

## Human rights, power and welfare conditionality

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Over the last 10 to 15 years, talk about economic and social rights has become part of social policy debates in developed countries. Rights-based approaches emphasise participation, yet the debate around economic and social rights is largely driven from above. This article examines the extent to which the values which underpin rights-based approaches are consistent with the values of those whom such an approach is designed to help. The values underlying rights-based approaches and those with experience of poverty are identified and then compared in three ways: in general; in relation to the specific issue of welfare conditionality; and as prescriptions for action. The comparative analysis is facilitated by linking the discussion of values to discussion of the forms of power relationships involved in rights-based approaches and what is valued by those with experience of poverty. While there is considerable overlap between rights-based approaches and what is valued by those with experience of poverty, there are also subtle differences which should not be ignored.

### Introduction

Towards the end of the 20th century, talk about rights, particularly economic and social rights, entered social policy discourse. Even in Australia, where all attempts to establish guarantees of rights within the legal system have failed (Charlesworth 2002), the influence of UN treaties or conventions can be seen in policy statements and documents in specific policy sectors. For example, one of the most important elements of the Convention on the Rights of the Child is set out in Art 12, which calls on state parties to 'assure the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child' (cited in Bessell 2007, 6). While consultation with children can be tokenistic or undermined by bureaucratic structures, the principle of seeking children's views has become part of policy rhetoric, if not practice (Bessell and Gal 2007, 3). For example, one of the four rights set out in the South Australian Charter of Rights for Children and Young People in Care is 'the right to understand and have a say in decisions that affect you' (Office of the Guardian for Children and Young People 2006).

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Rights-based approaches differ from past practice in the emphasis on obligation, in particular the obligation of the state to ensure its citizens are able to exercise their economic and social rights (the right to work; the right to an adequate standard of living; the right to education, housing and health) and by acknowledging that all citizens are entitled to exercise such rights. Thus the Office of the High Commissioner for Human Rights (OHCHR) defines a rights-based approach as one that 'links poverty reduction to questions of obligation rather than welfare or charity' (OHCHR 2004, iii). Governments become 'duty-holders' who are obliged to guarantee the rights of all citizens, including those who are marginalised or disadvantaged. Welfare recipients become rights-holders who are assisted by the state, not as an act of paternalistic benevolence, but as an entitlement.

As with any normative framework, rights talk has generated a mixed response. For some, rights-based approaches provide a powerful social instrument for challenging the sites and uses of power (Bessell and Gal 2007, 5; Cornwall and Nyamu-Musembi 2004, 1418; Offenheiser and Holcombe 2003, 275). Others point to the fact that institutionalising human rights is a social process which itself involves the use of power (Short 2007). Compared to civil and political rights, economic and social rights require a much greater level of active intervention by government before such rights can be realised (Alston and Quinn 1987, 184). The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises that the adoption of legislative measures may be highly desirable in many instances, but leaves it up to individual states to determine whether legislation is necessary (CESCR General Comment 3). The belief that legislation, though important, is not sufficient to ensure a full realisation of rights is reflected in the covenant, which for some rights lists the steps to be taken by state parties in order to achieve full realisation of a particular right. In all cases, the steps refer to broad policy goals and programs rather than specific legislative measures. For example, in relation to the right to work, the covenant lists 'technical and vocational guidance and training programs' and 'policies and techniques to achieve steady economic development and full and productive employment' as some of the steps to be taken (ICESCR, Art 6). Furthermore, guidelines governing the type of reporting required under the covenant clearly indicate that states should provide details of non-legislative measures such as policies, programs or techniques, as well as all relevant laws (Alston and Quinn 1987, 168). In establishing the principle of progressive achievement,<sup>1</sup> the covenant also recognises that full realisation of economic and social rights requires a significant amount of resources and state parties are given considerable discretion in determining the level of financial resources devoted to policies and programs designed to achieve realisation of economic and social rights (Alston and Quinn 1987, 180).

1 Article 2, para 1 requires state parties to take steps 'with a view to achieving progressively the full realization of the rights recognized in the present covenant'.

Thus, economic and social rights are contingent on available resources and progressively realised through a range of measures, not all of which will be based on legislation and give rise to enforceable rights. Cox (1998, 10) notes that governments are increasingly relying on activities which are not codified in law, citing the example of aged care in Denmark, where elderly people enjoy the right to be cared for in their own home, but this right is not stated in law and its realisation is dependent on the amount of money local communities, which fund home care activities, allocate to aged care. Carney (2007, 5) argues that a similar process is underway in Australia, where recent welfare-to-work reforms have converted rule-based norms into discretionary powers under the control of government departments. Increasing levels of conditionality applied to welfare entitlements are seen to further erode the 'rights' of social security clients (Carney 2007; Dwyer 2004).

Given the debate around rights-based approaches and, in particular, the claim that rights-based approaches have the potential to challenge existing power structures, it is worth considering the extent to which the values which underpin rights-based approaches are consistent with the values of those whom such an approach is intended to help. In this article, I have taken the views of people with experience of poverty about what they want from government and service providers as indicative of what they value.

The remainder of this article is organised as follows. First, four general principles or values underlying all rights-based approaches are identified. This is followed by a discussion of what is valued by those with experience of poverty. The values underlying rights-based approaches are then compared to the values of those with experience of poverty, first in general, then in relation to a specific issue — welfare conditionality — and finally as a prescription for action. Linked to the discussion of values is discussion of the forms of power involved in rights-based approaches and what is valued by those with experience of poverty.

### **Rights-based approaches**

As noted earlier, the realisation of economic and social rights requires a range of different forms of intervention by government, and under the ICESCR governments have considerable discretion in how they choose to institutionalise such rights. While there is no single agreed rights-based approach, all rights-based approaches derive from the international human rights framework from which a set of common principles or values can be identified (Geiringer and Palmer 2007, 30). The first of these is that the inherent dignity of the human person is the basis of all rights (OHCHR 2004). The second is that participation is the way in which individuals are able to live with dignity (OHCHR 2004, 13–14). Consequently, the Office of the

High Commissioner for Human Rights has suggested that in terms of the policy-making process, this principle obliges governments to facilitate participation by affected groups at all stages of the policy process, from initial conception through to implementation and evaluation (OHCHR 2002, 16–17, cited in Geiringer and Palmer 2007, 27). Thus, empowering rights-holders to be active participants in decision-making processes that affect their lives is a key component of rights-based approaches, with some political theorists arguing that participation is a basic right upon which all other rights rest (Lister 2004, 166). From a rights-based perspective, participation should not be confined to decision-making at the local level, but should encompass broader decision-making forums that impact on policy-making at the national and international level. In addition, duty-holders have an obligation to encourage rights-holders to pursue the legal defense of their rights within national and international jurisdictions (Ackerman 2005, 3–4).

While the ICESCR provides for gradual realisation of economic and social rights, taking into account the level of financial resources available to individual governments, the third principle underlying rights-based approaches is that realisation of economic and social rights must start from the bottom up. That is, governments are obliged to concentrate their efforts on the most vulnerable or disadvantaged groups in society (Geiringer and Palmer 2007, 28–89). The fourth principle concerns governmental accountability. Geiringer and Palmer (2007, 27–28) argue that the stipulation in Art 2(1) of the ICESCR that state parties use ‘all appropriate means’ in moving towards full realisation of economic and social rights requires some degree of governmental accountability to its own citizens in addition to its periodic reports to the United Nations.

These principles illuminate the type of power relationships involved in rights-based approaches. Larmour (2002) identifies seven types of power relationships, of which five are relevant to this discussion of human rights approaches — that is, first dimensional or coercive power, where one party has the power to force another to do something that they would rather not do; second dimensional or agenda setting power; infrastructural power, which involves the transfer of resources in order to empower the recipient; disciplinary power, where one party tries to make the other party want what they want so that the second party takes responsibility for achieving the desired outcome; and, finally, the form of power that is linked to knowledge and expertise.

Clearly, the most important type of power relationship involved in rights-based approaches is infrastructural power. Governments exercise infrastructural power when they provide resources that enhance the capacity of rights-holders to participate in decision-making processes that affect their lives. However, genuine

participation, which equates to the top three rungs of Arnstein's ladder of citizen participation,<sup>2</sup> involves a rebalancing of second dimensional power. In addition, the principle of governmental accountability has the potential to shift the balance of second dimensional power slightly from governments towards rights-holders as governments are forced to report on progress towards full realisation of economic and social rights.

### **What do people with experience of poverty want from government and service providers?**

When asked about their life experiences and what they want from government and service providers, the desire for dignity and respect is almost always mentioned — regardless of the age of respondents, their gender or where they live. For example, the UK Commission on Poverty, Participation and Power (CoPPP) noted that 'the lack of respect for people living in poverty was one of the clearest and most heartfelt messages which came across to us' (CoPPP, cited in Lister 2004, 120). The same message was received by the Hume City Council when they talked to people from Indigenous communities, people from culturally diverse communities, women, those not in the workforce, people with a disability, older people and younger people:

The desire for respect was by far the most important theme that emerged from discussions with those people who are experiencing, or who belong to particular community groups that are at a higher risk of experiencing poverty. [Shearer and Fox 2004, 3.]

Clients of a range of welfare services in NSW and Victoria identified dignity and respect as two essential ingredients of a decent life, the desire for which was fuelled by the demeaning nature of interactions with government officials (Saunders et al 2006, 36–37), an experience shared by people in the United Kingdom:

Complaints were not about the quantity of payments ... the problem was punitive and disrespectful treatment. Governments were not just at fault because they didn't deliver but because what they delivered came at such a heavy price in terms of self-respect and dignity. [Peel 2003, 97.]

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2 Arnstein (1969) identified three types of token participation — informing, consultation and placation — and contrasted these with genuine participation, which includes partnerships, where decision-making power is shared; delegated power, where citizens have a dominant decision-making role in relation to a particular program; and, at the top of the ladder, citizen control, where program participants control policy-making and implementation and are able to negotiate the conditions under which 'outsiders' are able to exercise decision-making power.

You shouldn't have to be made to feel as though you are useless. I feel very angry sometimes that people are ignorant of the fact that we are humans as well and we do need to be respected. [Young unemployed woman, submission to the UK National Poverty Hearing, cited in Lister 2004, 120.]

Being treated with dignity and respect means being recognised as a person rather than a 'problem' (Shearer and Fox 2004, 4; Phillips 2003, 12), and being listened to without being judged (Leonard et al 2005, 417). Clients of welfare services clearly identify the importance of this form of emotional support (Waterhouse and Angley 2005, 15; Leonard et al 2005, 418):

People often think it is all about money. I don't necessarily need money, I need help dealing with being on welfare, I need help with all the shit about being worthless and useless and doing nothing. [Anglicare SA 2002, 18.]

I need someone who knows what I'm going through, to sit down with me and sort all of this crap out. [Anglicare SA 2002, 18.]

While being accepted and being listened to are important, people with experience of poverty want more than a passive form of listening. People living in poverty want their expertise to be acknowledged and heard (Lister 2004, 168–69; Phillips 2003, 19; Saunders et al 2006, 29; Waterhouse and Angley 2005, 17; Beresford et al 1999, 148). For example, in the many conversations Mark Peel had with people living in Inala in Brisbane, in Broadmeadows in Melbourne and in Mount Druitt in Sydney, this desire came through very strongly:

Justice was about being respected, trusted and listened to because what you had to say was important ... What mattered to them was acknowledgment of capacity and intelligence. [Peel 2003, 167.]

If they wanted one thing to change, it was that they be treated as knowledgeable, that outsiders should expect to learn and to listen. [Peel 2003, 168.]

Being listened to because what you have to say is considered valuable is a sign of respect and an acknowledgment of competency, both of which are valued by those with experience of poverty. For example, for participants in a personal loan pilot in Melbourne run by the Brotherhood of St Laurence and Community Sector Banking:

... obtaining a loan was more than just money, [it was also about] dignity, inclusion, trust and respect. It was an opportunity to not be just a passive recipient of welfare, but to gain some self-esteem by taking a positive active role in the process. [Scutella and Sheehan 2006, iii.]

Thus, agency — the ability to take control of your life — is clearly linked to dignity and respect, and being treated with dignity and respect can increase feelings of self-respect and a sense of agency (Lister 2004, 120–21). As one participant in the personal loan pilot explained, having a relationship with a mainstream bank:

... gave me the confidence to go ask somewhere else for credit ... this time I walked in with my head high and I said I want this and that. [Scutella and Sheehan 2006, 15.]

People with experience of poverty often identify feelings of powerlessness and a lack of control over their lives (Saunders et al 2006, 7). Choice is therefore important, because in choosing individuals are able to exercise control and agency. Thus, pensioners living in residential care in Melbourne experience greater financial stress than do pensioners living in rental accommodation, because they retain control over much less of their pension (Waterhouse and Angley 2005, 17–18). Access to services, such as affordable public transport, is valued because being able to use these services increases people's choices (Saunders et al 2006, 27). When people with experience of poverty talk about receiving resources, they do so in instrumental terms — that is, the resources are valued because they increase agency (Anglicare SA 2002, 15; Shearer and Fox 2004, 3; Saunders et al 2006, 38). For example, clients of welfare services in New South Wales and Victoria are critical of the lack of access to dental services, because having bad teeth makes it harder to compete for jobs (Saunders et al 2006, 17). The desire of many welfare recipients for information and assistance before their lives reach a crisis point is further evidence of the value placed on agency:<sup>3</sup>

I know what has happened and I know what I want to do, I just need someone to help me get the right information ... [about] what I need to do to get there. [Anglicare SA 2002, 15.]

The high priority placed on receiving information and getting access to resources which will increase agency indicates that those with experience of poverty are happy with governments exercising infrastructural power — power which is exercised in order to 'empower' the powerless. However, individuals with experience of poverty place an even higher priority on being able to exercise power that is linked to knowledge and expertise. Those with experience of poverty want their knowledge and expertise to be recognised; they want to be able to exercise the form of power linked to knowledge and expertise, because exercising this form of power is a powerful symbol of their worth as

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3 The value placed on agency by those with experience of poverty contradicts the moral underclass view of welfare recipients as passive or morally degenerate individuals who are content to let the state support them and their families.

a human being, as well as a means of exercising second dimensional (agenda setting) power. However, the desire to exercise second dimensional power is not absolute. Those with experience of poverty are not seeking to dominate or control negotiations to the exclusion of all other interests. What is important is a rebalancing of second dimensional power. As Mark Peel (2003, 97) observed:

People did not expect to receive the world on a platter. As they said only the rich presume that as their right. They did not expect immediate changes in their situation but they did expect to be listened to, to play some part in defining what they needed and to be treated with respect.

Children and young people also want to exercise this nuanced form of second dimensional power. Few young people and fewer children want to be given sole decision-making responsibility, but most want to have their say and have their wishes taken into account when decisions are being made, rather than (as often happens) being asked to endorse a course of action decided by others. As a 12-year-old boy who had experienced the care and protection system put it:

I might want to see my grandma. I might want to see my cousins. I might want to see my uncles or my aunties. I should be able to say 'yes, I do' or 'no, I don't'. I should have some say. [Bessell and Moore 2007, 7.]

### **Comparing the two**

It is clear from the above discussion that there is considerable overlap between the values underpinning rights-based approaches and what is valued by those with direct experience of poverty. Rights-based approaches recognise the dignity of the human person as the basis of all rights and, for people with experience of poverty, being treated with dignity and respect is more important than anything else:

You can put up with the struggle, you know, just get by, if you get respect and if you're treated right. [Peel 2003, 167.]

Similarly, the principle of governmental accountability is consistent with the desire of people with experience of poverty for:

... 'someone to make and keep a promise'. In their version of social justice, powerful people should be held to account in the same way they were ... 'You see, the difference is we pay for our mistakes. They don't. We have to understand limitations and forgive them and be reasonable and make the best of it. They don't. That's not fair.' [Peel 2003, 167–68.]



Participating in decision-making processes that affect their lives is clearly important to those with experience of poverty who value choice and agency, but the emphasis on encouraging rights-holders to pursue a legal defense of their rights is not necessarily shared by those with experience of poverty. Indeed, the language of rights seems to be largely confined to the non-poor. People with experience of poverty do not talk about claiming a legally defensible ‘right’ to a job, accessible public transport or health services; they talk instead about ‘fair’ access to resources and opportunities, which more closely equates to the principle that realisation of economic and social rights must start from the bottom up. Those with experience of poverty place greater emphasis on receiving information or accessing resources which will increase agency — for example, receiving information about services which may help them get a job — than claiming their ‘right’ to a job. For example, in a 1997 telephone survey of 6897 jobseekers which gathered information about jobseekers’ needs and expectations of service quality, as well as those aspects of service most valued by jobseekers, the desire for dignity and respect (staff treat you like a person, staff listen to jobseeker’s point of view, staff treat jobseeker with respect) and the desire for information that would help them gain employment (information about job vacancies, information about the best way to look for a job, information about the help available) were all valued highly. Of much less importance was information about rights and information about rules and regulations (Thompson 2007, 234).

So far, discussion of rights-based approaches and what is valued by those with experience of poverty has been confined to general principles. But these general principles are only ever given force in specific contexts. Discussion now turns to a specific issue, that of welfare conditionality, which is regarded by many as incompatible with rights-based approaches but is a defining characteristic of Australia’s welfare system.

In residualist systems, welfare conditionality is used as a rationing device — a way of ensuring that benefits and payments go to those in greatest need. Using welfare conditionality in this way is consistent with the principle that, when faced with resource constraints, realisation of economic and social rights has to begin with those most in need. However, more recently a second layer of conditionality has been added to residualist welfare systems, with conditionality being used as a way of modifying behaviour (Deacon 2004, 912) — that is, some welfare payments have become dependent on an individual accepting their responsibility to undertake certain activities deemed socially desirable, such as actively looking for paid employment or ensuring their children attend school. The legitimacy of linking rights and responsibilities in this way has been widely debated (see, for example, White 2000; Goodin 2002; Dwyer 2004), with many arguing that rights-holders have a right to health, employment or an adequate standard of living simply by virtue of

their humanity, and consequently do not have to do anything to 'earn' such rights (Charlesworth 2002, 76; Geiringer and Palmer 2007, 15–16; Burgess et al 2000). Others argue that conditionality imposes additional burdens on the most vulnerable and disadvantaged, such as the homeless or those with multiple disabilities, or on 'third parties', particularly the children of those who are penalised for not meeting benefit requirements, such as applying for jobs or attending job interviews (Deacon 2004, 914; Peatling 2007).

While it is not the intention of this article to resolve the debate about whether welfare conditionality is a legitimate part of rights-based approaches, it is clear that in imposing conditionality with the aim of modifying behaviour, governments are exercising different forms of power from those associated with the key elements of rights-based approaches discussed above. When governments introduce conditions, such as participation in the Work for the Dole program, as a requirement for receipt of unemployment benefits, they are exercising a disciplinary form of power — that is, governments want welfare recipients to take responsibility for themselves for ensuring that they are 'work ready'. This disciplinary power can be exercised through first dimensional (coercive) power — as, for example, when those deemed to have demonstrated a pattern of work avoidance are obliged to undertake 'full-time' Work for the Dole — or it can be exercised in a non-coercive way — as, for example, when individuals volunteer to have a portion of their welfare payments managed on their behalf by Centrelink.

Justifications for conditionality fall into three main camps. Contractualist justifications centre on the belief that there is an implied contract between citizens and the state, where the state agrees to support its citizens in times of need if the citizen accepts their responsibilities, of which the most important is the responsibility to work (White 2000, 507).

On the other hand, paternalistic justifications are based on the belief that imposing conditions is in the best interests of those in receipt of welfare payments because such individuals are so defeated by poverty and disadvantage that they are incapable of fulfilling their own desire to work or to look after their family without the threat of penalties or sanctions (Deacon 2004, 916). Unlike contractualist arguments, paternalistic justifications do not emphasise the reciprocal obligations of the state — that is, welfare recipients are obliged to meet the conditions imposed upon them by the state because doing so will improve their lives, not because the state has already provided services and programs that will enable welfare recipients to overcome poverty and disadvantage (Deacon 2004, 916). The third justification for welfare conditionality (mutualist justification), derived from the writings of communitarian theorists, is based on the belief that people have a responsibility to be good parents,

neighbours or citizens — not because the state has provided certain benefits or support, but because of the responsibility individuals owe to each other (Deacon 2004, 917).

But what do recipients of social welfare services believe? For a sample of welfare service users living in Bradford in the north of England, the legitimacy of welfare conditionality is dependent on the specific policy sector (Dwyer 2002). While accepting that individual behaviour could be a contributing factor to the need for health care, the overwhelming majority of respondents believed access to health care should be unconditional:

I feel there are just too many different criteria on which to apply a value judgment, it would be impractical to apply it. You can't just take an isolated thing whether it be smoking, weight or age or nice person/bad person ... The universal thing is the only real way out of it. [Darren, benefit claimant group, cited in Dwyer 2002, 284.]

You could say that people who do dangerous sports or whatever are endangering their health so there is nowhere to draw the line really. [Linda, women claimants group, cited in Dwyer 2002, 284.]

On the other hand, conditionality in the housing sector was considered appropriate, particularly in situations where individuals repeatedly reneged on agreements, ignored warnings and continued to engage in behaviour which had a negative impact on their neighbours:

If they have been notified of the rule and they are a nuisance, yes I think that the council or housing association has got a right to evict them ... I think they should get a warning first, not just throw them out. There should be a procedure like. [Molly, lone parents group, cited in Dwyer 2002, 285.]

Support for conditional unemployment payments fell between the two, with more than half believing it was reasonable to expect those receiving unemployment benefits to accept specific work or training responsibilities because this would increase their chance of finding a job, or because respondents believed it was desirable that those in receipt of a benefit contribute in some way to the community (Dwyer 2002, 286). However, a substantial minority, who tended to see unemployment in terms of structural rather than individual failings, did not believe it was appropriate to make the receipt of unemployment benefits conditional on fulfilling certain duties or obligations:

If there are no jobs people should be paid unemployment benefits. [Len, senior citizens group, cited in Dwyer 2002, 287.]

This nuanced approach to conditionality is consistent with Australian studies of community attitudes. For example, Eardley, Saunders and Evans (2000, 224) found that support for conditionality was high (83 per cent) when applied to young (under 25) unemployed people, but only 36 per cent of those surveyed believed an unemployed parent should be forced to undertake mutual obligation activities and only 25 per cent of those surveyed believed it was appropriate to impose obligations on unemployed people who had a disability.

While elements of contractualist, paternalist and mutualist justifications can be found in the views of welfare service recipients, what these studies indicate is that users of social welfare services would agree with White's conclusion that:

... there is nothing intrinsically objectionable about welfare contractualism ... [but its] legitimacy ... is difficult to assess in isolation from the character of the rest of the welfare system, indeed of the rest of the economic system as a whole. [White 2000, 531–32.]

In other words, those who are often subject to the exercise of coercive power as part of the provision of assistance do not automatically condemn the use of such power. Indeed, criticisms of the compulsory nature of mutual obligation in workfare schemes such as the Work for the Dole program are largely confined to commentators, advocacy and service delivery agencies. Participants are more concerned with the lack of flexibility in program design and implementation, which means the program is unable to meet individual needs. For example, some older job seekers want access to accredited training so that they can move into new areas of employment while others do not, preferring wage subsidy schemes that would enable them to work in a real workplace in the private sector where they could demonstrate their skills and abilities to employers (Nevile and Nevile 2003, 99–101). Once again, the emphasis of those with experience of poverty is centred on the ways in which the program can help them achieve their goal — getting a job — rather than concern about the exercise of first dimensional power.

Rights-based approaches can be seen both as an international system of treaties, visionary statements and commitments and as a conceptual framework that allows policy-makers to 'recharacterise and guide what we do and how we do it' (Bessell and Gal 2007, 4). The remainder of this section of the article considers what would need to change in 'what we do and how we do it', if the values of those with experience of poverty are taken as a conceptual framework.

The biggest challenge facing policy-makers and service providers lies in allowing those with experience of poverty to exercise the form of power that is linked to knowledge and expertise. Policy-makers and service providers are comfortable

with the exercise of infrastructural power, but allowing service users to exercise the form of power that is linked to knowledge and expertise cuts across the strong streak of paternalism that still exists in the social welfare sector. In other words, it challenges the belief of all professionals involved in delivering social welfare programs that they know what is best for their clients, just as it challenges the belief of academics and policy experts that their ideas or the latest policy fad will solve particular policy problems.

Allowing those with experience of poverty to exercise the form of power that is linked to knowledge and expertise means policy-makers and professionals involved in the delivery of social welfare services must at times surrender control over outcomes, even if placing power in the hands of individuals means that outcomes are less than what policy-makers and welfare professionals believe they could be. There are agencies already doing this, in spite of the ongoing frustration experienced by their staff when clients choose not to make changes that the staff believes would be beneficial. For example, staff involved in Anglicare Tasmania's Acquired Injury and Home Support Service (AIHSS) are committed to the principle of treating their clients with dignity and respect, which means giving them choice — choice over who is employed as their personal support worker and choice over how allocated hours are used. Even when staff members see clients who choose to make goal-oriented plans for how allocated hours are used improve their quality of life while others do not do so well, they remain committed to the principle of letting clients decide (Clarke 2006).

As the preceding example illustrates, clients want different things. Some clients want personal support workers who are trained to care for people with spinal cord injuries; others are more concerned about the personality of the support worker — whether they 'hit if off' (AIHSS clients 2006). Therefore, making assumptions about what clients want is dangerous. As Renee, a young Aboriginal woman who was interviewed for Judith Brett and Anthony Moran's book *Ordinary People's Politics*, explains, even well-meaning assumptions which incorporate lessons from past policy failures do not always hold true:

My sister doesn't want to be part of the Aboriginal community any more. She thinks it is destructive, and that the violence and abuse has caused all her problems ... [M]y sister's happy to be removed. She'd rather be in care because she's getting all the things Mum couldn't provide. It's not that she doesn't like Mum, but she'd rather be out of there. [Renee Simmons, cited in Brett and Moran 2006, 289.]

For Renee, the answer lay in treating each person as an individual and listening to what they wanted for their life:

Renee ... stressed repeatedly that people trying to help should talk with the children and have more faith in their resilience, and that the current situation should not just be seen in terms of the previous generation's experience. [Brett and Moran 2006, 290.]

Treating everyone as an individual and allowing them to choose means that services have to be flexible — flexible in terms of both what is provided and how long assistance is provided. This level of flexibility is often difficult to achieve in an environment where services are under-resourced and accountability frameworks emphasise upward accountability (accountability to funding bodies), rather than downward accountability (accountability to service users). But, as noted earlier, for those with experience of poverty, exercising the form of power that is linked to knowledge and expertise is a means of rebalancing, not dominating, the exercise of second dimensional (agenda setting) power. Therefore, finding a balance between the demands of upward and downward accountability should not be impossible.<sup>4</sup>

Re-orienting service provision to fully reflect the values of those whom the service is designed to assist would require greater emphasis on the provision of information to clients or program participants about available services, and how to access these services as a way of strengthening the exercise of infrastructural power. As noted earlier, individuals want this sort of information and the success of service models based on care in the community requires it (Cameron and Flanagan 2004, 83). Unfortunately, clients and program participants often report difficulties in accessing relevant information:

Unless you actually enquire about what services are available then people are not normally keen to tell you. So you actually have to do a lot of prying and literally ask specific questions about what is available and what is not. There is never one person. It is always several people and you will find a lot of people will do a lot of buck passing and say 'we don't handle that' and they will say you need to speak to this person or that and before you know it you have spoken to fourteen different people and you still don't have the answers you need. [Matt, 22, living with cerebral palsy, cited in Hinton 2006, 50.]

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4 For example, the innovative pilot program in Rochdale, Partnerships for Older People Projects (POPPs), is funded by the UK Department of Health with the aim of developing new approaches to the delivery of services for older people which reduce the need for acute or institutionalised care. The program has established township groups, which are dominated by representatives of older people who have the power to decide how money is spent in response to needs identified by the older residents in their local area (Shaw 2007).

Giving clients choice, providing flexible services which are responsive to individual needs and placing greater emphasis on the provision of information are all consistent with rights-based approaches. This indicates that, far from being yet another imposition on 'the poor' by experts who believe that they know best (Cornwall and Nyamu-Musembi 2004, 1420; Hintjens 1999, 386), rights-based approaches provide a conceptual framework that allows policy-makers and those involved in the delivery of social welfare services to recharacterise what they do and how they do it in ways that are largely consistent with the values of those whom they are trying to help.

### **Conclusion**

In setting forth arguments for the development of an Australian system for the protection of human rights, Hilary Charlesworth (2002, 50) characterises human rights as 'a framework for debate over basic values and conceptions of a good society'. Recognising that this debate should be conducted by all groups in society, not just those with the power to influence what is done and how it is done, this article asked: To what extent are the values which underpin rights-based approaches consistent with the values of those such an approach is intended to help?

A comparison of the general principles underlying all rights-based approaches to what is valued by those with experience of poverty reveals considerable overlap. Those with experience of poverty value dignity and respect above all else and place a high priority on choice and agency and on receiving information which will enhance their capacity to exercise choice and agency, all of which is consistent with rights-based approaches, where the inherent dignity of the human person is seen as the basis of all rights and participation in decision-making processes is seen as the way in which individuals are able to live with dignity. However, as Arnstein (1969, 221) noted in her analysis of forms of citizen participation, genuine participation involves a redistribution of power, and when the forms of power involved in rights-based approaches and what is valued by those with experience of poverty are compared, slight differences emerge.

For those with experience of poverty, it is important to participate in decision-making processes through the exercise of power that is linked to knowledge and expertise. In other words, those with experience of poverty want to be treated as knowledgeable and to participate in decision-making processes because their knowledge and expertise are respected, rather than — as would be the case under rights-based approaches — because they have a 'right' to participate. While the outcome — participation — is the same, the basis for that participation is different.

This difference is also evident when attitudes to welfare conditionality are examined. For many advocates of rights-based approaches, welfare conditionality is not consistent with such an approach because individuals have a right to health or employment and therefore should not have to do anything to earn what is theirs by right. On the other hand, with the exception of health, those with experience of poverty are less concerned about claiming something by right and more concerned about enhancing their capacity to achieve their goals.

But what are the practical implications of this difference? The discussion of what would need to change if the values of those with experience of poverty are taken as a conceptual framework revealed that the recommended actions are entirely consistent with rights-based approaches. The considerable overlap between the values which underpin rights-based approaches and what those with experience of poverty value means that those committed to a human rights framework for the development of social policy do not have to make major changes to what they do and how they do it if they wish to fully reflect the values of those with experience of poverty. What is needed, however, is an awareness of the sources of second dimensional power and an increased understanding of what is already being done, as well as what could be done, to incorporate the knowledge and expertise of those with experience of poverty into the process of policy-making, implementation and evaluation. ●

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