

# An Assessment of Mahatma Gandhi National Rural Employment Guarantee Act

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**Abstract:** The National Rural Employment Guarantee Act (MGNREGA) 2005 is landmark legislation in Indian history of social security legislation after independence. Enacted after a successful struggle for employment guarantee legislation, it is a partial victory towards a full-fledged right to employment in any developing country context. The essential feature of this legislation, which separates it from any other public service provisioning scheme, is its enactment through the parliament of India. The aims and objectives of the paper is to assess its need and importance

**Keywords:** *Legislation, Features, Guarantee, Provisions.*

## 1. INTRODUCTION

This legislation has been bringing about a silent revolution in rural areas of the country. MGNREGA Act for the first time brings the role of the state as a provider of livelihood within the reach of the participants/beneficiaries themselves. By design, it is different from any employment generation scheme that has been previously implemented. It requires different approach towards employment generation schemes and towards overall involvement of the State in providing the right to employment to its masses (Centre de Sciences Humanities and Institute for Human Development).

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is a job guarantee scheme for rural Indians. It was enacted by legislation on 25 August 2005. The scheme provides a legal guarantee for at least 100 days of paid employment in every financial year to adult members of any household willing to do unskilled manual work related to public work at the statutory minimum wage of 120 (US\$1.80) per day in 2009 prices. If they fail to do so, the government has to pay the salary at their homes. The central government outlay for the scheme was 4000 billion (US\$61 billion) in the financial year 2010–11.

This act was introduced with the aim of improving the purchasing power of semi- or un-skilled rural people of India, irrespective of whether or not they fell below the poverty line. Around one-third of the stipulated work force is women. The

law was initially called the National Rural Employment Guarantee Act (NREGA) and was renamed with the prefix “Mahatma Gandhi” on 2 October 2009, Gandhi’s birth anniversary.

In the year of 2011, the program was commonly criticized as no more effective than other hardship decrease programs in the country of India. Regardless of its finest objectives, popular MGNREGA is beset with debate about damaged authorities, lack funding as the source of resources, low quality of facilities designed under this program, and random dangerous impact on hardship.

## 2. BACKGROUND AND COVERAGE OF THE ACT

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is a flagship Programme of Government of India. The Act was notified initially in 200 most backward districts of the country w.e.f. February 02, 2006 and subsequently extended all over India in two phases: - it was extended to additional 130 districts added in the financial year 2007-2008 (113 districts were notified with effect from April 1st, 2007, and 17 districts in Uttar Pradesh (UP) were notified with effect from May 15th, 2007).

The remaining districts have been notified under MGNREGA with effect from April 1, 2008. Thus, the MGNREGA covers the entire country with the exception of districts that have a hundred percent urban population. The programme aims at enhancing livelihood security of the rural poor by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work.

The Act seeks to create durable assets and strengthen the livelihood resource base of the rural poor. The choice of works suggested in the Act address causes of chronic poverty like drought, deforestation, soil erosion so that the process of employment generation is on a sustainable basis.

### 3. GOALS OF THE ACT

Every Act has some goals and aims to be achieved. The Mahatma Gandhi National Rural Employment Guarantee Act was also enacted with some aim and goals. These goals are:

- To provide social protection for the most vulnerable people living in rural India by providing employment opportunities to them.
- To provide Livelihood security for the poor through the creation of durable assets, improved water security, soil conservation, and higher land productivity.
- To have efficient Drought-proofing and flood management in rural India.
- Empowerment of the socially disadvantaged people, especially women, Scheduled Castes (SCs) and Schedules Tribes (STs), through the processes of rights-based legislation.
- Strengthening decentralized, participatory planning through the convergence of various anti-poverty and livelihoods initiatives.
- Deepening democracy at the grass roots by strengthening Panchayati Raj Institutions.
- Effecting greater transparency and accountability in governance.

Thus, MGNREGA is a powerful instrument for ensuring inclusive growth in rural India through its impact on social protection, livelihood security, and democratic empowerment.

### 4. SALIENT FEATURES OF THE ACT

The salient features of the Act are as follow:

- All adult members of a rural household willing to do unskilled manual work have the right to demand employment.
- Such a household will have to apply registration to the Gram Panchayat.
- After verification, the Gram Panchayat will issue a Job Card with photograph of all adult members of the household willing to work under the programme.
- The Job Card must remain in the custody of the household.
- Job Cardholder can apply for work to the Gram Panchayat, which will issue him/her a dated receipt of the work application.
- The Gram Panchayat (local self-governing body) will provide employment within 15 days of work application, failing which unemployment allowance will be paid.

- Disbursement of wages has to be done weekly basis and not beyond a fortnight.
- Wages will be paid at the wage rate to the wage earners through their Bank/Post office accounts.
- An annual shelf of works to be prepared in advance for each year.
- A ratio of 60:40 for wage and material costs should be maintained at the GP level.
- No contractors/and no labor-displacing machinery shall be used in the execution of works.
- Panchayati Raj Institutions will have a principal role in planning, monitoring, and implementation.
- At least one-third of the workers should be women.
- Inbuilt incentive-disincentive structure to the State Government for guaranteeing employment.

### 5. SOME OTHER PROVISIONS OF THE ACT

- i. **Funding:** Central Government -100% of wages for unskilled manual work, 75% of the material cost of the schemes including payment of wages to skilled and semi-skilled workers. State Government- 25% of material including payment of wages to skilled and semi skilled workers cost. 100% of the unemployment allowance by the state government.

- ii. **Timely Allocation of Work:**

Schedule I, Para 10 of Mahatma Gandhi NREGA states that it shall be open to the PO and the GP to direct any person who has applied for employment to do work of any type permissible under the Act.

The information on work requested and work allotted is required to be mentioned in the JC and Employment Register also. Therefore, it is necessary that it should be recorded on the Job Card and the Employment Register.

The State Government shall delineate clear coordination mechanisms so that data on work requested and allotted by the Programme Officer and the Gram Panchayat are properly maintained. Gram Panchayat and Block Officers should also share information on work allocated and works opened.

- iii. **Unemployment Allowance:**

1. If an applicant is not provided employment within fifteen days of receipt of his/her application seeking employment, he/she shall be entitled to a daily unemployment allowance. In the case of advance applications, employment should be provided from

the date that employment has been sought, or within 15 days of the date of application, whichever is later. Else, the unemployment allowance becomes due.

2. The unemployment allowance will be paid as per **Section 7 of the Act**. The allowance will not be less than one-fourth of the wage rate for the first thirty days and not less than one-half of the wage rates for the remaining period of the financial year.
3. State Govt shall:
  - a.) Under section 7 (2) of Act, specify the rate of unemployment allowance payable and
  - b.) Frame Rules governing the procedure for payment of unemployment allowance.
  - c.) Make necessary budgetary provision for payment of unemployment allowance
4. The procedure to be prescribed by the State Govt. should be kept very simple. The procedure may include:
  - a.) Automatic generation of a payment order (requiring no separate sanction order) and payment of unemployment allowance from the SEGF or any other fund specified for this purpose based on data in NREGA soft.
  - b.) Payment to be made no later than 15 days from when it becomes due or else the recipients shall be entitled to compensation based on the same principles as wage compensation under the Payment of Wages Act, 1936.
  - c.) Unemployment allowances to be credited to Bank/ PO account as in the case of wage payments etc.
5. In accordance with provisions in Section 8(2) of MGNREGA, every case of non-payment or delayed payment of unemployment allowance shall be reported in the Annual Report submitted by the DPC to the State Government along with the reasons for such non-payment or delayed payment.
6. **Section 8(3) of MGNREGA** states that the State Government shall take all measures to make the payment of unemployment allowance to the concerned household as expeditiously as possible.
7. 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 GP or the PO 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.

An applicant who:

- a.) Does not accept the employment provided to his/her household; 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 permit 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.

It 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.

- iv. **Wage related:** Section 6(1) of MGNREGA states 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 Act:
  - Provided that different rates of wages may be specified for different areas;
  - Provided further that the wage rate specified from time to time under any such notification shall not be at a rate less than sixty rupees per day.
  - Section 6 (2) states that 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 laborers shall be considered as the wage rate applicable to that area.

- In exercise of powers under Section 6(1) of the Act, Ministry of Rural Development notified wage rate on 01.01.2009 adopting the minimum wage rate for agricultural labor of the States as on 1.12.2008.
- In pursuance to the announcement by Hon'ble Finance Minister in his budget speech-2009 to provide a real wage of Rs. 100/- a day as an entitlement under the Mahatma Gandhi National Rural Employment Guarantee Act, on the request of this Ministry, the Ministry of Statistics & Programme Implementation constituted a committee under the Chairmanship of Dr. Pronab Sen, Principal Adviser, Planning Commission to develop a mechanism to evolve a framework to create a separate index for updating of MGNREGA wages. The Committee has representatives from Ministry of Rural Development as Members along with representation from other Ministries & Departments. The report of the Committee is awaited.

It has been decided that until such time that a satisfactory index is proposed by Dr. Sen Committee and accepted by the Government, the Government could index the wages with the Consumer Price Index for Agriculture laborers (CPIAL). In pursuance of this, the Ministry issued a notification dated 14 January 2011 revising wage rates under Section 6(1) of the MGNREGA Act with indexation to CPIAL.

The revised wage rates were made applicable w.e.f 01.01.2011. The wage rates have been further revised in 2012 vide notification dated 23.3.2012 effective from 1st April 2012. For arriving at the latest revised rates, the percentage increase in the CPIAL for November 2010 to December 2011 has been applied to MGNREGA wage rate as on 1st January; 2012. It has also been decided to increase the wage rate annually. The details of revised wages notified for States are given in Annexure- XIII.

## 6. SIGNIFICANCE OF THE ACT

The MGNREGA has given rise to the largest employment programme in human history and is unlike any other wage employment programme in its scale, architecture, and thrust. It is bottom-up, people-centered, demand-driven, self-selecting, rights-based design is distinct and unprecedented. The MGNREGA provides a legal guarantee for wage employment. It is a demand-driven programme where the provision of work is triggered by the demand for work by wage-seekers.

There are legal provisions for allowances and compensation both in cases of failure to provide work on demand and delays in payment of wages for work undertaken. The MGNREGA overcomes problems of targeting through its self-targeting mechanism of beneficiary selection, that is, a large percentage of poorest of the poor and marginalized seek employment under the Scheme.

The Act incentivizes States to provide employment, as 100 per cent of the unskilled labor cost and 75% of the material cost of the programme is borne by the Centre.

Unlike the earlier wage employment programmes that were allocation-based, MGNREGA is demand driven and resource transfer from Centre to States is based on the demand for employment in each State. This provides an additional incentive for States to leverage the Act to meet the employment needs of the poor. There is also a concomitant disincentive for failing to provide work on time, as the States then bear the cost of the unemployment allowance. Gram Panchayats (GPs) are to implement at least 50 per cent of the works in terms of cost.

This order of devolution of financial resources to GPs is unprecedented. Plans and decisions regarding the nature and choice of works to be undertaken, the order in which each work is to be triggered, site selection etc. are all to be made in open assemblies of the Gram Sabha(GS) and ratified by the GP. Works that are inserted at Intermediate Panchayat (IP) and District Panchayat (DP) level have to be approved and assigned a priority by the GS before administrative approval can be given. The GS may accept, amend, or reject them.

These decisions cannot be overturned by higher authorities, except to the extent of ensuring conformity with the provisions of the Act and its Operational Guidelines. This bottom-up, people-centered, demand-driven architecture also means that a great share of the responsibility for the success of the MGNREGA lies with wage-seekers, GSs and GPs. MGNREGA also marks a break from the relief programmes of the past towards an integrated natural resource management and livelihoods generation perspective.

Social audit is a new feature that is an integral part of MGNREGA. Potentially, this creates unprecedented accountability of performance, especially towards immediate stakeholders. An Annual Report prepared by the Central Employment Guarantee Council (CEGC), on the outcomes of MGNREGA is required to be presented annually by the Central Government to Parliament.

Likewise, the annual reports prepared by State Employment Guarantee Councils (SEGC) are to be presented to State Legislatures by the State Governments, facilitating oversight by elected representatives. The radically new character of the programme requires innovative approaches for effective implementation. This will ensure that the novel elements of the MGNREGA are realized appropriately on the ground; at the cutting-edge level of its implementation. These Operational Guidelines have been issued to facilitate this compliance.

## 7. CONCLUSION

The National Rural Employment Guarantee Act (MGNREGA) 2005 is landmark legislation in Indian history of social security legislation after independence. Enacted after a successful struggle for employment guarantee legislation, it is a partial victory towards a full-fledged right to employment in any developing country context. The essential feature of this legislation that separates it from any other public service provisioning scheme is its enactment through the parliament of India.

This legislation has been bringing about a silent revolution in rural areas of the country. MGNREGA Act for the first time brings the role of the state as a provider of livelihood within the reach of the participants/beneficiaries themselves. By design, it is different from any employment generation scheme that has been previously implemented. It requires different approach towards employment generation schemes and towards overall involvement of the State in providing the right to employment to its masses (Centre de Sciences Humanities and Institute for Human Development).

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