Article

"Needs, Rights and Democratic Renewal"

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L'appropriation néolibérale des discours modernes sur les besoins est aujourd'hui bien documentée. De même, de nombreuses voix se sont élevées pour dénoncer ce qu'elles appellent « la dictature des besoins », c'est-à-dire le monopole du pouvoir que détiennent les professionnels et gestionnaires de définir les besoins de ceux et celles auprès de qui ils interviennent. Cette objectivation des besoins fait immédiatement appel aux ressources d'experts, évacuant par le fait même toute ouverture à une approche prviliégiant la participation démocratique. Ici « les besoins » s'ajoutent aux autres catégories construites et idéologiquement investies par les professionnels. En réaction à cela, les travailleurs sociaux ont été séduits par l'idée de suppléer aux approches basées sur les « besoins » des dynamiques d'intervention fondées sur les « droits ». Or, les « droits » et, surtout, les « droits humains » sont aussi des catégories de la modernité qui

tendent à être instruites et utilisables uniquement par des experts. Si nous acceptons maintenant de nous pencher sur les « droits humains » dans une perspective davantage postmoderne, nous sommes à même d'en « déplacer » le sens et d'appréhender la solidarité humaine au-delà des contraintes de la modernité. Pour inadéquate et potentiellement dangereuse que puisse être la catégorie des « droits humains », ces derniers peuvent toutefois fonder les pratiques d'intervention du travai social dans la mesure où ils engagent à des pratiques démocratiques. En ce sens, si les droits humains sont partie intégrante du projet d'une communauté de droits et de devoirs réciproques, et non des choses que peuvent détenir les individus, ils peuvent en effet s'imposer comme un levier puissant pour le renouvellement démocratique des pratiques d'intervention.

The way in which a discourse of human needs has been appropriated by neo-liberal perspectives within modernity is well-documented. The construction and definition of "needs" by professionals has been criticised as "the dictatorship of needs", and has readily excluded people other than professionals and managers from the definition of need. Need becomes objectified, something to be "assessed" by professionals using expert methodologies, rather than involving democratic participation. Here need becomes another excluding professional category, apparently objective and value-free, but in reality ideological. Furthermore, the deficit approach inherent in the idea of "need" runs counter to the more positive "strengths" approach of social work. "Rights" as an alternative to "needs" is superficially a more empowering discourse, and moving from a needs-based to a rights-based approach is therefore intuitively seductive, and has evidently appealed to social workers. However, ideas of "rights", and especially "human rights" are also embedded within modernity and the privileging of the expert. The conventional discourse of human rights as defined by the UN or other legal bodies, applied universally, and protected through laws and legal institutions, is a negation of any democratic understanding of rights. "Human rights", like need, thus becomes an objectified discourse of the powerful about the powerless. However the idea of human rights,

> *if constructed from within a more postmodern framing,*
> *has the potential to move our understanding of a shared*
> *humanity beyond the constraints of modernity. Thus*
> *human rights per se is an inadequate, and potentially*
> *dangerous, formulation for progressive social work, unless*
> *democratic participation is restored to the human rights*
> *project. If human rights are understood as being embedded*
> *in a community of reciprocal rights and responsibilities,*
> *rather than as "things" possessed by individuals, human*
> *rights from below can become a powerful framework for*
> *the democratic renewal of practice.*

The democratic renewal of practices cannot, I would argue, be achieved without the accompanying democratic renewal of theory. Not only have practices been affected by the managerialist, evidence-based and fundamentally anti-democratic discourse of professional practice within modernity, but the very ideas and concepts on which that practice is based have similarly been appropriated. Accountability, for example, is now defined as accountability to managers, rather than accountability to those with whom we work, or to the wider community. Ethics have become a system of prescribed top-down, legalistic control, rather than a response of one human being to another. We need to work on breaking concepts and discourses, as well as practices, free from the constraints of managerialism. We need to change not only what we do, but how we think.

In this paper I want to examine initially needs, and then, in more detail, rights, as bases for human services, and to demonstrate that both are, by themselves, inadequate. It is, I will argue, the objectified and undemocratic nature of each that makes them not merely inadequate, but potentially oppressive and even dangerous. Sadly, much of the way in which rights and needs are taught to social work students reflects this objectification, and, in my experience of teaching both social work and human rights, these concepts are too often unexplored and accepted at face value within a positivist paradigm. I then want to suggest ways in which the idea of human rights might be reconstructed to make it compatible with the idea of the democratic renewal of practices. Thus the paper argues from a position that accepts the inadequacies of a positivist position, and instead argues from a position more consistent with a critical social science (Crotty, 1998).

A discourse of human needs, within modernity, has been characterised by a positivist construction of "need", as something that exists in an objectively identifiable and measurable way: need as noun rather than as verb. Human service professionals are commonly required to measure needs,

to do need assessments, to document and compare needs, and to establish what has to be done so that those needs can be met. This applies equally to individual/family work and to community work; an individual, a family or a community is seen has "having" needs, which are to be identified and met. Such a positivist construction of human need ignores the philosophical complexity of the very idea of "need", and treats it as non-problematic (Ife, 2002). We thus fail to ask key questions in seeking to understand a situation and to act accordingly. For example, to talk about a need (e.g. I need food), rather than a problem (I am hungry), defines the problem in terms of its solution. The emphasis is on the provision of what is needed (how can I get food) rather than the subjective experience (what is it like to be hungry) or the cause of the problem (why am I hungry). This effectively depoliticises a problem, drawing attention away from the structural or discursive causes of that problem, and even from the subjective experience of that problem, and instead draws attention towards running around being busy and providing the "needed" solution. A discourse of need is a part of the process of defining problems as technical rather than political, and thus locating them outside the arena of democratic participation, and within the arena of technical expertise. This emphasis on technical, rational expertise extends, of course, well beyond the human services; the economy has long been constructed in this way, as a result of which most people have little understanding of, or participation in, economic debates, and the field has been left to the self-defined "experts" – the results of which are now being felt around the globe. But the parallel is instructive. Social need definers are little different from economists; they have assumed for themselves the role of expert in defining the needs of people, and in doing so have developed a professional vocabulary and a set of professional practices that exclude those experiencing the "need". As such it is far from the objectivity and value-neutrality that the language implies, but is fundamentally undemocratic and technocratic.

This critique of a needs discourse is, of course, not new. The idea of professionals as exercising "the dictatorship of needs" was well documented as far back as the 1980s by writers such as Feher, Heller and Markus (1983) (in the Marxist tradition) and also Ivan Illich (1977). Similarly, there has been from the 1970s a critique of positivism showing it to be far from value-free, but rather as reinforcing the culture of the expert and disenfranchising the broader community (Fay, 1975). But even though the critique is well-established, there remains a strong trend for human needs to be seen in quasi-scientific terms, as objective, measurable, and the domain of the expert. Such positivism is alive and well in the welfare bureaucracies of both government and non-government sectors (Rees and Rodley, 1995).

An important reaction to this was the impetus to take need definition out of the hands of the experts, by finding ways that people or communities could define needs for themselves : the democratisation of need. This has been the basis of much of the more progressive thinking in community development, which is at heart a process of helping communities themselves to define their needs and to work to have them met (Kenny, 1999 ; Ife, 2002). More progressive forms of social work have also sought to provide space for people to define needs for themselves (Allan, Pease and Briskman, 2003). This tradition has always been present in social work, and was inherent in the idea that social work was concerned with self-determination – though self-determination was often not defined in political terms – and it has now largely been eclipsed by the common obsession with outcomes, often defined before the social worker has even met the person or family concerned. In such a context, to talk about self-determination, an idea once viewed by Marxist social workers as hopelessly liberal (Powell, 2001), represents a radical departure from the dominant discourses of human services ; perhaps it is time to refocus on the idea of self-determination, but consciously moving beyond its conventional individualist liberal constraints to locate it as part of a broader politics of participation and transformation.

It is important, therefore, to note that "need" can be regarded in a more democratic and potentially progressive way, by seeing needs as defined or constructed, rather than as "existing", and thereby drawing attention to the act of definition, seeing this as a political act, and recognising that the important questions are : who is doing the need defining, what are their interests reflected in that definition, on what information do they make that determination, has there been a process of negotiation leading to the need definition, what has been the role, if any, of the people who are seen as "having" the need, what is the apparent "problem" which the "need" is supposed to resolve, what other "needs" might address that problem, and so on (for a fuller discussion, see Ife, 2002, 2010). This has been the thrust of more considered thinking about human needs and social needs, though it remains a marginal view in the practice environment so dominated by managerialism, outcomes and evidence-based practice.

One way in which human services have sought to react to this problem, and to develop a more democratic and politically progressive form of practice, has been to move from a needs-based to a rights-based approach (Reichert, 2003, 2007 ; Ife, 2008). This has had considerable intuitive appeal. The idea of rights implies, somehow, a more active role for the person concerned, and moves away from the "deficit" that is inherent in a needs-based approach. It is thus more consistent with the "strengths perspective" which has been influential in recent years (Saleeby, 2006). The idea of "human rights" has

become popular, and has been used to invest social practice with an apparently progressive idea. It is worth noting that human rights represents, in the current political context of western societies, perhaps the only progressive political discourse with widespread appeal and reasonable legitimacy. As socialism is apparently discredited (though in my view unjustly so), and anything identified too closely with "the left" is automatically suspect, human rights remains a legitimate discourse which can be used to pursue the aims of social justice, and broader ideas of a fair society. For this reason, human rights discourse, despite the problems associated with it, should not be dismissed lightly. The enthusiasm for human rights, held by many in the community and particularly by human service practitioners, can represent a powerful reassertion of human values in the face of neo-liberal market-based ideologies, where the needs of economies are placed before the needs of people, and where people must suffer so that economies can flourish, rather than *vice versa*. For this reason, there is value in embracing human rights as a basis for practice, but this should not be done without critique and analysis. Yet to criticise human rights is potentially dangerous, as in the current climate it can simply reinforce the views of those who believe, with Bentham (2001), that human rights are "nonsense on stilts", and should not be allowed to get in the way of the important business of creating wealth and ensuring political stability, by whatever means are necessary. A critique of human rights cannot occur in a political or ideological vacuum; human rights are, by their very nature, political and ideological, despite the superficially "non-political" stance taken by some human rights organisations such as Amnesty International. Critique is essential if human rights are to be conceptually robust, however among those who wish to advocate human rights as a basis for human service practice, there has been a remarkable lack of critique of the concept – indeed in some circles to offer such a critique is regarded as heresy – and a lack of willingness to engage with philosophical analysis and debate about the very idea of human rights, about which there is a substantial literature (Hayden, 2001; Campbell *et al.,* 2001; Herbert, 2003; Douzinas, 2000, 2007; Orend, 2002). Thus there has developed a gap between human rights theorists and human rights practitioners, a gap that needs to be bridged.

In this sense, rights have been treated the same way as needs, as if their nature and "existence" are non-problematic, and there is no place for critique or philosophical puzzlement. Like "needs", the idea of human rights is thoroughly embedded within modernity, and has been constructed in such a way that it privileges the expert and marginalises democratic participation. There are two aspects of conventional human rights discourse that clearly epitomise this. The first is the common ascription of human rights as universal. Universality commonly implies the application of the same construction

of human rights, and the same human rights regime, everywhere in the world, under the ideal of furthering something understood as a "common humanity". Such a perspective, while intuitively appealing and rhetorically strong, readily masks cultural difference, and has been criticised as the imposition of a western view of "humanity" on the rest of the world (Aziz, 1999; Pereira, 1997). This critique, of course, has been frequently misused to justify repressive regimes – for example in Burma, in Indonesia during the Suharto era, in China, and to a lesser extent in some other Asian countries – and to justify why they should not be held to account for their actions in suppressing political dissent. However, despite this, the critique of naive universalism in human rights remains important. The idea of a single, common humanity is very much an Enlightenment legacy (Carroll, 2004), and represents the humanist ideal which has been used as the justification for colonisation and the apparently benign "improvement" of subject peoples. Living at a time when the universal humanist ideal is eroding if not collapsing, something called "universal" human rights seems somewhat outdated, and not relevant for a world characterised by diversity and the "death of the meta-narrative".

The other aspect of conventional human rights that is thoroughly embedded in modernity is the frequent identification of human rights with law (Douzinas, 2000, 2007). Human rights are seen as legislated, guaranteed in constitutions and bills of rights, and protected through legal mechanisms. Law is seen as the pre-eminent human rights profession, and lawyers are commonly regarded as the human rights experts. In following such a human rights tradition, human service workers, such as social workers, have simply replicated their earlier openness to the seductiveness of the law as a paradigm for practice, through the application of such legal concepts as advocacy, contracts, justice, etc., without stopping to think about the way this affects their practice, and creates significant blind-spots in their perceptions of social problems or of how to work effectively with people. The law is, at least in western societies, constructed almost totally within modernity (Douzinas, 2000). It seeks to impose certainty, predictability, and its idea of "justice" is defined as procedural fairness. Although the idea of "all are equal before the law" is clearly a nonsense, this is still the ideal for which lawyers, and law reformers, constantly strive. The discursive construction, and the institutional operation, of law is typical of modernity's search for certainty, and its desire to fit all human beings, despite their diversity, into a single moral and regulatory framework; anything else would not serve the ends of "justice" as understood within the legal paradigm. Further, the law and the legal profession have been guilty of the same exclusive technocracy as was discussed above in relation to professional need definers; they have made human rights a domain for the expert rather than the citizen, and have dressed it up in a jargon that effectively disenfranchises the majority of the

population. Laws are made and interpreted by elites remote from most of the citizenry, and even to plead your case in law requires an expert to do it for you: hardly a democratic and participatory form of human rights. Hence the identification of human rights with law, taken to its extreme in the dubious argument that all human rights must be justiciable and that if something cannot be justiciable it should not count as a human right, thoroughly locates human rights within a discourse of modernity and technocratic expertise (see Loughlin, 2001). If the postmodernists are correct, and modernity is losing its credibility, increasingly fractured by its own contradictions, then this is hardly an adequate formulation for human rights. An approach to human services based on human rights understood only in its legal, positivist and modernist sense, is both intellectually weak and also no more related to progressive social and political change than other discredited perspectives on social practice.

It is my belief that the idea of human rights can be rescued from modernity's constraints; indeed that it is too important an idea to be allowed to erode along with the inevitable erosion of modernity. But this requires a reformulation of human rights, more along the lines of the theme of this conference, the democratic renewal of practices, and my argument might indeed be characterised as a plea for the democratic renewal of human rights. Our idea of "the human" is strongly identified with the legacy of Enlightenment modernity (Carroll, 2004), and an alternative human rights can be based on a post-modern construction of the human and of "humanity". A first task for such a reconstruction is to develop a more nuanced approach to universalism. The world view of modernity has created a simple binary of universal/relative, which has not served the ends of human rights well. A naïve universalism is simply inappropriate for a world of diversity and complexity, while an equally naïve relativism can serve to negate any capacity to use human rights to reach across cultural, racial, religious, social and political difference. There is a clear need to transcend the universal/relative dichotomy, recognising that each is necessary to give meaning to the other, and that human rights are at the same time both universal and relative (Tascón and Ife, 2008); to hold that tension, and use it creatively, is a major challenge for human rights workers seeking to emerge from the intellectual straightjacket of positivist modernity. If human rights are about the recognition and reconstruction of our "humanity" it is clear that we understand our humanity both in universal and contextual terms – as members of something we recognise as "the human race", but define within specific and diverse cultures and communities – and so our humanity is both universal and contextual. To understand human rights in this way is a prerequisite for a more democratic human rights tradition.

More significant for the democratic renewal of human rights, however, is to recognise the constraints of the top-down conventional legal approach, and to reconstruct a human rights based on a more democratic and participatory perspective, emphasising the way human rights are defined through the lived experience, rather than through laws and conventions. I have called this approach "human rights from below" (Ife, 2010). This begins by addressing one of the fundamental contradictions of conventional human rights, that is, that human rights are defined in legislation, constitutions, bills of rights or conventions, that are drawn up by very small numbers of people – politicians, lawyers, academics, and so on – who are not representative of the general population. Such elites have assumed for themselves the right to define the rights of others, and this discursive control in itself represents a human rights abuse : they have denied people the right to define their rights for themselves, or to have a real voice in the construction of "universal" human rights. This is a central contradiction of conventional human rights, which must be addressed if human rights are to have meaning within the lived experience of people in diverse communities. For human services to adopt a human rights "model" of practice, based on this conventional top-down human rights discourse, is to side with the voices of the powerful, and to use the apparently progressive voice of human rights to reinforce discourses of oppression and inequality. An approach that incorporates "human rights from below" can be regarded as making a potentially more positive and emancipatory contribution to human service practice.

Such an approach to human rights locates participation, rather than law, at the core of the human rights agenda. In this sense, it becomes clearly identified with community development and with the project of democratic renewal ; the dilemmas of participation have been key concerns for community workers for decades (Ife, 2002). However there is a more far-reaching way in which human rights is inevitably linked to human community, which lies in the connection between rights and responsibilities. This is an obvious and necessary connection ; human rights imply responsibilities, and any assertion of "my rights" implies that other actors (whether individuals, communities, institutions or the state) have responsibilities to ensure that my rights are realised and protected. An individual on a desert island has no rights, as there is nobody to accept the responsibilities that go with them. Rights, therefore, tie us to others, and imply a community of interlocking rights and duties (Gewirth, 1996). Human rights are thus inherently collective, contrary to the liberal individualism that so often is associated with a discourse of rights. They are, in reality, collectively owned and collectively exercised. For this reason, human rights require a community development perspective, and human rights work is necessarily community work.

A perspective of human rights from below thus sees community, and democratic participation, at the centre of the idea of human rights. To this can be added the idea of human rights as part of a day-to-day lived experience. Our human interactions, in households, in work places, in shopping centres, on buses and trains, require us to make assumptions about our rights and the rights of others, and the responsibilities that go with them. We make these assumptions and share them with others; it is what makes possible our orderly day-to-day interactions, the way we treat other people and the way we expect them to treat us. These understandings of rights and duties are not "universal" – they will be very different in different cultural contexts – and indeed these "rights" are embedded in culture rather than in law. However they represent the way in which most of us live our human rights, the way we exercise our rights and the way we respect the rights of others, and have much more immediacy for most people than do bills of rights, laws and conventions. For this reason there are two important bodies of recent literature relevant for human service workers concerned with human rights. One is the literature from within the legal profession that is critical of the top-down modernist view of law (Douzinas, 2000, 2007; Campbell *et al.*, 2001; Rajagopal, 2003), and the other is the newly emerging literature from anthropology seeking an anthropological understanding of human rights as located in cultures rather than jurisdictions (Goodale and Merry, 2007; Goodale, 2009). Both these form an important basis for the development of ideas of human rights from below.

Understood this way, human rights education or human rights practice does not necessarily start with the Universal Declaration of Human Rights. Rather it can start with people's own values and experiences, and encourage them to think about, and articulate, the rights and duties they would wish were applied to all people to make a fairer and more just world. Thus universalism becomes *aspirational* universalism rather than positivist universalism, and allows people to think about how they understand and realise their humanity and the humanity of others.

Such an exploration of humanity and its meaning must resist the temptation to universalise, and must accept both the inevitability and the desirability of diversity within the human experience. Within this diversity there may be some room for universality – we might agree for example that all people have the right to be treated with respect and dignity – but what that means in practice will vary with cultural context. Working out what respect and dignity mean in any community, with its inevitable diversity, thus becomes a focus for this kind of human rights work, and can only be achieved through genuine participation.

As noted above, the idea of a "common humanity" has been dominant in human rights thinking. However I believe that this is more appropriately replaced by the idea of "shared humanity". This moves away from the idea of a single, static entity held in common, and instead allows for a more negotiated and dynamic humanity. Sharing is an active process to which people contribute : we give what we can and we take what we need. This can be a more powerful way of thinking about our experience of humanity, and is consistent with human rights from below in that it allows people more agency.

From this perspective, human rights based work requires an exploration of the human, the sharing of our humanity. This is hardly a new idea for social workers, indeed back in the 1980s Ruth Wilkes (1981) was arguing strongly that often all we can do for a person is to share our humanity with them, but that this is also often the most important thing we can do, and must never be devalued by objectivity, targets and performance indicators.

Central to human rights from below is the importance of dialogue. At the heart of dialogue is the idea of reaching out to the other, with respect and humility, recognising the other's humanity and seeking to share one's humanity with the other. The recognition of the ultimate worth of another human being, in the encounter between two people, has been seen by Buber (1961), Levinas (1972), Irigaray (2008) and others as at the heart of ethics and responsibility for the other. It represents a powerful human response, as the other makes an ultimate claim on us, and requires us to respond with our full humanity (Tascón, 2003). For present purposes, rather than seeing this human encounter as the basis of ethics and responsibility (as is commonly the case with reviewers of Levinas), I am particularly concerned with this "encounter with the other" as central to ideas of human *rights*. It is in our response to the humanity of the other that we recognise their rights, and articulate our own rights, not as legal or quasi-legal claims, but as the expression of a shared humanity, in relationship.

This encounter is at the heart of human rights from below. Human rights from below is built on relationship – dialogical relationship – and how this then becomes the basis for our connection to the other through mutual rights and responsibilities. However human rights from below requires more than the interaction between two people. It is built not simply on dyadic relationships, but on *community*, where more than two people interact with each other. For the principles of dialogue, as discussed above, to be applied at this broader community level, we are required to respond to *others* rather than just to "the other", and the principles of approaching an interaction with humility, respect and a willingness to learn as well as to teach, are extended to a group or communal context. This of course creates additional layers of dynamics and relationships, but it is the basis of much of the literature dealing

with consensus and non-violent decision making in community groups (e.g. Gastil, 1993). Striving for such community interaction, in different contexts, therefore represents a key component of human rights from below.

But human rights from below goes further than this, in that it allows for diversity, and indeed not only accepts diversity but celebrates it as essential for our collective humanity. It also moves human rights beyond the legal and political world in which they have largely been confined, to incorporate other aspects of the human experience : spirituality, the arts, creativity, the experience of nature, and so on. This has largely been lacking from human rights work, and human rights courses, yet if human rights are concerned with the realisation of our full humanity, it is surely essential.

What does this mean, then, for the project of the democratic renewal of practices ? Does human rights provide a basis for practice which seeks to challenge the positivist managerial paradigm, from a democratic basis ? I would argue that human rights, in its conventional form, has little if any potential for such progressive change, as it is too bound up with its tradition of Enlightenment modernity and has been too affected by a legal world view with its associated positivism and instrumental rationality. This is a major weakness in much human rights writing in the human services. However by moving away from its Enlightenment legacy, and adopting a stance of human rights from below, human rights can indeed represent a powerful basis for transformative practice. One of the weaknesses of the traditional human rights approach is that it has concentrated too much on the idea of *rights*, and not enough on the idea of *human*. By starting with the human, working on how a truly shared humanity can be realised, and then from there moving to develop a community of rights and responsibilities, human rights takes on a different colour. Human rights, and their power as a discourse of change and social justice in the contemporary world, are too important an idea to discard easily. Rather human rights can be reconstructed so that, rather than negating participatory democracy, they become inevitably associated with it.

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