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Current challenges for the realisation of human rights in South Africa

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Linda Smith

Current Challenges for the Realisation of Human Rights in South Africa¹

„[...] We enter into a covenant that we shall build a society in which all South Africans, both black and white, will be able to walk tall... assured of their inalienable right to human dignity - a rainbow nation at peace with itself in the world" (Nelson Mandela on occasion of his inauguration 1994).

Zusammenfassung: Die Autorin zeigt, dass obwohl die Verfassung des südafrikanischen Post-Apartheid-Staates auf die Prinzipien der Förderung, des Schutzes und der Realisierung von Menschenrechten aufbaut (promote, protect and fulfill human rights), auch zehn Jahre nach dem Ende der Apartheid diese Werte und Rechte durch extreme Armut und die Ungleichverteilung der Machtverhältnisse konterkariert werden. Sie argumentiert, dass die Entwicklung Südafrikas als ‚Regenbogennation‘ - einem von Nelson Mandela geprägten Begriff - von der Neu- und Umverteilung der Ressourcen und vor allem von der Dekonstruktion sozialer und ethnischer (racial) Bevölkerungsgruppen abhängt. Menschenrechtsbezogene Bildungs- und Sozialarbeit kann aus Sicht der Autorin dazu beitragen, die kritische Reflexion über die sozialen Beziehungen, strukturelle Unterdrückung, Menschenrechte und Befreiung anzuregen und zu befördern. An den Beginn ihrer Ausführung stellt die Autorin ein Beispiel aus der Praxis Sozialer Arbeit, das die konkrete Gefährdung und Missachtung vor allem der sozialen und wirtschaftlichen Menschenrechte in Südafrika - und somit auch die Anforderungen an die Soziale Arbeit - illustriert.

Introduction

In 1994 South Africa was finally liberated from the oppressive system of apartheid. Its people celebrated the coming of a new democracy, with one of the world's most progressive Bill of Human Rights and a preceding journey of reconciliation, dialogue and commitment to national unity. However, in spite of Human Rights being placed high on the agenda of the nation, realization of these rights are challenged by significant obstacles.² Extreme poverty and social inequality, unequal

power relations and race based collective identities pose a threat to the ideals of nation building. Ten years on, it is time that we engaged critically with the visions and ideals expressed in the early days of South Africa's democracy and in the Constitution. We need to ask ourselves what concrete steps we have taken, failed to take or still need to take, to realize our original aspirations. It is necessary to ask whether people that were oppressed have been truly liberated, or whether liberation has only occurred in the statutes and in the minds of the elites. The question of realizing human rights in South Africa is intrinsically linked to the question of how the society deals with the realities of continuing structural oppression, racism, poverty and disadvantage, that are still endemic. It will be argued that what is required is a large scale redistribution of economic resources, a transformation of the way in which ‚race‘ is constructed, and the development of critical consciousness about social realities, structural oppression, human rights and liberation. The role that social work practice with its ideals of empowerment, within a developmental social welfare context and drawing on the critical pedagogical approach of Paulo Freire (1973) is considered as one of the ways in which the realization of human rights may be facilitated in South Africa.³

The socio-economic context of South Africa⁴

South Africa has a population of approximately 45 million people. Vast levels of poverty and one of the highest levels of inequality in the world pose a threat to the 1994 political liberation. Unemployment continues to hover around the 40% mark. According to the Human Science Research Council (HSRC), fifty percent of South African households can be classified as poor.⁵

The extremes of wealth and poverty have increased, and these trends continue along racial lines. Statistics, like the ‚Poverty and Inequality Report‘, commissioned by the Office

Illustrative Case-Study: "From the files of a social worker"⁶

The following case study is presented as anecdotal information relevant to some of the issues facing people living in South Africa. It attempts to illustrate the socio-economic context, as well as some common racialised identities and stereotypes prevalent in current South African society.

"Ms M, a single mother of two children (aged 3 and 7 years old) has been reported to the local Child Welfare Society for neglecting her children. After investigation by the social worker, it emerges that Ms M regularly leaves her children alone in the small one roomed corrugated iron structure in the Orange Farm informal settlement area south of Johannesburg when she goes to sell vegetables at the nearby taxi-rank. She has been unable to find work and although she is aware of the child support grant, has been unable to apply for it as she has no identity document. She finds it difficult to get to the Department of Home Affairs and apply for her identity document as she cannot afford the transport costs.⁸ The father of her two children pays no maintenance and cannot be traced. Their relationship was characterized by much violence and so his absence is preferred by Ms M. Six months ago she was diagnosed as being HIV positive. Her former (white) employer had decided that she should not continue doing childminding and domestic work as she was concerned about the risk of infection to her own children. Her employer had chosen not to provide any pension fund or to contribute to the UIF.⁹ Ms M is unaware that she could challenge her former employer and does not question her judgement as the employer is white, well educated and respected in her community.¹⁰ The employer in turn believes that Ms M should have taken better care of herself to avoid contracting HIV and that she should rely on her extended family and neighbors to take care of her.¹¹ The social worker visits Orange Farm once a week. She has a "caseload" of 150 families and is involved in various community work programmes relating to the enhancement of family life, early childhood development projects and HIV/AIDS awareness. She works for the local Child Welfare Society, a non-governmental organisation which receives a 50 percent subsidy from the government for its child and family protection services."

of the President and published in 1997 indicate that poverty and inequality in South Africa have actually worsened, which may be attributed to a complex interplay of South Africa's colonial and apartheid history with the global economic and political context in which South Africa's liberation from apartheid has taken place. Sewpaul/Hölscher (2004) argue that the ANC's 1997 Growth, Employment and Redistribution programme (GEAR) represents but a South African version of the International Monetary Fund's Structural Adjustment Programmes (SAPs).

It is in this context, that one is to read the Department of Social Development's warning that „in a society in which existing levels of social inequality and poverty are already very stark as a result of apartheid economic policies, this interaction between existing local inequalities and new emerging forms of inequality due to globalisation may lead to unsustainable levels of marginalisation, vulnerability and poverty" (Department of Social Development 2000, p. 8). Terreblanche (2002) speaks of South Africa as a society so deeply divided that it actually consists of two worlds with little, and progressively less, interaction: „One world is modern, smart, professional, efficient, and globally oriented; the other neglected, messy unskilled, downtrodden, and thriving on crime and violence. To complicate matters, political and economic developments over the past 30 years have increased the distance between these 'two worlds', and destroyed what beneficial interaction might have previously existed between them. South Africa is en route to a situation in which the only interaction between the 'two worlds' will be at the level of crime, violence and contagious diseases, that will be 'exported' daily from the third-world periphery to the first-world enclave" (Terreblanche 2002, p. 425).

Thus, it may be argued that socio-economic policy choices in post-apartheid South Africa have effectively increased rather than decreased previous levels of poverty and inequality and arguably contributed to further fragmentation of the society, rather than to the task nation building.

Realisation of socio-economic rights

In acknowledgement of the apartheid past, the South African Constitution reflects a heightened concern for vulnerable and disadvantaged groups (Graham 2000, p. 32). Its Bill of Rights includes a strong commitment to socio-economic rights, which have an important role to play in the consolidation of a democracy. These include environmental rights, rights of access to land, housing, health care services, food, water and social security, children's socio-economic rights and rights to education. All of these rights are „subject to judicial review and enforcement" (Graham 2000, p. 30). However, the Constitution does not guarantee these rights in an unqualified fashion but instead obliges government to seek the gradual improvement of access to, for example, food, water, shelter, welfare and health care services. This situation has had several repercussions, amongst them, for race relations in the country and for the social development agenda to which the South African government has made repeated commitments.

Lohrenscheit (2000, p. 10) poses the question „what do we tell our learners when they know about their human rights but cannot find meaningful ways for their realization (e.g. in poorer countries where even basic rights [...] are not fulfilled)". Moreover, the past ten years of neo-liberal socio-economic

policies have contributed to a sense among people that liberation essentially means the freedom to compete with one another for inadequate resources.

The implementation of socio-economic rights as included in the SA Bill of Rights demands that the judiciary and the South African Human Rights Commission to play a more interventionist role (Nthai 2002). Nthai goes on to quote Nelson Mandela at the occasion of the ANC Human Rights conference in 1991 as follows: „A simple vote, without food, shelter and healthcare is to use first generation rights as a smokescreen to obscure the deep underlying forces which dehumanize people. It is to create an appearance of equality and justice, while by implication socio-economic inequality is entrenched“.

It is only through a more interventionist, large scale redistribution of resources, that these forces of racialised dehumanisation and inequality will begin to be addressed. Buhlungu (2002, p. 11), also argues in this regard that the affirmation of black people through the non-racial reforms of constitution, legislation and new institutions is not sufficient. Such efforts must be accompanied by large-scale redistributions of resources to ensure quality of life chances for all citizens.

Race-based collective identities and unequal power relations

A challenge to the realization of human rights in South Africa, is the historically entrenched racism and the development of race-based collective identities, which continue to shape people's experiences and interactions. Racism in South Africa and its concomitant domination, marginalisation and unequal power relations has a great impact on human rights realization. Duncan et al (2001) maintain that social scientists agree that racism involves systematically skewed relations of power in all major spheres of social organization. Although apartheid has ended, its impact in terms of the meaning of specific racial identities will be felt for many years to come. In this regard, Stevens (2001, p. 46) cites the Human Rights Commission of 2000 who maintained that in spite of unprecedented social and political transformation towards a post apartheid society, racism as an ideology remains largely entrenched within the social fabric. It is in this context that the realization of human rights demands a far deeper shift of consciousness among people who have become 'entrapped' in their race based identities, where these race based identities seem to dictate continued discrimination and prejudice.

The „successful“ separation of racial groups in apartheid South Africa through the development of racially determined „group areas“ has persisted. Geographic areas remain predominantly organized according to race. According to Buhlungu in the absence of organized racial mobilization, the spatial separation of the races allows further racial inequality and racism to occur unnoticed within the home, the church, the workplace and in cultural settings. People tend to enter the discourse of non-racism in a limited way only, outside of the predominantly racially determined social and geographical groupings. He states: „when these multiracial crowds disper-

se, they leave behind the discourse of non-racism and each race disappears into its racially segregated enclave [...] here people from each race continue to demonise other races and call them names.“ (Buhlungu 2002, p. 18).

In the context of race based collective identities in South Africa, non-racism as a goal of the democratic process seems to be a discourse that glosses over the realities of racial inequalities and racism. According to Buhlungu (2002, p. 20) non-racism inadvertently encourages denial and a culture of silence about inequality of power relations as it avoids discussion and confrontation of thorny issues. Non-racism may seem to be a noble discourse. However, unless realities of race and unequal power relations are engaged with critically and addressed in a deliberate way, racism and racially determined identities and stereotypes will continue to offer a major challenge to human rights realization.

Myths perpetuated by the previous oppressive regime that have been internalized by both the oppressed and the oppressor thus continue to operate and drive thinking. One of these, as described by Freire (1973, p. 135), is the myth that the oppressive order is a ‚free‘ society. In the South African context, the similar myth is that „if institutionalized racism is outlawed, society will be free“. However, the impact of this institutionalised racism cannot be ignored. Cesaire, cited by Fanon (1967, S. 7) writes: „I am talking of millions of men [and women; L.S.] who have been skillfully injected with fear, inferiority complexes, trepidation, servility, despair, abasement“.

The consequences of the negative aspects of racial identities in post colonial and post apartheid South Africa severely challenge the development of a consciousness for the attainment of human rights because people remain inwardly trapped by their stereotypes, senses of superiority/inferiority and self-defeating attitudes

Furthermore, in South Africa, race cannot be separated from class due to the vastly skewed proportioning of wealth between black and white people. Race has been used historically as a class stratifier. In this regard, Buhlungu (2002, p. 1) maintains that historical racial injustices that prevailed under colonialism and apartheid continue to this day, albeit without legal or state sanction. The other ‚success‘ of the apartheid system was to be found in its efforts to create a class stratified society along racial lines. This has meant that wealth is distributed along racial lines and racial identities have largely become tied up with class identities. As argued earlier, unless economic resources are redistributed, it is impossible for race to cease being the primary socio-economic stratifier in South Africa. Collective race based identities and stereotypes, as well as a society stratified into classes along racial lines with the concomitant racially based power relations, therefore seem to hinder the process of liberation and realisation of human rights.

Brutalisation of South African cultures

The realization of human rights is further impeded by what we would like to refer to as a brutalisation of South African cultures. According to Freire (1970, p. 150), cultural invasion, which occurs when an oppressive group penetrate the cultural

context of another group, the creativity of the invaded group is inhibited. They become convinced of their 'intrinsic inferiority' and become alienated from the values of their own culture. In the case of South Africa, the extent and depth of 'not only cultural but also ethnic invasion' is difficult to describe.

Further, Apartheid's 'divide and rule' approach that was used to achieve the goals of subjugation of groups, achieved a deep division between groups of South Africans which may not have existed given a more equal sharing and partnership of ethnic groups.

Not only the culture, but the very organization of society was brutalized by apartheid. According to the Population Report (2000, p. 61), apartheid marginalized a majority of the population and tore families apart through inter alia the migrant labour system. In the words of Fanon (1963, p. 200) this means: „But the war goes on; and we will have to bind up for years to overcome the many, sometimes ineffaceable, wounds that the colonialist onslaught has inflicted on our people." These wounds contribute to the fact that people therefore do not easily engage in processes of critical analysis and reflection, being willing to challenge and take action against their realities - even when there has been liberation at a structural and at an institutional level.

Relationship between ubuntu and human rights

The value or philosophie of ubuntu¹² is an important notion when considering the issue of conscientisation towards and the attainment of human rights. Ubuntu is a concept and worldview that is intrinsically linked to African notions of collectivism and communalism, and declares, „I am only a person through others".¹³ It has become a frequent theme in the transformation of social welfare in post apartheid South Africa. As such, it has since 1994 become a national ideal of doing things.

According to the 'White Paper for Social Welfare' (Department of Welfare 1997, p. 11), „Ubuntu' is the principle of caring for each other's well-being and a spirit of mutual support. Each individual's humanity is ideally expressed through his/her relationship with others and theirs in turn through a recognition of the individual's humanity. It also acknowledges both the rights and the responsibilities of every citizen in promoting individual and societal well-being. Ubuntu therefore is an expression of communal and collective African values intrinsic to South African society. Human rights on the other hand, give expression to values of well-being and dignity on a somewhat more individual level. It could be argued that these two expressions of human values may sometimes be at variance. For example, within an ubuntu perspective, certain human rights are not fully compatible with principles of ubuntu and may in fact have led to a degradation of previously existing positive qualities of the South African way of life (for example, individual property rights being at variance with the concept of communal ownership of land which has traditionally served as a safeguard against poverty).

An interpretation of human rights that encompasses impor-

tant cultural values will need to be found in order to achieve the liberational potential of both human rights and ubuntu. As stated by Gyekye (2000, p. 334), „I believe strongly that an ethical and political theory that combines an appreciation of, as well as a commitment to, the community as a fundamental value, and an understanding of, as well as a commitment to, the idea of individual rights, would be the most reasonable theory to support." Debate about the realization of human rights in South Africa therefore needs to include a critical engagement with the concepts of both, and needs to include a 'marriage' between ubuntu, human rights and liberating education.

The Social Welfare System and Social Work in South Africa

Old conceptions of welfare and development have been radically transformed over the past ten years. The 'White Paper for Social Welfare' (Department of Welfare, South Africa (1997, p. 2), in its preamble states: „South Africans are called upon to participate in the development of a equitable, people centred, democratic and appropriate social welfare system. The goal of developmental social welfare is a humane, peaceful, just and caring society which will uphold welfare rights, facilitate the meeting of basic human needs, release people's creative energies, help them achieve their aspirations, build human capacity and self-reliance, and participate fully in all spheres of social, economic and political life."¹⁴ It furthermore states in the section on its principles: „Social welfare services and programmes will be based on respect for human rights and fundamental freedoms as articulated in the Constitution of the Republic of South Africa." (1997, p. 31)

During apartheid, social work services in many cases supported oppressive structures and processes. In general, little commitment was shown to the attainment of human rights, empowerment or liberation from oppression and poverty. In fact, the work of Paulo Freire was banned by the apartheid government and was considered to be subterfuge. McKendrick (2001, p. 106) describes how social work was associated with apartheid and domination, its major beneficiaries being the group that needed these services the least. It did not prioritise black poverty and it overwhelmingly emphasised social casework.

However, in spite of collusion in some instances with the oppressive regime, there were non governmental organizations and community based organizations which remained committed to the ideals of liberation from oppression. Social workers were included in those groups and were victimized, detained and/or banned from participation in public activities. This history of engagement and participation in the struggle for liberation found expression through community development work and 'training for transformation' activities (a community development work approach based on Paulo Freire's work; Hope/Timmel 1984). Furthermore, the revision of training of social workers has received intensive attention over the past few years in order to ensure appropriately educated practitioners. Educators and institutions generally have attempted to

raise levels of critical thinking and conscientisation around human rights, forces of oppression and empowerment. In this regard, the White Paper for Social Welfare also comments on the need for the review of welfare education and training. It maintains that the training of social workers should include areas such as developmental social welfare; gender-sensitive welfare programming; appropriate programming for people with disabilities; the development of curricula in consultation with service providers and training which facilitates community participation (1997, p. 31). Social work thus forms an important part of the broader social welfare system in South Africa. With its emphasis on development and guided by the principles of the White Paper, it demonstrates a commitment to social justice, realization of human rights and making a significant contribution to poverty reduction.

Social work, empowerment and liberation

In social work, empowerment and liberation are important concepts. According to Lee, empowerment is used to describe everything that is done in social work, but everything that is done is not empowering (Lee 1994, p. 11). In the narrow sense, empowerment connotes only a psychological and personal sense of well-being which is de-politicised and not useful for institutional change. However, when including the concept of liberation in describing those processes and objectives which challenge oppression, empowerment is restored to its intended meaning. Saleeby (2002) describes the inclusion of the concept of liberation within individuals and communities in social work interventions as follows: "collectively, liberation unleashes human energy and spirit, critical thinking, the questioning of authority, challenges to the conventional wisdom, and new ways of being and doing." (Saleeby 2002, S. 7; Lee (1994, p. 14) maintains that the 'radical pedagogy' of Freire (1973) is clearly related to empowerment in social work. Through his 'radical pedagogy', Freire provides a philosophy of education and development, which seeks to attain new levels of consciousness and true liberation among oppressed

people, they themselves choosing the content of their education. The participants are recognised as thinking, creative people with the capacity for action. Development and education is initiated and achieved through a problem-posing methodology, dialogue, reflection, action and finally radical transformation (Hope/Timmel 1984). In his radical pedagogy, Freire (1973, p. 57) states that „problem posing education [...] affirms people as beings who transcend themselves, who move forward and look ahead, [...] for who looking at the past must only be a means of understanding more clearly what and who they are, so that they can more wisely build the future."

Powerlessness according to Lee (1994, p. 12), which is the absence of empowerment within individuals, is based on economic insecurity, absence of experience in the political arena, absence of access to information, lack of training in critical and abstract thought, physical and emotional stress, learned helplessness, and aspects of a person's emotional or intellectual makeup that prevent them from actualizing possibilities that do exist. In social work practice, empowerment seeks to create community with people to challenge them with the contradictions they face as vulnerable, hurt, or oppressed persons. Similarly, according to Hope/Timmel (1984, p. 3), „development, liberation and transformation are all aspects of the same process. It is not a marginal activity. It is the core of all creative human living."

Community work approaches in social work are especially congruent with these methods of Freire (1973) practically described by Hope/Timmel (1984). Social workers would therefore be well advised to study and find ways to implement the radical pedagogy and consciousness raising of Freire as a means to attain objectives of empowerment and liberation.

Conclusion

Human rights in post-apartheid South Africa have to be realised in a socio-economic context of vast levels of poverty and extreme inequality. This context is interpreted and mediated within and through race-based individual and group identities that continue to exist in South Africa today. This has impacted, and limited the realization of human rights. The enhancement and locally meaningful realisation of human rights is to be found in a radical redistribution of economic resources, a shift in unequal power relations, and a move away from the construction of identity in predominantly racial terms. Positive processes in South Africa which mitigate the challenges of realisation of human rights include the history of a broad based critical social, political and cultural engagement and the tradition and spirit of ubuntu. In order for South Africans to embrace values of human rights, they need to transform inwardly. It is in this regard that the work of Paulo Freire with regard to conscientisation and dialogue becomes relevant and essential. He states: „Liberation is like childbirth, and a painful one. The person who emerges is a new person, no longer oppressor or oppressed, but person in the process of achieving freedom [...]" (Freire 1973, p. 25).

Social work practice then, with its tradition of commitment to the empowerment and transformation of people inwardly

and at community level, has an important contribution to make in the national project of a transformed and liberated society.

Freire's critical pedagogy is particularly suitable for the revival, and enhancement of the realisation of human rights. It is therefore important that professions dedicated to social transformation, poverty eradication and human rights, such as social workers, become competent with Freire's methods of radical pedagogy and humanisation.

Annotations

1 This article is a revised and expanded version of the author's paper, presented in November 2003 at the conference „Das Recht auf Bildung für alle - Menschenrechtsbildung und die Aktualität der Pädagogik Paulo Freires“ in Oldenburg, Germany.

2 Institutional provisions for the protection of Human Rights include the Constitutional Court, the Human Rights Commission; the Commission on Gender equality; the ratification of the International Convention on the rights of the child; the Constitutional Court; Public Protector; and the Independent Broadcasting Authority.

3 The work of Paulo Freire was implemented by various community workers during the 1970's and 1980's during the height of Apartheid South Africa.

4 Section 3 and 4 were written with the input of my colleague and friend, Dorothee Hölscher, who played an important role in conceptualising the arguments in this paper generally, and in contributing significantly to the writing of the sections on the socio-economic context.

5 ‚Poor‘ is defined as a combined household income of less than R2000,00 (approximately 250 Euro) per month (HSRC 2003, p. 28).

6 This case study is based on information from a social worker's file working for a Child Welfare Society. Identifying details have been changed.

7 Child Support grant is a social security grant provided by the state since 1998, currently for all children under 11 years old of 170,00 Rand per child per month. In order to qualify, families living in informal settlement areas should not earn more than 1100,00 Rand per month, while those families living in formal settlement areas should not be earning more than 800,00 Rand per month.

8 A criticism of the social ‚security net‘ is that people find it difficult to access the resources available, due to the extreme poverty in which they find themselves. This poverty then prejudices their ability to gain access to the relevant resources for example being unable to afford transport costs to get to the resources.

9 Unemployment Insurance Fund: Employers of Domestic Workers are required by law since 2002 to contribute to this fund.

10 The superiority and right to privilege among whites was thoroughly imprinted in the minds of South Africans by apartheid race laws.

11 The romanticized notion that all black people have a readily functioning extended family that can support them has been shown to be untrue in recent research into urban family life (HSRC 2003).

12 Ubuntu, from the proverb umuntu ngumuntu ngabantu, a Xhosa expression of a notion common to all African languages and traditional cultures. A person is a person through persons (Shutte, 1993, p. 46). It is the relationship between a person and others that defines that person. It is however a controversial concept as it is debated that the term cannot be used as a singular ‚African cultural concept‘.

13 „African culture“ is in no way homogeneous. However, according to Van Staden (2000, p. 25), it is possible to understand „African culture“ as a broad, inclusive term within the context of the struggle for liberation from colonial oppression.

14 The policy document for Welfare in the „new“ South Africa, drawn up in 1997 with full and broad participation of stakeholders.

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