

# ISAS Working Paper

No. 182 - 20 March 2014

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## State of Injustice: The Indian State and Poverty<sup>1</sup>

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Addressing the Constituent Assembly in the opening debate on ‘The Resolution of Aims and Objects’, on 22 January 1947, Jawaharlal Nehru said: ‘The first task of this Assembly is to free India through a new constitution, to feed the starving people, and to clothe the naked masses, and to give every Indian the fullest opportunity to develop himself according to his capacity’ (cited in Corbridge and Harriss 2000: 20). This is a remarkable statement, expressing as it seems to a conception of what development should mean that comes very close to the one that Amartya Sen laid out much more recently, of development as freedom (Sen 1999). Sen argues that people should be free to develop their capabilities so as to lead lives that they have reason to value,

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<sup>1</sup> This is the text on which the author’s Chandan Sengupta Memorial Lecture, delivered at the Tata Institute of Social Sciences in Mumbai on 6 February 2014, was based.

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being able to engage in reflexive life planning. If they are to be able to do this, then freedom, in both negative and positive senses, is essential, and it is both means and end, of social and economic development. This is pretty much what Nehru seems to have meant when he spoke of Indians having ‘the fullest opportunity to develop themselves according to their capacities’. What was India’s freedom from colonial rule to be for, if not this? Independence alone would not be enough to liberate Indians from all manner of unfreedoms.

Nehru’s statement, too, seems to correspond very well with the idea of justice that Sen has set out in his recent book of this title (Sen 2009), where he presents arguments against what he describes as a ‘transcendental approach to justice’ – one resting on the proposition that there is some definite set of social arrangements that constitutes a just society. He advocates instead a ‘comparative approach’ which holds that the idea that there is an absolute state of justice is a chimera, but that we can distinguish between more, and less just states of affairs. According to this, social arrangements may be judged according to what is usually regarded as just and reasonable by people in different places and in regard to different spheres of life. The idea that social arrangements should be such as to allow people to have ‘the fullest opportunity to develop themselves according to their capacities’ seems a fairly common-sensical statement of what would be regarded as fair and reasonable by very many people. Nehru thus suggested that independent India should be dedicated to the achievement of social justice.

My title suggests, however, the view that the Indian state has rather been one that has perpetrated injustice, and I aim to explain why I think this is so. In part I take off from a discussion of anthropologist Akhil Gupta’s recent, generally acclaimed book *Red Tape: Bureaucracy, Structural Violence and Poverty in India* (Gupta 2012), which addresses the same question – that of why the Indian state has perpetrated injustice – though Gupta uses somewhat different language from me. I find insight and inspiration in Akhil Gupta’s work, whilst also finding his arguments severely limited in critical respects, as I shall try to explain. I then go on to examine the passage, since 2004, of what Sanjay Ruparelia describes as ‘a new welfare architecture’: ‘a series of ground-breaking legislative acts that enshrine a number of socio-economic entitlements through legally enforceable rights’ (Ruparelia 2013: 569). Ruparelia is referring to the Right to Information Act of 2005, the National Rural Employment Guarantee Act of 2005, the Forest Rights Act, the Right to Education Act, and most recently the Food Security Act. There are

aspects, too, of the recent Land Acquisition, Rehabilitation and Resettlement Bill that, remarkably, share some of the features of the wider rights agenda (see Jenkins 2013). Is the Indian state at last delivering on the promise of social justice expressed in Nehru's speech before the Constituent Assembly?

The paper proceeds in the following way. First, I provide a brief historical account of the actions of the Indian state in regard to poverty, and offer a statement of the poverty problem, since I take it as axiomatic that the persistence of extensive, deep poverty shows the failure of the promise of social justice. This leads me to a discussion of Akhil Gupta's answer to the question that he phrases much more dramatically than me as being that of explaining why the Indian state kills poor people. His answer offers helpful insights, I think, but falls short of adequate explanation. Finally, I ask how far the recent ground-breaking legislation addresses the problems that I identify.

## **Poverty in India: A Short History**

The Indian National Congress made firm commitments in the course of its deliberations in the 1920s and 1930s to the achievement of greater social justice. Notably, the Motilal Nehru report of 1928, on the principles of a future constitution for independent India included a strong statement of the need for economic and social rights: 'We cannot believe', the committee members wrote, 'that a future responsible government can ignore the claims of mass education, or the uplift of the submerged masses, or the social and economic reconstruction of village life in India'. The Motilal Nehru committee report argued, in effect, that the right to well-being is an indispensable precondition for the right to life and liberty. Then in 1931 the 'Resolution on Fundamental Rights and Economic and Social Change' of the Karachi session of the Congress made a commitment to what is described as the 'real economic freedom of the starving millions'; and the case for redistributive land reform in the interests both of social justice and of the improvement of agriculture was made rather strongly. But when it came to it, these objectives, and the expectations aroused by the Objectives Resolution of the Constituent Assembly, were confounded only a year later by its advisory committee on fundamental rights. Concerns of practicability and of appropriateness – Niraja Jayal argues – eventually led the members of the

Constituent Assembly to relegate economic and social rights to the non-justiciable ‘Directive Principles’ of Part IV of the Constitution of India – statements of desirable directions for state policy but without any legal backing. The Directive Principles suggest that the Indian state should promote ‘the welfare of the people’; providing, for example, for rights to work and to education and ‘to public assistance in certain cases’; and they refer to the ‘Duty of the State to raise the level of nutrition and the standard of living and to improve public health’ – but without *requiring* the state to do any of these things. Only civil and political rights are included amongst the (justiciable) Fundamental Rights of Part III of the Constitution. Some members of the Constituent Assembly doubted the capacity of the state to deliver economic and social rights, and consequently questioned whether it was reasonable for the state to make constitutionally binding commitments to their realisation – adopting the argument that has often been marshalled in distinguishing between civil and political rights on the one hand and economic and social rights on the other. Other members of the Assembly questioned the appropriateness of making constitutional commitments to what were really particular policies and which would tie the hands of future governments that might have a democratic mandate to pursue other policy directions (for detailed discussion, see Jayal 2013).

Neera Chandhoke in a recent unpublished paper has pointed out that the decisions of the Assembly were rather remarkable given that even the British government of India thought that the country had arrived at a revolutionary moment in 1945-46, shaken as it was by agitations on the parts of students, workers and peasants, often organised by the Communist Party. But the leadership of the Congress, as ever, sought to head off popular struggles led by non-Congress organisations. As Gandhi said at the time ‘paralysing action should be in the hands of the Congress’ – and by this time the Congress had been dominated for quite some time by propertied interests.

The subsequent failures of the Nehruvian state in regard to redistributive land reform, strongly advocated in the Report of the Congress Agrarian Reforms Committee that reported in 1949, and again in the Resolution on Agrarian Organisational Pattern put to the Nagpur Congress in 1959, are widely recognised (see Frankel 1978). Reform was resolutely opposed by the rich peasants – whose spokesman at the Nagpur Congress, which did not agree to the Resolution on Agrarian Organisational Pattern, was Charan Singh. Such local ‘big men’, like some of the Jats of Uttar

Pradesh, led by Charan Singh, had already started to take over the local organisation of the Congress in the 1930s, and by the 1950s there was a clear divide between the leadership of the Congress at lower levels in the organisation and the progressive faction of the national leadership that recognised the need for land reform in the interests of social justice. The former, the local bosses, clearly won. There was, as the economist Sukhamoy Chakravarty – who was much involved in the planning process – wrote, a tolerance towards income inequality. While unequal distribution of income was believed to be undesirable, ‘a precipitate transformation of the ownership of productive assets was held to be detrimental to the maximisation of production and savings’ (cited by Corbridge and Harriss 2000: 60).

And, in practice, the Nehruvian state was not significantly different from its later avatars: transformative social policy and even welfare provisioning had to be constrained because of the prior need to bring about economic growth, and it was deemed to be the civic duty of the people to contribute to this. The perspective of the state on poverty was one of charity, of supplying needs rather than satisfying rights; and the labelling of some groups of people as being ‘needy’ only served to legitimise and to entrench inequality. Welfare entitlements were severed, in Niraja Jayal’s view, from the status of citizenship (Jayal 2013). The practices of the Nehruvian state were continued and extended in the period of Indira Gandhi’s governments, under the slogan of *garibi hatao*, and into the 1980s. An apt comment on them is in the title of a paper by the late S Guhan which was ‘Rural poverty: policy or play-acting?’ (Guhan 1980). Guhan reported on studies of what was going on in the poverty alleviation programmes of the time, showing how the pressures on local-level bureaucrats to achieve targets for the allocation of rural development funding, contributed to the leakage upwards of these resources. Not only was the policy one of charitable hand-outs rather than of the realisation of rights of citizenship, but it was also ineffectual and even counter-productive.

The idea that ensuring at least minimum standards of living for all should be the central objective of planning had, however, been revived by an expert group of the Planning Commission in the early 1960s. And it was as a result of these deliberations that attention began to be directed at measurement of the incidence of poverty – which has, of course, subsequently become a major academic industry. What was probably the first major study, by Dandekar and Rath, published in 1971, showed that as of 1960-61 nearly 50 per cent of the population of India was living below a

very modestly set poverty line (Dandekar and Rath 1971). Quite an indictment of the Nehruvian state, for its failure to realise the promise of social justice.

But what is meant by poverty? This may seem a silly question, but it deserves attention. Poverty is generally understood as the state of 'lacking' or being 'deficient' or of being 'deprived', of something of value. And in the main 'poverty' or 'the state of being poor' is understood as meaning 'lacking' or 'being deprived', particularly of income. This is the principal way in which economists, not only in India, have gone about measuring poverty. But what level of income should be taken as indicating that a person is poor? Is there some absolute standard that can be used? The conventional approach has been to take it as axiomatic that a certain level of intake of dietary energy (calories) is necessary for life itself to be sustained and for people to be active; then to ask what 'basket' of basic commodities, including some modest allowance for non-food items, is required to supply that amount of energy on a daily basis; then to calculate how much this basket costs (so defining the 'poverty line'); and at last to measure what proportion of the population does not have sufficient income to secure the basket (or in other words, lacks the income to live above the poverty line). This is what is meant when it is said that 'x or y per cent of the people are poor/live in poverty'.

Poverty measurement in India has become increasingly refined, beyond this basic approach. Yet it remains the case both that many assumptions have to be made, and that the survey data on which so much reliance has to be placed are highly imperfect – depending substantially on people's willingness or ability to recall their consumption expenditure over a period of time. It is for these reasons that the definitions of poverty and of the poverty line, and the assessment of trends in the incidence of poverty over time, have become so controversial in India. Further, whether or not a certain level of income will supply a person with a nutritionally adequate basket of commodities will be influenced by many other factors, such as whether or not he or she suffers from chronic illness, or a disability, or has access to adequate amounts of clean water.

Early in the 21<sup>st</sup> century different official bodies in India have come up with widely divergent estimates of the incidence of poverty in the country, ranging between about 25 per cent and as much as 80 per cent of the population. This very wide gap should be a reminder that poverty, thus understood, in terms of income deprivation, is only a construct, depending upon more or less arbitrary judgements. One eminent economist, A Vaidyanathan, who has devoted much of

his by now very long professional life to these matters, wrote a few months ago that ‘it is not possible to arrive at a definitive estimate of poverty incidence that can be used as a reasonably robust benchmark’ (Vaidyanathan 2013: 41). It is for this reason that I shall not offer any figures on ‘trends in the incidence of poverty’, because to do so would only be further to lend credence to what are, I believe, misleading numbers that contribute powerfully, exactly as Akhil Gupta has argued, to the ‘normalisation’ of poverty, and to the arbitrariness of bureaucratic action that he believes accounts for the continuing reproduction of the ill-being of so many people.

Research and policy practice in regard to poverty in India have followed the same course as in the United States. There, according to Alice O’Connor’s historical study of *Poverty Knowledge* (O’Connor 2001), as research has become more and more technically sophisticated, so understanding of the drivers of poverty has been neglected, and the condition of poverty associated more and more with the personal characteristics of individuals. Early in the 20<sup>th</sup> century, studies of poverty in the United States were about the social and economic processes, having to do with capitalist industrialisation and urbanisation that created poverty. But more recently people are seen as being poor because of *who* they are and the choices they are supposed to have made – they are black mothers perhaps, who are unmarried – not because of social and economic processes which may also help to make some other people rich. And the policy approach is, at best, to offer some social assistance to individuals who are marked by the state in some way so as to make them recognisable.

Much the same trend may be discerned in India. There has been an obsession with measurement of the incidence of poverty, and with definition of the poverty line. The absurdity of this approach is shown up in the cartoon from *The Hindu*, reproduced below, and in the whole idea that the state can identify those who are ‘BPL’ – ‘Below Poverty Line’ – in order to target social assistance efficiently. As Vaidyanathan has said, ‘sample surveys are useless for identifying the poverty status of individual households...for determining their eligibility for benefits’ (2013: 41) – and, I would add, the idea that a socio-economic census can be used for this purpose is even more of an exercise in absurdity. ‘Strategies to address the myriad and varied disabilities of the poor cannot be decided on the basis of the overall incidence of income poverty. They need to be based on assessments of the deficiencies of access and realisation relative to accepted minimum desirable levels of specific components of living standards such as food intake,

unemployment and underemployment, housing, connectivity and indicators of health and education status' (Vaidyanathan 2013: 41). Scholars and policy makers need to forget their preoccupation with definition of the poverty line and measurement of the incidence of poverty, and to turn to the much more comprehensive assessment of living standards advocated by the Lakdawala Committee 20 years ago, in 1993.



The Hindu 22 September 2011

As it is, we have very good reason for doubting the claims that are made about India's 'success' in eliminating poverty, as defined in terms of income levels, when we know from other evidence that employment has grown dismally slowly through the period in this century of very high rates of economic growth. According to National Sample Survey Office (NSSO) data total employment increased at a rate of only 0.17 per cent per year between 2004-05 and 2007-08, when the economy was growing at its highest ever levels; and rural employment actually declined. The 66<sup>th</sup> round of the National Sample Survey (NSS) shows that between 2005 and



2010 usual status employment in India increased by just 0.1 per cent per annum. What we may presume to be the most productive employment in the organised or formal sector has been stagnant, if not in absolute decline (if we take account of the informalisation of employment in the organised sector). Figures like these lend credence to the late Kalyan Sanyal's argument that a vast mass of labour in India is effectively excluded from the sphere of capital accumulation – or, if not altogether excluded, is certainly marginal to it. And these figures, like those, for example, for the level of undernutrition amongst children – still at 46 per cent in 2005-06, marking a less than one per cent reduction from 2000 – give the lie to the poverty numbers (for elaboration of these arguments, see Corbridge, Harriss and Jeffrey 2013, chapters 3 and 4).

There are clear continuities between the argument that I have just advanced, and those of Akhil Gupta in *Red Tape*, and it is to these that I turn.

## **Bureaucracy, Structural Violence and Poverty in India**

Akhil Gupta presents the argument of his book as offering an answer to the question of why the Indian state has failed so badly in regard to social justice. He states the problem dramatically, claiming that the Indian state has been responsible for as many as two million avoidable deaths a year. This is a back-of-envelope calculation based on the difference between life expectancy in Kerala and that in all-India. The presumption is that all-India might have achieved the same levels of well-being as Kerala. Two million deaths a year is a number far higher than those for the loss of life in disasters across the entire world in any one year. Yet the latter attracts – even if only briefly – public attention, and immediate and increasingly effective action on the parts of states. The loss of lives that might have been saved in India, on the other hand, goes largely unremarked. Finance Ministers come up with remarks such as ‘poverty will be eliminated by 2040’ without anyone ever remarking that this is actually to condemn a whole generation of people to early deaths. Mass poverty has been normalised, Gupta says, through bureaucratic practices that correspond with the exercise of Foucauldian biopower – when the control of individual bodies is complemented by a focus on the population as a whole. The state then becomes concerned with establishing the regularities of the population, and its peculiarities, through statistical analysis – as a basis for prescription. In the Indian case, once high rates of

poverty had been established as a statistical fact, they became accepted as normal, and they have ‘served to justify and legitimate slow action against poverty on the part of state elites’ (Gupta 2012:15). The point is, rather – in my view – that the narrow focus on measurement in the analysis of poverty, in India as in the United States (Harriss 2009; O’Connor 2001), has had the effect of reducing the problem of poverty to a technical question, removed from the field of power. Poverty has been depoliticised.

Gupta’s argument is that the Indian state is, in a sense, responsible for ‘killing’ large numbers of poor people. This is made possible by state policies and practices, and it happens despite the inclusion of the poor ‘in projects of national sovereignty (as he puts it) and their centrality to democratic politics and state legitimacy’. The explanation for this contradictory state of affairs is that it comes about ‘*not* because of the indifference of bureaucrats but because of the fact that bureaucratic action repeatedly and systematically produces arbitrary outcomes in its provision of care’ (2012: 5-6, emphasis added).

I find all these very problematic statements, in several ways. First, there is the presumption of the inclusion of the poor ‘in projects of national sovereignty ... (etc)’. Later in the book Gupta argues that:

India over the past 50 years has seen formal democracy metamorphose into an expansive state-led project that is ideologically committed to equality...If the state in India were ideologically opposed to redistributive measures or uninterested in redressing deep-seated historical inequities, it would make the lack of urgency in eradicating poverty much easier to understand. It is this commitment to equality, to the redistribution of dignity, and to the inclusion of the formerly marginal in the national project that makes the continued violence enacted on the poor so paradoxical (2012: 222)

I have argued earlier that the Indian state has never actually had a commitment to equality – exactly as Dr Ambedkar argued, memorably, in the closing debate of the Constituent Assembly when he said the new Constitution would mean that India would enter into a life of contradictions:

In politics we will have equality, and in social and economic life we will have inequality.  
In politics we will be recognising the principle of one man one vote and one vote one

value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. (cited by Corbridge and Harriss 2000: 34)

I don't believe that there is evidence to support the view that Indian governments have ever had any serious commitment to redistributive measures, outside their rhetoric. 'Redistribution of dignity', maybe, through affirmative action for Scheduled Castes, Scheduled Tribes, and Other Backward Classes; but as both Niraja Jayal and Pratap Mehta have argued, the upshot of this has been competition for access to resources made available by the state, rather than struggle for social transformation. As Niraja Jayal puts it: 'Social justice (has come to be) identified exclusively with the need to guarantee social equality for the OBCs' (Jayal 2013: 265).

Second, much of the ethnography that is presented in *Red Tape* clearly shows up the indifference of bureaucrats, especially towards people who are marked in some way as inferiors by virtue of gender, caste or class. The everyday corruption that Gupta documents, too – what James Scott called 'retail corruption' – has the most negative outcomes for the same sorts of people. Bureaucratic procedure does 'systematically produce arbitrary outcomes', exactly as Gupta shows very well in an ethnographic vignette about a 'camp' of local bureaucrats for identifying people eligible for pensions. The camp left some who should have had pensions without them, and others who shouldn't have had them with them, as a result of the way the bureaucratic procedures worked out. But the idea that it is the arbitrariness of bureaucratic action that accounts for the big problem that Gupta has identified, that of explaining why the state 'kills' people, offers at best a very partial explanation.

Gupta misses out altogether on what is probably the most important problem affecting the functioning of the bureaucracy in India that has very negative implications for poor people. This is the problem of absenteeism. This is certainly not the only reason why the state in India has failed so dismally to deliver services for poor people, but it is, equally certainly, an important part of an explanation. Studies of public education have drawn attention, over many years now, to the problem of absenteeism amongst teachers; and there is insightful work by economists showing that, in spite of the fact that the doctors and nurses in the public health care system in Rajasthan are better trained and more competent than private practitioners, most people generally prefer to go to the latter. Why should this be so? The explanation lies in the fact that they cannot

be sure, if they do go to public health centres, that the staff will be there to serve them. And district officials connive in this absenteeism (Banerjee and Duflo 2009). It is part of a whole system of payments of rents in various forms that connect higher and lower levels of the bureaucracy in much the same way that Robert Wade, in several by now classic papers (1982, 1985), showed to happen in the irrigation bureaucracy of Andhra Pradesh. This is a structural problem, no doubt; but the moral responsibility of all the officials concerned, for the failures of public service is also clear.

This is one of several ways in which I believe that the idea favoured by Akhil Gupta, that poverty in India is the outcome of structural violence, is vacuous. The concept is, he says, 'both necessary and problematic as an analytic category'. It is problematic, certainly, but whether it is necessary is doubtful. The idea is that violence occurs in any situation in which some people are unable to achieve their capabilities to their full potential. It is structural when it is impossible to identify the actor or actors who commit the violence, and violence is rather built into the structure of power. There is a 'crime' but no 'criminal', as Gupta puts it. The poor of India are subject to structural violence since, he says, 'no matter how noble the intentions of the programmes, and no matter how sincere the officials in charge of them, the overt goal of helping the poor is subverted by the very procedures of bureaucracy' (2012: 23).

The idea of structural violence further dramatises what is happening to poor people in India, but it does not make for analytical clarity. The idea of the killing of people makes for a passionate denunciation of the state, but then the idea of structural violence, by suggesting that no one really bears moral responsibility, seems to leave citizens without 'a handle on either poverty or violence' (Neera Chandhoke 2013, in a personal communication). Is it not much more to the point politically, to consider what is happening to poor people in India rather in terms of *injustice*? This sets up a specific political agenda, addressing the class character of the Indian state.

It is this that is altogether missing from the analysis of the book. The ethnography on which the book is based was carried out in Uttar Pradesh (UP), but at no point does Gupta consider the class character of the state of UP, nor does he reflect at all on the differences between Indian states. There can be no question that the state of UP, for notable example, has been much less responsive to poor people than have the states of Kerala or Tamil Nadu. In Gupta's terms, UP

has done much more ‘killing’ of people than have the two southern states, and some others. What accounts for the difference? The answer to this question is to be found in the long history of the political mobilisation of lower castes/classes in the two southern states, and of their mobilisation over service issues, while this has not been the case in UP (Harriss 2003).

Political competition in UP has taken the form of competition between caste blocs for access to power and the privileges that this brings, rather than being concerned with making the state more accountable (Keefer and Khemani 2004). Such politics are not entirely absent, of course, in the southern states, but there is a considerable difference of degree. And there is little doubt but that the higher levels of literacy, historically, of lower castes/classes in Kerala and Tamil Nadu, as opposed to UP – though Gupta seems to question the significance of illiteracy in the reproduction of ‘structural violence’ – have played an important part in the political mobilisation of the lower classes. An analysis by economists Besley and Burgess (2000) of the reasons for differences between major states in terms of the responsiveness of government, has shown that higher levels of responsiveness are explained by higher turnouts in elections and histories of more competitive politics, and by the higher circulation of newspapers. Part of the reason for the political differences between Kerala, Tamil Nadu, West Bengal and Maharashtra on the one hand – the states that are most responsive according to the two economists – and a state like UP on the other, is that their voters are much better informed. There is an important connection between information and the capacity for collective action in regard to matters of general public interest.

In the relative absence of information, as in UP, and of the mobilisations of lower castes/classes, then there is a history, instead, of political mobilisation and of voting according to ethnicity, exactly as Kanchan Chandra (2004) has shown in her work on ‘patronage democracy’. In these circumstances, for politicians, being able to control selective benefits, for individuals and particular groups of people – especially those defined by caste identity, through patronage using the resources of the state – has been a more reliable way of trying to ensure continued support, than standing on a policy platform including promises about the delivery of public goods. One important resource that politicians control is that of being able to influence the recruitment of some lower-level officials, and another the capacity to influence transfers of officials. This, as Wade showed, is a very important source of rents. And it is the system of transfers that underlies and goes some way to explaining bureaucratic pathologies such as those of absenteeism, and of

pervasive ‘retail corruption’. Recent moves for administrative reforms that will constrain the system of transfers are greatly to be welcomed.

In situations of patronage democracy, particular powerful caste and class groups often come to dominate access to local government bureaucracies. Studies, for example, of the Patidars in Gujarat (Rutten 1995) and of Jats in western UP (Jeffrey 2010) show that rich, male, higher caste individuals are often able to bribe or use social connections routinely to ‘win out’ in competition for state goods. In different parts of India such local or regional elites have often been able to institutionalise their power through developing their own corrupt networks. Bureaucratic functioning is by no means as arbitrary and confused as Akhil Gupta suggests. Rather, it systematically reflects caste, class and gender privileges.

## **The Significance of the New Rights Agenda**

I have argued that the Indian state has failed quite badly in regard to social justice, and has rather perpetrated injustice. But isn’t this now all changing with what I described at the beginning of this paper as ‘the new welfare architecture’, established through a truly remarkable series of legislative innovations? This is the last question that I want to address.

On the face of it the passage of so much social legislation in India is surprising, given a context in which neo-liberalism remains influential. India is certainly not a ‘neo-liberal state’, and the extent to which neo-liberal policy has been implemented remains quite modest – to the chagrin of some policy makers. But still, neo-liberal thinking is influential, including the idea that public expenditure should be cut back and that people should to a very great extent look after themselves. This kind of thinking is reflected, for instance, in the emphasis that is being given to private provision of education and health. Why should the Indian state, in this context, still have allowed the introduction of so much social legislation?

One influential answer to this question is that of Partha Chatterjee, who argues that a process of primitive accumulation is continuing in contemporary India, and that large numbers of those who are being dispossessed of their own means of production and livelihood – the ‘classes of labour’ of Indian rural society - are also effectively excluded from the dynamic, productive sectors of the

economy. The circumstances of electoral democracy, however, make it ‘unacceptable and illegitimate (Chatterjee says) for the government to leave these marginalised populations without the means of labour to fend for themselves. That carries the risk of turning them into ‘dangerous classes’. Hence, ‘a whole series of government policies...to reverse the effects of primitive accumulation’ (2011: 33).

Another important aspect of the new social policies, however, is that they complement the labour market flexibility that seems to be required for tackling the competitive pressures that are set up by neo-liberal globalisation. M Vijayabaskar argues this in a study of labour markets in the south Indian city of Tiruppur, which is an internationally important centre of the knitwear and garments industry:

Though the emerging social regime in Tamil Nadu appears to go against the tenets of neo-liberal reforms that mandate cut-backs in public provisioning of social services, the state has been able to shift the question of labour welfare away from the workplace to the lived spaces, from the domain of capital to the domain of government of dispossessed populations. This shift partly ensures that capital accumulation can now proceed unencumbered by the burden of protecting workers’ livelihoods (Vijayabaskar 2011: 45).

These broad dynamics substantially explain why it is that in India, certainly, policy is focused more on the provision of social welfare, or social protection – a ‘safety net’, substantially funded from enhanced tax revenues than it is on transformative social development. The latter would require much more attention on the part of the state to education and health care. A striking feature of the rights activism in contemporary India is that there has been so little progress with regard to public provisioning of health care. And in spite of the passage into law of the Right to Education in 2009, India devotes a much smaller share of public expenditure, in relation to GDP, to education and health than is the case in comparator countries. The United Progressive Alliance (UPA) governments have still not met the targets taken on in the Common Minimum Programme that the Congress Party agreed with coalition partners and allies in 2004; and governments have continued to emphasise the importance of private provisioning of these essential services.

If Chatterjee explains the broader dynamics of the new rights agenda, Sanjay Ruparelia and Rob Jenkins, in recent papers (Jenkins 2013; Ruparelia 2013), draw attention to its more immediate drivers. Jenkins refers to the role of policy entrepreneurs – individuals and groups who have the capacity to influence the shape of policy – and studies of the campaigns that have been essential to the passage of rights legislation have shown up the significance of the activities of several organisations and of particular individuals, including several serving or former officers of the Indian Administrative Service. These include B D Sharma, a former Commissioner for Scheduled Tribes and Scheduled Castes, who played an essential part in the genesis of the Forest Rights Act (Bose 2010); Aruna Roy, one of the leaders of the Mazdoor Kisan Shakti Sangathan (MKSS), the non-party people’s organisation that spearheaded the struggle for the passage of the Right to Information; N C Saxena, who in several senior positions in the IAS, fostered support and sympathy for socially progressive legislation, and who has continued in his retirement as an influential activist; and Harsh Mander. Aruna Roy, N C Saxena and Harsh Mander, together with economist Jean Dreze, have been members of the National Advisory Council (NAC), chaired by President of the Congress Party Sonia Gandhi – who has been described as a social democrat – which monitors the implementation of the Common Minimum Programme. The NAC played a particularly important role in securing the passage of the National Rural Employment Guarantee Act (NREGA) (see Chopra 2011); and it has been very active, too, though it was less immediately successful, in regard to the National Food Security Bill (FSB), which was passed into law last year. Various civil society organisations have played a major role, as well. The sequence of events and actions that led up, finally, to the passage of NREGA, and to the tabling in parliament of the FSB, began with actions of the People’s Union for Civil Liberties. A coalition of children’s organisations fought for the Right to Education; another coalition forms the Right to Food campaign, that has played an essential part in both NREGA and Food Security Act; and grassroots organisations and people’s movements from across 10 states came together in 2003, in a loose federation known as the Campaign for Survival and Dignity, to carry forward ‘protest or campaign’ politics on behalf of the rights of forest dwellers.

The new rights agenda very clearly bears the marks of the activism of relatively few individual policy entrepreneurs, and of some organisations. On the whole they have worked by means of lobbying rather than on the basis of popular mobilisation, with the partial exceptions of the MKSS and of the Campaign for Survival and Development, and they have depended quite



heavily on judicial activism. The interventions of the Supreme Court, in particular, and of the High Courts of some states have been essential. Judicial intervention has been so extensive as to have led Prime Minister Manmohan Singh, in September 2010, to take on the Court, specifically in regard to food security. He was reported as saying, 'I respectfully submit that the Supreme Court should not go into the realm of policy formulation. I respect the sentiments behind the (court) decision that when food grains are rotting and people are suffering from deprivation, then some way should be found to ensure that the food needs of the deprived sections are met. But quite honestly it is not possible in this country to give free food to all the poor people' (Varadarajan 2010). There are substantial risks in reliance on judicial activism – because of the limited capacities of judicial actors to secure the implementation of legislation – as there are, too, because of the narrow social base of the rights movements in the country. Political parties have played only a minor role in constructing the new agenda, though the left parties played a constructive role in regard to both NREGA and the Forest Rights Act.

Manmohan Singh's intervention is also a marker of the extent of contestation over economic and social rights. Strong attempts were made from within government to limit the employment guarantee in NREGA; and there was a much more prolonged struggle over the Food Security Bill. In the case of NREGA, lobbying and some popular mobilising were largely successful in securing the passage in the end of a Bill that was more or less in line with what the campaigners had sought in the first place (Chopra 2011). The Congress party, in its manifesto in 2009, saw the provision of cheap grain alone as making for 'food security'. Activists from the Right to Food Campaign have sought to realise a wider objective, proposing that food security calls for balanced intakes of protein, fats and essential micronutrients together with calories, and that it requires attention as well to child care, clean water, hygiene and basic health care. Government has insisted, as the Prime Minister said, that 'it is not possible in this country to give free food to all', while activists have tried to demonstrate that is perfectly feasible. As Harsh Mander pointed out, drawing on recent work by Jean Dreze and Amartya Sen, revenues forgone by government through exemptions, benefiting the private sector, on diamond and gold imports amount to twice the estimated additional cost of the Food Security Law. But as Mander says 'whereas there has been vocal outcry about the unaffordability of the Food Law, there is virtually no public debate, let alone outcry, about the revenue benefits to influential groups' (2013).

The legislation that has been passed rests on the principle of targeting. Government has vigorously resisted universalism, and seems to prefer that the public distribution system (through which subsidised or free food and other essential commodities are made available) be scrapped and replaced by cash transfers – in spite of the evidence of the effectiveness of a public distribution system based on universal access in the state of Tamil Nadu, in particular (see Himanshu and Sen 2011). Government continues to favour both targeting and privatisation; and there is a definite tension between the assertion of rights by or on behalf of citizens, and the language of ‘beneficiaries’, ‘clients’ and ‘users’ often preferred by government. The ruling idea is that of the ‘consumer-citizen’, rather than one of equal citizenship.

A possible objection, or qualification to my line of argument is that the social welfare legislation also includes the promise of governance reform – because of the inclusion, for example in NREGA, of a clause in the legislation stipulating that there should be social audits of the implementation of the scheme. The process of social audit, inspired by the *jan sunwais* organised by MKSS in Rajasthan, promises a new kind of democratic participation, and a way for ordinary people to hold the state to account. That social audits can have a powerful impact has been shown in the strength of opposition to them by sarpanches and village officials in Rajasthan. This, however, led the last, Congress-led state government to stop trying to implement the legislation. And in Tamil Nadu, where detailed local studies of the implementation of NREGA have shown that the scheme has had considerable success in regard to the empowerment of Dalits and of women in local labour markets, the same studies report no action in regard to social audits. Such socially transformative potential as the scheme has, therefore, does not extend, in practice, to rural people’s relationships with the state (Carswell and De Neve 2014).

My conclusion is that the new rights agenda in India is more about the management of poverty, in the interests of capital, than it is about the realisation of social justice. This is not in any way either to pass a negative judgement on the policy entrepreneurs and civil society activists who have fought so hard for the new legislation, or to question the fact that poor people can derive very significant benefit from it. I also recognise the potential that is inherent in the way in which the legislation has cast some socio-economic entitlements as legally enforceable rights. This makes for important points of leverage in political mobilisation over the implementation of the

legislation. But – as I suspect many of the activists will agree – it still falls far short of the promise of social justice that Nehru set out in January 1947.

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