

Tania Burchardt and Moira Dustin **Editorial: equality and human rights**

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Editorial: Equality and human rights

Tania Burchardt and Moira Dustin

The tasks of tackling disadvantage, promoting equality and defending human rights can be pursued in many different ways. In this special issue of *Journal of Poverty and Social Justice*, we examine a number of strategies – legal redress, policy reform, working with practitioners, raising awareness, empowering representatives, campaigning and civil rights movements – and explore the extent to which they are competing or complementary. They illustrate the distinction between a traditional reactive anti-discrimination model based on individuals seeking redress and a promotional approach to advancing equality on a group level. We hope that this special issue demonstrates the value of juxtaposing diverse experiences and approaches in improving understanding of the causes of, and solutions to, inequality.

The inspiration behind the special issue was an NGO project last year making connections between equality, human rights and social justice.¹ Like that project, this issue brings together research on different policy areas (including employment, social care, poverty and violence against women) and disciplines (law, social policy and sociology), and reaches across Europe and the USA.

Fifty years after the first equality commission was established, Colm O’Cinneide considers the role and record of statutory equality and human rights bodies in Western democracies. He charts the evolution of some of these bodies from enforcers of anti-discrimination law to promoters of human rights in addition, and the enlarged expectations that accompany this development. The article identifies the internal and external constraints such bodies face in meeting the sometimes unrealistic expectations of their partners, ‘stakeholders’ and the general public. It also highlights that this wider remit often goes hand-in-hand with fewer resources, as public bodies are required to operate within severe budgetary constraints. However, the article argues that while they may have a limited role as engines of radical social change, they can still contribute a great deal by making incremental progress on equality and human rights.

The Research Highlights in this special issue bear this out and can also be seen as reflective of current UK government rhetoric about developing an evidence base for policy: the Equality and Human Rights Commission’s *Is Britain Fairer?* report is a good example of the role statutory bodies can play in keeping track of progress in reducing inequality across a range of indicators, linking to human rights, and drawing together a large pool of data and analysis in a way that is beyond individual research institutes and projects, as is the Northern Ireland Lifetime Opportunities Monitoring Framework.

David Oppenheimer’s article draws attention to the fact that the fight for affirmative action by the civil rights movement to address discrimination against Black Americans in the US produced a legal compromise, under which affirmative action was permitted but not

¹ The Equality and Diversity Forum (EDF) and EDF Research Network project *Beyond 2015: shaping the future of equality, human rights and social justice*. Details at <http://www.edf.org.uk/blog/category/beyond-2015-project/>

required. This resulted in significant gains for Black Americans in employment, but more recently the shift away from affirmative action towards 'diversity management' has diluted the positive impact. This example illustrates the interplay between mass struggle, statutory powers, and frontline – in this case employers' – practices.²

Oppenheimer's piece also illustrates the limitations of identity-based politics as the framework within which discrimination is tackled, a theme picked up by Asif Afridi in the Policy & Practice section of the issue. Afridi's analysis of models of representation and participation in Britain leads him to conclude that 'descriptive representation' alone will not necessarily lead to policies that tackle disadvantage among minority groups.

In the UK context, employment rights have been defended partly through Employment Tribunals. But Morag McDermont, Samuel Kirwan and Adam Sales argue that the restrictions on legal aid, the introduction of fees and the increasingly legalistic procedures in tribunals constitute a denial of access to justice, and that this should be understood as a form of social exclusion. Their empirical work with potential Employment Tribunal claimants demonstrates the increasing obstacles individuals experience when they try to secure the rights they have under the law. They conclude with a number of concrete remedies to the problems identified. Their work confirms some of the findings of the Equality and Human Rights Commission (2015) concerning the impact of legal reforms and suggests that further research is needed to explore whether the drop in employment tribunal cases is based on improvements in equality in the workplace or is instead a result of the growing difficulty employees have in exercising their rights.

The evidence discussed by McDermot and colleagues identifies the interaction between social and economic disadvantage – especially being low paid and less well-educated – and the magnitude of the obstacles people face in accessing their legal entitlements. Without independent advocacy, it is hard for employees to make sense of the legal processes, let alone to challenge the legal professionals arrayed against them. Gerry Mooney's review of Lisa McKenzie's book, *Getting By: Estates, Class and Culture in Austerity Britain*, also highlights the significance of social and human capital in understanding how inequality may become entrenched – although in McKenzie's study, self-organisation and networks within a poor community stands as a bulwark against exclusion from wider society.

Moira Dustin's article on violence against women and girls draws attention to a different dynamic in the interplay between legal and wider social processes in tackling inequality and human rights abuses. She argues that while the increasingly clear and specific legal prohibitions on Female Genital Mutilation (FGM), on 'honour'-based violence, and on forced marriage have helped to raise the profile of these crimes amongst policymakers, practitioners and the general public, they have not been effective in terms of prosecutions, and may even have detracted from preventative and educational work. Moreover, the segregation of these forms of abuse which mainly affect minoritised women and girls, may distract attention from the wider phenomenon of violence against women and girls, perpetrated by majority and minority men, by framing the violence as a cultural, religious or

² Supplementary material relating to legal cases, and the evidence on the effects of affirmative action and diversity management on employment opportunities for Black Americans, is available through the online version of this article.

ethnic problem, rather than one relating to gender power relations and constructions of masculinity.

The theme of prevention as well as, if not instead of, prosecution recurs in one of the Research Highlights in this issue which describes research on attitudes to violence against women in Scotland to inform the Scottish Government's 'Equally Safe' strategy for prevention; and the prevalence of negative attitudes on gender equality is illustrated at a global level in the final Research Highlight in YouGov's report on attitudes to women.

Sue Westwood's article turns the spotlight on a neglected aspect of social care for older people: the provision – or rather lack of it – for lesbian, gay, bisexual and transgender spectrum (LGBT*) people. She identifies some international examples of good practice, but research in the UK suggests that LGBT*-friendly care and housing services for older people are lacking. In this case, the legal framework, through the Equality Act 2010 in the UK and equivalent anti-discrimination legislation in many other countries, is in place to ensure that the particular needs of LGBT* people for privacy and sensitivity in care arrangements are met, but enforcement is largely reliant on individuals being prepared to pursue cases through the courts. The commissioning of care and housing services in practice therefore continues to lag behind statutory requirements to provide appropriate services. Gay rights activism has hitherto been dominated by the agendas of younger people and has not focussed on ageing and care, so effective pressure has not been brought to bear from that source either.

Westwood also demonstrates the complexity of individual needs and interests and the overlap between the characteristics protected under UK law. Returning to the discussion of in Afridi's contribution, her article suggests that simply achieving 'descriptive representation' would be a considerable challenge given the myriad combinations of characteristics that exist and that might be the basis of representation.

The contributions to this special issue show that inequality is experienced in many different contexts – through gender-based violence, exclusion from civil justice, denial of housing and care. They indicate the value in applying an equality lens to problems often connected to other policy frameworks such as poverty, housing, access to justice. Although the articles cover many different subjects in different countries, a number of themes emerge. One is the importance of accessible mechanisms enabling citizens to engage individually and collectively in policy processes, to campaign for improvements and to be effectively represented. A second theme that comes through strongly is that legally recognised rights and equality standards are not meaningful if individuals lack the knowledge and resources to use them, or if they are not backed up by effective mechanisms to scrutinise the practices of organisations and institutions and to bring them into line. Finally, there are powerful arguments that social entitlements such as care and housing are a fundamental part of the equality agenda requiring policy interventions to prevent exclusion for some groups. Reducing inequalities and protecting human rights will mean addressing all three themes and the interplay between them.

Reference

Equality and Human Rights Commission (2015) *Equality, human rights and access to civil law justice: a literature review*, Research report 99