

ADDRESSING INEQUALITIES

The Heart of the Post-2015 Development Agenda and the Future We Want for All
Global Thematic Consultation

**ENACTING SOCIOECONOMIC RIGHTS:
LESSONS FROM INDIA**

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Abstract: What explains the growing influence of rights-based approaches to basic social welfare in many countries of the global South? What are the legal, political and economic consequences of enshrining citizens' entitlements as formal statutory rights? Under what conditions do legally enforced socio-economic rights enhance the capabilities of relatively disempowered citizens and satisfy their basic human needs? This paper addresses these questions by analyzing the origins, character, promises, risks and challenges of India's new rights-based welfare paradigm. The promise of India's new rights agenda is that it challenges in principle the distinction between civil liberties and political freedoms vis-à-vis basic socioeconomic entitlements, and has fashioned innovative accountability mechanisms and institutional structures to realize them, creating political incentives to mobilize progressive coalitions in electoral contestation and across the state-and-society divide. These various reforms simultaneously aim to enhance the capacity of the state to see its citizens, yet curb the danger of authoritarian high modernism by allowing the citizenry to 'see the state'. However, official political resistance from above and below, the limited existing capacities of judicial actors, state bureaucracies and social forces, and the relatively narrow base of many of these new movements will continue to test the spirit of India's new rights-based welfare regime.

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Introduction

What explains the growing influence of rights-based approaches to basic social welfare in many countries of the global South (see Shue 1996; Hamm 2001; Moser and Norton 2001; Cornwall and Nyamu-Musembi 2004; Gauri and Brinks 2008)? What are the legal, political and economic consequences of enshrining citizens' entitlements as formal statutory rights? Under what conditions do legally enforced socio-economic rights enhance the capabilities of relatively disempowered citizens and satisfy their basic human needs?

In general, scholars note three distinct models historically that developing countries have used to incorporate socioeconomic rights.¹ First, several grant them the status of fundamental rights in the constitution, which makes them justiciable in the courts. Significantly, countries that pursue this approach often do so after fundamental regime change. Post-authoritarian Brazil and post-apartheid South Africa are exemplary cases. Second, other countries enunciate 'directive principles' in the constitution, which are meant to shape government policy. Finally, many countries become signatories to international conventions that protect socioeconomic rights, such as Mexico.

Historically, India pursued the second approach. Successive national and state-level governments introduced an extraordinary range of social welfare initiatives. The vast majority of such initiatives came under the purview of the Directive Principles of State Policy in the 1950 Constitution, making them non-justiciable. The coherence and implementation of many developmental interventions, however, were often been poor with the benefits targeted towards or captured by particular groups. Hence the early 1990s witnessed major constitutional reforms to enhance civic participation in poverty-alleviation schemes and to decentralize political authority and economic resources to local village councils, constituting a "new regime of governance and development" (Corbridge, Williams, Srivastava and Véron, 2005: 21).

Since 2004, however, India has enacted a series of national legislative acts that enshrine a number of new civil liberties and socioeconomic entitlements through legally enforceable rights. The Right to Information Act (RTI), 2005, mandates government agencies to release information regarding their activities to individual citizens upon request in a timely manner. The National Rural Employment Guarantee Act (NREGA), 2005, grants adult members of every rural household the right to demand 100 days of wage-employment from the state. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, empowers tribal communities the right to own and use traditionally cultivated land and to protect and conserve forests. The Right of Children to Free and Compulsory Education Act, 2009, makes the enrollment, attendance and completion of schooling of every child under 14

¹ I owe this insight to Courtney Jung, Lead Investigator, *The Toronto Initiative for Social and Economic Rights*.

the obligation of the state. Indeed, the desire to entrench new citizenship rights has recently inspired the Public Interest Disclosure and Protection of Persons Making Disclosures Bill, 2010, Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of Their Grievances Bill, 2011, and the National Food Security Bill, 2012. In short, the introduction of these rights-based national acts and pressure to extend their purview to other subjects and domains signify a “new welfare architecture” with a distinct “social contract” in modern Indian democracy (Mehta 2010).

What explains the emergence of India’s new rights-based welfare paradigm? How are the rights enshrined in these laws generally conceptualized, operationalized and pursued? What are the promises, risks and challenges—legal, political and economic—of enshrining various civic entitlements as formal statutory rights? Can legislating socioeconomic rights address the deep structural determinants of inequality in a postcolonial society such as India, or does it merely represent a new palliative response, the latest manifestation of neoliberal governmentality, to the evolving power asymmetries in the global South?

This paper addresses these questions by analyzing, in brief, the origins, character, promises, risks and challenges of India’s new rights agenda. I argue that the introduction of a range of new civic rights in India in recent years, and elaboration of innovative accountability mechanisms and institutional structures to realize them, has fashioned new political incentives to mobilize progressive coalitions in electoral contestation and across the state-and-society divide. Put differently, the promise of the current rights experiment in India is that it simultaneously aims to enhance the capacity of the state to ‘see its citizens’, yet curb the danger of authoritarian high modernism by allowing the citizenry to ‘see the state’ (compare Scott 1998 with Corbridge et al. 2005). Risks abound, however. Official political resistance from above and below, the limited existing capacities of judicial actors, state bureaucracies and social forces, and the relatively narrow base of many of these new movements will continue to test the spirit of these reforms. The paper concludes by considering several imperatives that India’s evolving rights movement must confront to realize its ambition.

The Origins of India’s New Rights Agenda

In general terms, three slow-burning transformations explain the rise of India’s new rights agenda. First, since the early 1980s India’s Supreme Court has progressively interpreted the basic socio-economic needs of relatively disempowered groups as integral to the fundamental ‘right to life’ under Article 21 of the Constitution. The innovation of public interest litigation by the Court, widely seen as the most powerful in the world, encouraged popular grassroots movements and non-governmental organizations to serve as “midwives to judicial activism” (Baxi 2006: 48). These cumulative efforts have enabled the apex judiciary to resist becoming a conservative ‘juristocracy’ like its counterparts in many representative democracies in favor of ‘progressive conceptions of distributive justice’ (see Hirschl 2007).

Second, since the early 1990s India has witnessed an acceleration of uneven capitalist development that, to use Karl Polanyi's well-known phrase, has encouraged a partial 'counter-movement' to protect society from the depredations of the market economy (Polanyi 1957). On the one hand, liberal economic reforms have gradually stimulated rapid growth, structural diversification and technological change. Aggregate economic prosperity has also increased public revenues, enabling the expansion of basic social programmes. Yet India's most dispossessed citizens still endure deep human deprivations. Moreover, these new patterns of accumulation have simultaneously exacerbated old social, sectoral and spatial inequalities, and created new vulnerabilities in the vast informal economy, igniting fierce conflicts across the country, from farmer suicides to Maoist insurgency (Ghosh 2004; Kohli 2010; Harriss 2011). Hence the rising tide of popular expectations for greater individual opportunity and social protection.

Third, the increasing electoral participation of historically subordinate groups since the late 1980s enabled state-based parties that sought to represent them to capture political office in many states of the federal system and join national coalition governments in New Delhi. The struggles for recognition launched by these parties gave marginalized communities greater political representation, dignity and self-esteem (Kothari 1998; Yadav 1999; Jaffrelot 2003). However, they collectively failed to devise a redistributive politics that could address entrenched political corruption and deeper structural inequalities. Thus the groundswell of demands from civil society in India today – such as the recent anti-corruption movement of the Gandhian social activist Anna Hazare – for greater moral integrity, political accountability and social justice.

These background developments enabled the United Progressive Alliance (UPA), led by the Indian National Congress, to capture national office following India's Fourteenth General Election in April-May 2004. The UPA campaigned on behalf of the *aam aadmi* (common man), in contrast to brazen slogan of 'India Shining' of the Hindu nationalist Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA). The Common Minimum Programme (CMP) of the UPA promised to repair the fabric of secularism, continue bilateral negotiations with Pakistan and achieve 'growth with a human face', with pledges to introduce the right to information, a national rural employment scheme and other similar initiatives. The subsequent appointment of Manmohan Singh as India's fourteenth prime minister, following Sonia Gandhi's decision to relinquish any claim to the post, enabled her to create a National Advisory Council (NAC) under her leadership to implement the social agenda of the CMP. Comprising a number of eminent scholars, activists and former bureaucrats as well as key political figures, and supported by the decision by the communist Left Front to extend critical outside support to the UPA for the majority of its first tenure (2004-2009), the newly fashioned council formulated and pushed these various initiatives, often against counter-pressures from the Council of Ministers and other Union ministries and departments.

Character and Significance

Three aspects of India's new rights agenda warrant close attention. First, the decision to legislate a right to basic socioeconomic entitlements marks a watershed in modern Indian democracy. Since achieving independence in 1947, national and state-level governments in India have introduced an extraordinary range of social welfare initiatives. These have ranged from area-based interventions and compensatory discrimination policies to specifically targeted schemes for women and children as well as resettlement programmes (Corbridge et al. 2005: 47-84). Crucially, the vast majority of such initiatives came under the purview of the Directive Principles of State Policy in Part IV of the Constitution, making them non-justiciable. In contrast, political liberties and civic freedoms regarding speech, expression, assembly, movement and association, as well as private property, found protection as fundamental rights in Part III. The early 1990s witnessed major constitutional reforms to enhance civic participation in poverty-alleviation schemes and to decentralize political authority and economic resources to local village councils, constituting a "new regime of governance and development" (Ibid, 21; see Heller 2011). What distinguishes India's recent landmark acts, however, is that it undermines *in principle* the distinction made between civic and political rights versus social and economic entitlements in the Constitution.

Second, historically social movements in India that have sought to defend the basic material interests of the poor have pressed their claims vis-à-vis the bureaucracy and judiciary. Although such mobilizations have influenced elected representatives in the districts and state capitals of the Union, their respective struggles have rarely penetrated the national electoral arena, a domain that has been dominated by the politics of identity to a greater extent, especially since 1989 (Katzenstein, Kothari and Mehta 2001: 244-246). Put differently, despite the remarkable historical achievement of consolidating a constitutional representative democracy in a poor agrarian society, until recently India's national electoral arena has proven relatively unresponsive to local popular demands for greater material equality. Hence the significance of many of India's recent landmark acts, which bear the distinct political imprint of social activists and activist judges working in tandem with progressive party politicians. Put differently, the introduction of these laws underscore how judicial activism, social movements and progressive electoral politics can together enable a country to tie the promise of basic socioeconomic entitlements, as exemplified in the directive principles approach, to the protection of fundamental rights without a wholesale change of the political regime.

Finally, it is striking that many of these groundbreaking laws seek to promote greater political transparency, responsiveness and accountability. This is the overt purpose of the Right to Information Act, of course, as well as the so-called Public Interest Disclosure Bill and Citizens Grievances Bill recently unveiled. Yet these concerns also inform the novel design features of

the NREGA, for example, which allow its poor intended beneficiaries to participate in social audits (*jan sunwais*) of local public officials. These governance mechanisms furnish poorer citizens an opportunity to challenge the practices of corruption and patronage that have enabled benefits to be targeted towards or captured by particular social groups, undermining the coherence, equity and implementation of many developmental interventions in the past. The fact that even regions with progressive social regimes, such as Kerala, have recently proposed a 'Right to Public Service' underscores the primacy of systematic institutional reform in India's new rights-based social agenda. The latter has occurred alongside a slate of large-scale initiatives that seek to renew the purpose, capacity and accountability of the state. The most well-known of these endeavors include the Second Administrative Reforms Commission, Unique Identification Authority of India (UIDAI) and Jan Lokpal (Public Ombudsman) Bill. Arguably, the move to fashion new civic prerogatives and entrench basic socioeconomic entitlements in contemporary Indian democracy is an innovative state-building project.

The Promises of India's New Rights Agenda

What are the promises of India's new rights agenda? Suffice to say, it lacks uniformity and consensus. Commentators generally praise the design of the National Rural Employment Guarantee Act, even if its ground-level performance varies across the country (analyzed further below). In contrast, they criticize the Right to Education Act for not specifying the responsibilities of the Centre towards the states, for not providing sufficient financial resources and for not resolving questions of early childhood development, teacher training, material infrastructure, disparities between private and state schools, and local oversight (Harriss 2011: 136). And the current parliamentary debates over the National Food Security Bill reveal severe disagreements over its scope and level of coverage (whether it should be universal or targeted to specific population groups), delivery mechanisms (whether it requires bolstering subsidized ration shops or the introduction of conditional cash transfers using new governmental technologies of citizen identification: analyzed further below), and attendant policy ramifications for agriculture, infrastructure and public health. Clearly, the varying provisions of these distinct laws and their complex interrelationships require careful analysis.

Nevertheless, although still evolving, India's new rights agenda creates several new possibilities. First, as mentioned at the start, it has introduced a range of new civic rights in India *per se* through the passage of specific national acts or cumulative legislative activity. Many are innovative in themselves. But they are significant in general because they challenge, in principle, the distinction made between civic and political rights versus social and economic entitlements in the Constitution.

Second, many of India's recent landmark acts specify agents, mechanisms and institutions to realize them. In recent years critics of the growing rights-based discourse on the intellectual Left argue that its ascendance represents a post-utopian moment bereft of any

larger project for radical social emancipation (see Geuss 2001; Hamilton 2003; Moyn 2010). At best, they see rights as ‘formalist abstractions’ that simply enunciate normative aspirations, which can guarantee neither the resources nor the compliance of their stipulated duty-bearers necessary for their realization. At worst, ‘rights-talk’ depoliticizes social conflicts by leveling the needs of different social groups, masking the relations of domination that reproduce unequal political orders and militating against deep structural change. These wide-ranging criticisms, although well-taken, enjoy less traction vis-à-vis India’s new rights agenda. The fact that the Right to Information Act, 2005 heralded the recent wave of progressive national legislation was provident and contingent. Despite its problems of implementation, it is a significant political attempt to enhance civic rights by opening the state to scrutiny, and thus has drawn wide public support (see NCPRI 2008). Similarly, rights-based claims and in-built governance mechanisms to promote transparency, responsiveness and accountability are critical design features of the MNRGA (see Jenkins 2012). The law grants citizens a right to demand 100 days of paid manual work from the state. Crucially, it also entitles them to conduct social audits (*jan sunwais*) to ensure that it is provided in a proper manner. To do so, the law sanctions trained volunteer auditors from local organizations to comb the administrative forms for and financial records of local development projects, looking for irregularities and inconsistencies. They subsequently may call public meetings with the local community, including NREGA claimants and local bureaucrats, to scrutinize the official accounts vis-à-vis oral testimonies. By performing these tasks, poorer citizens may well increase their political capabilities, namely their awareness, confidence, skills and connections. Put differently, the governance mechanisms of the NREGA were designed to *mobilize* popular discontent.² The fact that New Delhi has recently passed the Judicial Accountability and Standards Bill, and so-called Public Interest Disclosure Bill and Citizens Grievances Bill, and that a politically diverse spectrum of state-level governments have now introduced their own ‘right to service’ acts, underscores the intimate nexus perceived between new civic rights and political freedoms on the one hand and greater state accountability and progressive socioeconomic outcomes on the other.

In fact, the introduction of these rights-based acts in India was coterminous with attempts to explore and undertake systemic institutional reform. According to the architects of India’s new developmental agenda, legislating a right for citizens to hold the state accountable for its actions or transgressions was only half the struggle. The battle to eliminate absolute deprivation and lessen socioeconomic inequalities also required shifting the priorities and enhancing the capacity of the state to discharge its responsibilities. Hence a slate of large-scale initiatives unveiled in recent year towards this end seeks to renew the purpose, capacity and accountability of the state. The most well-known of these endeavors include the Second Administrative Reforms Commission, Unique Identification Authority of India (UIDAI) (discussed further below) and Jan Lokpal (Public Ombudsman) Bill. The strength and desirability of each of

² I owe both these points to Jim Manor (personal communication).

these initiatives are important matters. None lack controversy. Moreover, many early well-wishers lament the slow progress made thus far. Yet it is still worth underlining the fact—given the proclaimed tendency of ‘rights-talk’ to issue moral declarations while avoiding hard institutional questions—that such initiatives were conceived at all.

Third, enacting these novel civic rights through national parliamentary legislation creates new political incentives to mobilize progressive coalitions in electoral contestation and across the state-and-society divide. Equalizing the provision and enjoyment of socioeconomic entitlements does not require the extension of formal statutory rights, of course. The superior provision of primary education, public healthcare and income support and the relatively effective delivery of public services in states like Kerala and Tamil Nadu, and to a lesser extent in West Bengal and Andhra Pradesh, has relied *inter alia* on higher social expenditures, strong party organizations, coherent bureaucratic structures, broad lower caste-class coalitions committed to progressive social ideals, and the long historical development of encompassing subnational identities (Kohli 1987; Drèze and Sen 2002; Harriss 2003; Sandbrook, Edelman, Heller and Teichman 2007; Singh 2010). The relative achievements of these states vis-à-vis others in the Union reflect a genuine political commitment by local collective actors to greater social egalitarianism and effective public institutions. Indeed, their collective experiences demonstrate that formal socioeconomic rights are neither necessary nor sufficient for greater human well-being and social equality.

Nevertheless, as the history of development suggests, the road toward greater human well-being has diverse causal pathways. Jean Drèze, a leading figure in India’s new rights agenda, claims that enacting formal statutory rights through the law protects such entitlements from the predilections of changing ruling dispensations to a greater extent than afforded to government programs, policies and schemes (2010: 510-518). The contestation over such laws and, far more ominously, targeted physical attacks against RTI activists demonstrates that it clearly does. In addition, legislating socioeconomic rights still enables scrutiny by social activists and activist judges that seek to hold the state accountable for its newly embraced obligations. In fact, some observers speculate that a key reason why the architects of these recent national acts in India formulated their provisions in the language of *rights* was to ensure the continuing vigilance of the judiciary.³ Lastly, such laws create fresh political incentives for party organizations, NGOs and grassroots movements to build progressive coalitions anew. The fact that many state-level governments in India have introduced other rights-based measures in the wake of these national acts, even in historically more progressive social regimes like Kerala, illustrates the possibility of positive diffusion effects and their perceived desirability.

Its risks

³ I thank Yamini Aiyar for emphasizing this point to me.

Needless to say, the question of how best to realize these potential synergies ignites passionate debate about potential risks. First, while these acts may guarantee rights in principle, in practice they may fail to disrupt the logic of bureaucratic resistance and political corruption that its most ardent proponents document. The performance to date of the MNREGA is a case in point (see Jenkins 2012). It is likely that similar problems afflict other such initiatives, even if not uniformly.

Second, despite the recognition of the need for systematic institutional reform by its various architects, India's new rights agenda may overload the capacities of high judges, state-level bureaucracies and local social organizations. It is well known that India's apex judiciary, for all its comparative achievements, requires institutional overhaul. Its outstanding caseload—in 2001, the number of pending cases facing the Supreme Court and high courts was 20,000 and 3.2 million, respectively—is nothing short of staggering (Shankar and Mehta 2008: 154.). State administrative capacity, despite its overbureaucratization, is equally wanting (see Kapur 2010: 453). Front-line public officials currently handle more than 200 central schemes, which include accessing funds, distributing them, maintaining accounts and submitting reports. Yet they are often lack adequate skills and, indeed even sufficient personnel, to manage all this work. Strikingly, public sector employment in India numbered 19.1 million in 1991, a low figure relative to population in comparative terms, fell to 18.2 million in 2006. Vacancies and problems of absenteeism afflict every sector of the state apparatus. Lastly, previous studies of rights-based laws in the states, such as the pioneering Employment Guarantee Scheme in Maharashtra, demonstrate how pursuing legal claims through the courts can often sap the time, focus and resources of small grassroots organizations (see Joshi 2009: 620-630). In short, the realization of new civic rights presumes that state institutions and social actors possess adequate capacity in terms of personnel, financing and coordination, all of which may be lacking in the first place. This is a real quandary.

Unsurprisingly, the content and direction of reforming the state cause immense debate. In particular, since 2009 the focus of dispute has been the establishment of the UIDAI, perhaps the most significant 'flagship' initiative of the second UPA administration (2009–). According to Nandan Nilekani, the former CEO of Infosys and inaugural chairman of the UIDAI, the Uniform Identity Document (UID) it will enhance the capacity of the state to see its citizens and for the latter to access it directly. Such a system, based on either direct cash transfers or vouchers for goods to persons with an UID, would have a "3E effect" (2008: 24, 350-363). Specifically, "electronification" would enhance the efficiency (by transferring resources 'faster and cheaper'), equity (by improving the 'allocation of resources' and 'transparency of such processes') and effectiveness (by improving the 'measurement of government objectives and goals') of the state. Crucially, in light of the various rights-based acts launched in India in recent years, Nilekani sees the UID as the "key mechanism for addressing the knowledge asymmetry between the government and the governed" regarding how decisions are made, funds

expended, and to what end and for whom. A national ID grid would usher in three significant changes in his view. First, it would grant a national “right to an acknowledged existence”, thus permitting fuller realization of the Right to Information. Second, instead of providing indirect subsidies for particular goods, a UID would permit exact targeting and smooth delivery of scarce public resources to their desired beneficiaries, making “our dependence on the moral scruples of our bureaucrats [and middlemen] redundant”. Third, and thus, it would “compel the state to improve the quality of services and immediately [give] the citizen better access . . . and a deeper awareness of their rights, entitlements and duties”. In short, for Nilekani, “IT is less of a tool than a strategy for public policy reform”.

The case for moving to a direct transfer system based on targeted cash benefits to individuals screened by the UIDAI has drawn critical scrutiny, however (the following summarizes Ramakumar 2011 and Khera 2011). Although deemed voluntary, *Aadhaar* has been made steadily mandatory by various government departments in conjunction with the preparation of a National Population Register and in accordance with the requirements of the Citizenship Act of 1955. Since the rolling out of the project will take years, the transition to granting the UID and making it compulsory in certain schemes may perversely stop the very constituents the project seeks to assist from accessing their entitled benefits in the interim, as some fear may happen in the NREGA. In addition, these potential practical disadvantages sit alongside concerns over civil liberties. The original motivation of the UID—to enhance the surveillance capabilities of the state in order to detect illegal immigrants and foreign nationals—has troubled many social activists and political observers. Moreover, experts on the Biometrics Standards Committee of the UIDAI acknowledge that data such as fingerprints is not foolproof. The margin of error in a country like India, where a substantial portion of the population engages in arduous manual work, may be as high as fifteen percent, i.e. greater than 200 million individuals. Additionally, a UID may potentially eliminate corruption through deception. However, it cannot tackle problems of extortion or collusion, which also harm disadvantaged citizens and mar the workings of particular welfare schemes. Further, even if the UID project helps the state to target benefits to a verified beneficiary, it fails to address deeper questions. Who should be receiving such benefits? And according to what criteria? Indeed, perhaps the most passionate social policy debate taking place in India today is whether to target welfare measures or provide them universally, given the persistent conceptual and practical difficulties of misclassification. Lastly, and not least, questions have been raised over the cost of *Aadhaar*, estimated at greater than Rs. 50,000 crore. Indeed, the preceding concerns transcend the varying concerns of legal experts, social activists and public scholars. Witness the individual parliamentarians across the party spectrum that recently found the bill unacceptable as presently conceived.

These particular criticisms of the UIDAI aside, the faith that its advocates place in ‘electronification’ deserves wider deliberation. On the one hand, in order for the state in India

to target social entitlements better, it needs to see its citizens. This raises concern in many quarters, with good reason. The failure of grand social experiments in the twentieth century, as Scott (1998) evocatively put it, was the result of 'seeing like a state'. High modernist ideology and a growing desire for simplification and legibility, especially when espoused by authoritarian states facing weak civil societies, led such regimes to impose bureaucratic rationalities upon their respective societies. In doing so, they suppressed the reservoirs of local practical knowledge the latter had, which had enabled them to survive historically. The unrestrained muscular confidence in grand technological salvation, ranging from collectivization in Russia in the 1930s to the *ujamaa* experiment in Tanzania in the 1970s, led to large-scale social disasters. Skeptics of 'electronification' in India, whose proponents often express a Panglossian worldview, are right to highlight potential dangers. Yet India today is a consolidated democratic polity with an increasingly vigorous civil society, inevitably with myriad human imperfections. Moreover, and far more important, the various innovative rights-based laws, procedures and mechanisms to promote transparency, responsiveness and accountability also provide a significant institutional safeguard in principle against the dangers of high modernist statecraft that has afflicted many experiments to better society in the past.

Innovative technological advances cannot ensure greater social equity on their own, however. Alas, technology is a tool, not a strategy. Moreover, the assumption that powerful IT systems alone would 'compel the state to improve the quality of services and immediately [give] the citizen better access . . . and a deeper awareness of their rights, entitlements and duties' in the manner Nilekani proclaims is an article of faith at this stage. States in the postcolonial world seeking to create a just society need sufficient administrative capacity, which may well benefit from technical ingenuity. But public officials and the societies they seek to govern cannot rely on it. And popular democratic mobilization and constant political vigilance are necessary to make states act in the interests of the poor, and inculcate recognition amongst the latter of what is owed to and required of them as citizens.

The third risk inherent in India's new rights agenda is the relatively narrow base of its leading social movements. As Harriss (2011: 129, 137) notes, many are not popular mobilizations. Rather, they essentially resemble lobby groups, led by intellectual-activists that belong to the urban middle classes. One of the most important of these leaders, Jean Dreze, expresses the concern most cogently:

The 'leaders' almost invariably come from a privileged social background. However sensitive they may be to the viewpoint of the underprivileged, they cannot but carry a certain baggage associated with their own position. The bottom line is that, with few exceptions, social movements in India (or for that matter elsewhere) are far from democratic. This lack of internal democracy jars with the values we claim to stand for,

and creates a deep inconsistency between means and ends (quoted in Harriss 2011: 138).

The personal sacrifices and political commitments of many of these social activists are beyond question of course. Moreover, the various gains made by civil activists from the urban middle classes are extremely valuable. If anything, they show the possibilities of bridging state-society divides and the limits of Manichean social visions, analytical and political. The conceptual antinomies espoused by some critics to distinguish NGOs—characterized as depoliticized reformist organizations that advocate for greater social welfare by negotiating with the state—from movements—seen as radical political actors that politicize issues by confronting the state—overstates their differences and hybrid organizational strategies in many cases. And we should duly acknowledge the extent to which prior university training, spells in the high bureaucracy and present academic tenure helped these actors make the case for expanding India's welfare regime through rights-based and other claims vis-à-vis elected representatives, elite bureaucrats and sitting judges.

Yet the concern over the predominantly middle class leadership of many rights-based organizations, and their relatively narrow base the latter mobilize in everyday political struggles, is deep and genuine. The contrast with the renewed Maoist insurgency in many parts of India, whose leadership reportedly includes many individuals from tribal communities, is perhaps instructive. To put it in Polanyi's terms, the mobilization of India's new rights agenda still largely represents a 'counter-movement from above' rather than 'below'.⁴

Conclusion: challenges to meet

Hence India's new rights-based welfare regime faces several challenges. First, can its proponents in civil society, electoral politics and the state enhance popular awareness of these norms, laws and entitlements? The language of rights implies moral obligations upon the state. It also creates legal sanctions (Chandhoke 2005: 26) Yet whether the social movements and political parties that support these new rights can translate these moral claims and legal instruments into vernacular social imaginaries, that arouse deeper popular attachments, is the pressing long-term question. Second, can these proponents find ways to stimulate greater public spending, concomitant policy change and systematic institutional reform in a manner that refocuses the purposes, capacity and accountability of the Indian state towards meeting the needs to its most vulnerable citizens? Recent analyses suggest that enhanced national spending for some of these flagship initiatives, such as NREGA, have led to cuts in rural development elsewhere (see Harriss 2011: 134). Additionally, how front-line bureaucrats actually understand the meaning of these various rights and thus implement them remains a

⁴ I thank John Harriss for emphasizing this point to me.

vital question,⁵ given the shifting conceptual meanings and repertoires of resistance that have characterized the implementation of policy ideas as they travel from the commanding heights of the state to its peripheries. In the end the scope for enhanced social expenditures and institutional reform will also depend on maintaining political focus in New Delhi and state capitals.

Finally, can the proponents of India's rights agenda realize its ambitions without jeopardizing the dynamic economic changes witnessed in the last two decades? It was precisely the unevenness of rapid capitalist growth in India since the early 1990s that exacerbated its underlying social disparities, creating new anxieties, vulnerabilities and conflicts across the country. Yet higher economic growth and structural diversification has furnished the possibility of enhanced social expenditures and underscored the need for systematic institutional overhaul. Put differently, these cumulative transformations have considerably reoriented India's developmental prospects compared to the early 1980s. The promise of India's new rights agenda will turn on how these and other challenges are met.

⁵ I thank Yamini Aiyar for emphasizing this point to me.

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