

The New Constitution of Zimbabwe and its Implications for Social Workers

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Abstract

The ushering of a new Constitution in Zimbabwe marked a milestone in the politico-socio and economic development of the country. This paper highlights the new constitutional provisions on social rights and how they will influence social work practice. It is the writer's view that the new constitutional provisions supporting social services are an incremental step towards meeting social rights. The paper places emphasis on the need for the empowerment of people through dialogical praxis courtesy of social work to ensure the realisation of these rights. This is a paradigm shift of social work in Zimbabwe from "reactive" to "proactive" practice.

Keywords: constitution, human rights, social policy and social workers

Introduction

The quest to realise human rights of social nature came to the fore in Zimbabwe through the new constitution which was signed by the President of the Republic of Zimbabwe on 22 May 2013. This is because the new constitution has expanded Bill of Rights which now includes social rights which were hitherto ignored in the previous constitution. The focus of this research was to examine these rights and articulate the implications on social work practice in Zimbabwe. Thus the article provides a background and conceptual framework of the study, the research methodology used for the study, and analysis and discussion of findings as well as conclusion and recommendations drawn from the analysis and discussion.

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Background and Conceptual Framework

Zimbabwe has made considerable strides in ratifying most conventions and international instruments that guarantee fundamental human rights. Some progress has also been recorded in domesticating these instruments into laws and policies. In the past Zimbabwe was being criticised as having a Bill of Rights which guaranteed civil and political rights but ignoring socio-economic and cultural rights. However, it is particularly instructive to note that the new constitution has some sections now guaranteeing the previously ignored rights which include right to access social services.

Zimbabwe ushered in a new constitution on 22 May 2013 marking a major milestone in the socio-political and economic development of the country. The new constitution's Bill of Rights has been expanded to incorporate social rights. Thus Zimbabwe is now on a path towards what is referred to as rights-based approach to social policy. It has provisions on education, health, housing and social welfare which are in line with the universal human rights. These provisions are also in line with major international declarations and conventions underpinning human rights such as the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child (UNCRC). United Nations (1987:4) defined the concept of human rights as "those rights, which are inherent in our nature and without which we cannot live as human beings". They further added that human rights and fundamental freedoms allows us to fully develop, and use our human qualities, our intelligence, our talents and conscience and to satisfy our spiritual and other needs. These human rights can be realised through three main forms which are state constitutions, treaties between states and international customary law (Reichert, 2011). Zimbabwe is implementing and realising these rights through the new constitution which is now guiding the social policy and nature of social services to be provided.

There are difficulties as well as varying opinions on defining social policy and social services. Social policy can be defined as the arena relating to governmental and other institutional interventions that affect people's welfare (Hall and Midgley, 2004). Hall and Midgley (2004) noted that the term "human services" has been used in preference to the older term "social welfare services". They further observed that other scholars are of the idea that the term "social welfare" should be used to refer to a broader range of social programmes including health, social security and education.

The term “social services” is often used as a synonym for human services particularly in United States. This paper will refer social services as state provisions such as education, health and housing which promote human wellbeing. Huby (2001) observed that the study of social policy encompasses the “big 5” areas of social security, housing, education, health and social services, and is occupied with the extent to which government policies in these areas enable people to achieve particular levels of welfare. Whilst, Van Ginneken in Lee and Vasoo (2008) propounded that access to social services, such as health care and education play a crucial part in processes towards inclusion and empowerment. Whilst Sen (1999) observed that social services provide the poor and vulnerable, with the capabilities to fully participate in economic, social, cultural and political life.

Hall and Midgley (2004) noted that conceptions of social policy have thus evolved to reflect historical priorities and changing attitudes towards the causes of social problems and solutions perceived as being most appropriate. The definitions of social policy do overlap. Social policy has been considered as synonymous with government intervention to provide social services (Hall and Midgley, 2004). Kaseke (1995:16) defined social policy as “the study of the evolution of social services, the rationale for providing social services and the ideological issues in the provision and distribution of social services”. It is this paper’s position that social services provision should be understood in the context of social policy as state intervention in providing social services to its citizenry.

Social services provision is usually underpinned by at least one of the three major models of social policy. According to Titmuss in Hall and Mupedziswa (1995), these are Residual, Industrial Achievement-Performance and the Institutional-Redistributive models. He further noted that the residual model is based on the notion that human needs are met either through the private market or the family. Whilst the second model is based on the assumption that social welfare services are linked to productivity at the workplace. They are viewed as “adjuncts of the economy” (Titmuss in Hall and Mupedziswa, 1995:18). The last model views social policy as well as social services as instruments for the redistribution of wealth and income.

Therefore it is in line with the human rights agenda due to the fact that in third world countries inequality has taken a human rights dimension as agreed by 189 United Nations member countries in the Millennium Declaration which resulted in the Millennium Development Goals. The Declaration acknowledged that, it is difficult for the populace to enjoy human rights in an environment of inequality.

This paper therefore adopts the Institutional-Redistributive model to guide the argument of the rights-based approach to social policy. The model has been selected for its appropriateness with the idea of universal provision of social services supported by the universal human rights articles 22, 25 and 26 as well as Convention on the Rights of the Child articles 24 and 28. According to Titmuss in Hall and Mupedziswa (1995) the institutional-redistributive model rejects the notion that human needs should be met either through the market economy or the family. He further noted that, the model recognises the complexity of human needs and acknowledges that individuals cannot meet their full range of social needs without the support and active involvement of the state. The model also emphasises that social policy should concern itself with the universal provision of social welfare services based on the principle of need which is a necessary condition for the creation of an egalitarian society.

In third world countries, governments are better placed to play the role of using social policy as a mechanism of redistributing wealth and income in line with the dictates of human rights. This can be through governments adopting and implementing pro-poor budgets. Abbot (2009) defined pro-poor budgeting as when budgets are focused at reducing poverty and inequality. Midgley (2008) cites the argument of Marshall a renowned writer on social policy that, social policy should be based on non-economic motives, with little reference to the role of altruistic giving in social policy and he instead offered a legalistic, rights-based rationale for welfare provision. Human rights, Marshall argued, would be fulfilled when it was recognised that social needs should not be met on the basis of market participation, political loyalty, conformity to cultural and social expectations or any other requirements but exclusively on the basis of the rights enshrined in citizenship (Midgley, 2008). This line of thinking is in tandem with the new constitution of Zimbabwe's sections on social rights.

Research Methodology

The research analysed how the new constitution of Zimbabwe social services provisions are linked to the universal declaration of human rights. It sought to examine how the provisions are in line with the rights based approach to social policy. The research method involved the review of the new constitution of the Republic of Zimbabwe focusing on the sections pertaining to social services. Additional and supporting information was sourced from academic textbooks and periodicals such as academic journals as well as newspapers containing information relevant to the issues under discussion. Data from these various sources were discussed and analysed resulting in conclusion as well as recommendations.

Statement of the Problem

Since the new constitution of Zimbabwe was passed in 2013, there has been limited interrogation and unpacking of the supreme law by professionals such as social workers with a view of analysing how it will affect their practice. Therefore this research sought to find out how the new constitution's expanded Bill of Rights which is now incorporating the social rights will influence social work practice in Zimbabwe. This influence in terms of nature of social work interventions and skills required, for the realisation of the social rights. The possible impediments to the realisation of the rights are not known and the paper attempted to highlight some of these challenges.

Discussion and Analysis

The new constitution of Zimbabwe has a number of provisions which it ushered in which were not clearly articulated in the old constitution. Some of the provisions are found in Chapter 2 sections 27, 28,29,30,75 and 76. These provisions are pointing towards provision of social services as a right. This paper focused at discussing and analysing some of these provisions. It also articulated one innovative social work intervention that can be utilised to ensure their full implementation.

Access to Education as a Right

The new constitution on Chapter 2 section 27 provides that “The state must promote free and compulsory basic education for children, higher and tertiary education as well as take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels”. The universal human rights article 26, states that “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit”. The CRC article 28 also states that, “All children have the right to education, and this right should be achieved progressively and on the basis of equal opportunity. It is the State’s duty to ensure that primary education is free and compulsory” (Ministry of Labour and Social Services, 2011). UNICEF (1999:13) noted that education is vital “in combating poverty...promoting human rights and democracy...” Therefore through the new constitution, the state is now duty bound to see to it that social policy is used as an instrument to ensure that people enjoy the right to education.

There is need to highlight some challenges which are being faced in the provision of education which can provide vital lessons on realisation of this constitutional provision. Newsday (2012) cited the Principal of Government Correspondence School in the then Ministry of Education, Sports and Culture (MoESC) admitting that government’s programme of providing access to education for orphans and vulnerable children, the Basic Education Assistance Module (BEAM) was facing a myriad of challenges such as late arrival and unavailability of funding. Such challenges need to be addressed if access to education is to be enjoyed by the majority as envisaged in the new constitution.

Access to Health as a Right

In Zimbabwe the new constitution chapter 2 section 29 obligates the government to take all practical measures to ensure the provision of basic, accessible and adequate services throughout Zimbabwe. The state must take appropriate, fair and reasonable measures to ensure that no person is refused emergency medical treatment at any health institution.

The universal declaration of human rights article 25 states that, "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services". CRC article 24 also provides that, children have a right to the highest level of health possible which includes a right to health and medical services, with special emphasis on primary and preventive health care, public health education and the diminution of infant mortality (Ministry of Labour and Social Services, 2011). However there are challenges currently affecting the provision of health services in Zimbabwe which can jeopardise the constitutional provisions on health. Newsday (2012) quotes the provincial medical director for Mashonaland West province expressing concern over the shortage of doctors with a vacancy rate of 72% as well as lamenting over the shortage of all categories of medical drugs including inadequate vaccines for the six child killer diseases. This highlights a myriad of challenges that need to be addressed for the right to health as provided for in the new constitution to be realised.

Access to Housing as a Right

In the new constitution there is a section which provides that, The state and all institutions and agencies of government at every level must take reasonable legislative and other measures,...to enable every person to have access to adequate shelter. This is in conformity to article 25 of the universal human rights which has a provision that everyone has a right to housing. According to Gotora (2013), the United Nations Agenda defines housing as a basic human right, which must be accorded to all regardless of gender, colour, race, religion or any other discriminatory milieu. It can be observed that the new constitution of Zimbabwe is now guaranteeing the provision of housing as a right. However there is need to highlight the current housing bottlenecks to provide a context in which this provision is being implemented. IRIN (2013) cites that there are approximately 1,2 million people on the government's national housing waiting list, although the exact figure is hard to obtain because most local authorities do not collect and update the necessary data. It can therefore be noted that Zimbabwe is currently facing an acute shortage of affordable housing.

Access to Social Security as a Right

The new constitution of Zimbabwe has reinforced the state's commitment to provide social security as part of the human rights agenda. Chapter 2 section 30 states that "the state must take all practical measures, . . . to provide social security and social care to those who are in need (Government of Zimbabwe, 2013). This provision is in tandem with human rights article 25 which states that, Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services. Therefore Zimbabwe is now on path towards providing social services as part of meeting human rights. The challenges facing a number of social security schemes in Zimbabwe suggest that these schemes do not meet the key attributes of social protection. Gandure (2009) cites these attributes as predictability, consistency, transparent and sustainable. Schemes such as BEAM and Assisted Medical Treatment Orders (AMTOs) have been found not to be predictable, consistent, transparent and sustainable (Masuka, Banda, Mabvurira and Frank, 2012). There is need to deal with challenges as highlighted in order to ensure that provision of social security as a right as provided in the new constitution is not a mirage.

Funding Options and Bottlenecks

The catch phrase on the social rights is that these social services should be provided within the limits of the resources available to the government. This leads to the issue of funding or financing the provision of these social services. Walker (2005) observed that financing and resources are inextricably linked to social services provision. Zimbabwe has often been credited for crafting well thought out policies which however have not been implemented. Therefore there is a growing fear within the academic discourse that the well-meaning rights based on social services provisions in the new constitution might be difficult to realise. However the new government which came after the 31 July 2013 harmonised elections has crafted what on paper is a well-thought out document dubbed Zim Asset to guide the socio-economic transformation of the country spanning the period 2013-2018. This document was inspired by the elections manifesto of the ruling party ZANU-PF. Masenyama (2013) noted that Zim Asset is a cluster-based plan, crafted to achieve sustainable development and social equity.

He further stated that there is the social services and poverty eradication cluster, whose thrust is to address the plight of the poor through service delivery by all public institutions. One can deduce that the Zim Asset blueprint is inextricably linked to the provisions of the new constitution, such as those pertaining to social rights. However the funding mechanisms for the blueprint are still an issue under deliberation.

Social Work Interventions

There are a number of social work interventions that can be implemented in operationalization of the human rights provisions of the new constitution cited in this article. Reichert (2011) noted that the social work profession has established various interventions to promote its dual focus of assisting individuals and attempting to bring about change with respect to social problems. She further added that these interventions include challenging oppression, empowerment, and the strengths perspective. Through understanding these interventions, social workers can more easily recognise the link between their profession and human rights. These interventions are closely tied to human rights. This article is recommending the use of empowerment as an intervention strategy.

Reichert (2011) stated that empowerment examines circumstances that contribute to differential treatment concerning ethnicity, age, class, national origin, religion, and sexual orientation. Empowerment focuses on how an individual is treated in society and is given access to resources and power (Roche and Dewees, 2001). Lee (2001) observed that reducing inequitable power structures is a foundational basis for empowerment. Helping individuals and groups empower themselves to overcome inequitable treatment is a key part of social work profession (Reichert, 2011). The question is how can social workers ensure this empowerment?

In the context of human rights social work, dialogical praxis can be used as to ensure the empowerment of clients. Ife (2008) noted that the idea of dialogical praxis draws particularly from the work of Paulo Freire and others who have sought ways to put his work into practice.

He further observed that a key element of dialogical praxis is “conscientisation”, which can be described as raising consciousness through dialogue, linking personal and the political in such a way that it opens up possibilities for action as people become more aware of the structures and the discourses that define and perpetuate their oppression. In the context of this article, social workers should conscientise people for them to be aware of the impediments to the realisation of their social rights as provided for in the new constitution.

There is also need to engage in dialogue, between the social workers and clients who are not enjoying their rights as enunciated in the constitution. Therefore the social workers are expected to engage the socially excluded groups such as the poor. The dialogue is an avenue through which the social worker engages the clients and together they are able to realise the causes and nature of oppression as typified by their lack of access to social rights. This realisation is the conscientisation that will lead to action, which is the praxis. Ife (2008) asserted that the notion of dialogical praxis requires that both the worker and client engage in praxis (both knowledge/theory-building and action) together. The action will make it possible for people to realise their rights. The action can take various forms such as lobbying the government to implement the provisions of the constitution. Ife (2008) states that, one of the important characteristics of human rights is that they must be not merely understood and defined but also realised. Throughout the whole process of dialogical praxis the social worker should show empathy and build rapport with the clients. Therefore the social worker should possess sound communication and interpersonal skills. Dialogical praxis can be used within casework practice, and equally in working with families, groups, organisations or communities (Ife, 2008).

Implications on Social Workers

Therefore the implications of the new constitution of Zimbabwe on social workers are the need to ensure that the people are able to enjoy their rights as articulated in this article. There is need for a paradigm shift on social work practice which entails moving from “reactive” to “proactive” social work practice. Social workers should engage in dialogical praxis which involves dialogue, consciousness and praxis (action) with groups of people who are not enjoying their rights as provided in the new constitution. This will make it possible for the people to demand and enjoy their constitutional rights.

The social workers can start working with individuals on a trial basis then engage groups and lastly communities. Social workers should also be aware of the qualities they bring to dialogical praxis which are empathy and rapport. This calls for social workers to possess sound communication and interpersonal skills.

Conclusion and Recommendations

It is critical to realise that a constitution on its own even with progressive provisions cannot guarantee the realisation of people's rights. There is therefore need to translate the provisions into programmes and services which can have a direct impact on the people's lives. The issue of funding constraints might make it difficult for the government to implement the social rights as provided in the constitution. It is recommended that the funding for Zim Asset as a tool for the realisation of the social rights should be through the normal government annual budgets passed by the Parliament of Zimbabwe, albeit with limited donor support. This is because the new constitution emphasise the critical oversight role played by the parliament on government resources and expenditures. It is also recommended that social workers can utilise empowerment as an intervention to ensure that the people are able to be afforded their rights as provided in the new constitution. It is recommended that social workers should incorporate dialogical praxis as a strategy of empowering the people in the quest of human rights.

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