

OPERATIONALISING HEALTH AS A HUMAN RIGHT: THE IMPLEMENTATION OF THE PATIENTS' RIGHTS CHARTER

London L¹, Holtman Z¹, Gilson L², Erasmus E², Khumalo G², Oyedele O², Ngoma B²

Background and Objectives

Despite a Constitution that includes strong provisions on the right to health, the practical operationalisation of the right to health remains difficult in South Africa. This research sought to describe and analyse the implementation of the Patients' Rights Charter in the South African public sector. The effectiveness of the Charter to promote health as a human right was explored with a view to assist in improving implementation.

Methods

A literature review on the use of the Patient Rights Charter (PRC) was conducted.

Empirical information was gathered in two phases, using the following methods:

- Interviews with national, provincial and hospital managers, as well as a range of health workers and community members
- Structured observations in case study facilities.

These methods yielded mostly qualitative data, and were analysed thematically.

Results

While confirming some successes in publicising the Charter, the findings highlight gaps in the provision of materials, training of staff members, and the operation of complaints mechanisms. Other obstacles included: weak accountability for implementation; challenges in balancing integration of the PRC versus dedicated delivery; widespread conflation of the Charter with the Batho Pele programme and poor understanding of human rights as it relates to health; reliance on training as a stand-alone strategy; lack of preparation on the ground and weak or absent monitoring mechanisms; perceptions that the overuse of rights results in their being 'cheapened'; wide variability in understandings of human rights amongst all respondents, and an overwhelming sense that patients rights have become interpreted as a threat to health care providers.

In addition, the success of the Charter is constrained by less tangible factors such as power relationships and levels of trust in workplaces.

Conclusion

Because it intervenes fundamentally in relationships, the PRC needs to be located within well functioning systems rather than as a stand alone programme. Health care workers need to be empowered to set up mutually collaborative relationships with users so as to jointly realise the right to health. Important institutional and political commitments are needed to support such changes.

1. Health and Human Rights Programme, University of Cape Town

2. Centre for Health Policy, University of the Witwatersrand