

Beyond legalism in turbulent times: re-grounding UK social work in a richer international human rights perspective

Abstract

Human rights have always been intrinsically woven into social work, but in the UK often in a way that is either vague, or wholly legalistic. In this article, we make a case for embedding a broader and richer concept of human rights in UK social work practice and education. We contrast the international social work perspective on human rights with that of UK professional codes, and suggest that the narrow and uninterrogated conceptualisation of human rights in the UK may be acting as a barrier to British social workers fully understanding and engaging with broader human rights agendas of the sort found in international practice. We argue for the merits of regrounding UK social work in this broader human rights concept, in which radical and emancipatory approaches can be underpinned by a common and unifying rights-orientated perspective. We make this argument, initially, in the context of the Human Rights Act 1998 remaining in UK law, which we see as entirely necessary for the protection of human rights in social work in the country, but insufficient for a broader, richer concept. We also however consider a scenario in which the Act is replaced by a British Bill of Rights, and argue that such a development would present a further urgent need for embedding a broader human rights concept in UK social work. We close by setting out some of what such a concept might involve.

Keywords

Human Rights, Social Work, Human Rights Act, Legalism, International social work, UK.

1. Introduction

Human rights in social work

Social work international organisations claim that social work is ‘a human rights profession’ (IFSW-Europe, 2012: 5; Wronka and Staub-Bernasconi, 2012: 70). Its human rights roles, it is argued, derive from a dual mission of assisting the particular needs of individuals, families, and communities whilst seeking the development of fairer social structures (IFSW-Europe, 2012) upholding people’s dignity, security and development (IFSW, 1988). Such broad concepts of human rights in international social work contrast with their conceptualisation in United Kingdom (UK) codes of practice, which we argue are at some points reductionist and legalistic, at others vague. We argue that conceptualisations of human rights in UK social work, where not vague, largely revolve around a compliance with the legal requirements of the UK Human Rights Act 1998 (which establishes human rights of a civil and political nature) (Great Britain. Elizabeth II. Chapter 42, 1998), and rarely envisage broader, non-legalistic perspectives.

Our aims in this article

In this article, we seek to contrast UK and international perspectives, and make a case for a broader, richer concept of human rights in UK social work practice. We suggest that the present narrow UK conceptualisation of human rights may be acting as a barrier and preventing UK social work practitioners and educators from fully engaging with the broader human rights agendas of social work international organizations, and with human rights-based social work practice models developing in other European countries and other parts of the world (Lorenz, 2016; Higgins, 2015). We argue therefore that the UK profession would benefit from a more enriched understanding of human rights to underpin social work values and practice, particularly in current national and international circumstances.

We make this argument, in the first instance, in the context of the Human Rights Act 1998 (HRA 1998) remaining in UK law, which we see as necessary for the protection of human rights in UK social work, but insufficient for a broader, richer concept. However, the recent general election in the UK resulted in the Conservative Party continuing in government. The Conservatives have in successive manifestos pledged reconsideration and outright replacement of the HRA 1998, and their present minority government status does not, in our view, remove the potential for the legal protections of the Act being loosened. We argue that this increases the urgency of enriching the human rights concept in the social work professional consciousness. We end with some discussion about what this concept might look like.

Our approach

The literature-based research underpinning this article consisted of a review of existing social work literature on international approaches to human rights, and analysis of how the main codes that govern UK social work conceptualise human rights considerations. We looked specifically at the Code of Ethics of the British Association of Social Workers (BASW), and the differing standards/ practice guidance codes that govern social work in England, Northern Ireland, Scotland and Wales. We looked at the references made to human rights in the body of each code, examining how the term was used, and what expectations on social workers to practice in a human rights-informed/compatible way looked like. These documents represent, in our view, the primary source of guidance which students and practitioners refer back to, and this was the rationale for focussing on them. We also examined the 2017 manifestos of the four main parties in the UK and, given the brevity and vagueness of the Human Rights policy in the 2017 Conservative Party Manifesto (the present party of government) scrutinised a human rights policy document published by the party, before the 2015 UK general election looking at areas of incompatibility with social work values and broader human rights positions.

Ultimately, this research was informed and motivated by our insights on the topic, which draw from our experiences as qualified social workers (trained in Spain and England respectively) and social work lecturers in the UK, as well as from our previous research on human rights and social justice related topics in social work (e.g.).

We believe this article offers an informed, relevant and timely discussion around how human rights are understood vis-à-vis the role of UK social workers in rapidly changing contexts, which is impacting directly on key social work professional values. We believe this offers a valuable resource for bridging an understanding of human rights concepts and developments outside and within the UK, promoting in the latter a richer understanding and practice mentality regarding human rights-based social work. Notwithstanding these contributions, we acknowledge that the arguments we put forward are literature and opinion-based. These could be further corroborated, or questioned, by future empirical research on the topic from different stakeholders of UK social work. We keenly encourage such research.

2. Social Work as a human rights profession

Social work is claimed as a ‘human rights profession’ (IFSW-Europe, 2012: 5; Wronka and Staub-Bernasconi, 2012: 70) with a human rights tradition ‘of more than 100 years’, which is however ‘mostly unknown’ (Staub-Bernasconi, 2016: 40). Early social work founders and leaders, at the end of the 19th Century, were involved in human rights movements and international human rights organisations such as the League of Nations, the Red Cross or Save the Children (Healy, 2008;

Reichert, 2003). And there are many documented accounts throughout social work's history of involvement with human rights activism across the world. This includes involvement in the USA Civil Rights movement, antiapartheid movement in South Africa, the non-violent tradition of Gandhi, or campaigns for the indigenous people's rights (Ife, 2016; Staub-Bernasconi, 2016; Healy, 2008). Moreover, there are incontestable similarities between social work's mission and values and human rights language and discourses, as reflected in worldwide social work codes of ethics, official statements and theoretical developments (Healy, 2008; Banks, 2006; Reichert, 2003). However, this fundamental relationship has tended to be implicit, and at times transgressed and ignored by social work (Ferguson et al., 2017, forthcoming; Ioakimidis, 2015; Dominelli, 2012; Lee, 2011; Lundy, 2011; Dominelli, 2010; Ferguson, 2008; Payne, 2005; Finn and Jacobson, 2003).

In more recent years, human rights perspectives are gaining prominence in the statements of International Social Work organisations (Jones and Truell, 2015; IFSW and IASSW, 2014; IFSW-Europe, 2012; Sewpaul and Jones, 2005; IASSW and IFSW, 2004; IFSW, 2000) and social work theory internationally; many are claiming that the coupled principles of social justice and human rights enable the profession to face the challenges brought about by neoliberal capitalism and globalization (e.g. Huegler et al., 2012; Staub-Bernasconi, 2011; Ife, 2008). These challenges link with social problems deriving from increasing inequalities, poverty, social exclusions and cultural and religious conflicts and violence (Sewpaul, 2016). Sewpaul (2016: 32) has recently highlighted how, 'within the [global] neoliberal framework'

social and economic exclusions are fostered by the process of othering, based on criteria such as "race", religion, ethnicity, nationality, sexuality and gender, and refugees and asylum seekers are deemed to be the undeserving other, which is accentuated in the existing climate of global terrorism and Islamophobia

In this global context, it is argued, human rights offer a unique discourse for strengthening and unifying the profession under a common framework which emphasizes individual rights, the elimination of discrimination, and humane, sustainable development of societies towards greater social justice (IFSW and IASSW, 2014; IASSW and IFSW, 2004, Ife, 2008, Staub-Bernasconi, 2011). The International Association of Schools of Social Work (IASSW) and the International Federation of Social Workers (IFSW) (IASSW and IFSW, 2014) claim that 'advocating and upholding human rights and social justice is the motivation and justification for social work'. This assertion, which is part of the commentary notes of the 2014 International Definition of Social Work and can be seen as a political statement in its own right, involving a distinctiveness claim with other caring and social professions.

Thus, a human rights approach can work on two levels; repositioning social work as a human rights profession allows it to be seen as having a particular role to play in fulfilling the worldwide collective

struggle for human rights and social justice (i.e. it joins, in a full way, the pantheon of human rights disciplines, professions and social movements) (Ife, 2016; 2008). It also strengthens and links different emancipatory models of practice under a common framework (Cemlyn, 2008b; Ife, 2008; Méndez Fernández et al., 2006; Reichert, 2003). However, to do so, the human rights concept needs to be fleshed out beyond the legalistic, negative rights concept.

3. International social work perspectives on human rights

Worldwide, human rights are most commonly associated with the United Nations human rights machinery, built upon the United Nations Declaration of Human Rights of 1948 (UNDHR). The UNDHR defines human rights as inalienable rights belonging to every person for the fact of being human. These are rights and freedoms that allow us to satisfy fundamental human needs and which ‘set the foundation of freedom, justice and peace in the world’ (United Nations, 1949: para.1). The human rights established by the UNDHR included civil, political, economic, social and cultural rights and reflected the commitment of countries across the world to settle the basis of a world order in which the contemporaneously recent horrors of World War II and the Nazi Holocaust could not be repeated and poverty was alleviated (Ife, 2009; 2008; Dominelli, 2007; Finn and Jacobson, 2003; Reichert, 2003; United Nations, 1994; 1949).

Although the UNDHR emphasises the interdependence and indivisibility of all human rights, analyses of the Declaration commonly divide these rights into three sets or generations:

- 1) A first set of negative rights relating to political and individual freedoms that restrict governments’ roles and conduct towards citizens;
- 2) A second set of positive rights that ensure governments seek to grant all citizens the best living standards the resources of the countries allow;
- 3) A third set of collective rights that requires the solidarity and cooperation among nations on global issues and development.

The commentary notes of the international definition of social work (IFSW and IASSW, 2014: para.8) assert that ‘Social work embraces first, second and third generation rights’. A strictly legalistic understanding of human rights in UK social work, however, focuses exclusively on the compliance in practice with the first generation civil and political rights enshrined in the HRA 1998, preventing an understanding of second and third generation human rights issues from being incorporated within a human rights-based practice framework in the profession.

From the broader view of human rights’ role in the social work profession promoted by the IFSW and IASSW (IASSW) (2014; 2004), the current compartmentalisation of human rights in UK social work

is problematic as it is inconsistent with the UNDHR-based principles of interdependence and indivisibility of human rights. This individualist legal understanding of human rights arguably reflects Western biases in which individualised civil and political rights are deemed a priority against social, cultural and collective rights (Evans and Ayers, 2006).

Much of the theoretical focus in international social work currently lies in the development of social work's broader, relationship-based understanding of the human rights involved in the social problems of clients. From this perspective, Ife (2016: 7), for instance, appeals for social workers to go beyond such legalistic approaches and engage with human rights narratives 'based on relationship, on human rights as collective, and as social' and which have the potential to form the basis for daily practices of professional social work and to enhance social work's transformative potential.

4. Human rights in UK social work codes

In Western social work, there has been a dominance of legalism-based understandings of human rights, deriving from European Enlightenment and UN developments of human rights instruments and law (Ife, 2016) This appears to be very much the case for social work in the UK, where the understanding of human rights tends to be confined to civil and political rights enshrined in the European Convention on Human Rights and Fundamental Freedoms (ECHR) and incorporated in UK domestic legislation with the HRA 1998. The Equality and Human Rights Commission of the United Kingdom (EHRC), for example, defines human rights from a legalistic perspective as fundamental rights and freedoms of any person in the world, but which 'are not just abstract concepts – they are defined and protected by law' (EHRC, 2016: para.2).

Social work is since 2001 a statutory regulated profession in the UK, which has been subject in the last decade to continuous and ongoing reviews and reforms (Cromarty, 2016). Social work regulation competencies are a devolved matter, hence there are independent regulators (referred to as Councils) for social work in England, Northern Ireland, Scotland and Wales. The written standing of human rights in UK social work codes of practice, ethics and professional identity is mixed. In some places the implication is that they rest on a legalistic understanding of human rights, and in others the sense is much more general, but ill-defined. Primarily however, what is striking is the lack of clarity and definition of exactly what human rights should look like, in UK social work.

The Social Work Professional Capabilities Framework (PCF) for England (BASW, 2017) is the overarching framework of professional standards in social work practice in England, which is split into nine domains and identifies expected levels of capability from becoming a social work student to becoming a Principal Social Worker. The PCF explicitly mentions human rights in Domains 2 and 4 (addressing 'Values and Ethics' and 'Rights, Justice and Economic Wellbeing' respectively).

Experienced social workers are required to apply ‘professional ethical principles to decision-making and practice, supporting others to do so using a legal and human rights framework’, as well as to ‘advance human rights and promote social justice and economic wellbeing’. They are also expected to ‘recognise the fundamental principles of human rights and equality ... (which are) ... protected in national and international law, conventions and policies’, and to ‘model best practice in applying human and civil rights, providing support to others and challenge where required’ (BASW, 2017: 3). This does not provide much clarity around the understanding of human rights the PCF seeks to advance for practitioners; there is one semi-explicit reference to human rights as a legally protected concept, and another as a framework (alongside ‘legal’ frameworks rather than being an example of a legal framework itself). In other places however, the code places human rights alongside equality, social justice, economic wellbeing and civil rights, which suggests those concepts are connected to, but distinct from, human rights. This vagueness of commitment is not a new issue; Cemlyn (2008a) makes similar criticisms of the forerunner to the PCF, the General Social Care Council codes of practice 2006 (GSCC, 2006).

The main codes and guidance for practice from Scotland, Wales and Northern Ireland make reference to human rights, and to the HRA in places, but generally these documents are vague and unspecific, or legalistic, in their interpretation of human rights and the Act. There are also multiple references in all documents to rights more generally that arguably fit with social work values in a broader sense, though these rights are not always set out explicitly.

In terms of vague references to human rights, the Revised Social Work Standards for Scotland (SSSC, 2016) have no specific references to human rights, despite the report from those involved in revising those standards (Daniel et al, 2016) opening with reference to the England PCF’s Domain 4 that social workers should ‘advance human rights and promote social justice’ (p.9). The Practice Guidance for Social Workers in Wales (Care Council for Wales, 2014) and the Northern Ireland Standards of Conduct and Practice (NISCC, 2015) both open with preambles based on the international definitions of social work, which state that principles of social justice and human rights are fundamental for the profession. The Northern Irish standards also include a requirement for social workers to support ‘Rights: the entitlements that individuals have legally, socially and ethically, including human rights’ (p.39) but does not here specific which of those categories human rights belongs to.

In terms of legalism and reductionist references to human rights specifically as legislation, the Wales Standards of Practice (Care Council for Wales, 2014) require practitioners to ‘familiarise (them)self and comply with organisational policies and procedures’ (p.11) in which they include the ‘Human Rights Act 1998, and associated...protocols’ including UN rights conventions and British legislation (p.11-12). The Wales guidance also refers readers to the Equalities and Human Rights Commission.

There is one specific exception to the vagueness and legalism around human rights that characterises the UK codes; section 7 of the Wales Practice Guidance (Care Council for Wales, 2014) states that the ‘Human Rights Act 1998 applies to children and young people and adults... If you are working with children and young people, it is essential that you fully recognise their distinct needs and specific rights that may be different to those that apply to adults’ (p.10). The standards, citing the UN Convention on the Rights of the Child establishes ‘core aims’ which include ‘hav(ing) a comprehensive range of education and learning opportunities’, ‘...a safe home and a community which supports physical and emotional well-being’, ‘enjoy the best possible health and not being’ and ‘...not disadvantaged by poverty’ (p.10). We interpret these aims as having inherent aspects of positive, second generation human rights, possibly because as well as the HRA, they draw on the UNCRC which we argue is more aligned with positive rights.

The British Association of Social Workers (BASW) Code of Ethics, applicable to the four UK nations, initially lists human rights as a value (drawing from the 2000 International Definition of Social Work (IFSW, 2000)) again alongside social justice and professional integrity. It places ‘respect for human rights and a commitment to promoting social justice’ at ‘the core of social work practice’ and describes both as ‘motivation and justification for social work action’ (BASW, 2014: 5). The BASW code makes reference to the UNDHR, and says practitioners should use authority in accordance with human rights principles. The code also exhorts practitioners to challenge abuse of human rights, challenging ‘discriminatory, ineffective and unjust policies, procedures and practice’, as well as to not colluding with the erosion of human rights (examples given include systematic abuse, detention of child asylum seekers and threats to family life of those in vulnerable positions) (BASW, 2014: 14). Neither the PCF nor the BASW Code of ethics makes any distinction, explicitly, between negative, positive and collective (or first, second and third generation) rights. In defence of BASW, they recognise in a later published Human Rights Policy that the legalistic and narrow understanding of human rights in UK social work is the most pervasive one, asserting that ‘human rights as they have been passed into legislation in the UK have often been given a narrower meaning than the understanding social workers have as a profession’ (BASW, 2015: 4).

The 2017 Health and Care Professions Council (HCPC) standards for social workers in England does not explicitly mention human rights at all, and even as regards ‘rights’ more general, includes only the ‘need’ (rather than, say, duty) to ‘respect and so far as possible uphold, the rights ... of every service user and carer’ (HCPC, 2017: 9), ‘to assist (service users) to understand and exercise their rights’ and ‘be able to support service users’ and carers’ rights to control their lives’ (HCPC, 2017: 10). The focus, we argue, from the HCPC is on the practicable, and empowerment of the client to uphold their own rights, quite distinct from the language of universalism and positive or collective rights. From these sources, we are no closer to a clear view on the concept of human rights advanced in the core codes of UK Social Work.

In arguing that the conceptualisation of human rights in UK social work codes are generally either vague or legalistic, it is worth pointing out that the codes examined, make multiple reference to human welfare, economic wellbeing, justice, equality, and an enabling rather than restrictive application of law. For instance, in the BASW code we find the assertion that

Social work grew out of humanitarian and democratic ideals, and its values are based on respect for the equality, worth, and dignity of all people. Since its beginnings over a century ago, social work practice has focused on meeting human needs and developing human potential (BASW, 2014: 5).

All of these could fit into a wider second or third-generation human rights concept, yet in UK social work they are not so labelled or categorised. The challenge may be not in searching UK social work values for implicit human rights commitments (in principle if not always in action) but in getting them as understood as being human rights commitments explicitly. We argue that this kind of understanding of human rights in UK social work has led to the focus being on the legal processes, rather than on the wider ethical concept. We are advocating a rebalancing of that trend, for several reasons.

The first argument is concerned with where the moral focal point of the social work profession presently lies. Social work values contained in the codes which we have referred to are necessary and legitimate, but when conceptualised as values rather than also as rights, they unconsciously reside in the category of expectations upon the worker rather than also as the entitlements of the client, carer, family or community. Clark (2006) has argued that more attention should be paid to the moral positions of social workers, on the basis that the profession currently takes value-neutral position on human welfare and the good life. He argues that social workers should demonstrate virtuous character, and while we agree to a point, we also argue that the focus of what needs to change should go beyond (though still include) the practitioner's mentality. If considered as part of a broader human rights concept, the expectation subtly but importantly shifts from what the practitioner should believe in, important as that is, to what the client is entitled to. In current circumstances, where social work in the UK is already criticized for becoming increasingly residual and responsabilising, with more services being transferred from state to independent sector (Milbourne and Cushman, 2013; Hatton, 2008; Ferguson, 2007), we argue it would be beneficial to shift the professional mindset from simply concentrating on values that are *good* for the worker to hold, to being rooted in entitlements and treatment of people, by no other broad qualification than the fact that they are people, that is both *good* and *right*.

The second argument is rooted in the re-conceptualisation of UK social work as part of a global profession, which we argue has fallen from the agenda in this country. In the context of the discussions of human rights in social work, Banks (Banks et al., 2008: 288) synthesises, the profession can be considered on two levels; 'necessarily rooted in particular nation states, cultures,

and legal and policy frameworks’ and as ‘an international social movement, concerned to work for social justice worldwide’. Both levels of the profession arguably have strong implications for the human rights concept the profession utilises. Upholding human rights through social work practice at these two levels would require an understanding of human rights that involves, but needs to go beyond, a solid knowledge of individual rights (Banks et al., 2008) and ‘conventional legal-based human rights narratives for social work’ (Ife, 2016: 1) enclosed within human rights legalistic approaches. We currently live in an era in which nationalism, inter/intra-cultural social division and debates around borders are on the increase. More needs to be done in social work and society to broaden an ethic of human universality, and undifferentiated entitlement not only to minimal rights but to a good life of meaningful opportunity. Given the national and global circumstances in which we find ourselves, we argue that a broader concept of human rights would serve to enable a more meaningful, more deep seated sense of genuine empathy – of genuine attempts to understand the experience and situation of the other, combatting the idea of the other as underserving as articulated by Sewpaul (2016).

5. The political context of the Human Rights Act

The narrow, legalistic UK conceptualisation of human rights may stem from the way they have been understood in British politics over recent decades. Having been introduced by the 1997-2010 Labour Government, successive Conservative Party leaders have mooted or actively sought repeal or overhaul of the HRA 1998. A Conservative policy paper published ahead of the 2015 UK General Election criticised the Act as being against common sense, open to trivial claims and as against UK parliamentary sovereignty and the ability of the UK state to defend itself (Conservative Party, 2014). We should say, clearly, that while neither of us are political conservatives, this paper is not in and of itself a comment on the UK Conservative Party in its own terms, but in its place as the present party of government. That government, elected as a majority in 2015 then reduced to a minority in the 2017 election, has expressed interest in replacing the Act with a British Bill of Rights (House of Commons Library, 2016), though they have not as yet made this a legislative priority, initially because of the government’s slim then-majority (Swinford, 2017) which has now gone. The 2017 Conservative Manifesto was more circumspect on the matter of human rights law, but also more vague, only making provisions around the status quo within the limits of the Brexit negotiations and the next parliament (the latter being of uncertain length at present). It states that

We will not bring the European Union’s Charter of Fundamental Rights into UK law. We will not repeal or replace the Human Rights Act while the process of Brexit is underway but we will consider our human rights legal framework when the process of leaving the EU concludes. We will remain signatories to the European Convention on Human Rights for the duration of the next parliament.’ (Conservative Party Manifesto 2017: 37)

The only other mention in the manifesto is that British troops will be subject to the Law of Armed Conflict , rather than the ECHR (p.41).

Despite the implicit back-step this could be argued to represent, we remain concerned that, in the medium term, the Act could be altered or replaced, and this will have profoundly negative consequences for human rights concepts in UK social work.

The replacement of a majority with a minority Conservative government does not to our minds automatically equate to stronger footing for human rights, for several reasons; firstly, the Democratic Unionist Party (DUP), on whom the Conservative government is relying for support, are themselves a Eurosceptic party with conservative views on what are often considered social rights issues, such as abortion and LGBTI rights (Bush, 2017). Secondly, following the terror attacks during the election, Conservative rhetoric around amending rights legislation toward the prevention of terror became a recurrent feature of the campaign (BBC News, 2017). In the horrific instance of further attacks, it is conceivable that such an agenda may resurface even with a minority government. Thirdly, the now-Prime Minister previously said she favoured withdrawal from the ECHR and would campaign to leave it (Worley, 2016). Finally, there is the possibility of a non-conservative government coming to office with or without a further election. The 2017 election manifestos of the other major parties – the Labour Party, the Scottish National Party and the Liberal Democrats - generally included maintenance of human rights, either in general terms or with reference to the Act and the ECHR , and on the promotion and embedding of human rights in and through trade and international development policy (Labour Party, 2017; Liberal Democrats, 2017; Scottish National Party, 2017). In such an instance, the long standing of the subject of Human Rights law reform in the Conservative party would suggest it would be a policy focus for a future Conservative opposition and then potentially Conservative government. Therefore, in our view, the potential reform or replacement of the HRA 1998 remains pertinent as a concern.

Hitherto we have argued for a fuller, richer and deeper concept of human rights in social work in current circumstances, in which we retain the HRA 1998 and build upon it. We should however consider the position of social work in the very possible future instance of the UK scrapping the Act. In some ways the profession's position would depend on what the Act was replaced with, but we argue that the legalistic concept and the Human Rights Act 1998 are, if insufficient, nonetheless essential for both the letter and spirit of human rights in UK social work. We make the argument that whatever the replacement, the simple fact of the replacement of the Act will have certain negative effects.

6. Implications for social work of the UK replacing the Human Rights Act

Advocates of scrapping the HRA frequently advance its replacement with a British Bill of Rights. In our view, such a change risks making UK social work's commitment to a broader concept of human rights thinner and weaker, for several reasons. We discuss some of our criticisms, the core points of which are the loss of a sense of universalism of rights and the introduction of differentiated use of rights based on subjectively perceived 'seriousness' of circumstance, and on country of birth. We also argue strongly however that in a situation in which the HRA is replaced with a British Bill of Rights, it is all the more urgent and important to have a deeper sense of human rights embedded in social work that can survive independently of the Act.

Firstly, there is the symbolism of the withdrawal. The scrapping of the HRA could result in a further blow to the sense of universality of entitlement, including even before the law. Though it is an aspect of practice not often spoken about, this element is particularly important for work with clients that social workers might find personally challenging to work with – parents who have abused their children, people who have been convicted for sexual offences, individuals who have committed very violent crime. The professional obligation to this kind of equality of treatment will not of course die with the HRA, but the symbolism of scrapping the Act would represent a loss of one of the planks in the continuing mission, not always easy, to treat everyone with a level of basic dignity, at those times where practicality, expediency or even gut instinct absent reflection might impede that value.

This symbolic effect in social work would be occurring in a wider context in which the British public would perceive, rightly or wrongly, that in scrapping the HRA, its government had lessened its commitment to human rights more generally. Social work would be practicing in a society where human rights, already understood as a set of legal obligations rather than a self-sustaining ethical stance, would have been symbolically resiled from by the government. Following the vote to leave the European Union (and this article is not a tract on those proceedings), a well-documented number of racist attacks and protests were recorded by police and the media (BBC News, 2016; Forster, 2016; Travis, 2016). Quite apart from the appalling nature of these instances, they were also based on misunderstanding of the referendum. We refer to this not to make judgements of the referendum, but to argue that changes of this sort have immediate symbolic effects that can be misunderstood, misrepresented and hurriedly acted upon. It will be incumbent upon social workers, per our professional values and ethics, to combat discrimination in an environment where discrimination may have been further legitimised in the popular imagination.

The aforementioned Conservative Party policy paper detailing a proposed replacement of the HRA with a British Bill of Rights (Conservative Party, 2014) creates several points of concern for social

work. The paper explicitly calls for smaller and more residual remit to focus human rights on ‘serious offences’, rather than what the proposal calls ‘trivial’ (Conservative Party, 2014: 7). The distinction between what is a serious and what is a trivial issue is unclear and subjective, and endangers the standing of wider and richer second or third generation human rights becoming embedded in social work and society. Social work frequently deals with issues that are both mundane and of vital importance to the client or family. Is the successful provision of a mid-level care package trivial or serious? Is the regularity of respite for a family with a severely disabled child trivial or serious? If the answer is that it depends on the severity of the situation, or the severity of the abuse, neglect or harm that has occurred, then recourse to human rights arguments and human rights protection has at a stroke become residualised. Put more plainly, if the HRA is replaced by law only for ‘serious’ cases, then by definition these rights are attached specifically to situations when things have gone very wrong, rather than to the spirit of preventative care. There are also concerns that the responsibilities of non-central government bodies, which could include local authorities and commissioned tax-payer funded independent sector providers, would not be clear under a British Bill of Rights (Stone, 2015). These two concerns taken together mean an uncertain situation for the concept of human rights at the level of most social workers’ day-to-day practice.

Secondly, the proposal argues for strengthening the link between rights and responsibilities in a British Bill of Rights. This has the potential to set a dangerous precedent – rights linked to responsibilities are, by definition, conditional, and one can lose them by not conforming to those conditions. Whilst many rights enjoyed by UK citizens and visitors, and by social work clients are conditional, it is a fundamental tenet of human rights that they be universal in terms of *who* by virtue of simply being human (United Nations, 1949), even if they are conditional in terms of *when* or *how* they are applied. Liberty, a campaigning organisation for fundamental rights and freedoms in the UK (Liberty, no date), make the distinction between rights coming with responsibilities, and rights that are conditional on the fulfilment of responsibilities. Pending further clarification, the notion of ‘strengthening the link’ is one that is dangerously vague with regard to the universality of human rights.

Thirdly, and continuing the theme of the risked decay of universal rights, the proposed British Bill makes nationalistic distinctions around who may avail themselves of certain rights. For example;

The Convention recognises that people have civic responsibilities, and allows some of its rights to be restricted to uphold the rights and interests of other people. Our new Bill will clarify these limitations on individual rights in certain circumstances. So for example a foreign national who takes the life of another person will not be able to use a defence based on Article 8 to prevent the state deporting them after they have served their sentence (Conservative Party, 2014: 6)

The example given here, of the deportation of a foreign national, is tantamount to a double punishment. Critics of the HRA may say we should not be concerned with the human rights of convicted murderers, but this change coming into force would by definition be entirely concerned with the human rights of a convicted murder, provided they are British-born, because this provision makes a distinction based on country of birth. Therefore the principle of universalism has been not only been abandoned, it has been replaced by a provision that discriminates by citizenship.

This could be considered an extreme example, but it would set a precedent for country of origin being a factor in who is able to avail themselves of, in this case, Article 8; a distinction which could establish case law for other scenarios. This would by definition represent an erosion of human rights, which social workers are professionally committed to standing against (BASW, 2014). Smith (2017) writing on the website 'About Human Rights' suggests that a British Bill of Rights could be a unifying force for the UK citizenry; our concern is that even if so, such unity would be born of nationalist partialism that has no place in UK social work, but that is already on the increase in UK welfare law and politics.

A recurring theme in criticisms of the HRA, is the acknowledgement by those who would overhaul it that human rights did not begin with the Act, and will not stop being important if it was replaced. We have argued in this paper that there are deficits to legalistic understandings of human rights, but we also argue that the legal concept and the HRA are essential, if insufficient, for both the letter and spirit of human rights in UK social work. Replacing the HRA with a British Bill of Rights would change the relationship between human rights and our professional, and require rewriting of those codes to set out social workers' responsibilities following such a change. Critics of the HRA in the UK frequently advance the argument that human rights themselves predate the Act, and will not be scrapped simply because the Act itself is (Conservative Party, 2014). If however the Act is scrapped or replaced, but social work still seeks to embody and pursue human rights in its practice and values, we will need to move on from the legal definition, because it will simply no longer be there to be drawn on in UK law¹. It is therefore all the more incumbent upon the caring professions, including social work, to start incorporating and advancing a concept of human rights that is closer to the second or third generation model. As removing general reference, even undefined, to human rights from social work codes would be unthinkable, it would be incumbent upon our profession to spell out our understanding of human rights. At the moment, that understanding, frankly, lacks conceptual clout.

¹ It needs to be noted however, that as far as the UK remains a signatory part of the European Convention on Human Rights and Fundamental Freedoms (ECHR), people in the UK will still be able to take human rights legal cases to the European Court of Human Rights.

7. Towards a broader understanding of human rights in UK social work

We have argued for the embedding of a broader, richer concept of human rights in social work both in potential situations where the UK retains or replaces the Human Rights Act. We seek here to set out some of what that concept might involve.

Central to this argument is the idea that to advocate a broad human rights concept to underpin social work practice is not to propose a completely new paradigm for social work. Many of the building blocks, including many radical and progressive approaches and therapeutic intervention models, are already established in social work thought. In advancing a broader human rights concept for UK social work, we are seeking to draw those progressive approaches together under a human rights perspective that embeds universal rights entitlement across borders, critical consciousness about structures, and the regrounding of values in the territory of client rights and opportunities rather than simply as practitioner attributes.

Existing building blocks

The differentiation between narrower and broader understandings of human rights in social work is relevant in the discussions about the theoretical and practice models for human rights-based social work practice, in that a broader understanding means that social workers can utilise the language of rights to support intervention, grassroots and community action and empowerment, whereas a narrower understanding roots human rights concerns purely in the purview of the legal system.

Wronka and Staub-Bernasconi (2012: 19) assert that:

For the narrower conception of human rights protection, one needs close cooperation with lawyers; for the broad conception, one can use various social work methods such as resource mobilization, consciousness raising, mediation, and empowerment. More specific methods include using the official instruments of the UN for complaints, monitoring, lobbying, and, more and more, also whistle blowing. But in many cases, one needs civil courage to stand up against actors in a power structure.

From a broad human rights framework embracing the three generations of human rights, any social work theoretical foundation or intervention consistent with a dual focus on assisting individuals (and groups) and bringing about social change on broader levels (which the IFSW and IASSW (2014) say social workers, globally, should do), can be safely situated in the terrain of human rights and considered a human rights instrument for guiding social workers' human rights-centred practice (Reichert, 2003: 228). In this vein, Cemlyn (2008b: 224-225) highlights the links among human rights and the different 'emancipatory' (literally 'setting free') approaches to social work 'that seek to challenge inequalities at structural and personal levels, promote greater autonomy and empowerment, and resist policies and practices that disempower and oppress'. These approaches may include radical,

structural, transformational or anti-oppressive social work (Cemlyn, 2008b), culturally sensitive and empowerment and strengths-based social work (Reichert, 2003), humanism (IFSW-Europe, 2012), dialogical praxis, feminism, participatory democracy or anti-colonialist practice (Ife, 2008) among others. 'A human rights perspective in social work' Cemlyn (2008b: 225) claims 'includes many of these [approaches'] elements: structural critique aiming for liberation from diverse oppressions; involvement and leadership by oppressed people; and a reflective and dialogical approach that links personal and collective change'.

Reframing existing emancipatory approaches into a human rights framework

The Global Standards for social work education (Sewpaul, 2005: 3) assert that social workers promote the realisation of human rights through interventions based on practice models and techniques that allow them to pursue a series of 'developmental, protective, preventive and/or therapeutic purposes'. These highlight a series of 'epistemological paradigms' of particular global relevance for the training of social workers that will be prepared to practice according to the professions' commitment with the principles of human rights and social justice (as specified in the 2000 International Definition of Social Work (IFSW, 2000)). These include an appreciation of diversity, a focus on capacity building and empowerment in work with individuals, groups, organisations and communities, or an emphasis on advocacy and the promotion of change regarding social structures, which marginalize and exclude people (Sewpaul, 2005).

Ife (2008) asserts that social workers can connect human rights with their practice through deductive and inductive approaches. According to Ife, the deductive approaches would involve asking what particular statements and rights mean for practice and then translating these into guiding principles that would lead to a human rights practice. Inductive approaches on the other hand, would depart from practice situations and questioning 'what are the human rights issues at stake' that could inform and enhance practice (Ife, 2008: 152). In reality, social workers would use both approaches complementarily, with each informing the other (idea of praxis) (Ife, 2008). A paradigmatic shift strengthening the links between broad human rights models and social work practice in the UK would therefore reframe many current social work theoretical models and methods of practice into a human rights framework.

Nonetheless, this would result in more than modified theoretical and practice frameworks. Reframing social work theory and practice models under human rights frameworks would directly bond these with the core social work values of human rights and social justice in a more conceptually coherent and filled-out way. Wronka and Staub-Bernasconi (2012) argue that the ethical bond between human rights and social work involves an additional mandate for the profession to the two classic mandates of care and control. The human rights mandate, they assert, provides the profession with autonomy and 'allows for the modification or refusal of illegitimate claims and mandates from society, social

agencies and clients' (Wronka and Staub-Bernasconi, 2012: 81). Moreover, it is argued (Ife, 2016), moving beyond a merely legalistic understanding of human rights in social work allows for alternative conceptions of a human rights-based social work, which, putting the focus on "the human" transcend and may question human rights law, let alone nationalistic Bills of Rights.

There are abundant examples of social work models and interventions based on such broader understandings of the human rights role of social work outside the UK. Broad frameworks of human rights have been largely used, for instance, in social work in Spain, where global and Eurozone economic crises, and austerity policy responses to those crises, have since 2008 resulted in a sharp rise in inequality, a marked impoverishment of the population and mass unemployment (Ioakimidis et al., 2014). In this context, a human rights language has characterised the analysis, statements and collective actions of the Spanish National Association of Social Workers (CGTS) facing the socioeconomic crisis in Spain in recent years. For example, during 2015, the CGTS campaigned to raise awareness about social rights violations occurring through public social services cuts, which resulted in the denial of support services for the most vulnerable. This included many activities aimed at mobilising public opinion and political lobbying using human rights language. One of these activities involved support for three Spanish families to denounce in the European Parliament the disgraceful circumstances they found themselves after losing support services, including how this was affecting their children. A documentary about these families called 'Social Rights For Dignity' was produced and disseminated widely by the CGTS, during 2015 (CGTS, 2015). These rights-based approaches to social work, seeking to counter the victimisation of those suffering unemployment and poverty as a result of the recent socioeconomic crises, have been and remain of paramount importance in empowering and upholding service users' dignity across Europe.

Some authors have explored broad human rights-based social work models within the UK (e.g. Dominelli, 2007; Cemlyn, 2008a), but we believe that in order for UK social to start using these frameworks more generally, the widespread legalistic and individualised understanding of human rights in social work needs to be surpassed, hence our humble contribution to this with a discussion of the UK panorama in relation to human rights and social work.

BASW's Human Rights Policy: A starting point?

BASW's (2015) Human Rights Policy arguably establishes a framework for UK social workers' engagement with broader human rights approaches in professional practice. It can also be seen as aligned with broader human rights social work frameworks, and the aforementioned 'third mandate' to a human rights-bound ethical practice (Wronka and Staub-Bernasconi, 2012: 81). The policy aims to promote and support human rights-based social work 'as defined in the international definition of social work', and 'to help social workers ... to find ways of practising that are consistent with a common commitment to be part of an international human rights profession' (BASW, 2015: 4).

The policy asserts that human rights approaches involve ‘increasing the ability of those with responsibility for fulfilling rights to recognise and respect human rights (for example, the NHS, local authorities, care providers)’, ‘empowering people to know and claim their rights’ and ‘understanding the specific cultural contexts in which discrimination occurs’ (BASW, 2015: 7). This last point, the policy specifies, ‘requires analysis of the structural causes of discrimination and poverty, rather than only its symptoms, and of the impact of governmental action or inaction on communities experiencing poverty’ (BASW, 2015: 7). It acknowledges social workers’ individual and collective obligations towards human rights, and establishes that ‘social workers should ask themselves, their organisations and stakeholders questions about whether practice is complying with human rights principles and whether actions are necessary and proportionate in each individual case’ (BASW, 2015: 19).

Moreover, it sets for social work employers obligations to ensure that social workers ‘do not face discrimination or detriment arising from their advocating for the human rights of those with whom they work, including where such advocacy is contrary to the financial, reputational or other interest of the employer’ (BASW, 2015: 22). The policy document offers a definition and background information about human rights and social work, followed by practical guiding principles for social workers’ engagement with human rights in their practice settings. The guidance is structured around the practice implications of human rights being a) universal, b) inalienable and c) indivisible in character.

8. Conclusion

We have here sought to set out a case for a broader and richer concept of human rights in UK social work, beyond the legalistic terms in which they are presently understood. We have tried to advance this case in alternate scenarios in which we retain or replace the HRA 1998, as well as offer ethical arguments for why values that are already present in UK social work would be enriched and improved if reconceptualised as human (and therefore client and carer) rights rather than as practitioner attributes. We have also sought to set out some of what that broader concept might look like, drawing on international perspectives.

Whether or not the UK retains or replaces the HRA, the present socio-political climate means that xenophobia and nationalism is increasing, all in an austerity context of reduction and residualizing of social work services. The need for a regrounding of social work values, and the social work mission, is greater now than it perhaps has been for a decade. We humbly suggest human rights, understood in broad, rich terms, can be the basis of that regrounding. As we have stated in the introduction of this article, the discussions we have outlined are literature and opinion-based. These would benefit greatly from further empirical research on the views on the topic of a wide range of social work stakeholders in the UK.

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