P01 / Public Policy Approaches to Protecting and Enhancing Minority Rights

Topic : INEQUALITIES AND PUBLIC POLICY

Chair : Gonzalo Moreno (WORLD Policy Analysis Center, University of California Los Angeles)

Second Chair : Nicholas Perry (WORLD Policy Analysis Center)

GENERAL OBJECTIVES, RESEARCH QUESTIONS AND SCIENTIFIC RELEVANCE

The proposed panel seeks to achieve three key objectives:

· Identify topical areas where the design and implementation of different policy approaches can advance equal rights and opportunities for minority and other marginalized populations;

· Highlight topical areas where existing policy approaches are currently hindering the equal rights of minority and other marginalized populations directly or indirectly; and

· Explore different methodological approaches to systematically learning about the approaches that countries or other polities take to strengthening equal rights and opportunities for minority and other marginalized populations.

There has long been international agreement on the importance of extending equal rights and opportunities to groups that have been historically marginalized. Seventy years ago, the Universal Declaration of Human Rights guaranteed equal rights regardless of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” More recently, United Nations member countries unanimously committed through the Sustainable Development Goals to “leave no one behind,” while more targeted international treaties like the Convention on the Rights of Persons with Disabilities have underscored the need to address barriers to equal rights faced by specific groups in detail. At the same time, marginalized groups such as migrants, refugees, and LGBTQ populations continue to face legal and practical constraints around the world.

To better understand how rights for minority and other marginalized groups can be advanced or constrained, it is critical to analyze how policy approaches at different levels function: In what settings do countries or other polities guarantee equal rights or prohibit discrimination on the basis of disability, migration status, sexual orientation and gender identity, or other grounds? To what extent do common legal or policy provisions include or exclude minority and other marginalized groups, thus enhancing or endangering their rights? How can these provisions be leveraged to advance equal rights and opportunities for these groups in practice?

This panel will be chaired by researchers from the WORLD Policy Analysis Center (WORLD) at the University of California Los Angeles. WORLD is committed to strengthening equal rights and opportunities worldwide by (1) identifying the most effective policy approaches for improving individual wellbeing and enabling countries to thrive, with a focus on the worst-off; (2) improving the quantity and quality of globally comparative data on laws and policies that work to support equal rights and opportunities, especially for marginalized populations; and (3) working in partnership to advance evidence-based improvements in countries worldwide. The panel will focus primarily on methodological and empirical approaches to understanding which marginalized groups have their rights alternatively enhanced or constrained by laws or policies worldwide, what approaches – national or otherwise – are being implemented in relevant policy domains, and to what extent these policies can advance equality for the world’s most historically marginalized groups.

CALL FOR PAPERS

Despite a renewed focus, through international instruments such as the Sustainable Development Goals, on equal rights and reaching those that are furthest behind, inequalities in public policy domains such as healthcare, education or work persist worldwide for many minority groups and other marginalized populations. International and regional organizations, national governments, and subnational units regularly design and implement different policies and programs that can close – or sometimes widen – this gap. There is, however, a need for more systematic analyses of what these approaches are and how they work

to protect and enhance the rights and opportunities of marginalized groups such as refugees, persons with disabilities, LGBTQ populations, and others.

This panel invites submissions to explore how different approaches, from constitutional provisions to legal and policy change to on-the-ground programs, can best support the rights and protections of minority populations that have been historically marginalized. It specially welcomes papers with a methodological or empirical focus that can help improve our understanding of what types of protections are available and routinely implemented to protect these groups in different policy domains; how these protections are put into practice; and/or what the effects of these protections are for particular groups in specific policy domains.

While retaining a focus on the marginalized populations that are most touched by inequality, the panel aims to include submissions from a wide range of disciplines and policy domains, and encourages research on any vulnerable group worldwide.

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Session 1Public Policy Approaches to Protecting and Enhancing Minority Rights

Thursday, June 27th 16:30 to 18:30 (MB 9 A)

The Right to Decent Work and Protection from Workplace Discrimination in International Migration: A Globally Comparative Review

Brianna Pierce (WORLD Policy Analysis Center, University of California, Los Angeles)

Michael McCormack (WORLD Policy Analysis Center at UCLA)

Upon arrival to a host country, international migrants may face significant barriers to both entry of the workforce and to participation in employment. Stringent requirements for obtaining work permits as well as broader labor market policies can prevent international migrants from engaging in work. For those that are able to successfully enter the workplace, discrimination is all too common; migrants may be discriminated against not only for their citizenship status, but based on actual or perceived race/ethnicity, religion, language, or national origin. There are currently more than 250 million people across the globe that are living in a country other than that of their birth – an increase of nearly 50 percent over the last 18 years – and these figures are only expected to rise. It is critical to the well-being of migrants and the success of economies that laws and policies provide international migrants with the opportunity to contribute to the economy, culture, and communities in which they reside.

Using new comparative law and policy data on 150 UN-member states, this paper examines national legislative approaches that support or hinder international migrants' access to work and assurance of decent and equal working conditions. We explore legislated barriers to entering the workforce, including prohibited professions, quotas on citizen workers, penalties faced by international migrants for working without a valid permit, and employer-required measures that give preference to citizens. To analyze the experience of migrants who have entered the workforce, we review guarantees of work permit flexibility such as the ability to transfer employers or professions without loss of documentation. We further examine guarantees of non-discrimination across a number of key aspects of employment (such as hiring, recruitment, compensation, promotion, and termination) across multiple aspects of identity that often coincide with international migrant status, including race/ethnicity, religion, language, national origin, and citizenship status. This new global law and policy data is a critical step in moving forward inclusion, diversity, and equality in employment across the globe, regardless of one's migratory or citizenship status.

Assessing the effectiveness of Brazil's "Quotas Law": a game changer in access to higher education?

Ana Paula Karruz

Starting in 2013, a national quantity regulation established a minimum affirmative action effort level for all Brazilian federal universities and colleges, reaching more than 100 institutions. Law 12.711/2012, known as the "Quotas Law", created a socioeconomic and racial quota scheme with staggered implementation, following minimum reservation percentages each year, up to the full 50% quota by 2016.

Evidence so far suggests that the Quotas Law changed student body composition without compromising academic performance. Yet, aspects of this policy may impose undesirable biases in place allocation; some of these features include: fixed, not representative reservation percentages, that are flat across majors; disregard for differential student performance of high school systems; markedly high threshold for income, crowding competition; bundling of black, brown and indigenous in the racial criterion, which may favor browns (who have been more likely to access higher education); and disregard for parental schooling, despite its known influence on student outcomes. Moreover, while the existence of quotas may carry an

important symbolic value, place reservation at federal institutions directly affects only a small portion of its potential target demographic.

This research pursues the question of to what extent the Quotas Law frees targeted applicants from the socioeconomic and racial inequalities that hurt their chances of admission. The premise is that, were the scheme perfectly calibrated, there would not remain systematic differences in the probability of acceptance across groups. Such view of fairness is supported by the Roemer Identification Axiom (Roemer, 1998), according to which two people with different opportunity levels, but with the same distribution percentile within their type, exert the same level of effort.

Federal University of Minas Gerais (UFMG), one of the largest and most competitive in Brazil, is the case selected for study. Data reporting UFMG offerings and cutoff scores were merged with microdata from the School Censuses, ENEM ("Exame Nacional do Ensino Médio", Brazil's main college entrance test), application records, and attributes of majors (e.g., expected earnings).

Quotas Law's staggered implementation makes expansion of reserved seats "as if" random between high school graduating classes of a certain age, allowing for a natural experimental design. This presumed comparability between cohorts, except for treatment intensity (greater percentage of seats reserved in 2015 than in 2014), is at the core of the effect identification strategy. Additionally, cohorts were matched through the matching frontier, an alternative to propensity scores.

Findings indicate that the Quotas Law: i) increased demand for higher education amongst its target public; ii) reduced inequalities in university access for high school graduates; and iii) was more effective in less competitive offerings (those with a lower number of applicants per seat), teaching (vs. B.A.) degrees, and day courses.

This proposal fits the panel's objectives and research questions in at least three ways: it evaluates a policy meant to expand educational opportunities of historically marginalized groups; it commits to a robust inferential approach; and it estimates the extent to which policy effects reduce social inequalities.

Reference:

ROEMER, J. E., 1998. "Equality of opportunity". Cambridge: Harvard University Press.

India's Muslims and equality of opportunity in education: the UPA period

Heewon Kim (Aston University)

The Indian Constitution, like most liberal democracies, bars any discrimination on the grounds of religion, race, caste, descent and place of birth and recognises that equality of treatment is a precondition of effective citizenship. Procedural equality in the operation of state structures and their interface with citizens is firmly specified. Unlike other liberal democracies at the time, however, the Constitution recognised the principle that equality of opportunity is, for some groups, dependent on the recognition of their cultural rights (e.g. personal laws, dress code etc.). This was an important concession, presaging a later debate in western liberal democracies that equality of opportunity is subject-dependent.

The election of the United Progressive Alliance (UPA) government in 2004 marked something of a turning point in the provision of equality of opportunity for religious minorities in India. Committed to 'preserve, protect and promote social harmony', the UPA's Common Minimum Programme promised 'to provide full equality of opportunity for religious minorities'. The poor educational attainment of a large section of Muslim community was highlighted both by the Sachar Committee Report and the Ranganath Misra Commission report. The literacy rate among Muslims was below national average, and as many as 25 per cent of Muslim children in 6-14 age groups have either never attended school or have dropped out. Despite the high profile recommendations of the expert groups, the policy process and the monitoring data clearly illustrate that there has been little discernible improvement in educational advancement of poor Muslims.

This paper will critically evaluate the initiatives undertaken by the UPA to provide equality of opportunity for the disadvantaged Muslims in education sector. Particularly, it will address two issues: first, what kind of policy instruments were selected and why the government chose to focus on this particular policy measure and not others? Second, how can we understand this outcome in historical and contemporary dimensions?

In order to understand the state's approach to equality of opportunity for disadvantaged Muslims in a broader context of post-independence India, this paper will reflect on how the rights of religious minorities were understood and institutionalised during constitution-making, and how such institutionalisation has created a form of path dependence from which neither the Congress nor the Bharatiya Janata Party (two major political parties in India) were able to diverge. Importantly, for most religious minorities, it has also

created incentives and structures which reproduce cycles of policy failure while perpetuating discrimination, violence and marginalisation. This paper will bring into sharper relief the different regimes of equal opportunities (between caste groups and religious minorities especially Muslims), the structures that continue to reproduce them, and the institutional resistance to change.

Bridging the gap of human rights violations towards LGBT persons in Cameroon: The role of local NGO's

Brenda Masanga Ngum (Université de Paris Diderot)

The rights of sexual and gender minority groups, initially omitted within the universal declaration of human rights in 1948, have grown to become a corner stone prerogative for international human rights policy since the adoption of the Yogyakarta principles in 2006. This intent was also reiterated at the African regional level, although without binding legal force, by the adoption of resolution 275 of the African commission on human and people's right in 2014 and more recently through the adoption of the sustainable development goals in 2015.

If international human rights laws and policies have been favorable for the protection of LGBT persons, unfortunately this is not true of national laws in Cameroon. Although party to all fundamental human rights international treaties, the state of Cameroon has repressive laws against same sex practices within its criminal code of 2016. This fosters a homophobic social and legal context, as well as grievous human rights violations based on sexual/gender identity and/or sexual orientations (Lado, 2012). These human rights violations are not only civil and political, revealed through abusive and illegal detentions, but even more so social, economic and cultural (Kojué, 2017).

As a result of these violations, persons belonging to the LGBT community have sought to organize themselves into local organizations in a bid to fight for the respect of their rights (Awondo, 2012). Since the creation of the first LGBT organization in 2006, Alternatives Cameroon, the national territory has witnessed how several LGBT organizations have flourished. As of now, there is at least one LGBT organization for each of the 10 regions in Cameroon (Nemande, 2016).

This paper wishes to discuss how LGBT organizations attempt to protect the rights of LGBT persons in Cameroon, notwithstanding the homophobic legal and social context. What are some of the measures put in place by LGBT organizations to uphold LGBT rights and how effective are they? In a bid to answer these questions, I chose as case study two local LGBT organizations in Cameroon: ALCONDOMS and Avenir Jeunes de Ouest. I carried out Thirteen (13) narrative interviews with LGBT activists, as well as participant observation at the head offices of these two LGBT organizations between February and March 2018. The interviews were recorded with the help of a Dictaphone, entirely transcribed and then submitted to qualitative analysis through the SONAL software. Following interpretation and analysis of these interviews and observations, the following results have emerged.

Firstly, LGBT organizations have developed measures to ensure social and economic rights through HIV/AIDS policies. Secondly, LGBT organizations have put in place a legal monitoring network system to fight against illegal detention called "Unity Platform". Thirdly, in order to be able to achieve the protection of these mentioned rights, the LGBT organizations are forced to adopt a posture of invisibility within the Cameroonian society.

The Economic Marginalisation of Youth: Policy Attitudes and Implications

Veronica Coram (University of Adelaide)

Children and young adults are not conventionally viewed as a minority or marginalized group. In this paper I argue that social and economic policies in advanced industrial democracies have led to growing economic inequality between age and birth cohorts. Qualitative fieldwork (surveys and semi-structured interviews with 17 Australians aged 18 to 24) conducted for this study suggests that even when young people are aware of how government policies promote inequality, they are not motivated to support policy reform in their own economic interests.

Historically, power and resources have often been withheld from younger members of society for a range of reasons, including as a form of social control and to ensure older people are able to retain their privileges and benefits for as long as possible. This has been justified by the assumption that the young will eventually grow old and take their turn at claiming the entitlements of age. Pay-as-you-go pension policies are explicitly

based on this rationale: fund the retirement of older generations while you are a working taxpayer and you will be entitled to have your own retirement funded by younger generations.

Policy evolution, structural economic change and demographic shifts now call into question whether cohorts born after around 1980 will be able to access the same benefits as preceding generations across their lives. For example, there is evidence to suggest that younger people are likely to bear heavier lifetime tax burdens than their predecessors to fund the pension, aged care and medical costs of an ageing population. In Australia, child poverty rates have been rising while elderly poverty rates decline, partly as a result of increases to the Age Pension at the same time as income support for single parents was reduced.

The fieldwork described in this paper investigated the attitudes of young Australians towards a range of tax and welfare policies with redistributive impacts. The study aimed to address the dearth of qualitative data on the economic policy attitudes of the young adult age group. The research participants were mainly undergraduates studying political science or economics and could reasonably be assumed to have a higher level of political awareness than average.

The participants expressed little support for policy reform in their own economic interests even while recognizing how existing policy settings exacerbated inequality between age groups. Factors contributing to their relative passivity and acquiescence to the status quo included an unwillingness to criticize their elders or infringe on their ‘rights’; an acceptance of what they saw as essentially arbitrary outcomes for which no one was responsible; and their own perceived incapacity to influence policymaking. This represents a situation where a marginalized minority, even with a reasonable level of political capital, is unwilling to advocate for policy reform in its own interests.

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Session 2Public Policy Approaches to Protecting and Enhancing the Rights of Persons with Disabilities

Friday, June 28th 08:00 to 10:00 (MB 9 A)

Leaving No One Behind: Legal Guarantees to Inclusive Education for Persons with Disabilities

Michael McCormack (WORLD Policy Analysis Center at UCLA)

Willetta Waisath (WORLD Policy Analysis Center, UCLA Fielding School of Public Health)

Jody Heymann (Fielding School of Public Health; WORLD Policy Analysis Center - University of California, Los Angeles)

Michael McCormack (presenting), Willetta Waisath, and Jody Heymann

The landmark Convention on the Rights of Persons with Disabilities (CRPD) recognized the fundamental right to equality in education, realized through an inclusive education system. Goal 4 of the Sustainable Development Goals (SDGs) reinforced this principle by calling for “inclusive and quality education for all.”

There are over 1 billion persons with disabilities in the world today, and inclusive education is essential to realizing their human rights during childhood, youth, and as adults because of education’s impact on work and income. Yet children and youth with disabilities continue to face disadvantages in education relative to their counterparts without disability. A 2018 UNESCO report found that 26% of adolescents with disabilities are out of school (compared to 18% of adolescents without disabilities) and that persons with disabilities obtain 4.8 years of schooling on average, compared to 7 years of schooling for those without disabilities.

These persistent gaps require substantial commitments to inclusive education at the population level; national laws and policies can play a critical role in narrowing this gap and realizing the commitments outlined in the CRPD and SDGs. This paper examines national action on inclusive education for 193 UN-member states, by drawing on findings from a brand new database from the WORLD Policy Analysis Center at the University of California Los Angeles. To assess national commitments to inclusive education, we comprehensively reviewed national legislation and translated these legislative commitments into quantitatively comparative indicators for all countries.

These indicators allow us to identify gaps in guarantees to inclusive education at the primary and secondary levels, specifically: guarantees to public education for persons with disabilities, level of integration with mainstream schooling, reasonable accommodation and supports, and prohibitions against disability-based discrimination at school. Preliminary findings show that the vast majority of countries guarantee access to public education to persons with disabilities, while a smaller subset of these mandate provision of individualized accommodations and supports to students with disabilities in mainstream education settings.

Identifying existing gaps and advancing access to inclusive education is key to dismantling the social and environmental barriers that contribute to educational disparities. This paper highlights best practices and strong legal guarantees, along with future opportunities to support the implementation of inclusive education.

Framing Social Inclusion in Disability Policy Design: Evidence from Canadian Approaches to Developmental Services

Daniel Dickson (University of Saskatchewan)

The concept of social inclusion meets the criteria of what Pollitt and Hupe (2011) call a ‘magic concept’

because it is broadly stretched, normatively attractive, and denies the possibility of conflicting interests and logics. However, when social inclusion is operationalized and applied to specific identity groups it is often reduced to rigid and narrowly defined policy interventions. This paper asks how do policy instruments define and operationalize social inclusion as a public policy objective? In particular, I am interested in how social inclusion is applied to the most marginalized social groups, for whom exclusion has historically been normalized. To this end, I focus the analysis on one identity group – people with developmental disabilities– for whom social exclusion was long normalized by policies of forced separation and institutionalization. Using frame analysis, I compare all pertinent disability policies across Canada's ten provinces to analyze the ideas and assumptions that underlie existing instruments directed at promoting social inclusion for this population. Comparison of the policy instruments is facilitated through engagement with existing critiques of inclusion policy from the disability politics literature to help identify which subsets of developmental services users stand to benefit and which are disadvantaged by dominant policy framings. In this way, I present implications for the broader social construction of people with developmental disabilities and for best practices in more inclusive policy design.

Interaction and influence of disability and welfare policies on the right to work of people with psychosocial disability

Alexandra Devine (University of Melbourne)

People with psychosocial disability are recognised as a marginalised group who have experienced sustained barriers and violations in the attainment of their human rights. Their experiences of socio-economic inequalities, poor health outcomes, and multiple challenges accessing services, are also both causes and consequences of their poorer employment outcomes. The right to work is a specific Article of the UN Convention on the Rights of Persons with Disabilities, and a fundamental component of the Sustainable Development Goals. Attaining this right also facilitates the attainment of other rights. Yet labour-force participation of people with disability in Australia remains nearly 30% lower than for people without disability (56.4 vs 83.2), with people with psychosocial disability having the lowest participation rate (29%) and highest unemployment rate (19%).

Australia has recently seen unprecedented changes in the public policy context relevant to the rights of people with disability, specifically with the introduction of the National Disability Insurance Scheme (NDIS) at a cost of AUD22 billion/annum. The NDIS aims to improve the lives of people with disability through the provision of individualised packages of services and supports, with a specific objective to improve workforce participation. Achieving this objective is influenced by the effectiveness of the Disability Employment Services (DES) program (approx. AUD900 million/year). The DES program, sitting within the broader welfare system, is the Federal Government's specialised employment program to assist people whose disability is assessed as their main barrier to gaining employment. The majority of participants engage with DES as part of tightening Welfare-to-Work policies that obligate welfare recipients to actively pursue employment. People with psychosocial disability account for 38.3% of current DES participants.

Both the NDIS and DES program are implemented through New Public Management mechanisms, encouraging consumer choice and control to stimulate competition in the marketization of the non-State based delivery of these programs. Concern has been raised that people with psychosocial disability are finding it difficult to access the NDIS, let alone exercise choice and control within in. At the same time, despite ongoing investment and reform to the DES program, employment outcomes for participants with psychosocial disability remain low.

This paper explores how the implementation, resourcing and interaction of these policies are impacting on the lives of people with psychosocial disability and their subsequent right to work. The paper draws on findings from the Improving Disability Employment Study - a quantitative survey of 350 people with disability currently accessing employment services, as well as findings from 60 qualitative interviews with DES participants with psychosocial disability.

Nearly half (45.52%) of the survey participants reported psychosocial disability as their main disability, 2% of whom were receiving support through the NDIS. Difficult life circumstances undermining access to employment were reported by both survey and interview participants. This included limited choice and control in accessing housing; financial insecurity; insufficient access to services; and, disability-related discrimination in gaining and maintaining work. These findings assist policy actors to critique factors which undermine the effectiveness of disability and welfare policies on the attainment of the indivisible rights of people with psychosocial disability.