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Decentralization, Equity, and Inclusion: An Overview and Sociolegal Analysis of India's Mahatma Gandhi National Rural Employment Guarantee Act

Working Paper 06

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ABSTRACT

This paper is primarily a sociolegal analysis of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). It focuses less on the quantitatively-measurable performance of the Act and its macroeconomic impacts, and more so on the way in which the Act explicitly delegates resources and discretionary powers to state and local governments. Such dissemination, I show, in turn facilitates more comprehensive, inclusive, and equitable decision-making processes in local development; specific focus is directed at the environmental and climate implications of the program. Drawing from social scientific research, legal scholarship, and the legislation itself, I demonstrate that despite some notable shortcomings, the Act's legal and administrative framework can be seen as a global model for linking state resources with localized challenges and priorities, enabling not only a legally-enforceable availability to a vital social safety net, but also a framework of bottom-up accountability through which small scale development and environmental remediation projects can be undertaken through the lens of the needs of local people.

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IMPETUS AND BACKGROUND

Program Overview

MGNREGA is the largest social welfare program in the world, and has been described as the "largest downward transfer of funds to democratic local government, ever, anywhere."² Passed in 2005 under the United Progressive Alliance (center-left) government of Manmohan Singh, the Act ensures the legal entitlement to one hundred days of wage employment per fiscal year to members of rural households willing to do semi- skilled or unskilled labor. MGNREGA belongs to the overarching category of public works programs (PWP), non-market economic and social planning tools that have had relatively broad application in both the Global North and South. In the North, PWPs primarily act as Keynesian-esque macroeconomic management techniques, while in the South they act as significant social safety nets for the poor and socially marginalized.³

As of April 2021, there were approximately 290 million registered MGNREGA program "beneficiaries" (job card holders) with about 140 million active workers at any given time. Daily wages are mandated to be above the statutory minimum, and average about ₹200 (\$2.76). The total program labor budget (wages only) for the 2020-2021 fiscal year was ₹ 368 Crore (~\$49.5 million).⁴

The aim of the Act is to address chronic unemployment amongst semi-skilled or unskilled residents in rural regions through *direct job creation*. The Act also aims to increase the purchasing power of rural people and stimulate local economies.⁵ As this paper will elaborate upon in greater detail below, there are several additional objectives of the Act relating to social inequality, the environment, and governance structures including (1) social protection and livelihood security for the most vulnerable members of society including "scheduled tribes" and "scheduled castes" (STs/SCs), women, and the disabled, (2) the creation of durable and socially-useful infrastructural and environmental assets, (3) the facilitation of decentralized, participatory planning regarding rural development and anti-poverty initiatives, (4) the deepening of the democratic fabric of rural India through the strengthening of Panchayati Raj Institutions, and (5) the assurance of greater transparency and bottom-up accountability in bureaucracy.⁶ Below are the key policy instruments through which these objectives are achieved, as identified by the Parliamentary Standing Committee on Rural Development:

- (1) **A legally enforceable right to work:** this was not present in previous Indian employment assurance schemes.

² Harry W. Fischer & Syed Shoab Ali. "Reshaping the public domain: Decentralization, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and trajectories of local democracy in rural India." *World Development* Vol. 120 (2019): 147-158

³ Hans Nicolai Adam. "Mainstreaming adaptation in India – the Mahatma Gandhi National Rural Employment Guarantee Act and climate change." *Climate and Development* 7 no. 2 (2015) :141-151

⁴ "The Mahatma Gandhi National Rural Employment Guarantee Act 2005 Ministry of Rural Development, Government of India NREGASoft V1.5." The Mahatma Gandhi National Rural Employment Guarantee Act 2005. Ministry of Rural Development, Government of India , Accessed March 14, 2021.

⁵ Overview of MGNREGA", Vikaspedia-/Agriculture/Rural Employment/Policies and Schemes, Accessed March 22, 2021.

⁶ K.V.S. Prasad. "Performance of Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA): An Overview." *International Journal of Management and Business Studies* 2, no. 4 (2012).

- (2) **A time-bound guarantee of employment:** if employment is not provided within 15 days of an applicant receiving a job card, unemployment compensation must be granted.
- (3) **Decentralized planning:** Gram Panchayats (highest administrators of local government) are primarily responsible for the planning and implementation of works projects.
- (4) **Work site facility requirements:** all sites must have childcare, drinking water, toilets, sanitation, and first aid facilities. Workers are to be assigned to a worksite no further than 5km from their home. If this is not possible, additional wages and/or transportation compensation must be arranged.
- (5) **Transparency and accountability;** the Act contains specific provisions for proactive disclosure through wall writings, information boards, government information management systems, and social audits.

Program Impetus

Since the 1960s, India's national government has embarked on various legislative and bureaucratic efforts to ensure stable employment in India's vast rural hinterland.⁷ PWP's have a long historical application in rural India, and their popularity can be traced back to the central government's initial post-independence efforts to establish a "socialist pattern of society" in which state-administered development initiatives were favored over private ones.⁸ A major historical impetus for MGNREGA was the sharp widening of economic inequality that followed the post-liberalization reforms of the 1990s. While an unrestrained market facilitated unprecedented economic growth, corporate capital acquisition, and private wealth accumulation, this period was also characterized by the dismantling of vital social welfare programs. Combined, these two phenomena maintained and intensified existing social, economic, and environmental vulnerabilities among the rural poor. This prompted academics, policymakers, and civil society actors to demand greater state intervention to ensure sustainable, equitable economic development and the revitalization of India's rural sector.⁹

MGNREGA aims to alleviate social vulnerabilities related to economic fluctuations and environmental risks. India belongs to a group of countries considered to be highly vulnerable to the social and ecological impacts of climate change. The Intergovernmental Panel on Climate Change projects that all of the Subcontinent will experience significant changes in temperature and hydrological cycles, resulting in an increase in the frequency and severity of weather events such as cyclones, droughts, intense rainfall, and interrelated and compounding natural disasters such as landslides, tsunamis, and avalanches.¹⁰ As will be elaborated in further detail below, a central component of MGNREGA works is aimed at creating resilience in the face of these vulnerabilities.

The Act also aims to alleviate vulnerabilities linked to changes in demography and socioeconomic conditions. Despite observable trends of urbanization, India's massive population remains largely rural and suburban. And despite ongoing changes in the sectoral composition of regional economies, the national economy remains strongly dependent on locally-composed—as well climatically vulnerable and energy intensive—

⁷ See also: Rural Manpower Programme; Marginal Farmers and Agricultural Labourers Scheme; Crash Scheme for Rural Employment; Pilot Intensive Rural Employment Programme; the Drought Prone Area Programme; Food for Work Programme; National Rural Employment Programme; Rural Landless Workers Programme.

⁸ Adam. "Mainstreaming adaptation in India – the Mahatma Gandhi National Rural Employment Guarantee Act and climate change." (2015)

⁹ Fischer. "Decentralization and the governance of climate adaptation: Situating community-based planning within broader trajectories of political transformation." (2021)

¹⁰ N. Nargaraj et al. "Impact of MGNREGA on Rural Agricultural Wages, Farm Productivity, and Net Returns: An Economic Analysis Across SAT Villages. *Indian Journal of Agricultural Economics* 71 no.2 (2016) 176-191

industries such as agriculture, permaculture, fishing, and forestry. These sectors are heavily reliant on the labor of the rural poor and marginal farmers, who often are engaged in a variety of wage occupations throughout the year, in addition to subsistence agriculture.¹¹

Widespread rural unemployment has created a reinforcing feedback loop of economic inopportunity in rural India. Inadequate labor absorption and limited opportunities in the informal economy are driving distress out migration from the hinterland. In turn, out-migration and seasonal labor migration to urban centers has in some regions drastically decreased the available labor to maintain existing systems of local agricultural and industrial production, creating a reinforcing feedback cycle of reduced economic opportunity, incomplete labor absorption, and migration out of rural areas.¹² For poorer subsections of society, this trend, combined with the existing and impending effects of climate change, is making it increasingly difficult to maintain traditional, village-level subsistence livelihoods. These problems manifest in localized contexts, but have a broader, national, pattern of cohesiveness; as is central to the message of this paper, the decentralized governance structure of the program is well attuned to this.

BRIEF PROGRAM PERFORMANCE ASSESSMENT

In India, as elsewhere, there exists a longstanding and flawed perception that poverty reduction and economic growth come into tension with environmental concerns.¹³ MGNREGA has worked to relieve this perceived tension by linking development concerns with environmental concerns and crystallizing the link between social equity, environmental sustainability, and climate resilience. Generally, about 48% of the works projects relate to water conservation, 18% aim to provide irrigation and other agricultural infrastructure to marginalized groups (STs/SCs, people below the poverty line, the disabled), and 18% are focused on rural connectivity, and another 14% pertain to general land development and manual labor. While the primary objective of the Act is to provide a stable availability of public employment, its economic impacts reach beyond program participants. In practice, the Act generates both direct and indirect employment opportunities. The durable assets created, and the environmental services enhanced through the works require maintenance, which in turn increases private sector labor absorption.¹⁴

A wide body of research shows that under MGNREGA, local economies have been bolstered, and that program beneficiaries use their increased wages to cover costs associated with food, education, healthcare, debt repayment, as well as the purchase of durable assets and household appliances. In most states, real wages for farm and nonfarm work have increased during the program as a result of competition amongst public and private employers in the labor market. For example, in Maharashtra and Telangana, wages increased by about 5% per year during MGNREGA. For women, this figure is closer to 8%, which has contributed significantly to closing the gender pay gap in both farm and nonfarm occupations.¹⁵ It should be understood that, in general, MGNREGA is trusted, popular, and credited with a general improvement in rural living conditions.

¹¹ *id.* at note 9.

¹² Fischer. "Decentralization and the governance of climate adaptation: Situating community-based planning within broader trajectories of political transformation." (2021)

¹³ Anjor Bhaskar et al. "7.5 Crore Green Jobs? Assessing the Greenness of MGNREGA Work." *Indian Journal of Labour Economics* no. 59 (2016): 441-461.

¹⁴ Tashina Esteves, et al. "Agricultural and Livelihood Reduction Through the MGNREGA." *Economic and Political Weekly* 48 no. 52 (2013): 94-103

¹⁵ Nargaraj et al. "Impact of MGNREGA on Rural Agricultural Wages, Farm Productivity, and Net Returns: An Economic Analysis Across SAT Villages." (2016).

Understanding this relative success from a public policy perspective requires a more comprehensive analysis of the legislation itself, its roots in international law, its constitutionality, and its context within broader Indian employment jurisprudence.

LEGAL FOUNDATIONS AND LEGISLATIVE PROVISIONS

International Law and Non-Binding Resolutions

In the normative realm, human rights have little substance if they are not linked to corresponding, legally-enforceable obligations on the part of governmental actors. This section outlines how the legislative provisions of the Act are exemplary in the ways they transmit international human rights ambitions into concrete structures of governance and accountability. Like other PWPs, MGNREGA finds its roots in international law and non-binding United Nations resolutions. Its fundamental grounding is found in Article 23.1 of the Universal Declaration of Human Rights (1948) which recognizes that "everyone has the right to work, to free choice of employment, and to protection against unemployment". Further ideological roots of the Act stem from the International Labour Organisation's 1964 advocacy for "free, productive, freely chosen employment", recognizing the link between the right to work and the obligation on the part of states to create conditions of real full employment and the absence of forced labor.

The ideals are further enumerated by the International Covenant on Economic, Social, and Cultural Rights (1969).¹⁶ Part III, Art. 6 clearly links the right to decent work with the corresponding state obligation to provide "technical and vocational guidance programmes, policies and techniques to achieve steady economic, social, and cultural development and full and productive employment under conditions safeguarding fundamental political and economic rights." General Comment No.3 (1990) of the Committee re-emphasized that states have a core obligation to (1) ensure the right of access to employment, especially for marginalized groups, (2) to prevent discrimination and unequal treatment among marginalized individuals in both the public and private sectors, and (3) to address the concerns of all workers through a participatory and transparent process. As we shall see, MGNREGA's ability to fulfill these obligations can largely be attributed to its decentralized nature and ability to link state resources with local challenges. In order to better understand the Acts' deep importance as a social safety net for the rural poor, one must contextualize its legislative provisions within the context of Indian constitutional law and jurisprudence.¹⁷

MGNREGA in Indian Employment Jurisprudence

Outside of the Act's legally-binding right to 100 days of wage employment, India's labor law jurisprudence is ambivalent to the right to work. While the right to work is not a fundamental right enumerated in Article. 21 of the Constitution of India, the Act aims to ensure "livelihood security", which is framed as an inalienable right pursuant to the same Article. Seemingly in contradiction, Article 41 of the constitution mandates that "the State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want." This legal ambivalence is further complicated by fact that the Supreme Court of India considers the right to work as a fundamental right that can be challenged in a court of law only *after* employment has been *explicitly denied*, a jurisprudential perspective which

¹⁶ The Covenant was published by the International Committee on Economic, Social, and Cultural Rights.

¹⁷ Biswas. "MGNREGA and Employment Jurisprudence in India: A Study." 5 Ind. J.L & Just. (2014).

fails to acknowledge the plight of discouraged workers who are no longer actively seeking a job. This legal ambiguity, coupled with highly volatile and spatially-temporally determined labor markets in rural India undergirds MGNREGA's vitality as a social safety net.

Decentralization and the Panchayat Structure of Governance

Examining the complex structure of Indian governance is key to understanding the success of MGNREGA. The ideological foundations of the Act align with the political conviction that local institutions of governance are best suited to confront unpredictable and changing conditions, align central government policy and intervention with localized socio-ecological systems, and address policy concerns of diverse subsections of society.¹⁸ In India, bureaucratic power is disseminated from the central government to states, and from states to districts. Within rural districts, jurisdiction is divided between "blocks", or smaller subdivisions. Blocks can encompass one or many villages and are administered by Panchayati Raj Institutions (PRIs). PRIs are headed by the Gram Panchayat (GP), the highest official in local government. Broad national legislation under the 73rd amendment aimed to confer upon PRIs an increased role in coordinating a wide range of governance functions. However, in practice PRIs and GPs throughout the country were granted very limited discretionary powers and resources. This fundamentally changed under MGNREGA.¹⁹

The significant downward transfer of funding and resources to local governance under MGNREGA marks the first time that PRIs have had continuous and reliable access to the resources needed to implement a range of initiatives that benefit and align with the priorities of their communities. Under the Act, panchayat officials bear chief responsibility for administering the provisions of MGNREGA, including consulting with stakeholders and communities about desired works projects, issuing job cards and paychecks, communicating with the state and central governments, drafting implementation plans, identifying needed resources, and calculating costs. Indeed, administering MGNREGA projects is the most visible and arguably the most important thing GPs and other panchayat officials do across much of the country.²⁰

Crucially, and central to the argument of this paper, the panchayat structure is bound by the 1992 Reservations Law, which legally mandates that at least 33% of panchayati seats must be held by women, and at least 33% of PRIs within districts must be chaired by a woman. These gender quotas had little substantive impact prior to MGNREGA. However, as will be discussed in further detail below, women's leadership of MGNREGA development projects is significantly altering traditionally patriarchal structures of local governance, and bringing new perspectives to social, economic, and environmental contentions.²¹

Local discretion over MGNREGA-funded works is not boundless, however. Project must loosely fall under one or more of the statutorily outlined categories of permissible works outlined in the legislation:

¹⁸ Fischer. "Decentralization and the governance of climate adaptation: Situating community-based planning within broader trajectories of political transformation." (2021)

¹⁹ Harry W. Fischer & Syed Shoab Ali. "Reshaping the public domain: Decentralization, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and trajectories of local democracy in rural India." *World Development* Vol. 120 (2019): 147-158

²⁰ Alexandra M. Girard. "Stepping into Formal Politics Women's Engagement in Formal Political Processes in Irrigation in Rural India." *World Development* no. 57 (2014) :1-18

²¹ *Id.* at note 19.

- (1) **Natural resource management**; including, but not limited to water conservation and harvesting, drought proofing, restoration of water bodies and construction of water storage facilities, flood prevention, and enhancement/remediation of ecosystem services, and natural disaster preparation measures.
- (2) **Creation of durable assets and agricultural infrastructure for marginalized community members** such as members of ST/SCs, households below the poverty line, beneficiaries of the Indira Yojana Programme, marginal and small farmers (as defined by the national Agricultural Debt Waiver and Debt Relief Schemes), and traditional forest dwellers (in accordance with the provisions of the Recognition of Forest Rights Act of 2006).
- (3) **Creation of infrastructure for, and general collaboration/assistance with initiatives associated with the Natural Rural Livelihood Mission** (a publicly funded vocational training and assistance program that assists those aiming to become self-employed.)
- (4) **Rural connectivity and public infrastructure**; including but not limited to sanitation and waste management, all-weather road connectivity to and amongst remote villages, construction of playing fields, municipal buildings, public facilities, and grain storage.
- (5) **Any other project approved through direct consultation with the state and central governments.**

In enumerating a legally enforceable right to wage labor outside of the broader context of Indian employment jurisprudence and providing the resources and bureaucratic capacity for that right to be substantially ensured, the Act not only fulfills many of the human rights ambitions promulgated at the international level, but also draws on national-level legal instruments to create an explicitly equity-focused program which is at once constitutional and innovative.

SCHOLARLY PERSPECTIVES ON DECENTRALIZATION

India's current political cohesiveness as a nation is a nonconsensual byproduct of colonialism and partition. It is a diverse subcontinent of heterogeneous belief systems, socio-economic conditions, political views, religions, ethnicities, cultural worldviews, and ecosystems. This diversity reinforces the importance of the involvement of a wide range of stakeholders in policy decisions and the empowerment of local democracy. Over the past three decades, central governments around the world have embarked on decentralization reforms, with a wide range of democratic (and sometimes undemocratic) outcomes. The ideology behind democratic decentralization in the Global South centers around the understanding that greater inclusiveness in local governance will lead to better and more people-oriented outcomes in economic development, the delivery of public goods and services, and the management of built and natural environments.²²

Scholarship defines successful democratic decentralization as the fulfillment of two conditions: (1) meaningful discretionary powers are devolved to local elected authorities, and (2) the creation of mechanisms of bottom-up and top-down accountability that ensure robust public participation in decision making processes.²³ Theorists link equitable decentralization to "the public domain" which consists of three

²² Adam. "Mainstreaming adaptation in India – the Mahatma Gandhi National Rural Employment Guarantee Act and climate change." (2015)

²³ Fischer & Shoaib Ali. "Reshaping the public domain: Decentralization, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and trajectories of local democracy in rural India." (2019).

interrelated elements: (1) the citizens who constitute "the public", (2) the "public goods" they have access to, and (3) the means through which the public influences decisions surrounding public goods.²⁴

In postcolonial contexts, the ability to benefit from economic development and social services directly and tangibly is central to how people conceive of their citizenship.²⁵ Indeed, through combining the direct devolution of discretionary powers to local governance with inclusive public involvement surrounding MGNREGA development planning, the Act links the decentralized planning model to the public domain central to the conception of local citizenship. Further, because direct employment under the Act is responsible for the creation of the assets that constitute the public domain, citizens—particularly those who are employed through the Act—can feel shared ownership over public goods in ways that may not have been possible prior.

As suggested earlier, the Panchayat structure is integral to the decentralized planning model of the Act. It can be argued that while the 73rd Amendment formally consolidated and crystallized the Panchayat structure, it was MGNREGA that formally endowed the structure with economic resources, human capital, and discretionary powers.²⁶ The nature of the Panchayat structure enables an effective linkage of state resources and administrative capacity with localized problems and creates a vital framework for soliciting public feedback in this process. Relatively little social scientific research is available surrounding the broader national impacts of PRI administration of the program. However, as we shall see, decentralized development planning under MGNREGA is not only changing the way in which citizenship and development are linked vis-a-vis employment, but also altering structures of power, influence, and ideology in local governance. One area where this is particularly the case is agriculture and environmental management.

ENVIRONMENTAL SERVICE ENHANCEMENT AND CLIMATE VULNERABILITY; DECENTRALIZATION AND THE STRENGTHENING OF LOCAL ENVIRONMENTAL DEMOCRACY

Climate Vulnerability

Community-based natural resource management and decision making can foster resilience in both ecological and socio-economic systems. Adaptive environmental management increases individual communities' ability to respond quickly and equitably to natural disasters and the general effects of climate change.²⁷ Similar to other nations in the Global South, India's climate vulnerability is characterized by a complex web of biophysical and social patterns including, but not limited to, geographic region and associated climatic patterns, the exploitation and degradation of natural resources and ecosystem services, inequitable allocation and access to environmental public goods, ongoing social and economic exclusion, and corresponding disproportionate exposure to environmental harms among the poor and socially vulnerable.²⁸

²⁴*Id.* at note 22

²⁵ Girard. "Stepping into Formal Politics Women's Engagement in Formal Political Processes in Irrigation in Rural India." (2014)

²⁶ Fischer & Shoaib Ali. "Reshaping the public domain: Decentralization, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and trajectories of local democracy in rural India." (2019).

²⁷ Esteves, et al. "Agricultural and Livelihood Reduction Through the MGNREGA." (2013).

²⁸ Adam. "Mainstreaming adaptation in India – the Mahatma Gandhi National Rural Employment Guarantee Act and climate change." (2015)

Importantly, scholarly work addressing the environmental impacts of MGNREGA has gone beyond simple sustainability assessments to vulnerability assessments, shifting the focus from quantifiable measures of performance and mitigation to normative meaningful impacts on daily life. The Act's environmental focus incorporates deliberate public policy efforts addressing the two distinct components of climate vulnerability risk reduction: preparation and response. In regard to the former, program works can provide physical assets and infrastructure that protect against the sudden effects of extreme weather events, while non-physical responses are levied through the wage component, enhancing purchasing power and financial stability. With the latter, the program can leverage administrative capacity, labor, and economic and human resources to respond in the aftermath of climate-related disasters.²⁹

In remote villages, livelihood is directly dependent on a stable climate and a reliable supply of water. Among the general public, there is a broad perception that climate change is altering agricultural production at all scales. Warming average seasonal temperatures have significantly and visibly decreased permanent snowpack throughout the Himalaya, making the availability of water in glacial streams and springs more erratic. Concurrently, more intense precipitation events during the monsoon have led to more frequent instances of flooding, landslides, crop, and infrastructure destruction.³⁰ Prior to MGNREGA, civil society and nongovernmental organizations were primarily responsible for environmental protection and management. Crucially, through the decentralized model, the Act is linking these ongoing efforts with state resources, logistical power, and decent wage labor.³¹

General Environmental Performance Summary

MGNREGA labor and resources are enabling environmental sustainability and climate resilience initiatives that were previously economically or logistically challenging. Research conducted at the block level shows that groundwater availability during the Act has either increased or remained the same in most regions, often despite increases in the number of borewells and overall water use. This trend is parallel with an increase in overall irrigated land area, an increase in the number of days with agricultural water availability, and an increase in water storage capacity. Efforts such as the desilting of water bodies and subsequent use of silt for works such as contour, graded, and field bunding has dramatically mitigated erosion, while projects involving controlled burn and afforestation have increased soil organic carbon levels. Where desired, there were reported increases in the total area under agricultural cultivation. 32 out of 40 study villages reported significant increases in crop yields, ranging from 36-100%.³² A wide range of program works projects aim at increasing biodiversity, reducing runoff and erosion, increasing soil carbon sequestration, and enhancing groundwater quality and percolation.³³

²⁹ Fischer. "Decentralization and the governance of climate adaptation: Situating community-based planning within broader trajectories of political transformation." (2021)

³⁰ *Id.* at note 28.

³¹ Fischer & Shoaib Ali. "Reshaping the public domain: Decentralization, the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and trajectories of local democracy in rural India." (2019).

³² Esteves, et al. "Agricultural and Livelihood Reduction Through the MGNREGA." (2013).

³³ 9. R.K. Saroniya & Jeet Singh. "The Ecological and Social Benefits of MGNREGA in India." *International Journal of Current Research* 8 no. 11 (2016): 42077-42080

Qualitative research has demonstrated that the most visible and effective environmental remediation and adaptation measures under the Act have emerged not from environmental-specific interventions levied through the Act at the state level, but rather from the organic effect of citizens seeking responses to local environmental problems through the PRI structure. Particularly in North India, a combination of gender quotas, the decentralization of irrigation management, and increased availability of wage labor for women through the Act is challenging the traditional patriarchal canal management systems by institutionalizing women as formal decision makers and members of the irrigation labor force.

Kuhls are above ground, gravity- fed irrigation systems traditional of Himalayan North India. In many regions, MGNREGA projects are increasingly being linked to kuhl construction and management, which has traditionally been a central focus of village affairs. While some kuhls remain under private management by farmers, a large portion of the systems were acquired by state governments in the 1980s and placed under control of the Department of Public Health and Irrigation (IPH). This transfer of management created a sharp reduction in local labor absorption into the formerly farmer-managed irrigation management labor forces.³⁴

The Act has been able to mitigate some of these concerns by linking local program labor with state kuhl management, and by emphasizing inclusionary and participatory decision making processes surrounding kuhl management. IPH consistently coordinates with PRIs to encourage the use of MGNREGA funds and labor to manage kuhls in more efficient and ecologically-sensitive ways, all while directly employing local people to improve their local infrastructure without the constraints of private funding.

Qualitative research has found that the legally-mandated gender quotas for both the labor force and administration under the Act is effectively institutionalizing women, members of STs/SCs, and members of other marginalized groups as formal participants and decision makers in kuhl and other natural resource management, challenging traditional patriarchal and caste-based structures of labor and governance.³⁵ Further, the underlying reliance of the Act on local, formal political processes—where decisions surrounding investment, labor allocation, and management practices are made in the public view—enables and requires women and other marginalized groups to attend public meetings to not only gain information, but also visibly and influentially express their demands.

While MGNREGA is not explicitly environmental in nature, its broadest and most tangible impacts have been in the environmental realm. The decentralized model has created greater equity and inclusion in environmental decision making, while state resources have permitted projects and initiatives that would not have been possible through private funding. Vitaly, the Act has successfully linked two imperative challenges: the provision of decent, stable wage employment, and the facilitation of local resilience against climate change.

³⁴ Adam. "Mainstreaming adaptation in India – the Mahatma Gandhi National Rural Employment Guarantee Act and climate change." (2015)

³⁵ Girard. "Stepping into Formal Politics Women's Engagement in Formal Political Processes in Irrigation in Rural India." (2014)

CONCLUSION

This paper has provided a sociolegal analysis of MGNREGA, with a specific focus on its environmental implications and empowerment of women and other marginalized groups. By contextualizing the program within its roots in international law and United Nations resolutions and other international non-binding agreements, I demonstrate the way in which it aims to not only fulfill human rights ambitions on the international level, but also those of India's constitution, creating both the legally-enforceable right to work, as well as explicit affirmative action provisions. In devoting particular attention to the decentralized planning model, I suggest that the meaningful empowerment of local governance and the linkage of state resources to localized problems can facilitate innovative solutions to social, economic, and environmental ills.

Furthermore, I emphasize that decentralization, in conjunction with affirmative action and explicitly equity-focused legislative provisions, can challenge traditional patriarchal and exclusionary structures of power, labor, and decision making, institutionalizing the socially marginalized as formal members of the labor force, strengthening local democracy, and creating greater equity and inclusion and local decision making.