

Constitutional Equal Rights Across Socioeconomic Status



WORLD Policy Analysis Center

NUMBERS TO NOTE

59%

of constitutions include guarantees of non-discrimination on the basis of SES

34%

of current constitutions adopted before the 1970s guarantee equality or non-discrimination on the basis of SES

83%

of current constitutions adopted in 2010–2017 guarantee equality or non-discrimination on the basis of SES

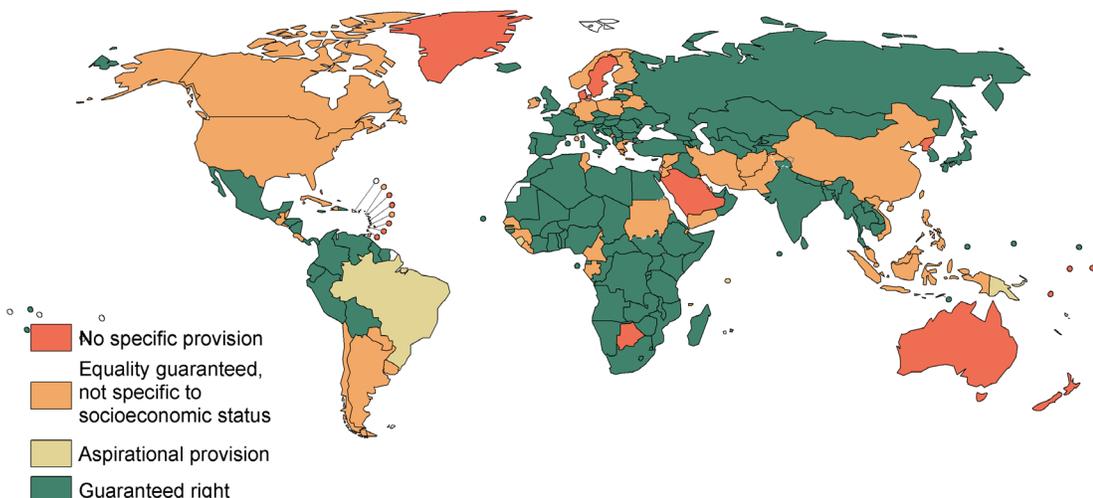
ABOUT ADVANCING EQUALITY

To learn more, please see **Chapter 8** of the open-access book [*Advancing Equality: How Constitutional Rights Can Make a Difference Worldwide*](#) (Jody Heymann, Aleta Sprague, and Amy Raub; University of California Press, 2020).

Analyzing the constitutions of all 193 United Nations countries, *Advancing Equality* traces 50 years of change in constitution drafting and examines how stronger protections against discrimination, alongside core social and economic rights, can transform lives.

- Among the first constitutions, discrimination based on socioeconomic status (SES)—a measure of social position that often includes inherited status, income and wealth, educational attainment, and occupation—was common
 - In **France** and the **U.S.**, the 18th-century constitutions allowed for restricting full rights to property owners
 - In **Peru**, the 1823 constitution conditioned the right to vote on literacy, at a time when formal education was far from universal
- Today, more rigid distinctions in rights and opportunities on the basis of SES have declined. However, discrimination and disparities remain:
 - In **India** and the **U.S.**, studies show that job applicants with names or addresses indicating lower SES receive fewer call-backs
 - Likewise, in the **U.K.**, over a quarter of people report facing discrimination because of their accents, which are often class signifiers
- Globally, low SES has been identified as a leading determinant of both health disparities and unequal educational opportunities
- Explicit protections on the basis of SES have provided a foundation for reforming discriminatory laws:
 - In **Nepal**, advocates successfully challenged a school’s policy of admitting only members of higher castes
 - In **Belgium**, the Constitutional Court found that workers in “blue collar” and “white collar” jobs should be entitled to sick leave on the same basis
- Likewise, explicit protections of the rights to health and education regardless of SES have made a critical difference for equal access to fundamental services and institutions:
 - In **Kenya**, the High Court ordered

Does the constitution explicitly guarantee equality or non-discrimination across socioeconomic status?



hospitals to discontinue their practice of detaining patients who could not pay their bills, which had resulted in the grave mistreatment of two women who had just given birth

- In **Colombia**, the Constitutional Court ruled that a girl assigned to a school outside of her neighborhood, which would require her to take on unmanageable transportation costs, had the right to attend a local school instead
- While overall guarantees of equal rights can also make a difference, some courts are reluctant to find they extend to SES:
 - In the **U.S.**, in the landmark case of *San Antonio v. Texas*, the Supreme Court upheld financing of public schools based on local property taxes, a policy that results in lower funding for schools in poor neighborhoods, reasoning that “poverty is not a protected class” under the Equal Protection Clause
- Overall, just 59% of constitutions include guarantees of non-discrimination on the basis of SES
- However, some constitutions include restrictions on the basis of SES, including 24% that limit the right to hold office, typically for

personal debt

- 53% of constitutions guarantee the right to free primary education for all citizens, though only 30% extend this same guarantee to secondary school; 10% guarantee universally free medical care, and an additional 6% guarantee the right to medical services specifically for low-income adults and children
- Over time, protections of equal rights regardless of SES have become more common:
 - Just 34% of current constitutions adopted before 1970 guarantee equality and non-discrimination on the basis of SES
 - Among constitutions adopted between 2010 and 2017, 83% include guarantees
- Beyond strengthening rights on paper, more must also be done to support access to justice across SES, including:
 - Guaranteeing access to lawyers, regardless of income
 - Ensuring groups can bring cases collectively
 - Ensuring lawyers and activists can bring cases on behalf of populations who may not have access to the courts themselves



WORLD Policy Analysis Center

ABOUT WORLD

The **WORLD Policy Analysis Center (WORLD)** aims to improve the quantity and quality of globally comparative data on policies affecting health, development, well-being, and equity.

With these data, **WORLD** informs policy debates; facilitates comparative studies of policy progress, feasibility, and effectiveness; and advances efforts to hold decision-makers accountable.

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Explicit constitutional guarantee of equality or non-discrimination across socioeconomic status by year of constitutional adoption

