

IASP-AIPS

DP-13/2025 A Comparative Analysis of Social Protection Laws in India and Zimbabwe

Un Análisis Comparativo de las Leyes de Protección Social en la India y Zimbabue

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Resumen: Este trabajo analiza comparativamente los marcos legales y políticos de la protección social en la India y Zimbabue, destacando las fortalezas, debilidades y oportunidades de mejora en ambos sistemas.

Summary: This paper presents a comparative analysis of the legal and policy frameworks of social protection in India and Zimbabwe, highlighting the strengths, weaknesses, and opportunities for improvement in both systems.

Palabras clave: Protección Social, Derecho Comparado, Derechos Humanos, India, Zimbabue

Keywords: Social Protection, Comparative Law, Human Rights, India, Zimbabwe
A Comparative Analysis of Social Protection Laws in India and Zimbabwe
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Abstract

This research paper presents a comparative analysis of the legal, institutional, and policy frameworks of social protection systems in India and Zimbabwe. It explores the evolution, implementation and challenges of social security mechanisms through a legal lens while grounding the discussion in practical examples such as flagship schemes like India's MGNREGA and Zimbabwe's HSCT. Both nations recognize social protection as a vital tool for addressing poverty, inequality and vulnerability. However, their historical , constitutional , and economic contexts shape markedly different approaches and outcomes.
India's social protection system is largely policy-driven and has evolved through a combination of central legislation , judicial interventions , and international commitments. The Mahatma Gandhi National Rural Employment Guarantee Act 2005, and the National Food Security Act 2013 , demonstrate the country's efforts to provide employment and food security to its vulnerable populations. Furthermore , schemes like Ayushman Bharat (PM-JAY) and PMJDY showcase innovations in healthcare and financial inclusion. India's adoption of digital

infrastructure such as the Direct Benefit Transfer (DBT) mechanism and Aadhaar-based identification has improved administrative efficiency but introduced new challenges related to exclusion and privacy.
Zimbabwe's social protection framework is deeply embedded in its Constitution , which provides justifiable rights to social welfare and assistance. Despite this strong legal foundation , its implementation is weakened by a fragile economy , donor dependence and institutional inefficiencies. Programs such as the Harmonized Social Cash Transfer (HSCT) and the Basic Education Assistance Module (BEAM) offer targeted support to orphans , vulnerable children and ultra-poor households. However, irregular funding and weak institutional capacity hinder their effectiveness.
Both countries face challenges in coverage especially for informal sector workers and rural populations. Gender disparities persist in access to benefits and climate-induced vulnerabilities demand adaptive , disaster-responsive systems. International legal instruments such as the Universal Declaration of Human Rights (1948), ICESCR (1966), and ILO Convention No. 102 underscore the global consensus on the right to social security. However, national commitment to these principles varies.
The paper concludes that while India's broader coverage through schemes and digital governance offers replaceable models , Zimbabwe's constitutional commitment could guide India in enforcing enforceable rights. A hybrid approach that combines robust legal backing with digital innovation , community participation and stable financing could strengthen social protection in both countries.

Keywords
Social Protection, Welfare Law, India, Zimbabwe, Comparative Law, Social Security, Human Rights

1. Introduction

Social protection refers to a set of public measures designed to provide income security access to essential services, and protection against vulnerabilities such as poverty, unemployment , illness and aging. In the contemporary global context , especially following the COVID-19 pandemic and economic crises the importance of resilient and inclusive social protection systems has been amplified. This paper conducts a comparative legal and policy analysis of social protection laws and frameworks in India and Zimbabwe, two countries from different continents but facing similar socioeconomic challenges.

India's social protection system has undergone significant transformation over the decades, moving from colonial-era welfare provisions to a modern rights-

based approach. The enactment of legislation such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005 and National Food Security Act (NFSA), 2013 has established a strong statutory base for poverty alleviation and welfare delivery. In addition to central laws, India also benefits from judicial activism, particularly through landmark cases like Olga Tellis v. Bombay Municipal Corporation, where the Indian Supreme Court linked the right to life with the right to livelihood. The implementation of digital systems like Aadhaar and Direct Benefit Transfer (DBT) has further streamlined service delivery and minimized leakages.

Zimbabwe, on the other hand has made remarkable progress in constitutionalising social protection. Section 30 of the Constitution of Zimbabwe (2013) mandates the State to provide social welfare and assistance to citizens in need. Programs such as the Harmonized Social Cash Transfer (HSCT) and Basic Education Assistance Module (BEAM) have been instrumental in addressing the needs of vulnerable groups. However , their success is often constrained by macroeconomic instability , hyperinflation and inconsistent donor funding. Unlike India , Zimbabwe's legal backing is stronger but institutional implementation remains fragile.

The paper identifies key institutional mechanisms including India's Ministry of Rural Development , EPFO , ESIC , and Zimbabwe's National Social Security Authority (NSSA) and Ministry of Public Service, Labour and Social Welfare and evaluates their effectiveness. Moreover , it explores the role of international legal instruments such as the ICESCR , ILO Convention No. 102 and Recommendation 202 to assess how global norms influence domestic legislation and policy-making.

Both countries grapple with gaps in coverage, particularly for informal workers , women , and rural populations. Gender disparities , exclusion errors and the impact of climate change are common challenges. While India offers lessons in digital governance and scheme diversity , Zimbabwe's model underscores the significance of legal enforceability and rights-based frameworks.

Thus , the objective of this research is to identify the strengths and limitations in both countries' systems and propose a hybrid , human-rights centered approach that could lead to more inclusive , resilient and effective social protection for vulnerable populations across both nations.

2. Research Methodology

This research uses a qualitative and comparative legal method to study social protection laws in India and Zimbabwe. The doctrinal method is used to carefully

read and understand legal texts, including laws, policies, court decisions, and academic writings. This helps us see how each country's legal system supports social protection and what the laws say about people's rights to things like health care, pensions, and support during unemployment.

A comparative approach is also used to look at the differences and similarities between the two countries. Even though India and Zimbabwe are different in culture and location, they both used to be British colonies and now face similar social problems like poverty and unemployment. By comparing how each country deals with these problems through law, we can learn what works and what doesn't.

The main legal materials include the Constitution of India, the Constitution of Zimbabwe (2013), and key laws like India's Unorganized Workers' Social Security Act, 2008 and Zimbabwe's Social Welfare Assistance Act [Chapter 17:06]. These are supported by court rulings, which help explain how the laws are interpreted in real-life cases.

To understand how these laws work in practice, the research also looks at reports from international organizations like the ILO and World Bank, as well as academic articles and government policy documents. These sources give a deeper understanding of how effective these laws are and what problems they face when being put into action.

Since this is not field-based research, no interviews or surveys were done. However, the study uses data from other reports and research studies that show how people are affected by social protection policies in their daily lives. This gives a realistic view of the strengths and weaknesses of the systems in both countries.

Finally, this research recognizes that social protection is not just a legal issue it's also connected to politics, economics, and human rights. That's why the study also borrows ideas from these areas to make the analysis more complete.

3. Legal framework

India's legal framework for social protection is a vibrant and evolving blend of constitutional values, parliamentary legislation, judicial guidance, and innovative public policy. Although there is no single law titled "Social Protection Act," the idea of safeguarding people from poverty, unemployment, illness, and other social risks is deeply embedded in the Indian legal and policy environment. At the heart of it all is the Indian Constitution though it doesn't explicitly mention the term "social protection," offers strong moral and legal support through various

articles. Most importantly, Article 21 the right to life has been expansively interpreted by the Indian judiciary to include rights to food , health , livelihood , shelter and even dignity. This means that when a citizen is denied access to basic necessities they can claim that their right to life is being violated. Alongside this , the Directive Principles of State Policy , especially Articles 39, 41, 42, 43, and 47, urge the government to provide adequate means of livelihood , public assistance in times of need , maternity benefits , a fair wage and nutritious food for all citizens. Although these principles are not enforceable in court , they serve as a powerful road map for state action. The legislative landscape further strengthens this framework. For instance , the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005 legally entitles rural households to at least 100 days of paid employment every year , marking a historic shift in treating employment as a legal right rather than a government handout. Similarly , the National Food Security Act (NFSA) 2013 makes access to subsidized food a statutory entitlement for over two-thirds of the population including special provisions for pregnant women and children. Several other laws also contribute to India's social protection network such as the Employees' Provident Fund and Miscellaneous Provisions Act 1952 , the Employees' State Insurance Act 1948 , the Maternity Benefit Act 1961 and the Unorganized Workers' Social Security Act 2008. Each of these is aimed at protecting different groups formal and informal workers , women and vulnerable populations by offering healthcare , maternity leave , retirement benefits or insurance. What truly distinguishes India's approach however , is the active role of the judiciary. Courts have consistently expanded the interpretation of socioeconomic rights through landmark decisions such as Olga Tellis v. Bombay Municipal Corporation where the right to livelihood was recognized as part of the right to life and Paschim Banga Khet Mazdoor Samity v. State of West Bengal which declared emergency healthcare as a legal obligation of the state. Beyond laws and courts , India has embraced technology to improve service delivery. The Aadhaar identification system , combined with the Direct Benefit Transfer (DBT) platform has helped streamline payments and reduce corruption though concerns about data privacy and exclusion errors remain. Altogether , India's legal framework reflects a dynamic, rights-based approach to social protection one that aims not just to provide temporary relief but to empower citizens with legal entitlements to live a life of dignity.

Zimbabwe's legal framework for social protection is deeply rooted in both its post-colonial constitutional vision and the country's continued efforts to meet the social and economic needs of its citizens especially the vulnerable. Although social protection in Zimbabwe is largely implemented through a patchwork of laws, policies, and programs, the Constitution of Zimbabwe (2013) plays a foundational role by recognizing social and economic rights as justifiable. The

most significant constitutional provision is Section 30 which explicitly mandates the State to “take all practical measures” to provide social security and social care to those who are unable to support themselves and their dependents. This forms the backbone of Zimbabwe’s legal obligation to ensure that the elderly , disabled , sick and unemployed are not left behind. Additionally, Section 19 commits the State to adopt policies that ensure the protection and welfare of children , while Section 75 guarantees the right to education and Section 76 affirms the right to basic healthcare services. These rights are not just aspirations they carry legal weight and citizens can theoretically approach the courts if these rights are violated. However , the challenge often lies not in what the law promises but in whether those promises are delivered in practice.

Zimbabwe has also enacted several key statutes to operate these rights. One of the most notable is the Social Welfare Assistance Act [Chapter 17:06] , provides a legal framework for supporting persons and families in need of assistance due to age , disability , or economic hardship. The National Social Security Authority Act [Chapter 17:04] establishes the National Social Security Authority (NSSA) , which administers contributory schemes such as pensions , accident insurance and medical benefits for formally employed persons. These statutory frameworks are designed to provide both non-contributory social assistance for the poor and contributory social insurance for workers in the formal economy. However, a large proportion of Zimbabwe’s population works in the informal sector and is not covered by these schemes, highlighting a serious gap in inclusive and coverage.

To supplement legal and institutional gaps, Zimbabwe has implemented several policy-driven programs such as the Harmonized Social Cash Transfer Programme (HSCT) , which provides regular cash transfers to ultra-poor and labour-constrained households. Though not backed by standalone legislation , these programs are often guided by national policy documents like the National Social Protection Policy Framework (NSPPF), which aims to coordinate various social assistance and insurance mechanisms into a more unified system. However, Zimbabwe’s social protection framework still faces numerous challenges which includes limited fiscal space, donor dependency , bureaucratic inefficiencies and poor data systems which make it difficult to identify and reach all vulnerable citizens. Moreover, many of the laws that do exist are outdated and in need of reform to reflect Zimbabwe’s evolving socioeconomic realities. While Zimbabwe’s legal and constitutional framework lays a clear foundation for social protection, the disconnect between law and implementation remains a persistent obstacle. Nonetheless, the country has made steady strides particularly through its constitutional commitment to social rights and shows potential for developing

a more inclusive and sustainable social protection system if backed by genuine political will and adequate resources.

4. Comparative of Constitutions

A comparative analysis of social protection laws in India and Zimbabwe reveals both shared aspirations and significant divergences in approach , coverage and legal enforce-ability. At a foundational level , both countries affirm the importance of social protection through their constitutions. India's Constitution provides socioeconomic protections primarily through the Directive Principles of State Policy , which, while not legally enforceable, serve as guiding principles for legislation and policy. In contrast, Zimbabwe's Constitution revised in 2013 takes a more rights-based and justifiable approach by explicitly enshrining social protection in Section 30, obligating the state to provide assistance to those who cannot support themselves. This difference in legal framing creates an interesting dynamic whereas India relies heavily on statutory schemes and judicial interpretation to enforce socioeconomic rights , Zimbabwe embeds these rights more clearly in its supreme legal text , though struggles with consistent implementation.

When it comes to the legislative landscape , India has developed a wide and complex array of welfare laws including the MGNREGA (2005) , National Food Security Act (2013) , Unorganized Workers' Social Security Act (2008) and several labour-related acts targeting specific groups like maternity protection , pension and health insurance. Zimbabwe on the other hand , has fewer standalone social protection laws , relying instead on a combination of the Social Welfare Assistance Act , the National Social Security Authority Act and various policy frameworks like the National Social Protection Policy Framework (NSPPF). In terms of implementation , India's advantage lies in its use of digital infrastructure such as Aadhaar and Direct Benefit Transfer (DBT) systems , which have helped reduce leakages and improved transparency, albeit with concerns of exclusion and privacy violations. Zimbabwe has been slower to digitalize its welfare system and continues to rely on donor-driven programs such as the Harmonized Social Cash Transfer Programme (HSCT) , which raises concerns about long-term sustainability and national ownership.

Both countries also face challenges in extending coverage to informal sector workers a common issue in the Global South. In India, although there are schemes for unorganized workers, including domestic workers and daily wage earners, coverage remains patchy and benefits often minimal. Zimbabwe's social protection system is even more limited in this regard, with most informal workers outside the scope of NSSA or social assistance, unless targeted by donor or

NGO programs. Furthermore, India has a more active judiciary that plays a significant role in expanding the scope of social protection through rights-based interpretations of Article 21 (right to life), whereas Zimbabwe's judiciary has been less proactive in this sphere, partly due to institutional and political constraints.

In conclusion, while both India and Zimbabwe acknowledge the importance of protecting vulnerable populations, India's approach is more scheme-heavy, decentralized and implementation-driven, supported by a strong legal-administrative framework and court interventions. Zimbabwe, meanwhile, shows a more constitutionally grounded commitment, but its legal implementation remains fragmented and highly dependent on external support. The comparison underscores that having rights in law is only part of the equation true social protection also requires robust systems , adequate resources , digital innovation and the political will to reach every citizen in need.

5. Institutional Mechanisms for Implementation

Having strong laws is important, but what really matters is how well these laws are put into practice. In both India and Zimbabwe, the implementation of social protection laws faces many challenges, even though the laws themselves look good on paper.

a) India

India has many social protection programs such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), the Public Distribution System (PDS), and the National Social Assistance Programme (NSAP). These programs aim to support poor and vulnerable people with food, employment, and pensions. However, implementation is uneven across different states. Problems such as corruption, bureaucratic delays, lack of awareness, and technical issues (like Aadhaar card mismatches) often stop people from getting the benefits they are entitled to.

There are also issues with funding and delivery. Sometimes, the central government releases funds late, or the states do not have enough capacity to reach all eligible citizens. Women, informal workers, and tribal communities are among the most affected when services don't reach them properly. In addition, many workers in the informal sector who make up over 90% of India's workforce are still outside the reach of formal social protection.

b) Zimbabwe

In Zimbabwe, the main social protection law is the Social Welfare Assistance Act, which allows the government to provide help to people who are poor, disabled, or in emergencies. Programs like the Basic Education Assistance Module (BEAM) and Food Deficit Mitigation Programme support children's schooling and food security. But like India, Zimbabwe also struggles with poor implementation.

Zimbabwe's economy has been unstable for years, which makes it difficult for the government to fund social protection properly. Many programs rely heavily on donor funding from international organizations such as UNICEF and the World Bank. This raises concerns about sustainability if donors pull out , many people could lose their only safety net .

Moreover , lack of data , poor targeting and limited staff in rural areas make it hard to reach those who need help the most. Corruption and political interference also affect who gets support and who doesn't. In some cases , aid has been distributed based on political affiliation rather than genuine need.

c) Comparative View

While both countries have good intentions in law, implementation gaps remain due to financial, institutional, and political challenges. India has a more institutionalized system with stronger legal backing and wider coverage, but still struggles with delivery. Zimbabwe has a weaker structure, with more dependence on foreign aid and greater political interference.

For social protection laws to truly work, both countries need better funding, monitoring, and accountability systems. Most importantly , they need to include the voices of those who are affected especially the poor , informal workers and women to ensure the system works for everyone.

6. Key Social Protection Schemes and Their Impact

India's flagship social protection schemes such as MGNREGA and the Pradhan Mantri Jan Dhan Yojana (PMJDY) have significantly contributed to rural employment and financial inclusion. MGNREGA provides wage employment to rural households and empowers women by ensuring at least one-third participation by females. PMJDY offers zero-balance bank accounts with access to insurance and pension services, helping to integrate poor households into the formal financial system.

Ayushman Bharat (PM-JAY), India's national health protection scheme, covers up to ₹5 lakh per family annually for secondary and tertiary care. It has benefited

over 500 million citizens and eased the burden of catastrophic health expenditures.

In Zimbabwe, the Harmonized Social Cash Transfer (HSCT) program is a pivotal scheme targeting ultra-poor households. It has demonstrated positive impacts such as increased school attendance, improved child nutrition, and enhanced household stability. Additionally, the Basic Education Assistance Module (BEAM) helps poor children access education by covering tuition and exam fees.

Despite these successes, both countries face challenges including limited coverage, bureaucratic delays, and under-funding , particularly for informal sector workers who remain outside the protection net.

7. Challenges and Gaps in Social Protection Systems

Even though both India and Zimbabwe have taken major steps to create laws and programs for social protection, they face many key challenges in both the legal structure and practical implementation. These challenges affect how well these systems protect vulnerable groups like the poor, unemployed, elderly, and informal workers.

a) Limited Legal Coverage

In both countries, many people are not fully covered by the law. In India, most social protection laws focus on the formal sector, while more than 90% of the workforce is employed in the informal sector with little or no legal protection. Zimbabwe faces a similar issue. Although the Constitution guarantees social protection rights, specific laws are limited in scope, leaving many groups without clear legal entitlement.

b) Weak Enforcement Mechanisms

Having laws is not enough without proper enforcement. In India, although programs like the National Food Security Act and MGNREGA are legally binding, many beneficiaries are unaware of their rights, and officials often fail to act on complaints. In Zimbabwe, weak institutions and lack of transparency and accountability make enforcement difficult. There is often no proper system to monitor whether the programs are reaching the people who need them.

c) Inadequate Funding

A major problem in both countries is insufficient funding. In Zimbabwe , the government depends heavily on foreign aid and donor support to run most of its social protection schemes. In times of economic crisis or political tension , this

funding can disappear quickly. India, on the other hand, funds its programs domestically but the amount allocated is often not enough to meet the needs of the huge population.

d) Political Interference and Corruption

In Zimbabwe, reports show that political bias often plays a role in deciding who gets assistance. Some aid is distributed based on political support is not real need. In India , corruption and middlemen often block or delay the delivery of benefits. In both countries , this leads to exclusion of the most vulnerable and reduces public trust in government programs.

e) Poor Coordination and Fragmentation

Another challenge is that multiple ministries and departments handle different schemes with little coordination. In India , the central and state governments sometimes blame each other when things go wrong. Zimbabwe also has overlapping agencies with poor communication, leading to duplication of efforts and waste of resources.

f) Lack of Awareness and Legal Literacy

A significant number of people especially in rural areas don't know they have a legal right to social protection. Many are unaware of how to apply or where to seek help when denied. This is made worse by low literacy levels , language barriers and complex procedures.

8. Policy Recommendations for Strengthening Social Protection

To make social protection more useful for everyone in India and Zimbabwe, both countries need to make their laws stronger and improve how the programs are carried out. India and Zimbabwe have made progress in creating social protection laws , but more work is needed to make sure those laws work for everyone. This means better laws , more funding , honest systems and public awareness. Social protection is not just about charity it's about human dignity, fairness and building stronger nations.

Below are some simple and clear steps they can take.

a) Include Informal Workers in the Law

Most people in India and Zimbabwe work in the informal sector jobs without contracts like farming, vending, or domestic work. Right now , many of these people are not protected by the law. Both governments need to make new laws or change old ones to give legal protection and benefits to these workers.

b) Spend More Money on Social Protection

Both countries need to increase their budgets for social protection. In Zimbabwe many programs depend on donor money which is not stable. India spends more from its own funds , but it is still not enough for such a large population. Social protection should be seen as an investment in people and the economy.

c) Stop Corruption and Political Favouritism

Many people don't get the help they deserve because of corruption or political interference. To fix this the government should use digital systems to send money or benefits directly to people. Regular audits and independent checks will also make the system more honest and fair.

d) Better Coordination Between Departments

In both countries, many government departments handle different parts of social protection. Often, they don't work well together. A single national agency or task force can help make sure everyone works together and that people get help more easily.

e) Educate People About Their Rights

Many people don't know they have a right to social protection. The government and NGOs should help people understand what benefits they can get and how to apply for them. This can be done through legal aid centers , radio programs and village meetings.

f) Use Technology Wisely

Technology like digital ID cards , online applications and mobile payments can help speed up and improve delivery of benefits. But care must be taken to make sure poor or rural people are not left out just because they don't have phones or documents.

India and Zimbabwe have made progress in creating social protection laws but more work is needed to make sure those laws work for everyone. This means better laws more funding, honest systems and public awareness. Social protection is not just about charity it's about human dignity, fairness, and building stronger nations.

9. Conclusion

Social protection is crucial for fighting poverty, lessening inequality, and upholding human dignity. Both India and Zimbabwe have made significant strides

in embedding social protection within their legal frameworks, notably by constitutionally recognizing it as a human right. Despite this, a substantial disconnect persists between legal provisions and their actual implementation.

In India, programs such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and the National Social Assistance Programme (NSAP) have benefited millions. However, a vast number of people, particularly informal workers, still lack protection. Zimbabwe's legal framework is less robust, with most of its social protection initiatives relying on unreliable and unsustainable foreign aid. Both nations face common challenges including limited funding, corruption, inadequate public awareness, weak institutions, and political interference, all of which hinder the effective delivery of social protection benefits to those in need.

To bridge this gap, legal systems in both countries require updates and expansion to encompass all citizens, especially those in the informal sector. Simultaneously, governments must ensure these laws are adequately funded, diligently monitored, and properly enforced. Furthermore, it's essential to educate people about their rights and equip them with the means to hold the system accountable.

Ultimately, social protection transcends mere legal or economic concerns; it's intricately linked to justice, human dignity, and equality. India and Zimbabwe should continue to learn from each other and adopt international best practices to forge stronger, more equitable systems that safeguard all citizens, especially the most vulnerable.

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