

MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE SCHEME: A PRIMER

APURAV MAGGU | SIDDHARTH SEEM | ANHAD HUNDAL



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Executive Summary

This paper is an overview of the background, objectives, history, implementation, and challenges of MGNREGS in India. It discusses wage payments, the participation of marginalized communities, yearly budgetary allocation to the scheme and criticisms levied against it since its inception. Further, there are contradictions in the statements made by different administrations, which this paper attempts to address by looking at different data points.

Introduction

In February 2015, on the floor of the Lok Sabha, Prime Minister Narendra Modi called the MGNREGS a "monument of failures" of the previous Congress-led governments. However, the current Government continued to increase its yearly budgetary allocation by Rs. 5-7,000 crore from 2015 to 2019 (ET Online 2019).

Subsequently, in April 2015, the then Madhya Pradesh Chief Minister, Shivraj Singh Chouhan (BJP), termed MGNREGS as "one of the best programmes in independent India"(Mathew 2015). In another press release dated February 2016, the Central Government termed the achievements by MGNREGS in the last decade as a cause of "national pride and celebration" (PIB 2016).

There is a contradiction in the statements made by the same administration and this paper attempts to address it by looking at different data points.

Background

The NREGA Act was passed in 2005 with the aim of enhancing the livelihood security of households in rural areas across India. Its mandate is to provide 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to unskilled manual labour.

Objectives of the Scheme

The gazetted document of MGNREGA (2005) outlines the primary objective of the Act as:

"An Act to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto."

Source: (NREGA Gazette document)

The Ministry of Rural Development (MoRD) also outlines other objectives of the Act, which includes the creation of productive assets by providing wage employment, strengthening the livelihood resource base of the rural India, ensuring social inclusion of marginalized groups such as women, SCs and STs, and strengthening the Panchayati Raj Institutions (PRIs).

Its auxiliary objectives included the strengthening of the rural economy, prevention of rural distress, and natural resource management through works that address causes of chronic poverty like drought, and encourage sustainable development.

Further, by encouraging works on water-harvesting, soil conservation, flood protection, afforestation and plantation, MGNREGS helped to insulate local communities from the adverse effects of climate change.

Finally, these schemes intend to strengthen democratic, grassroots activities, and provide greater transparency and accountability in governance(Ranjan 2015:57).

Historic Necessity

The Universal Declaration of Human Rights, 1948 (UDHR), the primary document protecting and promoting human rights under international law, ensures for every person in the world the "right to work" (Article 23). The right to work has also been recognized as a human right under the International Convention on Economic, Social and Cultural Rights, 1996 (ICESCR) (Article 6).

In India:

Under the Directive Principles of State Policy (DPSPs) enshrined in the Constitution of India, the Indian State is duty-bound to make effective provision for securing the right to work (Article 41) "men and women equally have the right to an adequate means of livelihood" (Article 39).

Although the DPSPs are non-justiciable in any court of law, "the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws" (Article 37).

While the Constitution of India does not expressly declare the right to work as a fundamental right, the Supreme Court in interpreted the fundamental "right to life" under Article 21 to include the right to work and livelihood. The right to work, as per the Olga Tellis case, was seen as a "negative right" rather than a "positive" one. That is to say, that the State could not unduly prevent any citizen from earning a livelihood, but citizens did not have a right to demand for employment from the government itself.

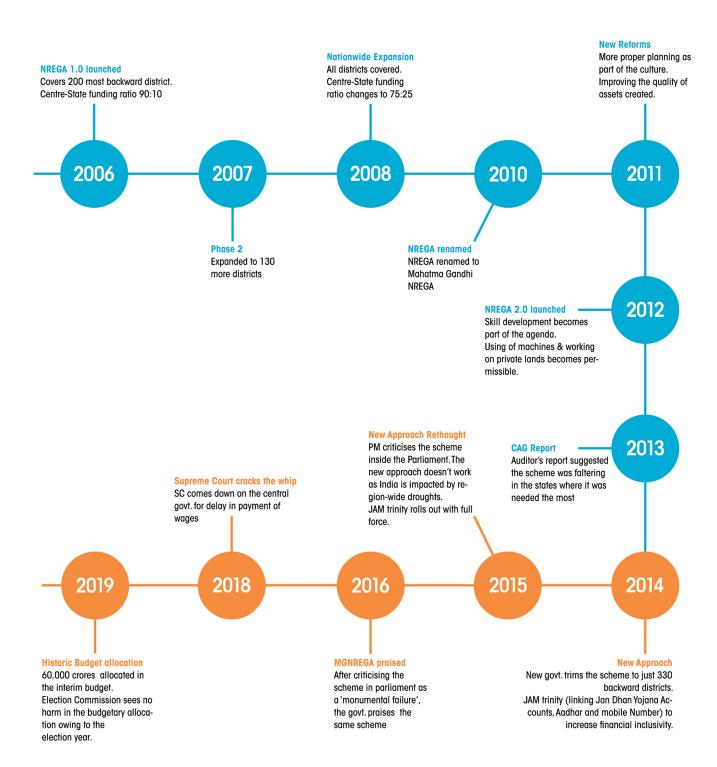
However, this changed with the introduction of MGNREGA, which gave every household the right to receive a minimum of 100 days of manual work, a positive obligation upon the State.

Salient Features of the Scheme

- **1. Equality of Wages -** all people who apply to work under the scheme will be paid equal salaries regardless of their gender.
- 2. Act of Parliament The earlier schemes were initiated as executive orders, however MGNREGA was passed as law in the Parliament and it would require the power of center to abrogate the act. Thus, it is irrevocable and can be dismissed only by another Act of parliament.
- **3. Transparency and Accountability -** Social auditing of the work will be done by Gram Panchayats in order to keep a check on administrative and other forms of corruption. It also has a grievance redressal mechanism built into the scheme.
- **4. Preserves the dignity of the rural poor -** The scheme provides minimum livelihood security to rural households and other development objectives. It also ensures participation of marginalized groups in rural India. The scheme tries to employ people for a minimum of 100 days at a minimum wage, thus offering them a life of dignity.
- **5. Strengthens Rural Governance -** The scheme involves the Panchayati Raj Institutions of Gram Panchayat, Block Panchayat and Zila Parishad in major planning and implementation of work.
- **6. Legal Obligation -** It is the legal obligation of the Central and State government to provide budgetary allocations for the scheme, and therefore should not contingent upon the fiscal conditions of the country. (Ranjan 2015:57)

Timeline and Implementation of the Scheme

Below is a timeline NREGA's evolution into the Mahatma Gandhi National Rural Employment Guarantee Act, and its progress since(Ranjan 2015:59)



Funding of the Scheme

MGNREGS is a Centrally Sponsored Scheme, whose fiscal responsibilities are shared between the centre and the state in a 75:25 ratio. Below is the breakup:

Roles	Central Funding	State Funding
Complete ownership	100% cost of wages of unskilled manual workers	Unemployment allowance if the government is unable to provide suitable employment to people applying for the scheme
Administrative Expenses	100 % funding for Central Employment Guarantee Council	100 % funding for State employment Guarantee Council
Cost of Material and Wages	75% of the cost of material and wages of skilled and semi-skilled workers	25% of the cost of material and wages of skilled and semi-skilled workers

(Source- NREGA website)

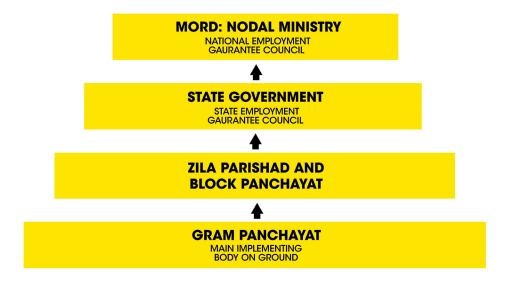
Work Flow

The Gram Panchayat is the first in the chain responsible for the registration of households, issuing of Job Cards, and providing work. The Gram Panchayat selects, designs and implements 50% of the works.

The Block Panchayat is the second tier, and deals with the implementation of the programme. The Block Panchayat undertakes the remaining 50% of the work, either at their own level or at the District Panchayat level, or they both jointly take ownership over it. Updating of the data under the programme relating to works, muster roll entries etc. is also done by Block Panchayat.

The District Panchayat, besides implementing non-mandatory works, also coordinates the activities of programmes at the district level. This panchayat is also responsible for the preparation of the district annual plan and the five year perspective plans in consultation with Gram & Block Panchayats.

The State government acts as a facilitator in the flow of funds for the scheme and is also responsible for setting up the State Employment Guarantee Council, which advises the Government on implementation, monitoring & evaluation of programmes in the state.



The Ministry of Rural Development (MoRD), Government of India, is the nodal agency for MGNREGA implementation. The Central Government has the authority to set up the Central Employment Guarantee Council for receiving advice on MGNREGA implementation, besides independent evaluation and monitoring of the scheme. The Central Government is also tasked with the planning phase to disburse funds. (NREGAsoft website)

Wages under MGNREGS

Section 6 of the MGNREGA provides that the Central Government may notify the wage rates for the purpose of the Act. Further, while the Section allows the Central Government to declare different rates for different areas, it lays down a floor wage rate of INR 60 per day.

A straightforward reading of Section 6 thus conveys that the Central Government can fix wage rates under MGNREGA that are, in fact, lower than the minimum wage prescribed for the area by the State.

Why are MGNREGS wages lower than minimum wages?

In 2014, a high-level committee set up by the Central Government, and headed by Professor S. Mahendra Devon, recommended that the wage rate under MGNREGA should not be less than the minimum wage prescribed by the State Government for unskilled agricultural laborers.

In its 2017 report, another Committee, headed by Nagesh Singh, Additional Secretary, Ministry of Rural Development, noted that "there is no compelling argument for convergence of minimum wages for agricultural labour and wages notified for NREGA workers in view of the differences in activities performed by these two set of workers which have been enumerated above". (Ministry of Rural Development, MGNREGA Division, Government of India 2017: 12)

The reasons described by the Nagesh Singh Committee to justify the divergence in MGNREGA rates and the minimum wage rate were threefold:

- (1) That there is a difference in the duration of time put in by agricultural workers (9 hours, including 1 hour of rest) and that put in by MGNREGA workers (8 hours, including 1 hour of rest),
- (2) That the schedule of rates for minimum wage of agricultural laborers varies widely among states,
- (3) That MGNREGA wage rates are strictly enforced, whereas minimum wages are not done so universally.

Is It Legal to Pay Less Than the Minimum Wage?

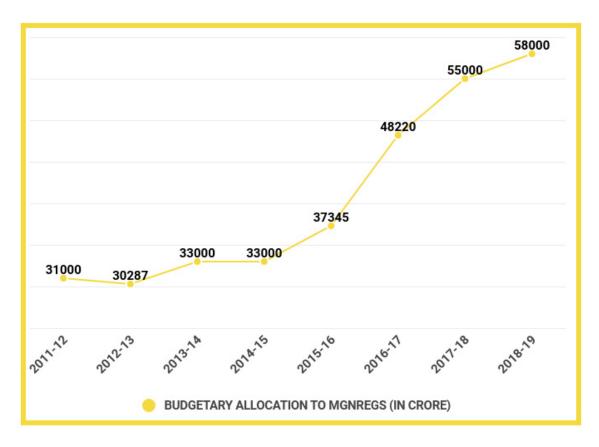
The Supreme Court declared that non-payment of minimum wages for work done would amount to forced labor, which is prohibited under Article 23 of the Constitution of India. Subsequently, in 2017, the Delhi High Court termed non-payment of minimum wages as "unconscionable and unpardonable".

However, the Central Government continues to pay wages under MGNREGS which are lower than the state prescribed minimum wage in 27 states and Union Territories, as evidenced in a press release by NREGA Sangharsh Morcha on April 1, 2018 (NREGA Sangharsh Morcha 2018)

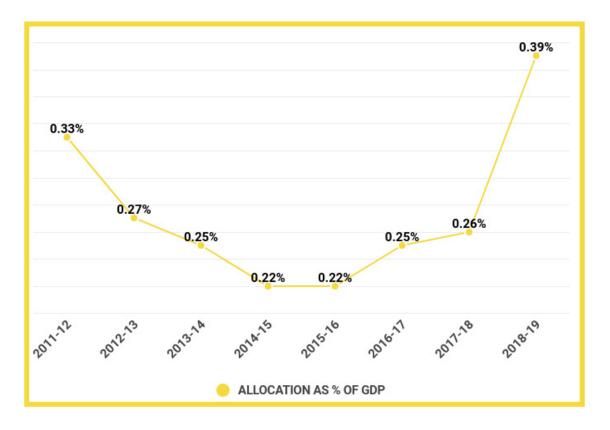
Assessing the Impact of MGNREGS

Yearly Budgetary allocation as a percentage of GDP:

The graph that follows shows the yearly budgetary allocation to MGNREGA by the central government, as well as fund allocation as a percentage of GDP, between 2011-2019



Graph No.1 (Source-Ministry of Rural Development)



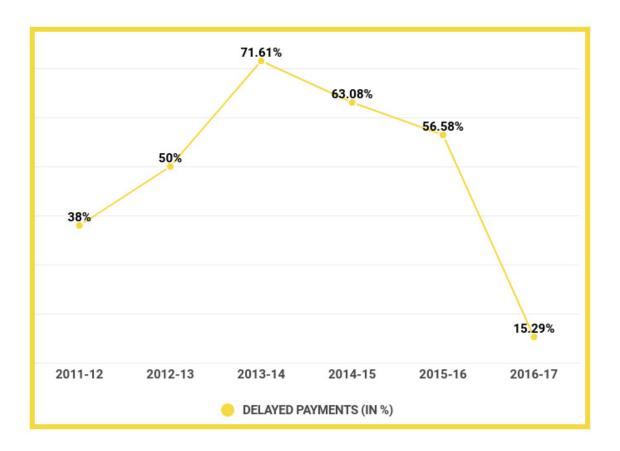
Graph No.2 (Source-NREGA Sangharsh morcha and Author's own calculation for the year 2018)

While the budgetary allocation has been increasing each year, if measured against percentage of GDP, it has not increased as it should have, even as 100 districts have reported drought from 2000-2015.

Delayed Payments

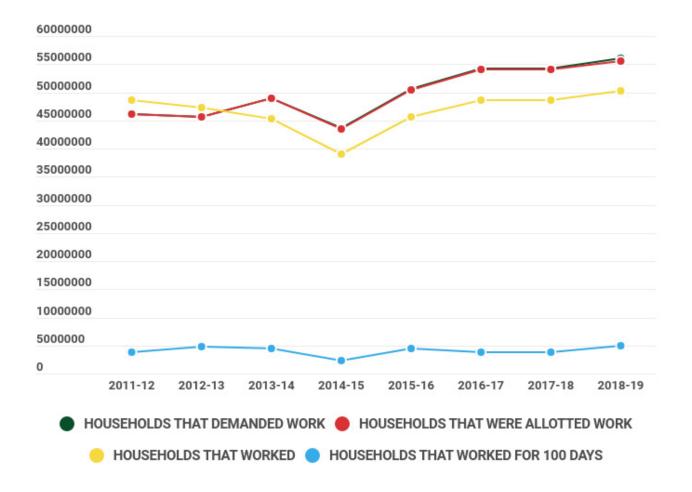
One of the major criticisms of the MGNREGS has been the delayed payment of wages. The Supreme Court intervened in this matter in 2016 and 2018 (Dhorajiwala and Nandy 2018). The graph below highlights a rise from 2014 to 2017, which suggests that, after the change in government, the percentage of delay in wage payments has in fact increased.

Only after the Supreme Court intervention, and pressure from the civil society activists, has the government responded by plugging the gap and the percentage delay in payment of wages is down b 15%.



Divergence in the Implementation of the Scheme and Intentions of the Government

While the MGNREGA legally mandates that a minimum of 100 days of employment should be provided, this is not reflected in ground implementation.



The graph above highlights clear divergence between number of households which have demanded work, and those which have worked. An interesting observation is that between 2011 and 2013, the number of households that have worked has, in fact, been more than the number of households who have demanded work. This puts a question mark on the legitimacy of data collation, or reflects a pattern of fudging muster rolls.

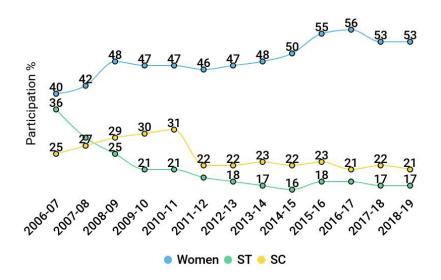
Furthermore, it is pertinent to note that, despite this decreasing trend of work allocation, the funding of the scheme has increased over the years, reaching INR 60,000 Crore in 2019.

Participation of Marginalized Groups

Khera and Nayak (2009) note that MGNREGS has had a positive impact on women's participation in the labour force. They point out that, not only did two-thirds of their respondents report that they faced less hunger because of the employment generated by the programme, but also that they had greater freedom in deciding how their earnings were spent (52).

Iin India's patriarchal society, MGNREGS have emerged as torchbearers for women's empowerment. For instance, Women's participation has soared 38% over the last decade, with as many as 55% of workers being women in 2014-2015. Kerala and Tamil Nadu top the charts, with as many as 92% and 86% of female participation.

MAPPING PARTICIPATION



SC and ST Participation

Other beneficiaries of MGNREGA's rights-based guaranteed employment are Scheduled Caste (SC) and Scheduled Tribe (ST) communities. These communities often lack accessibility to equitable wage employment because of existing structural inequalities and exclusions due to caste hierarchies.

Rural poverty is disproportionately concentrated among SC and ST communities, despite the fact that the former constitute 18.4%, and the latter 10.9%, of all rural households. (Ministry of Rural Development, Government of India).

However, participation of SC and ST communities has declined. One reason is the scheme's unreliability due to delayed payment of wages. As a result, short-term migration has become a fixed trend. (Menon 2013)

Other Positive Impacts:

MGNREGS have altered the power balance between the landless poor and their employers (agricultural landlords, labour contractors) by affording more voice to the former.

Other than being a rights-based, bottom-up programme, MGNREGS have also had immense environmental impacts. As per a report by the Indian Institute of Science, Bangalore (Indian Institute of Science 2013: iii), MGNREGS works, such as check dams, percolation tanks, and desilting of tanks, have had a positive impact on groundwater levels. The levels have either increased or remained at pre-MGNREGS levels, despite continued, and even increased, extraction in some areas. These works have also contributed to an increase in area irrigated by borewells and open wells, potentially leading to improved crop yields.

Further, this report noted a reduction in soil erosion due to land development works such as land levelling, conservation bench terracing, and drought proofing, among others. Other drought proofing works such as afforestation and reforestation, and horticulture development activities have similarly been implemented. These activities have not only contributed to a reduction in vulnerability to climate risks, especially in years with insufficient rainfall, but also have the potential of generating additional income and diversifying livelihoods. (ibid 2013: iii)

Criticisms

Some of the most frequent criticisms of NREGS have been related to its implementation on the ground level. The fabrication of job cards and inclusion of fictitious names in job rolls (Joyita 2013), along with a delay in the entry of names have been key challenges since the inception of the programme.

Further, as Down to Earth (Mahapatra 2017) noted in its report, from April 2014 to October 2017, there were 10.4 million out of 39.7 million works listed as 'incomplete' on the Ministry of Rural Development website. 70% of these were related to water development projects, including irrigation and conservation. This is especially troubling given the important role of MGNREGS in drought ridden areas. These assets created by MGNREGS have also been criticised for being of poor quality (Ghosh 2013; Verma and Shah 2012; Ranjan 2015). Another key challenge is that of delay in payments. Economist Jean Dreze highlights this in his 2018 article, where he also notes that the change in the payment delivery system, from cash payments to the bank and post office payments, has further exacerbated the delay. Through her work in Tamil Nadu, Rumela Ghosh (2013) provides that the non-payment of unemployment allowances is a similar challenge. Inefficiency in the way that wages are transferred has also been posited by Jagdish Bhagwati and Arvind Panagariya (2014), whereby there is a leakage in funds going toward the payment of wages to the poor.

Furthermore, there is a lack of adequate number of days of employment available, especially in drought affected rural areas (Shah et al, 2018). Subsequently, Dreze underlines the need to ensure a more effective redressal system to deal with the above setbacks.

Regional disparities in implementation are another major issue, especially in the case of fund allocation, as N.C. Saxena argues (2016).

Moving Forward

Although touted as the largest Public Works Scheme in the world, MGNREGS nonetheless faces challenges on multiple fronts. One of the biggest is the issue of wages. As noted above, ensuring MGNREGS wages are not lower than minimum wages, and that they are paid to workers in a timely fashion, is imperative. There is, similarly, a need to ensure that all households under the scheme are granted work.

There are also overarching cultural trends which need to be addressed. Khera and Nayak, for instance, highlight instances where the names of women are often excluded from job cards. (Khera and Nayak 2009: 54) The authors also argue that women face harassment on job sites. In fact, more reports of harassment were found at sites where contractors were present (35%) than contractor-free sites (8%). (ibid 2009: 54) They also reported a lack of childcare facilities, despite a legal mandate.

Finally, there is the issue of authenticity. It has been noted that the demand for work is often not accounted for, which compromises government data. (Narayanan, 2019) Further, there have been claims about the lack of transparency, most recently from a group of 250 politicians and citizens, who included it in their open letter to the Prime Minister. (The Wire Staff 2019)

In Conclusion, the scheme needs to be strengthened, especially as evidence highlights that women and other marginalized groups are emerging as winners through their participation in the Indian countryside. While various entry-barriers need to be challenged and systematically worked upon, it becomes imperative then to focus on challenges and lessons learnt from its implementation before rolling out new schemes.

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+91 11 26145067 | contact@sprf.in | sprf.in