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Right To Information Act and NREGA: Reflections on Rajasthan

Sudha Venu Menon

“The Right to Information Act should be followed both in letter and spirit in all matters relating to NREGA”

Operational Guidelines of NREGA P-41

Introduction

Right to information [RTI] is generally regarded as one of the most important cornerstones of participatory democracy because public access to information instills spirit of accountability and transparency in governance. Right to information is also seen as a corrective instrument to check corruption, secrecy and bureaucratic apathy towards citizens. Thus in this era of information revolution and globalization, right to information is a pre requisite for healthy democratic structure. Indian Parliament enacted the famous Right to Information Act in 2005, which makes access to information as fundamental right of the people. Enactment of the Act is the result of a long struggle for freedom of information throughout the country spearheaded by Mazdoor Kisan Sakthi Sangathan [MKSS] and National Campaign for People’s Right to Information [NCPRI].

RTI empowers every citizen to seek any information from government offices and access to official documents on request except the information about national security and strategic issues. Since the scope of the Act is broad in scope, RTI has revolutionized the concept of democratic governance substantially. So when National Rural Employment Guarantee Act [NREGA] was enacted by Indian Parliament in 2005 August, RTI was made as an integral part of the Act. It is envisaged that NREGA will be meaningless without proper use of RTI because RTI can check corruption and leakage of public funding on NREGA in an effective manner. Above all, the provisions of RTI make the implementing agency more transparent and accountable to common masses.

Against the context of NREGA, the present article attempts to explain the role of RTI in NREGA. Section one of the article explains RTI, its significance in giving transparency and accountability in NREGA, the procedures to be followed in using RTI, need for mass participation and role of civil society. Section two discusses the pioneering role of Aruna

Roy and MKSS in Rajasthan for making RTI and NREGA a reality. Compare to other states, NREGA experiment was successful in Rajasthan mainly because of the mass awareness campaigns, muster roll verification, periodic social audit, active role of PRIs etc. The paper also highlight the achievements of NREGA in Rajasthan like checking migration to urban areas, Natural Resource Management include water conservation and harvesting structure, drought proofing, micro irrigation works, provision of irrigation facilities to land owned by SC/ST, rural connectivity, renovation of water bodies, and pasture land development. Concluding section recommends the need for linking RTI with NREGA and active participation of civil society organizations to check corruption and mis- management.

Section One

Role of RTI in implementation of NREGA

The NREGA is a law where by any adult who is willing to do unskilled manual work at the minimum wage is entitled to being employed on public works within 15 days of applying. If work is not given within the stipulated time, he/she is entitled to an unemployment allowance¹. It is a “People’s Act” in several sense. The Act was prepared through a wide range of consultation with people’s organizations. Secondly, the Act addresses itself chiefly to working people and their fundamental right to life with dignity. Third, the Act empowers ordinary people to play an active role in the implementation of employment guarantee schemes through Gram Sabhas, social audits, participatory planning and other means. More than any other law, NREGA is an Act of the people, by the people and for the people². This Act is an important step towards the realization of the right to work. It is also expected to enhance people’s livelihoods on a sustained basis, by developing the economic and social infrastructure in rural areas. The choice of works seeks to address the causes of chronic poverty such as drought, deforestation and soil erosion. Effectively implemented, the employment generated under the Act has the potential of transforming the geography of poverty³.

When the Act was enacted, one of the main criticisms raised against the Act was that the implementation will lead to widespread corruption and leakage of funds. Critics feel that it would be difficult to ensure the implementation of this guarantee in a vast country like India without compromising the provisions of transparency and accountability.

Here lies the significance of RTI. Transparency provisions and the RTI can play key role in exercising control over delivery mechanisms. The operational guidelines of NREGA clearly stipulate that the Right to Information Act should be followed both in letter and in spirit in all matters relating to NREGA.

¹ Nikhil Dey Jean Dreze and Ritika Khera, NREGA:A Primer, National Book Trust,2006.

² NREGA: Operational Guidelines, Government of India.

³ Ibid.

The role of RTI is instrumental for a beneficiary in the following stages of NREGA implementation:

1. Registration as a worker and receiving a 'job card'
2. Applying for and receiving work
3. Ensuring peoples participation and control over the planning process
4. Organization of the work site and measurement of work
5. Payment of wages or payment of unemployment allowance
6. Social audit after the work is completed
7. Monitoring of the complaint and redress machinery⁴

As per the provisions of the Act, RTI gives the citizen right to access any records related to their work. Proactive disclosure of information is the first step in RTI. Proactive disclosure implies the primary responsibility of the government agencies to disclose the details to the people without their formal application. It is proactive effort and concern towards accountability norms and principles. NREGA gives special focus on this clause. The Act says that section 4 which concerns proactive disclosure of information, should be strictly complied with at all levels. ***Key documents related to NREGA should be proactively disclosed to the public, without waiting for anyone to 'apply' for them. A list of such key documents should be prepared by the State Employment Guarantee Council, and updated from time to time***⁵.

More specifically the proactive disclosure includes the following:

1. Reading out necessary information when it is required
2. Giving details of information through notice board, websites and other means of communication
3. Make sure that muster are available at worksites and accessible to public scrutiny
4. All NREGA related matters must be in public domain
5. Requests for copies of REGS-related documents submitted under NREGA should be complied with within seven days. No request should be refused under any circumstances... All NREGA-related information is in the public domain.”
6. Fees charged for copies of NREGA-related documents should not exceed photocopying costs.
7. Key documents related to NREGA should be proactively disclosed to the public, without waiting for anyone to 'apply' for them.
8. EGS-related accounts of each Gram Panchayat should be proactively displayed and updated twice a year⁶.

⁴ MKSS, Transparency and Accountability; Using Peoples Right to Information for proper implementation of NREGA. www.righttofoodindia.org

⁵ Ibid.

⁶ For more details please read operational guidelines of NREGA published by government of India or NREGA:A Primer by Nikhil Dey etall. www.righttofoodindia.org

Given the circumstances, RTI can play leading role because it has the provisions to protect the transparency norms provided in the NREGA Act. The Right to Information Act empowers you not only to access documents but also to take samples of materials and to inspect works and files. It also has a provision such that if information is wrongfully delayed or denied to a citizen, the concerned public authority can be required “to compensate the complainant for any loss or other detriment suffered”. Further, this Act overrides the provisions of all other acts, if there is a conflict. Thus, the Right to Information Act powerfully supplements the transparency provisions of the NREGA 2005 and its Operational Guidelines. Deliberate use of the Right to Information Act is an essential tool of effective implementation of the Employment Guarantee Act⁷. Moreover the NREGA stipulates that if Central Government receives any complaint of “improper utilization of funds” and is “*prima facie* satisfied” that there is a case, it can “order stoppage of release of funds to the Scheme [Section 27(2)]⁸.”

Another instrument through which right to information can be used is Social audit by people. Social audit or public audit is a continuous ongoing process, through which a worker or groups of workers can participate in the monitoring and implementation of the NREGA. It gives any citizen the authenticity, not only to seek information, but also record complaints, suggestions, and demand answers in the public domain. It stands for collective evaluation, and use of the non-written mode, and it mandates demystification of documents and procedures⁹.

Social Audit will not be retrospective, but an on-going process of participation to ensure legal guarantees and entitlements flow to the beneficiaries in a legitimate way. There are at least four stages at which social audit have to be inbuilt¹⁰:

1. Pre planning stage of communication and mobilization
2. Planning, implementation
3. Monitoring
4. Evaluation

At each stage, social audit has to be integrated into the critical activities that constitute the EGS process. The basic objective of a social audit is to ensure public accountability in the implementation of projects, laws and policies. One simple form of social audit is a public assembly where all the details of a project are scrutinized¹¹.

An Act becomes effective in its real spirit only when the provisions are implemented without any loopholes. The provisions of exercising RTI and social audit makes NREGA more people centric rather than a bureaucratic programme without any accountability. Unless civil society is vigilant and conscious, these provisions will remain in paper. So,

⁷ Nikhil Dey Jean Dreze and Ritika Khera, NREGA:A Primer, National Book Trust,2006

⁸ Ibid.

⁹ Please see MKSS, Transparency and Accountability; Using Peoples Right to Information for proper implementation of NREGA. www.righttofoodindia.org

¹⁰ Please see Operational Guidelines of NREGA at www.nrega.nic.in

¹¹ Ibid.

the burning issue here is how to create awareness among the people to exercise their legitimate right to know and seek information on any aspect of NREGA implementation. In many states field reports came out with startling records of leakage and corruption. In Orissa, officials prepared false muster rolls and plundered vast amount of money. Since common masses were not aware of the provisions of community monitoring, social audit and use of RTI, there was no attempt to check this corruption at any stage. In Jharkand and other backward states NREGA experience failed to attract masses mainly because of lack of propaganda and apathy shown by local implementing agencies. All these experiences clearly reveal that NREGA is not an end in itself. It is a means to an end. So, to make the Act more effective for securing the desired objectives of rural poverty eradication and livelihood security, there is an urgent need to ensure citizen participation in all stages of the implementation process.

In a country like India where majority of rural population belongs to socially and economically disadvantaged groups, it is difficult to ensure participation without effective intervention of community organizations. Even though the people register for works under NREGA, they are unaware of the norms of RTI and social audit. Micro level impact studies shows that the districts where civil society is active in implementation and monitoring process do better than other states where societal interference is minimum. Rajasthan is a classic example of this trend.

Section Two

NREGA in Rajasthan: The triumph of Peoples' Right to Information

Ever since the inception of NREGA, Rajasthan was doing well ahead of other states in terms of number of people registered, number of man days created etc. More over, it is only in Rajasthan that NREGA was able to meet some of the core objectives of rural asset creation, micro watershed development, checking urban migration etc. Rajasthan has the highest record of social audit procedure followed. The pioneering role of Rajasthan in NREGA implementation is mainly because of three reasons: Firstly, the people's movement for the enactment of RTI and NREGA was originated in Rajasthan. The people of Rajasthan were actively engaged in the long struggle for RTI and right to food campaign spearheaded by Aruna Roy and MKSS. This background created awareness among the people about provisions of NREGA and role of RTI in it. So when the Act was implemented, people began to assert their legitimate rights and actively involved in the process, which ultimately resulted in success. Secondly, MKSS and other civil society organizations took keen interest in monitoring the whole process. They conducted periodic social audits, checked official documents, verified muster roles and verified the minimum wages given to the workers. Since the implementation process attracted mass participation, Panchayats were also active in selecting works as per the demands of the local community. As a result, most of the works done under the scheme was designed to develop rural infrastructure, community asset base and minor irrigation projects. In a dry region like Rajasthan this approach was indeed a boon to revive the hitherto marginalized

rural economy. Thirdly, Rajasthan has a history of successful drought relief programme free from corruption and leakage of public funds. Many studies came out with the conclusion that it was public monitoring and grass root level participation of people, which makes the relief programme effective. Above all drought relief programmes in Rajasthan has significantly reduced migration to urban areas. Hence, when NREGA was implemented mass perception was already created in favor of any public works programme with an objective of rural asset creation and poverty eradication.

When NREGA was implemented in 200 districts in India, 6 backward districts were selected from Rajasthan. The selected districts were Banswara, Dungarpur, Jhalawar, Udaipur, Karauli and Sirohi. In second phase 6 other districts were including Barmer, Chittorgarh, Jaisalmer, Jalore, Sawai Madhopur, Tonk and Jalore. The following Table explains the details of the implementation of NREGA in Rajasthan.

Table 1

<u>Districts</u>	Persons registered	Job cards issued	Employment Demanded	Person-days created
Banswara	858973	279924	307848	6177596
Dungarpur	694527	245782	317694	9669927
Jhalawar	527879	199827	192382	4808673
Karauli	478139	185359	62964	967768
Sirohi	351553	108895	97514	2752111
Udaipur	1123491	418192	77817	1132903
Barmer	658652	271081	4302	25781
Chittorgarh	225357	92681	4512	35198
Jaisalmer	213868	91322	42308	1521236
Jalore	556263	206764	132090	3475152
Sawai Madhopur	277587	100595	766	9442
Tonk	642073	194227	72043	1603721

Source: www.nrega.nic.in

As Jean Dreze rightly said, “it is not surprising to find that Rajasthan was the best performer among all major States in terms of employment generation per rural household. Indeed, employment guarantee has been a lively political issue in Rajasthan for quite a few years now, and the State also had a high level of preparedness for the Act, having organized massive public works programmes almost every year in living memory”¹².

While comparing to other states Rajasthan is far ahead in creating more employment opportunities and person-days.

¹² Jean Dreze, Commendable Act, Frontline, 2007.

Table 2

Performance of NREGA across states 2006-2007

State	Person- days created/household	Share of women [%]	Share of wages in total expenditure [%]
Rajasthan	77	67	73
Assam	70	32	65
M.P	56	43	63
Northeast	45	49	63
Chattisgarh	34	40	65
Orissa	21	36	58
Himachal Pradesh	20	12	52
Uttarkhand	20	30	61
Karnataka	17	51	60
Jharkhand	14	28	58
J& K	13	4	65
U.P	11	17	59
A.P	10	55	86
Haryana	9	31	65
T.N	9	81	96
Bihar	8	17	59
Gujarat	7	50	65
Punjab	7	38	59
West Bengal	6	18	78
Maharashtra	4	37	95
Kerala	3	66	89
All India	17	40	66

Source: Commendable Act, Jean Dreze, www.frontline.org

[Data taken from official website of NREGA]

The table above clearly shows that as against the target of 100 person-days, Rajasthan was able to provide 77 days while some developed and prosperous states like West Bengal and Kerala could only create less than 5 days of employment. This indeed is a remarkable achievement in the long history of social security legislation in independent India.

Rajasthan's achievement is not limited to creating person-days or providing job cards. Further, marginalized sections including women received due consideration in providing

employment. The share of women in employment is approximately two-third in the state. Above all, 80% of SC/ST population received employment, which has substantially improved their standard of living.

However, the most important element which makes Rajasthan experience unparalleled is the high spirit of enthusiasm shown by local people in exercising right to information and checking corruption. The following paragraphs explain some of the micro level experiences in this regard.

People's Right to Information and RTI in Dungarpur

Participatory social audit process conducted in Dungarpur in 2006 by the Rozhar Evum Suchna Ka Adhikar Abhiyan, a consortium of local NGOS led by MKSS. The entire process revealed that the NREGA has led to substantial rise in their daily income as well as standard of living. About 50% of the rural household has at least one member employed in NREGA. The social audit, which took place in April 2006, involved around 600 participants from 11 states. The audit participants formed different groups and organized padayatras to various villages where work under NREGA is going on. The groups created awareness among villagers about different provisions of NREGA, mechanisms to check corruptions and need for public vigilance. They have also verified whether the entitlements promised under the Act are reached at the bottom level or not. The team carried with them checklists about NREGA entitlements and verified the implementation status with officials. Provisions of RTI were used to gather information from officials. The information received from officials was crosschecked with actual beneficiaries of the programme. Broadly speaking, the processes focus on the following goals:

1. Creating awareness of RTI and NREGA
2. Facilitation of RTI in diverse aspects of people's life
3. Conducting training about the exercise of RTI

During the whole process the participants found that in almost every village people were aware of their entitlement to 100 days of work a year although many were not aware of the specific details of the entitlement. The participants were given questionnaires to administer on villagers, panchayat officials and workers at the site. The information collected through this massive interview schedules were discussed and analyzed by academicians. The panel of academicians raised a series of issues reflected in this social audit. While there exists some problems in the implementation process including low wages, the Dungarpur experience shows that there is a significant leap in forward in employment and the local administration is giving the issue highest priority. The social audit further found that all the work was organized by gram sabhas, and the sense of legal entitlement shored up by the significant impact of the RTI has led to a culture of transparency and accountability in this district. For example muster rolls were found in almost all worksites without any evidence of having been tampered with. Another positive outcome is that close to 80% of the laborers in this area were women and therefore the NREGA is making an impact on the earning capacity of women as well which will positively affect gender equations in the community¹³. From the audit it was

¹³ Best Practices www.nrega.nic.in

clear that worksite facilities were not provided properly. So the workers were able to demand for basic facilities when they came to know that the Act entitles not only wages but also certain minimum facilities at the worksites.

The experience of Dungarpur social audit helped to rectify some of existing problems of implementation of NREGA. It has created a strong feeling among officials of other districts in the state that RTI and social audit can make them accountable to the people and can check leakage of funds and corruption. Thus the entire experiment created a wave across the state and ultimately led to sharp decrease in false muster rolls and registration. The campaign further proved that NREGA could be implemented effectively if there is a strong commitment and involvement from various stakeholders involved in local governance. It clearly demonstrates that with public monitoring, transparency and administrative functioning and an empowered population, not only is corruption minimized, but also development that transforms the lives of the poor is an attainable reality¹⁴.

Jalwar Experience

Another study from Jalawar district also reveals similar results. The study was conducted in July 2007 in three Talukas. Using RTI provisions, the members of the team demanded muster rolls and job cards for verification. They have detailed discussion with villagers, workers, officials, sarpanch, engineers, programme officers etc. The social audit team selected muster rolls at random among those available at the block office and verified them with the laborers concerned. They interviewed about 200 laborers who had worked on these worksites. Surprisingly the study found that, in each case, the muster roll details matched with the job card details and the laborer concerned. Further there was no evidence of fake names having been entered in the muster rolls. This reinforces the previous study in Dungarpur suggesting that fudging of muster rolls is very rare in Rajasthan¹⁵. This remarkable success is closely linked to effective use of transparency safeguards under RTI.

Public awareness was also high in Jalawar. All the workers were familiar with the muster roll system, job cards, and entitlements under NREGA etc.

There are other field experiences, which clearly show the positive impact of NREGA in Rajasthan in terms of exercising RTI provisions. The achievement of Rajasthan in this regard is mainly due to the massive grass-root campaign spearheaded by MKSS and other NGOs. MKSS and Aruna Roy initiated a long campaign in spreading the spirit of right to work and right to information. They have played a significant role in information dissemination through manuals, booklets, primers and short films. Technical provisions of the Acts were made in a simple way to understand even an illiterate person living in backward regions of the state. Large public hearings were organized to gather complaints from people on any grievances. MKSS was instrumental in persuading gramsabhas to

¹⁴ *ibid.*

¹⁵ Employment Guarantee: Unfinished agenda, The Hindu.

select the works under NREGA as per the requirement of the region so that the work can be used for creating permanent rural asset base.

Innovative Measures undertaken in Rajasthan

Though Rajasthan is well ahead of NREGA implementation, it was criticized for the low wages paid to the workers. Field experiences and massive social audit programmes conducted by NGOs underlines the fact that NREGA laborers are earning less than the minimum wages, ranging from Rs. 23 to Rs. 45 a day which is far below national average. The main reason for this low wage is due to unscientific calculation of *task* done by worker. Since the payment is based on **completed tasks** accurate measurement of the particular task is important to calculate the exact wage paid for that task. However absence of trained worksite managers, lack of daily visits and secrecy in method of calculation etc lead to unscientific measurement. Consequently individual workers were unaware of the co-relation between work done by them and the actual wage for which they are entitled. So they were not satisfied with the wages received which was always far below national average.

MKSS and other NGOs raised the issue of wages and organized protests against this blatant violation of law. Here also, public pressure for transparency and regular monitoring of civil society has helped to push Rajasthan government to look for innovative ways to streamline measurement and payment process. Government collaborated with Rozgar Evum Suchana Ka Adhikar Abhiyan, to develop a decentralized worksite management system. Over 165 activists from the Abhiyan participated in a month long campaign to build a pool of trained worksite managers- an innovation on the traditional mate who maintains muster rolls and supervises the work site-that take daily measurements of worksites and determine daily output. The members of the team worked with local bureaucrats to develop a workable model and to identify management practices that ensure transparency in measurement process. All workers were informed about the total quantity of work to be completed for them to get the minimum wages. Further, workers were divided into several task-based groups and worksite managers were assigned to each group for monitoring and supervision. Interestingly, this innovative model made rich dividends. In Jalore district alone 3000 worksite managers were trained for measuring wages. 2000 among them were women. At the end of the programme it is find that most of the workers were able to access Rs.73 per day as wage, which is far above national average.

Here also it is evident that the spirit behind the entire innovation is public enthusiasm and the existence of a vigilant civil society, which can articulate the interest of the community effectively to achieve desired results. The Rajasthan experience shows that NREGA is not an end in itself. Instead it is means to an end. It is not a magic bullet to solve the whole problems of unemployment or rural poverty. It is an instrument, which needs several socio- economic and other catalysts to become successful.

Impact of NREGA in Rajasthan

As the operational guidelines of NREGA say the main objective of the programme is to eradicate rural poverty, create employment opportunities, check migration and develop rural asset base. While analyzing the success of the programme in Rajasthan it is clear that in comparison to other states Rajasthan is far ahead in implementing NREGA. Positive impact of NREGA can be seen especially on the following aspects.

1. Increased participation of women workforce
2. Impact of land productivity
3. Increase in workforce awareness about the basic entitlements
4. Wage negotiation capacity
5. Increase in bargaining power of the working class in private sector
6. Sharp decline in migration
7. Creation of rural assets
8. Development of rural infrastructure
9. Gender and Social inclusion

In Rajasthan the participation of women in NREGA accounted about 70% .The works selected under NREGA were mainly focused on deepening of canals and constructing water-harvesting systems. Since Rajasthan is a dry region, top priority was given to water conservation and related works. The following table shows the priority given to different works under the scheme.

Table 3
Worksite Selection

Works done	Percentage of total works
Water conservation	54
Irrigation facility to SC/STs	10
Rural Connectivity	21
Land Development	11
Any other activity	4

Source: www.nrega.nic.in

In several part of the state the funds were used to construct small check dams, water harvesting structures and plantation of trees. This has resulted in preventing soil erosion and conservation of water. In Udaipur a project worth Rs. 7.32 crores were sanctioned for building water harvesting structure in the region. Once the project is completed, it is expected that the water table will rise in this area, thus helping agriculture. Drought proofing works, micro-irrigation schemes, renovation if traditional water bodies etc were

also selected under the programme. In Dungarpur alone, 11000 water conservation structures have been built.

Since NREGA is in nascent stage, it is too early to assess the actual impact of this public policy initiative in a macro perspective. The state level impact assessment can be measured only after the extension of the scheme throughout the state. However, the studies conducted by various agencies across the states in India provide a positive picture of NREGA in Rajasthan at least on the following grounds.

1. High level public enthusiasm and awareness
2. Civil society participation
3. Active role of PRIs in implementation
4. Public vigilance in monitoring mechanisms
5. Extensive use of RTI in getting information
6. Substantial reduction in public fund leakage
7. Application of transparency norms
8. Work site selection after careful analysis of local community requirements
9. Participation of women and SC/STs
10. Increase in land use and productivity
11. Substantial decline in migration

Conclusion

The enactment of rural employment guarantee indeed is a significant development in Indian polity. In other words it symbolizes the triumph of civil society and people's struggle for right to food. Though the Act is regarded as a silver line in our long history of social security legislation, it is not free from criticism. There is an equally strong perspective that since Indian social structure is too weak to provide an effective participatory linkage in terms of civil society engagement, NREGA will lead to wide spread corruption and enormous wastage of public investment. NREGA experience from Orissa, West Bengal and some other states substantiate this viewpoint. However, the experience of Rajasthan shows that many of the challenges associated with NREGA implementation can be effectively tackled if there is a vigilant civil society to monitor the programme. Further the experience reveals that NREGA cannot be treated as an isolated piece of legislation. It is a guarantee, which has to be demanded with the proper support of right to information. Here lies the role of grass root level organizations and PRIs- to develop awareness and capacity among local people to realize the importance of both legislations and their complimentary role in making it successful.

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