of a dysfunction with their liberation struggles. Contextualizing the case of India, the Swaraj (self-rule)

perspective of Gandhi was no longer the guiding principles of the state policy or elite discourse in India. The strategy of the survival of the ruling class, pressure of the world political economy and their new ideologies of modernization created discontinuities with their anti-colonial struggle of the recent past. The regime sought legitimacy by launching new strategies of political and economic management rather than in terms of realizing the values of their freedom struggle. The Congress as the leading force in the Indian anti-colonial struggle did not have a full scale response to the emerging demands of a creative society (*ibid*).

The post-independence India, although was reeling under massive unemployment and acute poverty, the right to work in India is not the part of fundamental right; rather, it is a part of Directive Principles of State Policy, along with other social and economic rights, such as the right to education and right to health. According to Article 37 of the Constitution, the Directive Principles of State Policy explicitly says that they 'shall not be enforced in any court'. However, this does not preclude enacting laws based on these Directive Principles. In fact the same Article says that these principles are fundamental in the governance of the country, and it is the duty of the state to 'apply these principles in making laws' (Dreze 2010: 510-511). For example, the Supreme Court orders on mid-day meals in primary schools illustrate the possibility of building legal safeguards for economic and social rights. Today, every Indian child attending primary schools is entitled to a cook mid-day meal, as a matter of rights. This is a legal entitlement, enforceable in the court. Without these orders, it could not have been extended to more than 100 million children within a few years (*ibid*).

Similarly, the National Rural Employment Guarantee Act 2005 (NREGA) can be seen as a step towards legal enforcement of the right to work. It has the potential to empower the rural labourers to a great-extend. It will also help to break the dictatorship of the private employers. The fear of unemployment forced labourers to be at the mercy of private contractors and other exploiters, and in such situation, if they get employment on public works at the minimum wage, as a matter of right, they will have the more bargaining power from the private employers as well. Employment guarantee on public works really empowered them to resist exploitative work conditions in the private sectors. It too empowered women by giving them independent income earning opportunities, developed a sense of confidence among them and the most important aspect is the payment of equal wages to both men and women, which curbed gender discrimination. The Act too brings the opportunity for them to organize and fight for related rights, such as right to social security (*ibid*).

Looking at the historical process with reference to the right to work in India, a double movement led to the enactment of the NREGA. It is the Communists, who

were the first to raise the issues pertaining to workers' rights in independent India. It was further raised by Socialist in the 1960s and was late picked up by the Jan Sangh in its programme. On the other hand, there was too labour movement, but it had never made much headway. However, NREGA was enacted in the year 2005 (Banerjee 2011: 137-138). It was in the mid-2004, a series of political events took place that catapulted it to the top of political agenda. The privileged interest (notably those of the corporate sector and the so-called middle class) had an unprecedented hold on economic policy, who demanded employment to be a legal entitlement. As such there is no starting point of campaign for an Employment Guarantee Act; however, attention was made among political leaders of various political parties, when the Government of Rajasthan campaigned for an Employment Guarantee Act and implemented the employment-based drought relief programmes in 2001 and 2003. In the early 2004, the Congress Party promised a national Employment Guarantee Act and included it in the electoral manifesto, as most people (including most Congress leaders themselves) were quite sure that Congress would lose the next elections. However, the Congress came to power in May 2004 as a leading partner of the United Progressive Alliance (UPA) government. The alliance was supported by the 'Left parties' who were strong advocates of the Employment Guarantee Act and it became one of the main planks of the National Common Minimum Programme (NCMP). In pursuance of this commitment, the National Advisory Council (NAC) drafted a NREGA in August 2004, which was based on earlier draft prepared by concerned citizens, set the framework for all subsequent discussions on the Act. However this draft went through numerous changes and revisions before it translated into the NREG Act 2005 (Dreze 2010: 511-512).

On 21st December 2004, the government tabled the "National Rural Employment Guarantee (NREG) Bill 2004" in the Parliament, which was a severely diluted version of the NAC, and it was so weak that it defeated the purpose of a legally enforceable employment guarantee. In other words, the government was offering an employment guarantee but without any guarantee that the guarantee would come into effect. After being tabled in the parliament, the NREG Bill 2004 was referred to the Parliamentary Standing Committee of Rural Development. As the NREG Bill 2004 clearly fell short of promise made in the NCMP, there started a broad based campaign to repair the Bill. The NAC, Left parties, and a whole range of organizations committed to the right to work and played a crucial role in this campaign. This led to the series of amendments in the Bill, largely based on the recommendations of the Standing Committee, which endorsed most of the campaign's demand. The most contentious issues were settled in a frantic round of bargaining between the constituent parties and supporters of UPA government and at last the Left parties too extracted some

major last-minutes concessions. Finally the NREGA was passed in the Lok Sabha on 23rd August 2005. However, the political unanimity on NREGA was somewhat deceptive. It was very difficult for any Member of Parliament to oppose the Act in public; there was a great deal of 'behind the scenes' opposition to the Act in the corridors of power, notably from the Finance Ministry. Further, this opposition was organically linked to a powerful 'anti NEGRA' lobby, very vocal in the corporate sponsored media and related forums. In fact, the small lobby was almost in position to derail the Act, which tells the symptoms of the elitist nature of Indian democracy. However, at the end, the opposition was dispersed and the interest of the working class prevailed (*ibid*: 511-512).

The enactment of the NREGA is claimed as a victory of Indian democracy; however, the real challenge is not the enactment of NREGA, but its implementation on the ground. In India, as elsewhere, the history of social legislation shows that it often takes a long time for people to be able to claim their rights, even after laws have been passed. Some laws, such as the Minimum Wage Act 1948, have remained on paper for decades without making such impact, except in states like Kerala, where labourers are vocal and organized. Similarly NREGA is unlikely to succeed without sustained political commitment and public pressure. The victory will be a real victory, if proper implementation will be made at the ground level and absence of any backlash and any sabotage against the Act in the future (*ibid*).

Genesis of NREGA

According to the 61st round of National Sample Survey (2004-05), about 73 per cent of the households in the country belong to rural India, who constitutes around 75 per cent of the total population. Among them, 73 per cent of the people are living below the poverty line, characterized by large scale of unemployment, low agricultural wages and declining agricultural productivity etc. As per the 11th Five Year Plan, the overall unemployment for the rural sector as of 2004-05, was 8.25 per cent, and particularly the unemployment rate among the agricultural households had risen from 9.5 per cent in 1993-94 to 15.4 per cent in 2004-05 (National Social Watch 2011: 60-61).

As far as the nature of employment in India is concerned, it could be categorized into two types (formal and informal). It is generally believed that informal employment is a kind of employment that is not governed either by the state regulations or by collective agreements. However, the definition is inappropriate to understand the dynamics of informal unemployment. It is the existence of formal employment in the context of a dual economy that isolates informal employment as a category. Almost all the developing countries are dual economies, that is composed of two distinct

segments – modern (organized or formal) and traditional (unorganized or informal). Formal employment is associated with the modern sector, where state regulations and collective agreements play a critical role in setting the role of employment and remuneration for work. On the other, in case of traditional sector, neither state regulations nor collective agreements are of any relevance and it is determined by traditional rules and institutions (Ghose 2011: 116).

Informal employment is the overwhelming dominant form of employment in India, accounted for 93 per cent of total employment in the year 2004-05. It is too dominant in all the production sectors. During the period 2004-05, it constituted nearly 100 per cent of employment in agriculture, 99 per cent in construction, 90 per cent in manufacturing, 81 per cent in services, and 55 per cent in mining, electricity, gas and water. It is also a fact that, there is too sizeable informal employment in the modern sector. It constituted 93 per cent of employment in modern agriculture, 61 per cent in modern manufacturing, 90 per cent in modern construction, 29 per cent in modern mining, electricity, gas and water, and 21 per cent in modern service sectors. However, informal employment in the modern sector only constitutes 3 per cent of the total informal employment in the country. In other words, it is to say that, informal employment is overwhelmingly concentrated in the traditional sector, which employs 89 per cent of all workers in the country (*ibid*: 117).

Among them, only small percentage of the workers have regular wage-paid jobs; most are either self employed or in casual wage employment. In 2004-05, 56 per cent were self-employed, 33 per cent were in casual wage employment, and only 11 per cent had regular wage paid jobs. A large section among them too remains below the poverty line. In the year 2004-05, 41 per cent of the workers in the informal employment belonged to below the poverty line households. The incidence of poverty was 25 per cent among those in regular wage-paid jobs, 35 per cent among the self-employed, and 56 per cent among the workers in casual wage employment. It suggests that the average labour income in regular wage employment is significantly higher than that of a large section of the self-employed and of the casual wage labourers in general (*ibid*: 117-118).

Such widening is, in fact, largely due to the low employment intensity continues to characterize the modern sector's growth. So long as the employment intensity of output growth in the modern sector remains low, the growth of informal employment will be much faster than the growth of formal employment. The argument is that since the modern (formal) sector is not doing much to improve the conditions of informal employment, the government should pursue a strategy of 'leveling up' the traditional (informal) sector through a set of policy design to enhance human capabilities, provide basic socio-economic security, facilitate the growth of small

scale and micro-enterprises, and generate employment through public programmes. This precisely is the strategy that the Government of India is currently pursuing. As earlier said, in the year 2005, the government enacted the National Rural Employment Guarantee Act (NREGA), which recognized employment as a right for the informal workers and providing them employment as an obligation for the government (*ibid*: 119-120).

NREGA, Objectives and its Salient Features

The NREGA enacted in September 2005 and was implemented from 2nd February 2006 in the form of National Rural Employment Guarantee Scheme (NREGS). The ongoing programme of Swarnajayanti Grameen Rojagar Yojana (SGRY) and National Food for Work Programme (NFFWP) were subsumed under the NREGS. It was renamed as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) since October 2009. In its first phase, it was implemented in 200 identified backward districts of the country, with the stated objectives of providing at least 100 days of guaranteed wage employment to each rural households willing to do manual unskilled work. Additional 130 districts were added in the second phase in the period 2007-08, and again in its third phase remaining 274 districts were added from 1st April 2008 (Roul 2010: 33-34, National Social Watch 2011: 61-62).

MGNREGA, with its 'rights based' approach is a paradigm shift from most other earlier Government programmes and schemes. It has become a significant instrument for strengthening grass root level community participation and decentralized governance system by giving a pivotal role to Panchayat Raj Institutions (PRIs) in planning, monitoring and implementation, and towards regeneration of natural resources. The Act too emphasizes on labour-intensive works, prohibiting use of contractors and machines. It also mandates 33 per cent participation for women, which has a direct bearing on women's socio-economic empowerment. The Act includes a unique feature that guarantees bound employment and wage payment within 15 days. The bulk of financial cost is to be borne by the Central government, which includes (a) entire costs of wages and unskilled manual workers, (b) 75 per cent of the material, wages of skilled and semi-skilled workers, (c) administrative expenses which will include, among others, the salary and allowances of the Programme Officers and his supporting staff and work site facilities and (d) expenses of the National Employment Guarantee Council. The state government on the other hand bears the financial costs pertaining to 25 per cent of material costs, wages of skilled and semi-skilled workers, unemployment allowance and expenses of State Employment Guarantee Council (*ibid*).

MGNREGA is the first ever law internationally that guarantees wage employment at such an unprecedented scale. The basic objective of the Act is to augmenting the wage employment and its auxiliary objective is to encourage sustainable development by strengthening natural resource management through works that address causes of chronic poverty, drought, deforestation and soil erosion. Such works include water conservation, water harvesting, afforestation, irrigation works, flood control, horticulture, land development and rural connectivity etc (Roul 2010: 34-37).

During the last one year, new initiatives have been introduced by the Government under the MGNREGA to ensure transparency and accountability, so that the programme's benefits reach millions of rural poor across the country and contribute to poverty alleviation. The NREG Act 2005 was amended on 22 July 2009 to enlarge the scope of work. It gave special attentions to the Scheduled Castes (SCs) and Scheduled Tribes (STs), those who are below the poverty line. The actual entitlement of wage under MGNREGA is ₹ 100 rupees and it has been revised under the Section 6(1) of the NREG Act. However, the amount exceeding ₹ 100 rupees would be paid by the State Governments from their own resources. The Government of Andhra Pradesh has already increased the wage rate. Further, it has made mandatory to pay wages through bank/post office accounts. Guidelines have been made to States to set up Ombudsman at district levels to receive complains from MGNREGA workers. MGNREGA too has made a partnership with Unique Identification Development Authority of India (UIDA) in order to eliminate duplicate job cards and ghost beneficiaries. The Ministry of Rural Development (MoRD) has set up a toll-free National Helpline (1800110707) to enable the submission of complains and queries for the protection of workers entitlements and rights under the Act. States like Orissa, Uttar Pradesh, Himachal Pradesh, West Bengal and Goa have already set up MGNREGA Helpline. Guidelines have been made for Social Audits to analyze the quality, durability and usefulness of MGNREGA works as well as mobilize awareness and enforcement of their rights. The MoRD has accorded utmost importance to the organization of Social Audits by the Gram Panchyats and issued instructions to states to make necessary arrangements. The Ministry too has deputed 37 National Level Monitors in 37 districts in 15 different states. As per the guidelines for the monitoring, sixty one out of targeted 100 eminent citizens have been identified for independent monitoring to report on the progress of the scheme. Vigilance and Monitoring Committees (V&MCs) have been reconstituted in all states/Union Territories (UTs) at state as well as district level for effective monitoring of programme implementation. A Professional Institutional Network (PIN) has been constituted, including Indian Institute of Technologies (IITs), Indian Institute of Managements (IIMs), Administrative Staff College of India (ASCI), Indian Institute

of Public Administration (IIPA), Indian Institute of Forest Management (IIFM), agricultural universities and other professional institutions, for supporting MGNREGA through impact assessment and concurrent monitoring and appraisal. Business Correspondence Model has been introduced to ensure timely payment of wages to the workers. A Banking Correspondence model was adopted in Rajasthan with the help of Central Bank of India. The Ministry has advised all the states to ensure payment of wages through bank accounts. About 91.9 million bank accounts have been opened so far. The Government of India has issued instructions to all Naxal affected states (Andhra Pradesh, Orissa, Chhattisgarh, Jharkhand, Madhya Pradesh, and Maharashtra) for implementation of MGNREGA and intensifies awareness generation campaign among rural households, issuance of job cards, implementing sufficient number of works and timely payment of wages. The MoRD has too developed and disseminated guidelines for convergence of the MGNREGS with different schemes and specific programmes. For this purpose, 115 convergence pilot districts are identified in 23 states, and independent organizations have been instituted under the monitoring of National Institute of Rural Development and with support from UNDP (*ibid*).

Status of MGNREGA: Implementation and Coverage

So far, the MGNREGA programme has provided employment to 52.5 million households across the country. The average wage has been increased to ₹ 100 per day as compared to ₹ 65 in 2006-07 and ₹ 91 in 2009-10. It has generated 7.8 billion person days work since 2006, where work participation of women comprises 50 per cent, SCs 21 per cent and STs 20 per cent. However, it has only been able to provide 100 days of work to 6.95 million, which is merely 13.24 per cent of the total workforce participated. Over 91.9 million accounts have been opened (in banks/post offices) and ₹ 216.25 billion (84 per cent of wages) have been disbursed as wages through the bank and post office accounts. About 4.7 million works have been taken up in 619 districts and Social Audits have been conducted in 76 per cent Panchayats (*ibid*: 37-38).

There have been number of independent studies on MGNREGA, which have shown its successes, like increasing agricultural productivity through water harvesting, check dams, ground water recharging, improving moisture content, check in soil erosion and micro-irrigation. It too has increased the access to markets and services through rural connectivity works, supplementation to household incomes, increase in women workforce participations ratio and regeneration of natural resources. However, there are many independent studies too, showing a list of flaws and bottlenecks in its implementation. A study undertaken by National Council of Applied Economic

Research (NCEAR) and Public Interest Foundation (PIF) in 2009 has shown that funds are not reaching to the intended beneficiaries. In many districts in several states, the number of households that have been issued job cards is more than the total number of households in these districts. In many places, there were delays in providing job cards and many didn't get employment too. It has also shown that, there are inordinate delays in payment to workers, anomalies in the selection of works, poor execution, inflated estimates, inadequacies in measurements, cost overruns and delays in release of funds by states. Quality of assets created under the scheme is doubtful in many places, thereby questioning the long-term usefulness of these assets. Some states like Assam, Orissa, Gujarat, Maharashtra, Karnataka and Kerala have evidenced reduction in employment generation under MGNREGA as compared to SGRY. Rajasthan, Andhra Pradesh and Tamil Nadu were the top three states in implementation of MGNREGA, while Punjab was the worst in this category, followed by Gujarat and West Bengal. The findings of the Planning Commission's mid-term appraisal report on rural development programmes also highlighted the major flaws of underperformance of MGNREGA. According to this report, majority of states were under-performers and only 14 per cent worker households could get 100 days of work. The national average intensity of work was 48 days and as many as 15 states were below this figure. These included Himachal Pradesh, Maharashtra, Haryana, Assam, Meghalaya, Tamil Nadu, Jammu & Kashmir, Uttarakhand, Orissa, Karnataka, Punjab, West Bengal, Bihar, Gujarat and Kerala (*ibid*: 38-40).

The efficacy of implementation of any programme primarily depends on the extent of allocation and utilization of funds. Citizens' Report on Governance and Development 2010 shows that, the scheme in its initial phases witnessed certain inertia in implementation, largely due to the lack of awareness among functionaries and potential beneficiaries, which led to the low allocation and utilization across the states. The availability of funds in the year 2006-07 was ₹ 12,074 crore and the utilization was ₹ 8,823 crore. In the year 2007-08, the funds increased to ₹ 19,516 crore and the utilization was ₹ 16,000 crore. There was phenomenal growth of funds in the year 2008-09, extended to ₹ 36,300 crore and the utilization was ₹ 27,251 crore. In the year 2009-10, the availability of funds was ₹ 32,963 crore and utilization was ₹ 26.080 crore. However, in spite of large expansion of the coverage of districts as well as financial allocation since the financial year 2008-09, the availability of funds per district has been hovering around ₹ 60 crore and utilization per district varies between ₹ 44 crore to ₹ 48 crore, showing very little improvement in the uptake of the scheme. The report has pointed out several reasons of inadequate performance of the programme. Many of the states like Haryana, Punjab, Kerala,

Karnataka and Gujarat has been comparatively abysmal owing to the minimum wage rate under NREGS being lower than the market wage rate or works permissible under the scheme having little use for local area development (National Social Watch 2011: 62).

Though the local government institutions were established almost two decades ago, most of the central schemes/programmes in the functional domain of local governments, since then, have largely ignored them or given them only a perfunctory role. However, MGNREGA has broken ground on this regard by, legally declaring Panchayati Raj Institutions (PRIs) as ‘the principal authorities for planning and implementation’ of the scheme. It assigns a wide ranging role to the PRIs right from registering of workers up to monitoring and social auditing and therefore one of the serious constrains the Panchayats are facing in implementing the programme is shortage of functionaries. Study shows that, out of 214 centrally sponsored schemes targeted at the rural communities, Panchayats are supposed to be implementing 151 and play partial role in the implementation of 23 schemes. On an average, they are supposed to maintain accounts for as many as 76 schemes. Responsibilities of Panchayats have increased many folds without a proportionate increase in capacity, which makes them vulnerable to the blame game of the bureaucracy and others. In such situations, sometimes Panchayats take refuge in the excuse that they lack support from line departments. Another issue is that the Panchayat is not responsible for maintaining the quality of work, as the focus of this programme is simply on securing 100 days of employment in a year and therefore the purpose of overall and long-term development of the area remain unfulfilled. It often happens that the road built under the scheme get washed away the following year. This puts a serious question mark on the role of Panchayat as the institution, serving peoples’ development. Though much has been said in praise of social audits conducted under MGNREGA, these audits have achieved much less on the ground. The lack of awareness and shortage of technical support has meant that the scheme has fallen into the old pattern of directions following from the top. On the other hand, any recommendation or complaint emerging from institutions is hardly taken up by the higher authorities or institutions. Social audit as a process still has a long way to go before it can substantially contribute to transparency, empowerment and good governance (ibid: 62, 120-123).

The study of Banerjee (2011) describes that the flaws in the NREGA can be distinguished as belonging to two types: those that arise during the process of implementation; and those which arise from the very way NREGA was designed. Design faults are in the process of formulation of the programme, which takes place at the top. On the other, faults in implementation come to the fore when people’s

rights are asserted from the below. These two are however interwoven in a historical process and often reinforce one another. It often gives rise to suspicion that the design faults are at times deliberate, so that the process of implementation can be easily corrupted. The severe shortcomings of NREGA across the country with regards to expectations and outcome lead us to ask the following questions: is the NREGA a case of default of design or a case of faulty implementation? These are the two basic issues that need to be highlighted in the specific context of NREGA. For example, awareness about rights can upset the top-down nature of developmentalism and thus, there is less incentive on the part of the Block Development Officers (BDOs) to disseminate information about the NREGA. There is a percentage of funds (from the NREGA budget) allocated to the developmental administration to carry out such awareness campaigns, which by and large, left unused. This is both a case of faulty implementation and fault of design (Banerjee 2011: 137-141).

Government spending on public works is best understood in the Indian context by introducing the concept of corruption/leakage. This occurs too in NREGA, especially due to asymmetric information between the workers and the state hiring them regarding their rights. Thus, it becomes easy for middlemen to extract rents, resulting in lower wages reaching the rural workers. Corruption/leakage, therefore, effectively curtails the demand generation component of the right to work. People's vigilance leads to such corruption being exposed and demand for better implementation. On the other hand, when we look at the clauses of the design of the NREGA, we find that there are in-built disincentives for exposing corruption. The government method of dealing with corruption is contained in Clause 27, Chapter VI of the NREGA, which basically advocates withdrawal of the scheme from any area where complains of corruptions are reported. This kills any incentives for the workers to report corruption since the programme itself might get stopped and whatever employment was being given would stop. Thus checking corruption or making higher wages reach the hands of the rural poor is not exactly the priority by design (ibid).

The study of Banerjee has too shown that most of the workers receive wage, which is less than the state minimum wage and the payments too gets delay. The major reason of such low wages is the task based system of public works programme instead of daily wage system. Thus, if one cannot complete the specified work, gets lower wages. On the worksite, measurements are rarely made in front of the workers. Engineers do the measurement works without informing the workers and payments are made according to the measurement made by them. This is largely due to the lack of awareness among the illiterate workers. It has also been found in the study that women workers get less wages in comparison to male workers due to the

disadvantage they face structurally and even in the work they can do. The task rate under NREGA is such that the workers often get lower than minimum wages for a full day work. Can this be a fault of implementation or fault of design? The state instead of revising the schedule of rates, it has been trying to put a cap on wages (*ibid*).

Conclusion

In spite of several shortcomings either of fault of implementation or faulty of design, the NREGA gives a legal guarantee of employment in rural areas to anyone who is willing to do casual manual labour at the statutory minimum wage. The act can go a long way towards protecting rural households from poverty and hunger. A hundred days of employment at the statutory minimum wage is not the end of poverty by any means, but for the people who live on the brink of starvation, it makes a big difference. Second, NREGA can help to slow down distress migration to urban areas – of work is available in the village. Third, as mentioned earlier, it will too empower women by giving them guaranteed employments, which give them economic independence.

Fourth, the Act is an opportunity to create useful assets in the rural areas. Fifth, it can help to activate and revitalize the institutions of local government by giving them substantial financial resources. Last but not the least; the Act is a means of strengthening the bargaining power of unorganized workers. This could help them to struggle for other important entitlements, such as minimum wages and social security. The process of mobilizing for effective implementation of the Act also has much value in itself, as an opportunity for unorganized workers to organize (Banerjee 2011: 141-44, Dreze 2010: 512-17).

There is major difference between a scheme and an Act. Schemes come and go, but laws are more durable. A scheme can be trimmed or even cancelled by a bureaucrat; whereas changing a law requires an amendment in the parliament. Under this act, labourers have durable legal entitlements. Over time, they are likely to aware of their rights and learn how to defend them, and it is too exactly happening. There has been the emergence of workers union to defend workers rights from the state. The first NREGA Workers Union was formed by Disha, Gujarat, and their struggles are the beginning of an alternative. The most positive outcome of the struggles around the NREGA has been the deepening of democracy through jan sunwais (public hearings) and social audits. Various organizations across the country which have been an integral part of the campaign for a full fledged right to work have been carrying out these struggles at the ground level. For example, Paschim

Banga Khet Majoor Samity (PBKMS), West Bengal, Jagrut Adivasi Dalit Sangathan (JADS), Madhya Pradesh, Vikas Sahayog Kendra (VSK), Jharkhand etc (*ibid*).

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