

---

## **Genesis of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and Its Constitutional Basis**

**DR JANGKHONGAM DOUNGEL**

*Associate Professor & Head, Department of Political Science  
Mizoram University, Aizawl, Mizoram.*

### **ABSTRACT:**

*The paper attempts to briefly trace the background of the emergence of the MGNREGS from conflicting ideologies. It attempts to highlight the MGNREGS as useful scheme for fulfillment of natural rights, provision of fundamental rights and directive principles of states policy in the constitution of India and the dream of Father of the Nation.*

### **1. INTRODUCTION:**

Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) is the most talk-about governmental scheme in academic circle, political discourses and in public at this juncture. It is a path-breaking initiative to provide legal guarantee to work and to transform the economy of the country by means of creation of durable assets starting from the grassroots level. The scheme envisages securing the livelihood of people in rural areas by guaranteeing 100 days of employment in a financial year to each household. At the very outset, 200 different districts of the country are covered in the first phase of implementation and coverage of the districts is to be extended every year. In such away, the scheme is expected to be applicable to the whole territory of the country within a period of five years from the date of enactment of the MGNREGS as an act. People of the rural area have great privileges for economic growth if MGNREGS is implemented in the right perspective.<sup>1</sup>As a matter of fact, concerned department and local bodies such as Village Council, Village Authority and Gram Panchayat have great role to play for successful implementation of the scheme. As MGNREGS is originated from the law, enacted by the Indian Parliament, it is also known as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

---

Therefore, the genesis of the scheme, its constitutional basis and its role in fulfillment of the Indian constitution should be briefly analysed.

## **2. EMERGENCE OF THE MGNREGS:**

With the adoption of economic liberalization as Industrial Policy of the government during the Finance Ministership of Dr. Manmohon Singh since 1991, Indian economy was freed from strong control of the government.<sup>2</sup> As such, Multi-National Corporation (MNC) and other foreign companies start investment in India and some Indian companies also undertake investment in a broad way which automatically resulted in the growth of Indian economy. Besides these, many educated unemployed youths got employment opportunity with high salary in MNC and private companies. Over and above that, computer engineers, doctors, scientists and people with specialized knowledge have the opportunity to work and earn in developed countries. Despite critical comment by the leftist leaning political grouping, economic liberalization has contributed a lot in building up the Indian economy.

The left parties, namely, Communist Party of India (C.P.I.), Communist Party of India (Marxist) C.P.I. (M), R.S.P. and Forward Bloc have tooth and nail opposed the economic liberalization since its very inception. However, the political development on the eve of the 14<sup>th</sup> Lok Sabha election in 2004 created a tactical political situation for formation of the United Progressive Alliance (U.P.A.) government where the Indian National Congress (I.N.C.) requires the support of the left parties to constitute majority in the house. To synthesis and accommodate both the Leftist ideology as well as the Centrist ideology of the I.N.C. and its like-minded parties, National Common Minimum Programme (N.C.M.P.) was adopted. The U.P.A. government has declared that it will enact the MGNREGS for economic upliftment of the ruralites. The MGNREGS is expected to provide a legal guarantee for 100 days of employment every year for at least one able-bodied person of every rural household. To cope the scheme with a legal entitlement for economic benefit of the ruralites, the U.P.A. government proposed to enact a new legislation through the National Rural Employment Guarantee Bill, 2004. Accordingly, Raghuvansh Prasad Singh, the Union Rural Development Minister, tabled the bill in Parliament on 17<sup>th</sup> December, 2004<sup>3</sup> which was listed in Bill No. 106 C of 2005 and the Parliament passed the bill in 2005. After it was assented by the

---

President of India, it was published in the Gazette of India as National Rural Employment Guarantee Act (N.R.E.G.A.) on 7<sup>th</sup> September, 2005. Then, the act extends to the whole of India except the state of Jammu & Kashmir.<sup>4</sup> Consequently, the NREGS/NREGA programmed was launched on 2<sup>nd</sup> February, 2006.<sup>5</sup> Later on the scheme came to be known after the name of Father of the Nation, as such, the prefix Mahatma Gandhi was added and it now known as Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS).

### **3. MGNREGS AS A FULFILLMENT OF NATURAL RIGHTS:**

English political philosopher, John Locke (1632 – 1704) asserted that every human being is endowed with three natural rights, which are inalienable from them (human-beings). The three natural rights are<sup>6</sup>

- I. Right to life.
- II. Right to liberty.
- III. Right to property.

John Locke held the view that any competent government should take appropriate measures for felicitating its citizens with the above-mentioned three natural rights. Further, any government which can not deliver the above mentioned three natural rights to the citizens can be regarded as failed government according to John Locke's view. Government should not encroach upon the natural rights of its citizens and the achievement of the government can also be rated on the basis of effective provision of the natural rights to its citizens, he further asserted.<sup>7</sup> Infact John Locke's propagation of three natural rights can also be cited as the ideological root for emergence of modern democratic rights. The main reason for the outbreak of the French Revolution of 1789 was also due to denial of the three natural rights to the citizens. Moreover, the natural rights, propounded by John Locke has been accomplished and adopted in constitutions of democratic countries of Europe and America.<sup>8</sup> In the like manner, the government of India scrupulously enacted the MGNREGS/MGNREGA as a prerequisite mean for dispensing the three natural rights to ruralites of the country for enabling them to move forward in the liberalized and globalised world.

---

#### **4. NREGS AS A FULFILLMENT OF INDIAN CONSTITUTION:**

##### 4.1. Implication of Fundamental Rights:

Fundamental rights are very essential for personality development of the citizens. It is significant to note that fundamental rights are provided not only to citizens but some of them are also made available to the aliens. These rights are fundamental in the sense that they are paramount and superior to all laws, executive orders and judicial decision. No branch of the government can abridge, curtail or violate them. The fundamental rights are enshrined in Articles 12 – 35 of the Indian constitution. The philosophy behind the enactment of NREGS is based on Article 21 i.e. right to life and personal liberty.<sup>9</sup>

Article 21 lays down that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Indeed, the interpretation and implication of Article 21 is wide-ranging and extensive. As such, right to life is also said to be incorporated within the ambit of Article 21. In *Nalla Thampi versus Union of India* Judgement, 1985, the Supreme Court declared that the right to life included “the finer graces of human civilization” and this fundamental right is a repository of various human rights. And in *Francis Coralie Mullin versus administrator, Union Territory of Delhi*, 1981, the Supreme Court emphasized the right to live with human dignity in its judgement. Further, right to livelihood, right to health, right to shelter and emergency medical aid have also been emphasized by the Supreme court in its various other judgements in connection with the right to work. As MGNREGS is enacted for providing the right to work to ruralites on the basis of the provision, enshrined in the fundamental rights of the constitution of India, it is deemed as fundamental right. So, any violation of the MGNREGS provision is regarded as violation of the fundamental right. In the like manner as violation of any other fundamental rights, the Supreme Court can be approached under Article 32 and the High Court can be approached under Article 226 of the Indian constitution with regard to misuse or violation of MGNREGS provision. P.M. Bakshi held the view that if right to employment is enacted as an act, it is a full-fledged fundamental right.<sup>10</sup>

---

#### 4.2. Fulfilment of Directive Principles of State Policy:

The Directive Principles of State Policy contains the ambitions and aspirations of the framers of the Indian constitution. These principles strive to create a framework of socio-economic ideals through which a welfare state may be established in the Indian political system. Most of the directives aim at the establishment of the economic and social democracy, which is pledged for in the preamble. Infact, these directives are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws. Directive Principles of State Policy are enshrined in Articles 36 – 51 of the Indian constitution.<sup>11</sup>

Article 38 lays down that the state shall strive to promote the welfare of the people by securing a social order based on social, economic and political justice. And in Article 39, it is laid down that the state shall, in particular, direct its policy towards securing an adequate means of livelihood, ownership, control and distribution of material resources of the community for common good, avoidance of concentration of wealth in few hands and equal pay for equal work for both men and women. Therefore, the provision of Article 38 and Article 39 of the Indian constitution is fulfilled in the MGNREGS/MGNREGA. Besides these, the right to work which is enshrined in Article 41 is also fulfilled by the MGNREGS/MGNREGA.<sup>12</sup> However, the real fulfillment of the constitutional provision can only be verified by implementation of the scheme/act, whether it is impartially implemented objectively in the right perspective as it is laid down in the act.

#### **5. FULFILMENT OF MAHATMA GANDHI'S DREAM:**

Father of the Nation, Mahatma Gandhi, propounded the principle of “bread-labour” as a measure of forcing everybody to physically work and to earn his livelihood. He emphasized the dignity of labour and also practically followed what he had preached to the Indian masses. Gandhi held the view that any one who dose not work with his hands or other limbs run the risk of being a parasite. Therefore, he objected the use of machine in any form and he practically implemented his bread-labour theory with his spinning wheel. Gandhi also strongly advocated the empowerment of the Village Panchayat for economic upliftment of the rural area.<sup>13</sup> The MGNREGS provision now emphasizes on allotting manual works to

ruralites and the use of machine is not recommended as far as practicable. Moreover, Village Councils/Village Panchayats are also possessing enormous power in implementation of the MGNREGS. Gandhi also asserted that as Indians live in villages, real development of India could be ensured only by developing villages. And MGNREGS concentrates its work in the rural area for upliftment of the village economy.

## **6. UNIQUENESS OF THE MGNREGS:**

The government of India has implemented many schemes for economic upliftment of the citizens since independence. Some of the schemes which were implemented in the past comprised of Integrated Rural Development Programme (I.R.D.P.), Jawahar Rojgar Yojana (J.R.Y.), Prime Minister Rojgar Yojana (P.M.R.Y.), Employment Assurance Scheme (E.A.S.), National Rural Employment Programme (N.R.E.P.), Rural Landless Employment Guarantee Programme (R.L.E.G.P.), Drought Prone Area Programme (D.P.A.P.), Small Farmers Development Agency (S.F.D.A.), Desert Development Programme (D.D.P.) and Command Area Development Programme (C.A.D.P.) etc.<sup>14</sup> Some of the schemes which are in the process of implementation are Mid-day Meal Scheme, Integrated Child Development Scheme (I.C.D.S.), Jawaharlal Nehru National Urban Renewal Mission (J.N.U.R.M.), National Rural Health Mission (N.R.H.M.), Janani Suraksha Yojana (J.S.Y.), Sarva Shiksha Abhiyan (S.S.A.) and Pradhan Mantri Gram Sadak Yojana (P.M.G.S.) and under Bharat Nirman Programme, there are some schemes, such as, Rural Electrification, Rural Water Supply, Indira Awas Yojana (I.A.Y.), Rural Housing, Rural Roads, Rural Telephony and Rural irrigation.<sup>15</sup>

All the above-mentioned schemes are just development schemes and none of them (schemes) have legal implication on the basis of Parliament enactment. But, NREGS is implemented through an act, enacted by the Parliament and till now, it is the only scheme, which is enforced through an act of Parliament. As NREGS is based on Article 21, it is regarded as a full-fledged fundamental right. And as an act, NREGS is automatically armed with legal provision. If any bill or legislation is enacted as an act, it adheres rigidity in its functioning and implication. As a matter of fact, an act can be amended only by the enacting legislature. Herein lays the uniqueness of the legislature whether it is Parliament, State Assembly or

---

District Council. So, any law, enacted by the legislature is bound to be enforced with out any changes. In case, if there are certain loopholes in the functioning of any scheme other than the MGNREGS, there cannot be any legal implication because they are just schemes, but they had no legislative enactment as act. However, the case is different with NREGS because it has legal provision, as it is an act.

Governmental structure at different levels, such as, Central Government, State Government, District Council and Panchayati Raj/Village Council has certain roles and responsibilities in the implementation of MGNREGS. And this very provision also highlights the uniqueness of the MGNREGS. In order to avoid misuse of fund and to enhance transparency in the functioning of MGNREGS, certain corrective measures are also taken up for its effective implementation. Thus, this very feature also verifies empowerment of people of the rural area through transparent functioning.

The uniqueness of the MGNREGS also lies in it being a development works with actual performance. Infact, it is not at all appropriate to disburse the MGNREGS fund to people who do not work. Had all other development schemes, various projects and funds, received by state Government, District Councils and other local bodies from the Central Government been spent and implemented on the basis of MGNREGS guidelines, India would have narrowly approached the developed stage of economy at this juncture. It should also be noted that growth is an essential feature of real development and MGNREGS insists on development with economic growth of the ruralites.

Another unique feature of the MGNREGS is that, it (MGNREGS) is the first such effort in the world to provide legal guarantee for a right to work and the programme is keenly watched by development observers all over the world.<sup>16</sup> The manner in which development observers and western scholars had keen interest in NREGS can be interpreted as historical repetition of the keen interest, which, the western scholars had shown with regard to the adoption of parliamentary democratic constitution in India and other third world countries on the eve of India's independence. Infact, western scholars were apprehensive about the successful functioning of democratic institution in India and other third world countries where majority of the population were illiterate. In accordance with the apprehensive prediction of the

---

western scholars, democratic institution collapsed in many countries of Asia, Africa and Latin America. As a result, martial law, military rule and dictatorial rule were set up in those countries. Contrary to the critical apprehension of the western scholars, democratic institution continues to function smoothly in India despite certain hurdles. In the like manner as western scholars had practically verified the successful functioning of democratic institution in India, the same can be repeated in the form of successful implementation of the NREGS. Over and above that, if NREGS is objectively implemented as per the provision of the act, economic development of the country will be ensured through growth.

## **7. CONCLUSION:**

Mahatma Gandhi asserted that each individual has a role for upliftment of India as a developed country. Gandhian economic programme was based upon the ideal of self-sufficiency. And, self-sufficiency for India as a whole can be achieved only if all the individual citizens are self-sufficient, he further added.<sup>17</sup> Likewise; each individual is also responsible for successful functioning of the MGNREGS, particularly, people of the rural area where the scheme is implemented. Not only in MGNREGS, but also in all development schemes, projects, programme and various other steps of the government, each individual has certain role to contribute for development of the country. As MGNREGS is implemented for uplifting the ruralites at par with the living standard of the present liberalized and globalised world, each citizen has a role to play for successful implementation of the scheme. Specifically, concerned department officials and ruralites who utilize the scheme are significant for effective implementation of the scheme. Therefore, the scheme should be impartially enforced as provided in the act. Further, any step for politicization, undue influence of politicians, corruption and nepotism in any form should be effectively resisted as per the norms of the act. Therefore, awareness should be inculcated to the ruralites who would be benefited by the scheme so as to arm those ruralites with the necessary knowledge for implementation of the scheme.



---

**REFERENCES:**

- i. Government of India, The National Rural Employment Guarantee Bill, 2005, presented by Raghuvansh Prasad Singh, Union Rural Development Minister in Lok Sabha on 17<sup>th</sup> December, 2004.
- ii. Subdharam, K.P.M. & Dutt, Ruddar, Indian Economy, S. Chand & Company Pvt Ltd, New Delhi, 2006, PP. 187 – 189.
- iii. Op. Cit.
- iv. Government of India, The Gazette of India, Extraordinary, Part II, Section I, Published by Authority, September 7, 2005.
- v. Government of India, Major Programmes of U.P.A. Government, Press Information Bureau (P.I.B.), Aizawl, 2006, P. 14.
- vi. Gupta, R.L., Modern Political Theory, Sultan Chand & Sons, New Delhi, 1995, PP. 125 – 128.
- vii. Ibid.
- viii. Bhagwan, Vishnoo & Bhushan, Vidya, World Constitution, Revised and enlarged, Sterling Publishers, New Delhi, 1997, PP. 9 – 13.
- ix. Ojha, N.N., Indian Polity, Chronicle Books, New Delhi, 1993, PP. 33 – 34 & 40.
- x. Bakshi, P.M., The Constitution of India, Universal Law Publishing Co. Pvt. Ltd, Delhi, 2006, PP. 46 – 55.
- xi. Op. Cit.
- xii. Ibid, P. 217.
- xiii. Patil, V.T., Studies on Gandhi, Sterling Publishers, New Delhi, 1989, PP. 86 – 91.
- xiv. Sundharam, K.P.M., Op. Cit, PP. 382 – 389.
- xv. Government of India, Major Programmes of U.P.A. Government, Op. Cit, PP. 3 – 18.
- xvi. Ibid.
- xvii. Sharma, Ranjit C, An Introduction to Gandhian Thought, Atlantic Publishers and distributors, New Delhi, 1991, PP. 39 – 42.