

Rights-Based Social Protection: From Rhetoric to Reality?

NEW DIRECTIONS IN SOCIAL POLICY IN INDIA

India stands out among countries with comparable levels of economic development for its rights-based social policies. But rights on paper do not always translate into rights in reality. This case study investigates the genesis of India's rights-based social policy legislation, its ramifications in the areas of primary education, public health care and income security, and the factors that have contributed to the success or difficulties of implementation.

A Rights-Based Approach to Combat Inequality, Poverty and Vulnerability

Various gradual transformations have contributed to the emergence of a new welfare regime in India since the beginning of the 21st century. India's Supreme Court has issued rulings that tie the realization of the fundamental right to life established by the 1950 Constitution to ensuring that the basic socioeconomic needs of disempowered groups are met, going back as far as the late 1970s. More recently a series of rights-based mobilizations by grassroots movements and non-governmental organizations have encouraged public interest litigation seeking to advance the cause of minority or disadvantaged groups or individuals, and the growing political power of new regional parties has also contributed to greater political representation, dignity and self-esteem for historically subordinate groups.

India has also experienced significant economic growth in recent decades. The introduction of major policy reforms in the 1990s, particularly the deregulation of trade, capital and investment, has stimulated

structural diversification, technological change and aggregate economic prosperity. But the benefits of economic growth have not been evenly distributed. While basic measures of absolute income poverty have been declining since the 1980s, multidimensional social, sectoral and spatial inequalities have been exacerbated and new forms of vulnerability created in the country's vast informal economy.

As a result, the Indian government under the United Progressive Alliance (UPA), elected in 2004 and again in 2009, began to introduce a number of ground-breaking national laws and policy measures to ensure the economic and social security of citizens. The foundation of social welfare in India is enshrined in the Preamble of the 1950 Constitution, and there are now welfare laws and policies associated with the provision of food and work, and access to education and information, to which legally enforceable rights are attached.

Key legal and policy initiatives, many of which exemplify India's rights-based welfare architecture, include:

- the Right to Information (RTI) Act 2005, mandating all government agencies to release information regarding their activities to individual citizens upon request;
- the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, to protect livelihoods of poor agricultural labourers during periods of hardship;
- the National Rural Health Mission, 2005, which expanded government spending and decentralized public services to improve basic health outcomes for women, children and poor families in rural areas;
- the Right to Education (RTE) Act 2009, making enrolment, attendance and completion of school for children between the ages of 6 and 14 the obligation of the state;
- the National Food Security (or Right to Food) Act 2013, entitling approximately two-thirds of the population to highly subsidized food grains; and
- the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (RFCTLARR) 2013, which requires the state to first gain the consent of local communities whose land it may designate for compulsory acquisition and provide adequate compensation.

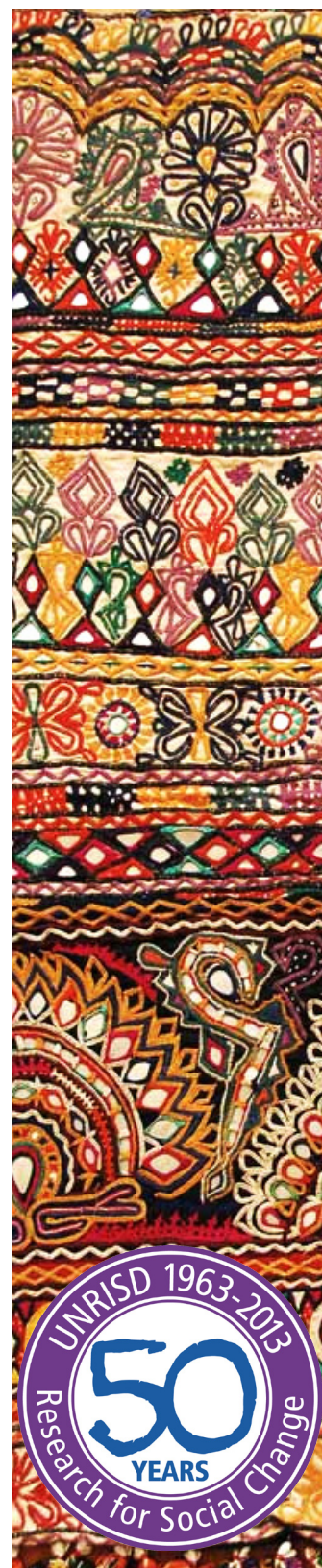
Case study information

India is one of the seven country and cluster cases for the New Directions for Social Policy research project running from 2015 to 2017. For more information, see www.unrisd.org/ndsp

Methodology: The research provides a cross-sectional analysis of three national policy areas, namely primary education, public health care and income security, investigating the political, economic and institutional factors behind reforms in these domains. To reflect the tremendous differences between Indian states there is also a subnational analysis comparing Tamil Nadu's relatively progressive social policy with health policy in Chhattisgarh, income security in Rajasthan and education in Himachal Pradesh. The project uses documentary research, data collection and textual analysis from a variety of sources such as Supreme Court rulings, national budgets, government reports, public survey data, and in-depth interviews.

Outputs: The India case study comprises a country overview paper and three policy area papers on primary education, public health care and income security.

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Themes and Questions

This case study explores the key drivers behind India's social programmes and their implementation, assessing how effective the programmes have been in achieving their stated goals and evolving in response to persistent challenges.

What forces shape the dynamics of Indian social welfare? Indian politics in the last three decades has alternated between introduction of structural adjustment measures in the 1990s, the rights-based welfare approach of the UPA in the 2000s, and a more recent neoliberal bent that seeks to promote urbanization, manufacturing and infrastructure through greater private investment and market-oriented reform under the government of the Bharatiya Janata Party (BJP) and Prime Minister Narendra Modi, elected in 2014. What forces have shaped the policy process as successive governments have sought to navigate the trade-offs between capital accumulation, economic diversification and social welfare? And what role do domestic actors and multilateral institutions, among others, play in advocating, planning and funding welfare reforms?

Have social policies have been effective in achieving their goals? India's rights-based social policies aim to increase economic opportunities, social capabilities and political voice, embedded as they are in a more ambitious project of improving the transparency, responsiveness and accountability of the state. The research explores the economic, social and political impacts of the major policy changes and institutional reforms, including the question of whether grafting statutory rights onto a welfare system previously characterized by a philosophy of benevolence and paternalism is a suitable means to achieve the desired political empowerment and social welfare improvements.

Are shortcomings due to poorly conceived legislation or failures of implementation? So far, the introduction and implementation of the laws, policies and institutions that define India's new welfare architecture have had mixed results. For example, the provision of work through MGNREGA has also helped to reduce rural poverty and related migration, while generating some productive assets. But participation in the programme has never reached its guaranteed 100 days per year, and project completion rates have fallen in recent years. When it comes to education, full enrolment

New Directions in Social Policy

By examining the emergence, nature and effectiveness of recent developments in social policy in selected emerging economies and low-income countries, this three-year research project (2015-2017) aims to contribute evidence and analysis that will improve understanding of alternative policies for social development in the 21st century.

This research aims to shed light on the policy options and choices of emerging/developing countries; how economic, social, political and institutional arrangements can be designed to achieve better social outcomes given the challenges of the contemporary development context; how the values and norms of human rights, equity, sustainability and social justice can be operationalized through "new" social policies; and how experiences, knowledge and learning about innovative approaches can be shared among countries in the South. A project brief is available at www.unrisd.org/pb4

UNRISD Research Team: The Research Coordinator for this project is Ilcheong Yi, and Kelly Stetter is the Research Analyst.

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in primary schools is now close to being achieved, including crucially among girls and children from disadvantaged communities. Infrastructure at public schools has improved. Yet teacher absenteeism, and rates of student attendance, completion and learning, remain problematic in many parts of the country. Do these problems reflect flaws in the design of the legislation? Or are they the result of implementation failures caused by insufficient funding, low public awareness, resistance by powerful vested interests or a lack of grievance redressal mechanisms?

What drives the vast geographic differences in implementation and performance? Despite strict requirements in the legislation, immense differences across regions and states in the implementation and performance of rights-based programmes constitute another challenge. Potential explanations for these differences in performance abound, but none seem to be borne out by uniform patterns in the data and evidence. The case study adds value to the debate by investigating the actions of state-level politicians, high-level bureaucrats and local civic movements at the regional level.

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About Project Briefs

UNRISD Project Briefs pose questions, flag ideas and contribute knowledge that can improve the quality of development debates, policy and practice. They provide a concise summary of an UNRISD research project, situating it within wider social development debates; outlining its focus, objectives and methodology; and highlighting interim findings.

This project brief was prepared by Saskia Sickinger.

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