

Understanding Higher Education in Canada as a Human Right

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Abstract: Education is well-established by the United Nations (1948) as a fundamental human right, though there is a paucity of literature specifically surrounding higher education as a human right. Financial access to post-secondary education is a growing issue in Canada as provincial governments implement neoliberal policies that increasingly privatize higher education, passing the burden of affordability to students. This paper explores Canada's commitment to higher education as a human right through international human rights law and examines neoliberal policies preventing the equitable realization of this right through case studies of Ontario and Alberta while recommending a reimagined system of PSE management to ensure equitable and inclusive participation in PSE throughout Canada.

Keywords: Equity, Inclusivity, Higher education, Human rights, Neoliberalism

Introduction

The right to equitable access to post-secondary education (PSE) is established in numerous international human rights documents, including the Universal Declaration of Human Rights (UDHR; United Nations, 1948), International Covenant on Economic, Social and Cultural Rights (ICESCR; 1976), and the Convention on the Rights of the Child (CRC; United Nations, 1989). Article 26 of the UDHR (United Nations, 1948) affirms “higher education shall be equally accessible to all on the basis of merit”, while Article 13(2)(c) of the ICESCR obligates nations to make higher education “equally accessible to all on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education” (United Nations, 1976). Article 41 of the CRC echoes Article 13(2)(c) closely, stating that state parties must make “higher education accessible to all on the basis of capacity by every appropriate means” (United Nations, 1989). The ICESCR and CRC are legally binding, and Canada is party to both documents. This commitment means that, at a minimum, Canada is obligated to match its domestic legislation to the principles espoused in these articles of international law (United Nations, 2020). Notably, Canada has not signed on to the United Nations Educational, Scientific and Cultural Organization Convention Against Discrimination in Education, which urges states to take all necessary measures to ensure equitable access to education at all levels, including PSE (UNESCO, 1960). Canada's federal structure allocates responsibility for PSE to the provinces, therefore committing to the UNESCO convention would require federal management of PSE to allow for equity across the country. Funding for higher education in Canada is primarily the responsibility of provincial governments, though provinces also receive federal funds through the largely unregulated Canadian Social Transfer, with no guaranteed amount for PSE institutional support (Gauthier, 2012; Statistics Canada, 2018). The balance of funding for PSE institutions comes, increasingly, from student tuition and fees as provinces privatize PSE institutions and push the burden of affordability onto students.

Accessing PSE in Canada has become increasingly exclusionary via ongoing neoliberal policies and practices. Neoliberalism is a capitalist political approach that favors individualism over collective interests, increasingly prevalent in Canadian policy since the 1980s (Stanford, 2014). Neoliberal fiscal policies seek to reduce government spending while decentralizing economic measures; in the case of PSE, these policies reduce government support for higher education, forcing institutions to increase student costs, reducing overall affordability and accessibility of PSE. This paper explores the overall disconnect between the human right to equitable access to higher education and the current state of Canadian PSE funding through a social justice framework. Alberta and Ontario are examined as case studies as these two provinces have implemented significant neoliberal measures in recent years that undermine the ability of low-income students to realize their right to higher education (Government of Alberta, 2019; Government of Ontario, 2019a). By examining these cases, this paper demonstrates Canada's detrimental lack of cohesive support for PSE that conflicts with its commitment to making higher education accessible to all based on merit, as per their international human rights commitments. Recommendations to reimagine a system of PSE management that upholds the ideals and principles espoused in the human rights conventions and documents, and widen PSE participation in Canada conclude the paper.

Theoretical Framework

Human rights are a social justice approach that is used within this paper to analyze equitable access and participation in PSE systems as representative of the equitable realization of this right. As human rights stem from an international legal framework, established modernly by the United Nations (1948), this paper draws from established international human rights laws and norms to evaluate Canada's support of the realization of the right to higher education. Participation in PSE in Canada has been increasing but not widening, therefore a focus on increasing the breadth of people able to participate fully in PSE is critical. Wilson-Strydom (2015) argued that recognizing the institutional barriers in place for students of alternate backgrounds was key to widening participation.

Canada prides itself on being one of the most highly educated countries in the world (Association of Universities and Colleges of Canada, 2011; Statistics Canada, 2017a), with high numbers of PSE enrollment and graduation. Despite this, the neoliberal focus on increasing enrollment numbers to grow revenue without focusing on equitable access results in grave issues of exclusion for Canadian PSE students (Barnetson, 2020; Giroux, 2014; Hajer & Saltis, 2018). Though the number of upper- and middle-class students benefiting from higher education has increased in recent years, lower-class students are further excluded due to financial restraints (Ennew & Greenaway, 2012; Hajer & Saltis, 2018). Increasing enrollment without widening participation does not necessarily correspond with equitable opportunity and access (Wilson-Strydom, 2015), and is not consistent with the principles conceptualizing higher education as a human right (United Nations, 1948; United Nations, 1976; United Nations, 1989).

Students with lower socioeconomic status (those without familial wealth or independent resources to fund their education) pay more for their degrees than their peers, as government student debt in Canada represents a 50% increase in cost (Government of Canada, 2019). The inequity of access to PSE is intertwined with other systemic inequities, resulting in an increased burden for marginalized individuals and groups. Women represent 60 percent of Canada student loan recipients and 66 percent of loan borrowers who use the Repayment Assistance Program (available to those earning less than \$25,000 per year after graduation; Government of Canada, 2019). Black, first-generation, and Indigenous students are significantly less likely to engage in PSE (James & Turner, 2017; Letseka, 2010; Palameta & Voyer, 2010; Schuetze & Archer, 2019). Access to PSE is reflective of equitable access at every stage of formal education, thus unequal access at the post-secondary level can be indicative of a lifetime of inequity (Alon, 2009; Lynch & O'riordan, 1998; Porter, 1970; Pike, 1980). Overall, students from underrepresented demographics struggle to enter PSE and complete their credentials, facing unique and diverse barriers to these achievements. Though different groups face distinctive obstacles in pursuing higher education, common to all is the unequal and ineffective efforts by governments implementing neoliberal ideals to remove these barriers.

Literature Review

Several authors, including Ennew and Greenaway (2012), Lawson (2012), and Gilchrist (2018) discussed the existence of the right to higher education, though Kotzmann (2015; 2018) and McCowan (2012; 2013) provide the most thorough arguments analyzing and supporting higher education as a human right. Kotzmann (2015; 2018) and McCowan (2012; 2013) stated that claiming higher education as a human right was a complex issue that is supported by international law, calling for further clarity and research. Tomaševski (2004) and Kotzmann (2015; 2018) both argue that the focus on primary and secondary education in many international documents and initiatives, including the Millennium Development Goals, contributes to the ambiguity surrounding the right to higher education. Though the authors recognize the deserved focus on formative education, the increased requirement for higher education credentials by the labor market (Hajer & Saltis, 2018; Harden, 2017; Neem, 2019), accompanied by the inequitable massification of PSE means that the right to higher education deserves its attention and analysis (Kotzmann, 2015, 2018; Tomaševski, 2004).

Higher Education and Labour

Higher education is associated with improved access to the labour market, higher future earnings, and an improved ability to ensure other human rights for oneself, meaning that inequitable access to higher education impacts an individual far beyond their time as a post-secondary student. (Betcherman & Lowe, 1997; Muller, 2002). Frenette

(2019) noted that career prospects for Canadian graduates were improving, but because of limited universal access to the educational system, realizing the right to higher education and other associated rights disproportionately disadvantages low-income students. Students who graduate with post-secondary credentials earn higher incomes compared to workers without higher education, and generally enjoy better opportunities for advancement and more frequent and substantial raises in pay (Zhao et al., 2017). Access to higher education can interrupt cyclical poverty, as many marginalized students come from lower socioeconomic status, and therefore achieving a PSE credential and improving their employment potential can positively alter their financial future (Biss, 2017).

Associated Rights

When students advocate for equitable access to higher education, they are simultaneously fighting for interconnected issues related to their overall wellbeing and status in society (Canadian Federation of Students, 2020). Table 1 outlines rights that may be significantly more attainable by achieving higher education, drawn from the International Bill of Rights, which is a trio of documents comprising the foundation of international human rights law and encompassing the most essential human rights in modern society (United Nations, 2020). Participation in PSE can improve economic prospects (Hajer & Saltis, 2018), provide a network of future colleagues (Muller, 2002), and allow individuals greater ability to support their realization of other fundamental rights (UNESCO, 2018). Improved access to the labor market allows individuals to more easily realize several rights based on economic status, including the right to property ownership, the right to work, an adequate standard of living, and enjoyment of a high standard of physical and mental health. The ability to realize these rights by sustaining meaningful employment is a key benefit of obtaining a post-secondary credential, and limiting the access of an individual to PSE systems and institutions simultaneously hinders their realization of these interconnected rights.

Beyond providing courses and credentials, many post-secondary institutions provide essential services to students. The institutions serve as community hubs, and the services offered can help assure and realize other fundamental human rights for students. As an example, Article 25 of the Universal Declaration of Human Rights asserts that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, and medical care and necessary social services” (United Nations, 1948); key services provided by universities can positively impact nearly every metric espoused in this statement. PSE provides the opportunity to develop imperative critical thinking and engagement skills (Neem, 2019), which can facilitate participation in public affairs and cultural life. PSE also can provide the communicative tools to express self-determination, partake in government, and engage in freedom of expression, all of which are considered critical aspects of achieving full human dignity (United Nations, 1948).

Table 1. Rights Associated with the Realization of the Right to Higher Education

| <i>Universal Declaration of Human Rights</i> | <i>International Covenant on Civil and Political Rights</i> | <i>International Convention on Economic, Social and Cultural Rights</i> |
|---|---|---|
| Article 17 (property ownership) | Article 1 (self-determination) | Article 1 (self-determination) |
| Article 18 (freedom of thought, conscience, and religion), | Article 3 (equality between sexes) | Article 3 (equality between sexes) |
| Article 19 (freedom of opinion and expression) | Article 12 (freedom of movement) | Article 6 (right to work) |
| Article 20 (freedom of association) | Article 18 (freedom of thought, conscience, and religion) | Article 7 (safe and healthy conditions of work) |
| Article 21 (partaking in government and equal access to public service) | Article 19 (right to hold opinions) | Article 11 (adequate standard of living, including food, clothing, and housing) |
| Article 23 (right to work) | Article 22 (freedom of association) | Article 12 (enjoyment of a high level of physical and mental health) |
| Article 24 (rest and leisure) | Article 25 (right to partake in public affairs) | Article 15 (participation in cultural life) |

Article 25 (adequate standard of living)

Article 27 (participation in community and cultural life)

Article 29 (full and free development of personality)

Article 27 (enjoyment of culture, freedom of religion and use of own language)

Note. These rights, drawn from the International Bill of Rights, may be made significantly more attainable through the achievement of PSE, particularly as PSE credentials relate to improved labor market access (Hajer & Saltis, 2018). Sources: United Nations, 1948; United Nations, 1966; United Nations, 1976.

Neoliberalism and the Privatization of PSE in Canada

Neoliberal policies are oriented towards privatizing, commodifying, and deregulating governmental economic activity, creating an environment of individualism and capitalist competition (Giroux, 2014). Neoliberalism places responsibility for social advancement and economic success squarely on the shoulders of the individual, without necessitating government investment in social structures or supports benefitting systemically marginalized and disadvantaged individuals and groups. As education plays an empowering role in an individual's life, it should be universally conceptualized as a public good (UNESCO, 2018). Neoliberal policies privatizing higher education are in direct conflict with this conceptualization. In the early 1980s, Canada experienced a dramatic shift in fiscal policy wherein the Bank of Canada introduced crippling interest rates, prioritizing individual wealth accrual at the expense of the overall economy. This was a stark shift towards neoliberal priorities that has continued to the present day (Stanford, 2014). Between 1985 and 2013, Canada's spending at all levels of government as a percentage of GDP fell from 48% to 41%, following neoliberal ideals that governments should reduce their expenditures to allow the free market to operate (OECD, 2020b).

Private market economics are increasingly included in Canadian PSE policy, as individual provincial governments strip funding from institutions and reconfigure student aid, lessening affordability and accessibility (Government of Alberta, 2019; Government of Ontario, 2019a; Lawryniuk, 2019). Public spending for tertiary education has fallen 11% since 2000, while private spending (by private companies primarily on work-based training programs) and spending by individual households have risen (OECD, 2020a). Neoliberal rhetoric fosters an environment of blame and shame; economically and socially disadvantaged individuals are accused of laziness and freeloading when relying on social support to negate inequalities that perpetuate their marginalization (Giroux, 2014). As PSE credentials are increasingly crucial to achieving financial success throughout one's life (Hajer & Saltis, 2018; Muller, 2002), neoliberal economic policies thus generate a cycle of oppression wherein marginalized people have limited access to the tools they need to break free of poverty and dependency (Biss, 2017).

As post-secondary institutions are defunded and non-repayable student aid decreases (i.e., tax credits, bursaries, and grants), PSE becomes increasingly financially inaccessible (Ennew & Greenaway, 2012). Students receive loans and grants through both federal and provincial governments, leaving them vulnerable to changing political tides in their province of residence and perpetuating inequity for students between provinces. Altering non-repayable support for students is one of the ways provincial governments enact neoliberal economics and shift the burden of affordability to students, as is the case in Ontario and Alberta. Defunding institutions themselves to push PSE administrations to increase student tuition and fees is another mechanism through which neoliberal policies worsen fiscal accessibility for students. Ontario and Alberta were chosen as case studies due to their recent and significant political shifts towards conservative neoliberalism, resulting in worsened PSE accessibility in both provinces. Ontario is Canada's largest province (Statistics Canada, 2021), with a significant proportion of Canada's PSE students, and their alterations to PSE support and management have significant negative impacts on students across the province (Government of Ontario, 2019b; Nanowski, 2019). Alberta's UCP government continuously enacts neoliberal PSE funding cuts that have drawn significant media attention and represent a cautionary example of hindering the right to higher education for other provincial governments in Canada (Government of Alberta, 2020). The provincial budgets of each province (Government of Alberta, 2019; Government of Ontario, 2019a) were analyzed to deconstruct how each provincial

government changed PSE support, through changes to student aid and direct funding to institutions. This is in contradiction with Canada's commitment to accessible PSE based on merit through international human rights law. Media detailing student experiences were also reviewed to capture a snapshot into the human cost of these neoliberal policies. Examining the mechanisms through which neoliberal governments worsen PSE accessibility allows for a deeper understanding of the nuances of providing inclusive PSE while illuminating the consequences of policies that are often promoted as cost-saving but come at the ultimate cost of equity, inclusion, and human rights.

Ontario

Doug Ford was elected as Ontario premier in June 2018, and one of his cost-saving efforts was as a \$670 million cut to the Ontario Student Assistance Program (OSAP; Government of Ontario, 2019a). Canadian students who are seeking financial aid apply to access both federal and provincial support through their province of residence. Therefore, students in Ontario who seek any form of financial aid are required to apply through the OSAP system to access any kind of government support (Government of Ontario, 2019b). Every Ontarian student seeking financial aid is therefore affected by OSAP policies. Before Ford's tenure, an initiative was passed in Ontario to make tuition free for low-income students and to increase the number of grants that students could receive (Nanowski, 2019). This program was overturned, and the overall amount of financial aid students were able to receive through the OSAP program was decreased via changed eligibility requirements to account more for familial income, and by converting much of the allocation a student could receive from a grant into a loan (Government of Ontario, 2019b). Shifting aid from non-repayable to repayable aid significantly increases the overall debt load of the student and represents ongoing financial hardship as they progress in their life and career. The announcements of the OSAP cuts accompanied the announcement a previous tuition freeze would be lifted while mandating a 10% tuition reduction (Government of Ontario, 2019a). Though a tuition decrease would appear to support affordability for higher education in Ontario, the swift reduction that this cut represents to the operating budgets of post-secondary institutions mean that students may receive lower quality education (i.e., bigger class sizes and less individualized instruction) and support services on campus, including advising and financial aid staff, are likely to be cut. Cutting supports directly impacts the associated rights and services that allow students to realize many interconnected human rights. The 10% tuition savings that students may realize also is not representative of any net savings for low-income students when considered with the simultaneous reduction in OSAP and the debt to grant ratio that students now need to contend with to pursue their studies.

These policies make higher education less accessible both for prospective and current students, preventing 34,000 students from receiving aid that they previously could have accessed (Sharp, 2021). OSAP's revision meant that current students may be unable to continue in their studies or may reduce their course load to undertake part-time employment to afford their education. Students who are unable to continue their studies most likely already carry student debt (Canadian University Student Consortium, 2018). If they are unable to ultimately earn their credential, they face paying off government loans while earning lower wages due to their lack of completed formal education (Letseka, 2010). One student reported her OSAP allocation was cut nearly in half, from \$7,200 in the 2018/2019 academic year comprised of both loans and grants to \$4,200 in the 2019/2020 academic year comprised entirely of loans (Nanowski, 2019). Due to this cut, she anticipated needing to take on a part-time job to cover her expenses while taking a smaller course load, consequently delaying her graduation. Other students described the fiscal impact on supports for students with disabilities, worried that they would have to take more time to complete their degree (resulting in further debt) and questioned if they should drop out entirely to get full-time work to support themselves and their families (Nanowski, 2019). Students who do not need to seek government assistance to access higher education are largely unaffected by these changes, reinforcing the disproportionate impact these policies have on low-income students. Adjusting the eligibility for student aid and excluding students due to financial means directly contradicts with the principle of equitable higher education based on merit, which Canada has committed to through the aforementioned UN instruments (United Nations, 1948; United Nations, 1976; United Nations, 1989).

Alberta

Alberta underwent a significant political change in 2019 with the election of the UCP party, led by Jason Kenney. Though Kenney's provincial budget makes cuts to nearly every social service (Government of Alberta, 2019), his

attacks on funding for higher education are particularly egregious. Under Kenney, a previous tuition freeze was lifted, resulting in a maximum seven percent tuition increase annually for up to three years, totaling twenty-one percent (Government of Alberta, 2019). The tuition freeze removal aims to “realign the balance between taxpayers and students’ investment in their future” (Government of Alberta, 2019). Replacing public investment with private financial responsibility is classically indicative of neoliberal policies that serve to exclude low-income students from realizing their right to PSE. Alberta’s underfunding of several aspects of higher education, including cutting PSE funding by \$690 million over three budget cycles (Narvey, 2021) and removing tuition tax credits, represents a multifaceted attack on PSE accessibility and affordability (Government of Alberta, 2019). These policies further exclude students due to financial means, meaning that students with sufficient merit to pursue PSE are not able to access higher education despite their academic capabilities, again in direct contradiction with the UDHR, ICESCR, and CRC.

While the Alberta government frames the cuts as a positive change to shift affordability towards the individual, the resulting impact is that students with available financial resources will still be able to access post-secondary education, and those without will be less likely to participate. This inequitable impact on low-income students negatively affects their future earnings and their participation fully in the labour market (Newton et al., 1981), described astutely as “kneecapping a generation” (Lawryniuk, 2019, p. 1). Alberta is also committing to implement performance-based funding, wherein funding for PSE is contingent on graduate salary and employment (Barnetson, 2020). Performance-based funding further entrenches inequalities within PSE systems, allowing governments to prioritize programs and disciplines aligned with idealized job market outcomes, though predicting the demand for a particular set of skills or education at the outset of a student beginning a degree is unreliable at best.

Provincial policies such as Alberta’s illustrate the swift capacity for provincial governments to limit PSE accessibility, creating inequities not only between students of varying socioeconomic classes but also for students between provinces. The differential in tuition, fees and support between provinces across Canada highlights the problematic federal structure that allows for systemic inequality between students of different provinces. In keeping with human rights standards and principles, students across the country should be equitably able to access PSE regardless of their province of residence, which will not be the case so long as provincial governments hold significant power to gatekeep access and limit participation following fluctuating political priorities.

Recommendations

As Canada faces financial strain from both the Covid-19 pandemic and an over-reliance on extractive resources as a significant revenue, defunding higher education is a missed opportunity to strengthen economic prospects. The benefits of engaging in higher education extend far beyond the labour and economic benefits, but cognizant of the financial challenges of our current time, focusing in the short term on improving education accessibility would benefit both the economy and individuals. The research demonstrates a need for highly educated citizens (Hajer & Saltis, 2018; Letseka, 2010), and Canada can live up to its human rights commitments while investing in a sounder economic future as a nation. Investing federal capital in education opportunities that would generate jobs in the short-term (i.e., teaching, program management) and create a diversified workforce for the future while nurturing existing talents in citizens would support the realization of a host of human rights while providing national fiscal stability (Neem, 2019). Beyond economic benefits, supporting higher education also supports critical thinking, the development of interpersonal skills needed in an increasingly globalized society, and innovation that supports future socioeconomic development (Betcherman & Lowe, 1997; Neem, 2019). The creation of a long-term student support benefit, akin to the Canada Emergency Student Benefit (Government of Canada, 2021), of non-repayable aid is a short-term solution that would limit financial restrictions for low-income and marginalized students. Immediate removal of interest charges on existing student aid would also alleviate the “poor tax” that students who require financial assistance pay to pursue their education, and would lessen their overall debt load, allowing them to use their post-graduation salary to engage in the economy, better their futures, and realize numerous human rights.

In the long-term, a federally managed system of higher education that equitably funds all programs and paths of study would align most closely with the principles of universal higher education while honoring Canada’s obligations to human rights conventions and standards. Putting the onus of funding into the federal portfolio would better equalize

opportunity for students within and between provinces. If PSE were prioritized as a fundamental public good, similar to health care, institutions and students would be able to more confidently plan long-term with less uncertainty of provincial government shifts while ensuring equity for students regardless of their province of residence. Students would also be able to plan for their futures more securely, knowing that they would be able to pursue higher education if they met sufficient academic requirements. Composing a national post-secondary act supported with guaranteed funding would ensure the principles espoused in the UDHR (Article 26), ICESCR (Article 13(2)(c)) and CRC (Article 41) are universally realized and are not subject to a provincial political movement. Committing to the UNESCO Convention Against Discrimination in Education (UNESCO, 1960) would reify Canada's dedication to anti-discriminatory education and hold future federal governments accountable via further international law. As demonstrated, Canada has already legally committed to the human rights instruments that espouse these inclusive values, and the issue of systemic exclusion becomes more pertinent as achieving higher levels of formal education becomes increasingly important both socially and economically (Hajer & Saltis, 2018; Neem, 2019). Canada should be compelled to uphold these human rights principles in domestic practice by investing broadly in universal higher education to the betterment of all students, particularly those who would otherwise be excluded from realizing this right.

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