KEY POINTS

- Establishing an effective and coherent legal framework is crucial for improving effectiveness and equity of social assistance programs.
- In restructuring benefits, commodity price inflation and actual incomes must be considered.
- Consistent application of selection process and criteria will enhance targeting effectiveness.
- Greater integration and coordination in program implementation can enhance institutional performance and overall provision of social assistance.

SOCIAL PROTECTION BRIEF

Streamlining Legal and Regulatory Framework for Social Assistance in the People’s Republic of China

BACKGROUND

The Government of the People’s Republic of China (PRC) has recognized social policies and social assistance as an important tool for tackling poverty and inequality. In addition to the ongoing economic development efforts, the government seeks to strengthen the social assistance system to help individuals cope with risks and offer an effective safety net to those who fall behind. The social assistance system includes the minimum living standards guarantee (MLSG) for urban and rural areas, the five guarantees program, medical financial assistance, and temporary assistance.

There are a number of problems with the existing social assistance programs: (i) overlapping coverage and benefits, (ii) insufficient level of benefits, and (iii) low-quality and insufficient provision of social housing support. Moreover, there is a large disparity in social assistance benefits provided to urban-registered residents based on the hukou system versus rural residents, and migrant labor who have limited access to social assistance.

OBJECTIVES

Establishing an effective and coherent legal framework for social assistance is crucial for improving effectiveness and equity of social assistance programs. At the request of the government, the Asian Development Bank (ADB) approved a technical assistance project to streamline legal and regulatory framework for social assistance. The study assesses the effectiveness of the legal framework in the PRC to inform ongoing efforts to improve the social assistance system. More specifically, the study examines the implications of the legal system for coverage and benefits levels, targeting effectiveness, urban–rural linkages, coordination between programs, and partnership with nonprofit organizations (NPOs). Based on the analysis of social assistance in the PRC, the study provides recommendations about how to streamline the legal and regulatory framework in the PRC in order to enhance effectiveness and equity of social assistance.

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1 The hukou system officially identifies a person as a resident of an area, which separates the population into urban and rural. The social protection system in the PRC reflects the distinction between urban and rural registration based on the hukou system.

FINDINGS

The PRC's social assistance legislation has a weak normative authority. Policies and measures in social assistance are not regulated by laws and instead are promulgated as administrative regulations, guidelines, notices, decisions, and opinions issued by the State Council and ministries. In May 2014, the State Council issued the Interim Measures on Social Assistance, which is an administrative regulation, and presents a significant achievement as it provides a unified framework for urban and rural administrative regulations in social assistance.

However, various challenges remain to be addressed. Legal provisions are formulated in broad terms, mainly providing general guidelines and principles with regard to eligibility, standards, and implementation procedures, including methods of beneficiary identification and selection. This results in a significant local discretion in the regulation, financing, and implementation of social assistance. In addition, the legal framework is not adequate to ensure synergies between social assistance and social insurance programs, and does not ensure that benefits accord with existing needs rather than fiscal constraints of local governments. Finally, the current legislation does not adequately promote participation of NPOs in the delivery of social assistance, both in partnership with the government and as independent providers.

RECOMMENDATIONS

• **Determine benefit structure and adjustments.** The MLSG thresholds do not adequately consider the vulnerabilities that individuals and families with different socioeconomic characteristics face. The national regulations do not contain specific provisions in this respect. In restructuring benefits, it is crucial to develop national legal requirements for adjusting social assistance standards with the change in commodity price inflation. In addition, benefits must be adjusted in line with earnings to reflect the actual incomes of the population.

• **Improve beneficiary selection procedures and targeting effectiveness.** The national legislation grants discretionary power to local governments not only in relation to social assistance regulation, but also in setting rules and administrative procedures for program delivery. The procedures for beneficiary selection directly affect targeting accuracy, i.e., adequate identification and selection of individuals for participation in the program. To improve targeting effectiveness, the government must establish consistent criteria and procedures for program implementation. The national legal framework must stipulate standardized methodologies, criteria, and procedures for measuring income, the extent and mechanisms of public scrutiny in selection processes, and procedures for income and asset.

• **Address urban–rural divide.** The Interim Measures on Social Assistance seek to streamline the legal framework for urban and rural MLSG. This is crucial for achieving greater equity across the urban–rural dimensions. However, the Interim Measures on Social Assistance provide only general provisions and require further elaboration. In particular, more detailed and specific regulations and operational guidelines are required to replace the existing regulations on MLSG Urban, MLSG Rural, and Rural Five Guarantees, and offer an effective integrated framework for governing urban and rural programs.

• **Improve coordination and linkages between programs.** The existing social assistance programs have different but complementary policy goals. While there is a certain level of coordination between these programs, linkages between them are weakly coordinated. Greater integration and coordination between different programs can enhance both the performance of individual programs and the overall provision of social assistance.

• **Promote linkages and partnership with NPOs.** Following the Interim Measures on Social Assistance, it is important to develop a detailed framework for regulating the roles and functions of NPOs in social assistance programs. It is also important that the legislation provides a clear legal definition and status of NPOs. The legal provisions should require a contract between government and NPOs that would stipulate their mutual obligations and rights.
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