

Human rights in the Nordic welfare states

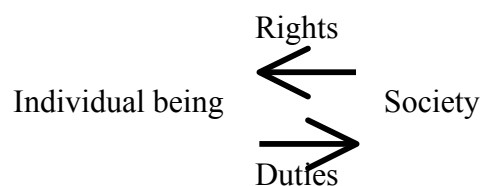
Aim

The focus of this circle is on human rights from a multi-disciplinary perspective and on discourses about developing inclusive societies. From a human rights perspective, the circle aims to understand how developments within various welfare areas affect the lives of individuals in exposed situations within the Nordic welfare states.

Introduction and theoretical frameworks

The idea that man has intrinsic natural rights started to flourish during the seventeenth and eighteenth centuries. Since then their content, as well as who is entitled to these rights, has expanded. In the formation of the first democratic, constitutionally stated human rights, they were connected to citizenship rights as they were adopted and transferred into legal systems. However, it was not until after WWII that human rights were systematically affirmed to every individual, not primarily as citizens of the State, but as citizens of the world. Whether human rights are universal or not has been widely discussed. However, the UN Declaration of Human Rights is unique since it is the first system of human principles that have been “freely and openly agreed upon by the majority of the world’s populations” (Bobbio 1996, p.14). Thus, their universality can be understood, not in its objective sense, but as agreed upon and accepted by ‘the universe of humanity’ (Bobbio 1996).

The concept of rights has always been closely connected to the concept of duties, as for example the works of Amartya Sen (2004, 2009) or David Miller (2007) demonstrate. Examples of rights are, protection of life, welfare, and property. Corresponding duties are the duties not to harm and to protect the lives, the welfare, and property of other members of society. However, with the idea of natural rights the relationship between state and individual, as well as between rights and duties was inverted. As the individual became regarded as more important than the collective, duties became considered the consequence of natural rights and not the other way around.



The concept of rights is also closely connected to the concept of needs. The connection is evident through a third concept – the concept of welfare, which in the Nordic countries has a strong influence from a theoretical perspective of needs (Allardt 1975; Jensen 2008). Rights can describe two, sometimes conflicting relationships with the constitutional power. Either the relationship is negative, as in restricting the power to do harm, or it is positive, as in encouraging the ability to do good (Bobbio 1996).

In the Scandinavian models of welfare individuals in exposed situations can be entitled to special provisions in the name of positive human rights. However, what is understood as a positive special treatment for some might be judged as a violation of freedom rights for others. Thus, sometimes violations of human rights are made in the name of welfare and with

the best of intentions. The welfare state's emphasis on social rights is becoming increasingly questioned by neo-liberal ideas of freedom and rights (Holmwood 2000). Also, in the growing 'rights paradigm' welfare institutions are pressured to change their undertakings from a needs-based to a rights-based approach (Ife 2001; Rasmusson 2009; Söder 2009). In these processes the inherent challenge between liberal and social rights has to be taken into consideration.

Human rights and democracy

For Locke, whose theoretical works are regarded as the main inspiration of the Declaration of Human Rights, the idea of some natural rights was connected to man's ability to make rational choices. In order to fulfil the duty of cultivating and improving themselves, man had to be freed from state intervention (Wall 2008). However, human rights have developed sequentially in response to historical and societal changes. The raise of democracy, as well as the increasing number of assets regarded worthy of protection, has made the understanding of freedom and liberation more complex. Liberation can now be pursued *from* the state, *within* the state and *through* the state (Marshall 1949/1964). According to the modern human rights theorist Norberto Bobbio (1996), human rights should be understood as in a process of continual development. He describes the recent trends in human rights in terms of proliferation and specification as rights-bearers become increasingly considered, not as abstract 'man', but as individuals in specific socio-historical contexts.

Other examples of the development of global rights for special target groups are the Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979), the Convention on the Rights of the Child (1989), and the Convention on the Rights of Persons with Disabilities (2007). Each of these acts can be a starting point for considerations on human rights and we are choosing children's rights as one example of the complexity of possible interaction between human rights conventions, empirical studies and theorizing accounts.

Children's rights as an example

Children's rights constitute the earliest example of human rights becoming specified to individuals in certain stages of life. However, compared to adults, children's rights have been inversely developed. Comparing the content of the Convention on the Rights with its predecessors¹, the proliferation is evident from social rights to also include some civil and political rights. The Convention on the Rights of the Child is the second most ratified human rights convention. The principal message of the Convention has been summed into four principles; 1) *non-discrimination*, 2) *best interest of the child*, 3) *right to life and development* and 4) *right to have one's voice heard in decisions that affect one's life situation*. The principle of the best interest of the child is the foundation pillar of the whole Convention and the most vividly analysed. Compared to human rights in general the close connection between children's rights and their needs seem to have been more elaborated than their connection to duties. According to Eriksson et al. (2008) the Child Convention can be understood in the light of both a welfare and a rights perspective. In a welfare perspective a child's best interest is judged according to needs determined by adults, whereas the rights perspective regard the

¹ Declaration on the Rights of the Child League of Nations (1924). Geneva Declaration of the Rights of the Child. Adopted 26 September, League of Nations.

child as a competent agent with the right to participate in decisions affecting its life circumstances.

For early human rights theorists, such as Locke, Rousseau and Kant, entitlement to natural rights were understood in terms of human beings as rational. Hence, for a long time children were excluded from having any self regulatory rights, on the basis of undeveloped rationality (Wall 2008). The exclusion of children from self-regulatory rights has been challenged by modern childhood researchers in what have been termed new social childhood studies or new sociology of childhood (Qvortrup 1994; James and Prout 1997; James, Jenks et al. 1998; Alanen 2001; Mayhall 2002; Corsaro 2005). As a starting point childhood is understood as a social rather than a biological construct. While all children share the same minority status, they grow up and live under various life circumstances. Thus, understanding childhood as universal becomes impossible and, just as adults, children belong to a heterogeneous group in terms of gender, class, function, ethnicity, culture etc. Recently, intersectional research has challenged the additive assumption that social inequality increases with each additional stigmatized identity. Hence, understanding how contemporary changes in society affect the welfare of children and adults in exposed situations we need to be aware not only of the heterogenic human nature, but also of circumstances surrounding those living their lives in the intersections.

The NSU-circle on human rights

With this introduction to the human rights perspective on the developments within different welfare issues we would like to sketch how the study circle will work. The circle will, in particular, although not exclusively, focus on children in exposed situations and on the different ways rights are implemented and interpreted in e.g. social work, but also in more general welfare state policies and initiatives of the different countries.

First of all we would like to use the fact that our Nordic countries are both similar and different. If the children's rights are used as an example we can see how the implementation differs between the countries. In all our Nordic countries children's right are monitored by public authority. In Norway "Barneombudet" was established in 1981 – even before the children's rights were decided upon in the United Nations (1989). In Sweden, Denmark and Iceland Children's Ombudsman was established in 1993-1995. In Finland there have been discussions since the convention was taken in the UN and the convention was ratified in 1991, but not until 2005 an Ombudsman was established permanently.

In the perspective of intersectionality it is possible to witness how different human rights can be seen as interfering with each other in social welfare work. One example is parenting issues for persons with disabilities or chronic illness – over the years the view on disabled people as parents has changed. Not all kind of disabilities or chronic illness among parents are regarded as a potential hazard for their children to grow up with, but still there is much concern for children growing up with parents with intellectual disabilities. There is also a very relevant issue from a gender perspective highlighting different notions.

Despite the examples above, which have been focused on children, the study circle will focus on all kinds of groups regarded as being in exposed situations and how the welfare services and the civil society can support or hinder their possibilities to have control over their own lives. We welcome different disciplines and perspectives in both theoretical and empirical studies.

The multi-disciplinary perspective involves a combination of empirical research and more theoretical, and philosophical, approaches to questions about rights and welfare. This will open for discussions embracing a range of perspectives on differences and similarities between the Nordic countries, as well as discussions about the more theoretical nuances and implications of these differences.

Intentions for the work of a NSU study circle (2011–2013)

The study circle has the ambition to produce a “refereed on-line anthology” with selected contributions from the field of Human rights in the Nordic welfare states towards the end of the third year. With a clear intention about what to produce we hope to attract committed participants and to structure the work in the study circle. However, participation in the study circle without contributing material for the anthology but merely being an active part in the discussions will also be possible.

Network members and coordinators

The study circle is being initiated by former members of Circle 1 and has thereby its roots in different disciplines like sociology, philosophy, educational science, child and youth studies, disability studies, social work research and others. The network includes senior and junior researchers from Denmark, Sweden and Norway. With a new topic we have the intention to take contact with and include new members, also from other Nordic countries like Finland and Iceland. Persons with practical approaches to related topics are also welcome.

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