



From Charity to Welfare Rights? A Study of Social Care Practices

Thomas Maesele, Ghent University

1

In social work a transition is observed from charity and philanthropy to a right to social welfare as the base for social service delivery (Jacobs 1984; Goodin 1988; Harris 2008). After the Second World War, welfare states were developing rapidly and social security systems were introduced (in Belgium, through the social pact of 1944). In Belgium, the public social services developed through successive changes in the legislation. The most important turning points were the adoption of the law on a Basic Minimum Income (BMI) in 1974 and the law on the Public Centres for Social Welfare (PCSW) in 1976. The BMI was the final piece of the social security system (Simoens et al. 2001). In the law on the PCSW, in article 1 it is stated that everyone has the right to social welfare with the aim of guaranteeing that every citizen can live a life in human dignity. In article 57, it is stated that the community is bound to guaranteeing the right to social welfare and that this right has to be ensured by the PCSW. The law of 1976 is characterised by several scholars (Pieters 1980-1981; Luyten 2008) as a *Copernican revolution* in the perspective on social welfare and as the transition from charity and philanthropy to a right to social welfare in Belgian social welfare provision. Several scholars however criticise the specific translations made of this right and state that charity is still institutionally and ideologically embedded (Notredame 2005). In that vein, Hubeau (1995) states that the current interpretation of this right tends to be minimalistic. Because rights can be interpreted and implemented in different ways (Ife 2001) and because social workers should be considered as policy makers (Lipsky 1980; Evans & Harris 2004; Roose 2006) it is essential to study concrete social practices to gain insight about the actual situation and consequently about the observed and above mentioned transition.

A case study about vagrancy is set up with the aim to study whether there was a transition, how this transition was/was not visible in concrete social work practices and what this meant for vagrants. We consider vagrancy as an interesting case in the light of the criminalisation of this social problem until 1993. The decriminalisation movement (e.g. Neirinckx 1989) in the eighties of the previous century based themselves on this right to social welfare to state that the law of 1891 Law to Curb Vagrancy and Mendicancy, under which vagrancy was still criminalised but which replaced the penal sentence by measures, had lost its object. By this they meant that by the right to social welfare of 1976 and the right to a basic minimum income of 1974 vagrants would have sufficient means. One of the constituting elements of the penal definition of vagrancy was exactly not to have sufficient means. When vagrancy was decriminalised in 1993, the Secretary of State for Social Integration emphasised that the 1976 right to social welfare was the gateway to provide help for vagrant persons (Onkelinx 1993).

In a first part of the research, we take a closer look into the observed transition on the basis of previous research to explore whether the general thread is pointing to a transition. In a second part, we investigate the period between 1891 and 1993 in which vagrancy was still

criminalised, and during which no punishment was given to vagrants but measures by putting the vagrants at the discretion of the government. In reality this meant internment in a Vagabond Colony or Beggar Institution. In the third part, we highlight the decriminalisation movement which was quite active in the seventies and especially in the eighties of the previous century. We will analyse different perspectives, motivations and the impact of the decriminalisation movement. In the fourth part, we will analyse the period between 1993, the year in which vagrancy was decriminalised, and the current situation. We will analyse how vagrants have been treated after the decriminalisation of vagrancy and how social (work) practices have (re-)organised towards the new inflow. In the fifth part of our research, we will analyse the life course of former vagrants to document and analyse their path through social (work) practices after vagrancy was decriminalised, where they ended up, which contacts with social work institutions they had and how they experienced these changes.

References

- Evans, A. and Harris, J.** 2004: Street-level bureaucracy, social work and the (exaggerated) death of discretion, in: *British Journal of Social Work*, 34:6, 871-895
- Goodin, R.E.** 1988: *Reasons for welfare. The political theory of the welfare state.* New Jersey, Princeton University Press
- Harris, J.** 2008: State social work: constructing the present from moments in the past, in: *British Journal of Social Work*, 38(4), 662-679
- Hubeau, B.** 1995: De doorwerking van de sociale grondrechten in de Belgische Grondwet: over de maximalisten en de minimalisten. In: Vranken, J., Geldof, D. & Van Menxel, G. (red.), *Armoede en Sociale Uitsluiting. Jaarboek 1995.* Leuven, Acco, 157-166
- Ife, J.** 2001: *Human rights and social work: Towards rights-based practice.* Cambridge, Cambridge University Press
- Jacobs, T.** 1984: Van gunst naar recht: fasen in de overgang van de Middeleeuwse naar de hedendaagse welzijnszorg. Retrieved 9 September 2010 from:
http://www.canonsociaalwerk.eu/1976_OCMW/1984,%20Van%20gunst%20naar%20recht_ThJacobs.pdf
- Lipsky, M.** 1980: *Street-level bureaucracy. Dilemmas of the individual in public services.* New York, Russell Sage Foundation
- Luyten, D.** 2008: Het OCMW: een evoluerend centrum in een evoluerende maatschappij, in: *Welzijnsgids*, aflevering 67
- Neirinckx, P.M.** 1989: Armoede achter slot en grendel? Op weg naar een decriminalisering of depenalisering van de landloperij. Brussel, Koning Boudewijnstichting/vereniging der Vlaamse Onthaalhuizen/Associations des Maisons D'accueil
- Notredame, L.** 2005: Van professioneel project tot onderneming, in: *Alert*, 31(3), 49-58
- Onkelinx, L.** 1993: De organieke wetten der O.C.M.W.'s in het licht van het Urgentieprogramma voor een meer solidaire samenleving. Brussel, Ministerie van Sociale Integratie
- Pieters, D.** 1980-1981: Het laatste recht. Beschouwingen bij het recht op maatschappelijke dienstverlening vervat in artikel 1 van de O.C.M.W.-wet, in: *Jura Falconis*, 4, 591-605
- Roose, R.** 2006: *De bijzondere jeugdzorg als opvoeder.* Gent, Academia Press

Simoens, D., Seynaeve, T., Van Der Straete, I. & Put, J. 2001: Terugvordering van het Bestaansminimum en van de kosten van maatschappelijke dienstverlening bij onderhoudsplichtige familieleden van de begunstigde. Leuven, Katholieke Universiteit Leuven

Author's Address:

Thomas Maesele
Ghent University
Faculty of Psychology and Educational Sciences
Department of Social Welfare Studies
H. Dunantlaan 2
9000 Ghent
Belgium
tel: ++329 264 64 00
fax: ++329 264 64 93
<http://www.sociale-agogiek.ugent.be>
Email: thomas.maesele@ugent.be

**Social Work
& Society**