
Work, State, and Society Rights an Examination of MGNREGA

* Dr Khamosh Meena

Abstract

In a representative democracy like India's, the development of people's rights is a lengthy historical process. Two categories of rights (customary and legal rights) might be differentiated. The former speaks of rights based on traditions and rites, whereas the latter speaks of rights recognised by the government. Usually, the constitution has protections for these rights. The anti-colonial fight and post-independence India opened up new avenues of democratic awareness and disseminated fresh perspectives on social changes, providing the liberation movement's objectives a real socio-economic basis. As a result, the creative society developed as a scene of tremendous conflict between forces of freedom and forces of dominance. In this essay, legal rights have been explored (in the context of contemporary nation states), particularly in relation to the right to employment in India, using the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) as a case study.

Keywords: Rights, state, society, employment, MGNREGA

Introduction

The notion of the right to labour is very new. In the past, manual work was seen as demeaning and often imposed on individuals by the authorities. For example, all sorts of physical employment were devalued by the ancient Greeks and Romans. a demeaning activity, both paid and unpaid. It has a connection to slavery and unfreedom. People have even been forced to do public service in the past as a form of punishment. In the

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Brahminical tradition of contemporary India, where intellectual labour is elevated and physical labour is devalued, it is all too evident. It is stated in the French Constitution of 1793, which gave citizens the freedom and recognition to pick a career without sacrificing their dignity. The result was the Constitution of 1848, which marked the turning point in the acceptance of the freedom to labour. Some contend that it was a social trait of the "bourgeois revolution" and emerging capitalism, which marked the end of the feudal age. By recognising the right to labour as a human right, the newly established United Nations (UN) made the idea global in 1948 (Banerjee 2011: 135).

It is not without controversy, however, since Marx contends that the communal ownership of the means of production causes conflict between the government, the markets, and the workforce. The removal of excess is mainly at the centre of the problem. Marx had examined how work was officially 'free' but increasingly subject to subsumption under capital in the setting of capitalism. The right of the individual to employment under capitalism was only taken into consideration in the framework of the market economy up to approximately the Great Depression of the 1930s. However, it later altered due to circumstances, particularly the Soviet Union's full employment programmes.

The post-second world war development of the welfare state gave the individual's right to work to the state and increased employment rates. However, over time, the public policy initiatives to boost employment gave birth to a fundamental rift between workers and capitalists. Capitalists are leery of such rights due to the decreased unemployment, greater earnings, and increased bargaining power of workers and unions supported by public policy (ibid: 136–137).

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Work, state, and society rights

In the course of liberation wars, many kinds of imperialism and colonialism were toppled in Asia and Africa, and the right of countries to independence and the right of individuals to self-determination came to be recognised as fundamental human rights. The tyranny of the working class by landowners and capitalists was upended by the revolutions in Russia, China, Cuba, Vietnam, and other countries. Visions of equality and freedom emerged as important principles for social reconstruction. The anti-colonial conflict began.

A creative society is being developed via streams of democratic awareness. The concepts of the great revolutions propagated new visions of social changes, giving the goals of the liberation movement tangible socio-economic meaning. The previous three decades of this century have witnessed the continuous growth of new sorts of social movements, including movements for displaced people, women, tribal people, dalit people, the environment, and others. The current movements also questioned the prevailing paradigm of capitalist modernization for creating new disparities and causes of alienation, and they contested patriarchal, ethnic, racial, and caste control. Thus, the creative society arose as a scene of fierce conflict between forces of freedom and dominance-instigating pressures (Mohanty 2010: 303–322).

The term "creative society" describes a stage in a society's evolution when a great deal of potential tensions emerged and became manifest. It contains a paradigm that seeks to recreate society by liberating it from numerous forms of dominance, including class, caste, race, ethnicity, gender, and many more that have yet to be identified. This is very clear.

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when social groups who have been repressed organise politically and demand their rights. Social movements may take many different shapes, and their intensity varies from place to place both inside and across nations. However, the very existence of social change movements in a variety of social contexts is a sign that a creative society has emerged in a given nation. Human creativity is stifled by the current dominating structure and process, hence it is sought to eliminate them (ibid).

Soon after gaining independence, the post-colonial governments were focused on attaining economic growth and protecting sovereignty, both of which were significant in and of itself. Because of the development and nation-building strategies they used, the ruling class often paid little heed to demands for a creative society. The most astonishing thing about this is how little the elite, in general, including the social movement leaders themselves, understood the consequences of living in a creative society. The social movement, however, is very important in revealing the complex structures and processes of dominations, and it works to destroy them and replace them with democratic governments that facilitate complex freedom (ibid).

The Indian Constitution's declaration of fundamental rights and directive principles of state policy, along with some inventive judicial interpretations of them, as well as the affirmative political statements, were and continue to be, in large part, responses to a creative society in India. In today's India, social movements have always called for its firm and equitable implementation. Social movements and political groups have continuously worked to bring about changes (the dual state process). However, the Indian government has responded by becoming more oppressive and brutal. This is mostly a result of the creative society's unique characteristics not being recognised; as a result,

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social movements in a creative society have developed exclusivity and decreased their efficacy. On the other hand, the state's ability to realise its democratic potential has been hampered by its managers' perception of the state as a guardian of peace and order, which has instead driven it down an authoritarian road. Although Gandhi's own concept of a creative viewpoint no longer serves as the foundation for Indian government policies or the elite's discourse. Discontinuities between their recent anti-colonial fight and their survival strategy, new modernising ideologies, and pressure from the global political economy were brought about. Instead of implementing the principles of their independence fight, the dictatorship sought legitimacy by establishing new political and economic management tactics. The Congress, the main player in the Indian anti-colonial fight, was unable to fully address the needs of a developing creative society (ibid).

The right to work is not a fundamental right in India, despite the country's post-independence struggles with extreme poverty and widespread unemployment. Instead, it is a directive principle of state policy, along with other social and economic rights like the right to health and education. The Directive Principles of State Policy expressly state that they "shall not be enforced in any court" in accordance with Article 37 of the Constitution. But this does not prevent lawmakers from passing legislation based on these Directive Principles. Actually, the same article claims

Despite widespread support for the Act in the public, there was significant "behind the scenes" resistance, particularly from the Finance Ministry. Additionally, this resistance was inextricably tied to a strong "anti-NEGRA" lobby that was active in corporately funded media and associated forums. In reality, the little lobby came very close to successfully blocking the Act, which illustrates the aristocratic character of Indian

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democracy. However, in the end, the working class's interests won out and the resistance was broken up (ibid., pp. 511–512).

The execution of NREGA, rather than its enactment, poses the actual issue. The history of social legislation demonstrates that, both in India and elsewhere, even after laws have been created, it sometimes takes a long time for individuals to be able to assert their rights. Except in regions like Kerala, where employees are outspoken and organised, several laws, like the Minimum Wage Act of 1948, have languished on paper for decades without having such an effect. NREGA is also not likely to be successful.

without persistent public pressure and political commitment. If the win is properly implemented on the ground and there is no subsequent reaction or sabotage against the Act, it will really be a success (ibid).

Origins of NREGA

The 61st round of the National Sample Survey (2004–2005) indicates that roughly 73% of the households in the nation are from rural India, which makes up about 75% of the overall population. 73% of them are below the poverty line, which is characterised by widespread unemployment, meagre agricultural incomes, diminishing agricultural production, etc. According to the 11th Five Year Plan, the rural sector's total unemployment rate was at 8.25 percent in 2004-05, while the jobless rate among agricultural families had increased from 9.5% in 1993-94 to 15.4% in 2004-05 (National Social Watch 2011: 60-61).

Regarding the nature of employment in India, it may be divided into two categories: official and informal. Most people assume that informal work is any job that is not covered by either state laws or collective bargaining agreements. The term, however, is

inadequate to comprehend the dynamics of informal unemployment. Informal work is isolated as a category since it coexists with official employment in a dual economy. Nearly all emerging nations have dual economies, which are made up of contemporary (organised or formal) and traditional (unorganised or informal) parts.

In the contemporary economy, when formal employment is common, state laws and collective bargaining agreements are crucial in determining the kind of employment and pay for labour. However, neither state laws nor collective bargaining agreements apply to the traditional sector, which is governed by conventional laws and institutions (Ghose 2011, p. 116).

93% of all employment in India in the year 2004–05 was in the informal sector, making it the most preponderant kind of work. It controls too much of the industrial sectors. Nearly all employment in agriculture, 99 percent in construction, 90 percent in manufacturing, 81 percent in services, and 55 percent in mining, electricity, gas, and water were accounted for by it between 2004 and 2005. The fact that there is an excessive amount of informal employment in the contemporary industry is also a truth. 93% of modern-day employment was in modern-day agricultural, 61% in modern-day manufacturing, 90% in modern-day construction, 29% in modern-day mining, electricity, gas, and water, and 21% in modern-day service. However, the informal workforce in the contemporary sector only accounts for 3% of all informal jobs in the nation. In other words, it means that the conventional sector, which employs 89% of all employees in the nation, is the primary location of informal employment.

NREGA's Goals and Key Characteristics

The National Rural Employment Guarantee Scheme (NREGS), which was created in

September 2005 and went into effect on February 2, 2006, was the NREGA's implementation vehicle. The Swarnajayanti Grameen Rojagar Yojana (SGRY) and National Food for Work Programme (NFFWP) were included into the NREGS as continuing programmes. Since October 2009, it has been known as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). With the stated goals of giving each rural family willing to do manual, unskilled labour at least 100 days of guaranteed pay employment, it was implemented in its initial phase in 200 selected backward regions of the nation. The remaining 274 districts were added in its third phase beginning on April 1, 2008, after an additional 130 districts were added in its second phase during the 2007–2008 period (Roul 2010: 33–34; National Social Watch 2011: 61–62).

With its "rights based" methodology, MGNREGA represents a paradigm change from the majority of past Government projects and programmes. By providing Panchayat Raj Institutions (PRIs) a crucial role in planning, monitoring, and implementation as well as towards the regeneration of natural resources, it has grown to be a vital tool for enhancing community engagement at the grassroots level and the decentralised governance system. The Act places a similar emphasis on labor-intensive tasks by forbidding the employment of contractors and machinery. Additionally, it requires women to participate at a rate of 33%, which directly affects their socioeconomic empowerment. The Act has a special provision that ensures bonded employment and 15-day salary payment. The central government will be responsible for the majority of the financial costs, which include (a) all wages and benefits for unskilled manual labourers, (b) 75% of the materials and wages for skilled and semi-skilled workers, (c) administrative costs, which will include,

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among other things, the salary and benefits of the programme officers and his support staff as well as work site facilities, and (d) costs for the National Employment Guarantee Council. The state government, on the other hand, is responsible for covering the financial expenditures associated with 25% of material costs, skilled and semi-skilled worker pay, unemployment benefits, and State Employment Guarantee Council expenses (ibid).

MGNREGA Status: Coverage and Implementation

The MGNREGA project has so far given 52.5 million families throughout the nation jobs. In comparison to '65 in 2006-07 and '91 in 2009-10, the average daily pay has climbed to '100. Since 2006, it has produced 7.8 billion person-days worth of labour, with 50% of women, 21% of SCs, and 20% of STs participating in the workforce. However, it has only been able to provide 6.95 million people, or about 13.24% of the workforce that participated, 100 days of labour. In banks and post offices, more than 91.9 million accounts have been established, and 216.25 billion (or 84% of salaries) have been paid into these accounts as wages. In 619 districts, around 4.7 million projects have been started, and 76% of Panchayats have undergone social audits (ibid., 37–38).

Numerous studies conducted independently on MGNREGA have shown its achievements, including raising agricultural output by water collection, check dams, ground water recharging, enhancing moisture content, reducing soil erosion, and micro-irrigation. Through efforts to improve rural connections, boost family incomes, raise the proportion of women in the workforce, and restore natural resources, it has also improved access to markets and services. However, several studies conducted independently also mention a number of implementation problems and impediments. A 2009 research by the

Public Interest Foundation (PIF) and the National Council of Applied Economic Research (NCEAR) revealed that money were not going to the intended recipients. The number of homes for whom work cards have been issued exceeds the total number of households in numerous districts throughout many states. Job cards were delayed in numerous locations, and many people were also unemployed. It has been shown that there are excessive delays in payments to employees, irregularities in the choice of projects, subpar execution, inflated budgets, inadequate measurements, cost overruns, and delays in state funding releases. The quality of the assets produced by the system is under question in several areas, raising concerns about their long-term utility. Assam, Orissa, Gujarat, Maharashtra, Karnataka, and Kerala are just a few of the states that have shown a decline in job creation under MGNREGA as compared to SGRY. The three states with the best MGNREGA implementation were Rajasthan, Andhra Pradesh, and Tamil Nadu; Punjab had the lowest implementation, followed by Gujarat and West Bengal. The conclusions of the Planning Commission's mid-term evaluation report on rural development initiatives also highlighted the serious shortcomings of MGNREGA's performance. This survey found that the majority of states underperformed and that only 14% of worker families were able to find 100 days of employment. 48 days was the national average for work intensity, while as many as 15 states fell below it. Himachal Pradesh, Maharashtra, Haryana, Assam, Meghalaya, Tamil Nadu, Jammu & Kashmir, Uttarakhand, Orissa, Karnataka, Punjab, West Bengal, Bihar, Gujarat, and Kerala were among them (ibid: 38–40).

Conclusion

The NREGA provides a legal guarantee of employment in rural regions to anybody

willing to do casual manual work at the statutory minimum pay, despite a number of implementation or design flaws. The law may significantly lessen rural families' vulnerability to hunger and poverty. Even while 100 days of work at the legal minimum wage does not eradicate poverty, it may make a significant difference for those who are on the verge of famine. If there is job in the village, NREGA may aid in slowing down the distress migration to metropolitan regions. Thirdly, as was already indicated, it will also empower women by providing them with secure job that allows them to live independently.

Fourth, the Act offers a chance to develop practical resources in rural regions. Fifth, by providing them with significant financial resources, it may assist in energising and revitalising the institutions of local government. Last but not least, the Act works to increase the unorganised employees' negotiating power. They could be better able to fight for other crucial rights like social security and the minimum wage as a result.

As a chance for unorganised workers to organise, the process of mobilising for the successful implementation of the Act has great significance in and of itself (Banerjee 2011: 141-44, Dreze 2010: 512-17).

A plan and an Act vary significantly from one another. Laws last longer than schemes, which are temporary. A bureaucrat may reduce or even eliminate a plan, but modifying a statute calls for a parliamentary amendment. Labourers enjoy enduring legal rights under this statute. They will probably become more conscious of their rights and learn how to protect them over time, and this is already taking place.

A workers' union has emerged to protect employees' rights against the government. Disha, Gujarat, founded the first NREGA Workers Union, and their battles marked the

start of an alternative. The strengthening of democracy via jan sunwais (public hearings) and social audits has been the most fruitful result of the NREGA battles. These battles have been waged locally by a number of organisations around the nation that have played a significant role in the effort to secure a full-fledged right to work. For instance, Vikas Sahayog Kendra (VSK), Jharkhand; Jagrut Adivasi Dalit Sangathan (JADS), Madhya Pradesh; Paschim Banga Khet Majoor Samity (PBKMS), West Bengal; etc. (ibid).

*** Associate professor
Public administration
Directorate of College Education, Jaipur**

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