

Abstract

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The thesis addresses the question of the development of social rights in Swedish welfare state legislation. Particular the move from negative liberal rights to the positive social rights is of theoretical interest. By using recent theories of pluralism it is emphasized that rights evolve out of different social settings, historical contexts and that they are based on different values. The thesis holds the view that the entire legal system is embedded in values and the phrase 'legal polyvalence' is used to designate the 'many-valued' character of law. The theoretical reflections on pluralism are used to explain the legislation protecting the rights of disabled persons by the *Law on Support and Service*, 1993. The Swedish social policy and legislation show an increasing amount of rights for the citizen in need and accordingly an increasing responsibility on the authorities, which is marked clearly in LSS. But a severe problem in the present field is that a large number of granted decisions have not been implemented by the social local authorities in due time, so called 'delayed execution or implementation' During the 1990's this problem has deepened, whereby many disabled people have been waiting for years for assistance. The right to specific need has turned out to be a right to stand in line.

Given the difficulties of the LSS to attain its social goals three main themes are analysed. The first concerns the overall possibility to legally protect social rights in relation to extra-legal interests. The second focuses on legal certainty for the individual in need of LSS, but the traditional view on legal certainty as formal predictability has proved to be inadequate in this context, and instead a conception of 'social' certainty is proposed as a tool for strengthening social rights. The third theme is to investigate, by the use of legal polyvalence, the normative and social systems intervening in the implementation of LSS.

There are several arguments for not giving sufficient weight to social rights. One is the liberal ideology denying social rights any legal weight. Another is the lack of economic resources, which is usually the reason given by local authorities for delays. A third argument holds that social rights encroach the municipal self-government. The thesis refutes these arguments as untenable. A major task of this thesis is accordingly to generate a greater understanding of social rights in general as being legitimate legal claim-rights, and not just general welfare subsidies to be distributed when the economic situation so permits.

Key Words: disability, social rights, legal certainty, pluralism, polycentricity, LSS, welfare legislation, coherence and legal theory

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