UN Disability Rights Convention and Implications for Social Work Practice

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Abstract
The central argument of this paper is that social work should consider strengthening the rights-based practice of the profession by referencing it more specifically to the UN Convention on the Rights of Persons with Disability (CRPD) and the concept of citizenship as it applies to people with disability. The CRPD has placed people with disability on the global agenda, highlighting their need for greater inclusion in society and recognising them as citizens to be valued and respected. How the CRPD deals with the issue of exclusion of people with disability in society has important implications for social work practice. The argument is that social work has been slow to respond to the opportunities made available by the ratification of the CRPD to strengthen its rights-based practice, and has thus left disability rights as a missing component in social work. This paper takes the view that seeking to achieve full citizenship for people with disability by applying human rights standards, methods and rhetoric, will not only reaffirm disability-inclusive practice for social work but it will also assert greater influence in national and international institutions and demonstrate that social work is more than a charitable, residual, or therapeutic profession. The paper also discusses how major principles advocated by the CRPD may interface with the concept of citizenship inherently embedded in the value commitment of social work.

Keywords: Disability Rights; Inclusion; Citizenship; Human Rights

An Overview of Issues and the CRPD

Despite the fact that 15 out of 26 articles of the Korean Professional Codes of Ethics are based upon the human rights of clients, a human rights-based approach to social work still struggles for inclusion in mainstream practice in Korea (Park et al., 2001). It should also be noted that major principles of social work drew upon the United Nations Charter that affirms the essentiality of a universal respect for, and observance


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of, human rights and fundamental freedoms for all without distinction. The UN has always played a role in “dragging” social work to establish links with human rights, as evidenced by the publication of a manual as early as 1992 (United Nations, 1992). For many practitioners in Korea, the term “human rights” is understood to refer to special areas of practice that are deemed to be subject to the abuse of human rights, such as migrant workers, people with psychiatric disability, and residents of certain care institutions, and is regarded as a benign thought that does not require any serious thinking for actual application (Park, 2002). Such a lukewarm approach to human rights is not confined to Korea since the International Federation of Social Workers (http://www.ifsw.org) also put forward Action Plans 2004–2006 in an attempt to introduce human rights into mainstream social work education and practice.

It should be noted that social work has overlapped with human rights issues because working with children involves applying the principles of the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Covenant Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT) also has relevance for social work because disability often arises from war and inhumane treatment, such as human trafficking. A number of studies have demonstrated that the consequences of disabilities are particularly serious for women because they are discriminated against on two levels (gender and disability) and often experience difficulty accessing health care, education, and vocational rehabilitation (http://www.worldenable.net/women). The same argument can be made for the CRC because the issues of children in armed conflict, the sale of children, child prostitution, and child pornography are also relevant to children with disabilities. It is immediately apparent that various rights-based issues have been at the forefront of social work, although it might have approached these issues within the framework of needs rather than rights; hence the argument for a shift to rights-based paradigm in social work (Ife, 2001).

To the extent that the issue of the rights of people with disability is long overdue, the CRPD may not appear to be a new addition to the existing human rights instruments. What is significant is that the CRPD seeks to address the specific needs of people with disability and it is also the first UN treaty in the twenty-first century with legally binding obligations for the nations that ratified it. Once the serious task of implementing the CRPD gets underway, social work will be expected to play an important role for the simple reason that disability has historically been one of the most well-established fields of practice for social work for many years. With this in mind, the present paper will discuss three inter-related themes: the CRPD; citizenship rights of people with disability; and implications for social work practice.

The CRPD and Social Work

Prior to the ratification of the CRPD, the rights of people with disability have remained an ongoing issue as shown by a number of international legislative
initiatives. As an international movement, there has been a shift in paradigm from *welfare* to *right*. This shift, beginning in the early-1970s, is evidenced by a number of developments (International Disability Monitor, 2005), and signified a change in systems and structures to enable equal opportunity for people with disability. Notable among these are the UN Declaration on the Rights of Mentally Retarded Persons in 1971, the Declaration on the Rights of Disabled Persons in 1975, designation of the International Year for Disabled Persons in 1981, the World Programme of Action concerning Disabled Persons (UN, 1982), and the United Nations Decade of Disabled Persons (1983–1992). More explicitly, the United Nation’s Vienna Declaration in 1993 asserted that “extreme poverty and social exclusion constitute a violation of human dignity” (United Nations General Assembly, 1993: para. 25). In the Asia-Pacific context, UNESCAP adopted the BIWACO Millennium Framework for Action as a regional framework for action, explicitly incorporating the millennium development goals and their relevant targets to ensure that concerns relating to people with disability become an integral part of efforts to achieve the goals (UNESCAP, 2002).

It may be useful to discuss some aspects of the CRPD to amplify implications for social work. The CRPD is often cited as one of most detailed statement of human rights by the United Nations to date, with a preamble and 50 articles. The significance of adopting the CRPD lies in the fact that it is a legally binding instrument. This, of course, does not overlook the reality that it needs political will, mobilisation of resources, monitoring, and even international cooperation for implementation. Article 3 of the CRPD sets out eight principles as follows:

a. respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
b. non-discrimination;
c. full and effective participation and inclusion in society;
d. respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
e. equality of opportunity;
f. accessibility;
g. equality between men and women; and
h. respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Detailed discussion may not be needed as sufficient work has been done already (Kayess, 2009), except making the point that they may be summarised, for purposes of this paper, in terms of equality, and inclusion and citizenship rights. In doing so, this paper infers that the above three values adequately support the position of Social Work. In the same way that no social worker would deny human right to adequate food, to health, or to housing, and the issues of inclusion, equality and citizenship will be also be accepted as normative bases for Social Work. Whereas meeting *human needs* has been the preoccupation of the profession in the past, the CRPD specifically
urges us to think and work for rights of people with disability. This shift does not necessarily clash with major activities of Social Work, but it may yet force it to strengthen the practice base, this paper argues. Table 1 shows how the CRPD and Social Work could work together.

Table 1 effectively sums up the similarities between the CRPD and social work along a number of subcategories. One can immediately notice that the interface between the two stresses areas of mutual commitment rather than differences that may cause potential conflicts. For example, the Moral Demands and Missions of the CRPD are not alien to social work and, as such, it would seem almost fruitless to engage in discussion of the differences. Even at the level of professions, social work can equally claim that a significant proportion of their interventional work includes elements of human rights, as has already been argued by Reichert (2003), Ife (2000), and United Nations (1994). Insofar as the pursuit of equality and social inclusion are fundamental commitments of social work, the CRPD agenda ostensibly embraces the concerns of social work. Nevertheless, it should be acknowledged that some scholars express reservations about treating the language of human rights on an equal basis with social policy, social work, or both. The argument is that moral demands for economic, social and cultural justice are incapable of universal achievement and should not be regarded as human rights at all (McLachlan, 2005). Others argue that “Social Policy has engaged not so much with the idea of human rights as with Marshall’s more specific concept of social citizenship, and with an encompassing notion of welfare rights” (Dean, 2007, p. 2). While this paper accepts the above

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arguments, it takes the position that joining forces with the CRPD will, if anything, consolidate practice base of social work.

**Citizenship Rights**

The reason for including the concept of citizenship rights in the present discussion is to integrate what appears to be an artificial divide between “needs” and “rights” on the one hand, and “human rights” and “social work” on the other. Table 1 clearly indicates that it is possible to suggest that the value orientations of the CRPD and social work are merging rather than diverging and this will be the basis for the ensuing discussion. Marshall’s theory of citizenship, which included the development of civil, political, and social rights, appears to be most useful to link the CRPD and social work, since the notion of citizenship captures the economic and social components of human rights in terms of entitlements created through the development of social legislation, as shown in Table 1. The theory of citizenship has already been extensively covered in previous literature (Edwards & Glover, 2001; Turner, 1993; Twine, 1994; Peterson, Barns, & Harris, 1999; Isin & Wood, 1999; Kim, 1988). However, a brief discussion is warranted to inform the focus on rights for people with a disability.

Marshall’s discussion clearly shows the historic links between citizenship and rights. According to Marshall (1950), citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed. In discussing the term “citizenship”, Marshall might have used it as an overarching term to include interrelated rights such as civil, political, and social, while noting that each right represented struggles and achievements of a particular era. It is important to note that Marshall maintained his focus upon the elements of rights in developing the theory of citizenship. According to Marshall, the above tripod of citizenship maintains modern society, and a lack of any of these three elements would result in a collapse of the citizenship as a whole. For Marshall, citizenship generally involves equality of membership status and the ability to participate in the society; it refers to what the society collectively acknowledges as legitimate and enforceable, a citizen’s rights in respect of the various elements of the concept (Roche, 1996). As seen in Figure 2, these three pillars of rights sustain a full citizenship as a result of meeting requirements for separate, but interdependent rights.

**Civil Rights**

Civil rights are defined as rights indispensable for realising individual freedom, which are made up with liberty of the person, freedom of speech, thought, faith, the right to own property, right to conclude valid contracts and the right to justice” (Marshall, 1950, p. 74). “The right to justice” is of a different order from the others and bears immediate relevance to the rights of people with disability because it is the right to defend and assert rights on terms of equality with others and by due process of law. Hence, the institution most directly associated with civil rights are the courts of
justice, as depicted in Figure 2. Although civil rights granted a legal capacity for free contracts, and property accumulation, the rights operate within the market mechanism in which the “survival of the fittest” principle dominates. If civil rights are equated with an individual’s ability to protect one’s own interest, one can immediately see the limitations of the “individualistic” nature of civil rights when a person with disability is expected to exercise his/her legal rights. The concept of civil rights bears relevance to the CRPD in two ways. First, article 4 of the CRPD affirms that “States Parties are obliged to ensure and promote recognition of the fact that people with disability are entitled to all human rights and fundamental freedoms, without discrimination of any kind on the basis of disability”. Second, articles 5(1) and 12, and article 12(3) require “States Parties to take appropriate measures to provide people with disability access to the support they may need to exercise their legal capacity”.

The original concept of civil rights may have had little to do with state intervention as it would have been based upon the assumption that an individual person would have the inherent capacity to execute the right. However, it should be pointed out that the concept was flawed to begin with as it failed to recognise “citizens” with different capacities to fend for themselves, such as persons with severe disabilities. The CRPD, having noted that persons with disability may face barriers in exercising their rights, requires States Parties to ensure where supports should be provided to exercise legal capacity and to ensure appropriate and effective safeguards to prevent abuse (Article 12[4]). Some form of assistance in fact advocacy may be called for to ensure people with disability to defend their rights, if he or she is discriminated in a job interview or securing a private life insurance as often is a serious matter of concern for people with disability in Korea.

Political Rights
Political rights are developed on the basis of civil rights and are sustained by the right to participate in the exercise of power and by parliamentary and party politics. Fulfilment of political rights is possible only if participation of the public is guaranteed. In terms of a broad generalisation, civil rights may be attached to the tradition of negative rights (freedom from) while political rights may be seen as a stepping-stone to achieve positive rights (entitlement to) or social rights, which is the outcome of compromising conflicts between negative and positive rights. When the concept of political right is applied to persons with disabilities, it could mean that they should be able to exercise their basic rights in controlling institutions and systems that govern their lives in society on an equal basis with others (United Nations, 2006). However, active participation of people with disability in public life appears to be a remote dream for many. For example, the experiences of people with disability in residential care clearly show that they are invariably denied to exercise their basic rights (Korea Human Rights Commission, 2008). Research undertaken by Baek and Lim (2006) covered 101 residential services and 34 group homes in an endeavour to find out from both residents and staff what measures had been adopted
to uphold the principles of human rights in their services. The study showed incidents whereby names, date of birth, and personal photographs of residents were “displayed” literally as if they were objects or merchandise, which is clearly tantamount to abuse! As well, most residents in care seemed to experience difficulty in exercising choice when it came to menus, deciding to receive visitors, accessing their own bank passbooks (from sheltered employment), receiving appropriate medical care, choosing clothing, and hair style.

While the noting that the CRPD affirms the participation of people with disabilities in political and public life (in Article 29), one immediately observes that they are excluded from mainstream public life because society can sustain itself without them and they do not pose any challenges politically. Numerous sources can be cited to illustrate the problems associated with barriers to political participation as experienced by people with disabilities. The drawing in Figure 1 illustrates how formidable it can be for persons with disabilities to enjoy a life of broad public participation. Unfortunately, this problem is a broad one, applicable to many different societies. Arnstein’s Ladder of Participation (Arnstein, 1969) clearly shows the reality of non-participation for powerless groups (such as people with disabilities) in society, where they experience marginalisation on a daily basis, scapegoating, stigma, prejudice, discrimination, or exploited as symbols of token representation. Despite much rhetoric over the years, nationally and internationally, the marginalisation of people with disabilities has been evidenced by any number of United Nations initiated human rights instruments, most specifically the Declaration on the Rights of Disabled Persons, 1975. Giving a political voice to people with disability in decision-making processes that affect them should be regarded as the most important consideration in dealing with disability issues. We know the cliché that “the best interest” of people with disability should be the primary consideration in decision making, but such aspiration has, historically, amounted to nothing but “lip service”.

Figure 1 Arnstein’s Ladder of Participation.
Arnstein’s (1969) work (see Figure 1) remains valid, especially when applied to the present discussion. The Ladder of Participation can be used to demonstrate that people with disability are rarely consulted directly in matters concerning their welfare and rights. Most often, persons with developmental or psychiatric disabilities may be deemed incompetent to express a view and the result is that their views are not taken seriously or they may be treated as objects for therapeutic interventions. At worst, the majority of people with disability are either uninformed or remain silent and powerless in matters concerning their own welfare; at best, some leading figures associated with disability movements or disability services may be invited to symbolically represent the voices of people with a disability, as token participation. Even in these days of partnership, these representations invariably end up being nothing more than nominal gestures. For example, in Korea many individuals and disability organisations still struggle to make their voices heard when dealing with issues arising from the Disability Discrimination Act (ratified in April 2008, in conjunction with the CRPD), National Disability Pensions, Rights to Mobility and Access, Rights to Work, Rights to Independent living, and Support for Women with Disabilities (Korean Ministry of Health and Social Welfare, 2005). International disability organisations (DPO) are demanding that at least half of the Monitoring Committee Members of the CRPD should comprise people with disability (Kim, 2008). Without effective and organised political representation of people with disability, such important policies may remain as merely “intended” policies, or lack legal binding even if adopted. If political right equals the right of people with disabilities to participate in planning and making decisions about services that affects their lives and their inclusion in society, then it is important that the need for training, education, and empowerment of people with disabilities be recognised. The concept of participation is meaningless if those who are expected to participate are not given the opportunity to be informed, or the power to decide what would best serve their interests.

Social Rights

According to Marshall (1950), past struggles in liberal democracies first delivered the rule of law (civil rights), then the universal franchise (political rights), and the social rights that provided social security, healthcare, and welfare services. The social rights that had been instrumental in giving birth to the welfare state should be regarded as the crowning achievement of the twentieth century (Dean, 2007). The development from political rights to social rights means that basic human rights have been transferred from the political to the social arena, and the most important set of social rights are secured by the welfare state. The idea of social rights is based on three requirements that, in turn, are also critically linked to implementing the CRPD. The first key requirement is that social rights necessitate the active intervention on the part of government and society. The fact that the United Nations has urged respective states to ratify the CRPD attests to this. Social rights provide the material basis for the formal status of citizenship and thus guarantee a certain level of material wellbeing necessary for full inclusion in community life. The second requirement relates to the need to make
the other two rights more effective. Unless a basic level of economic security is guaranteed to secure the maintenance of a certain level of lifestyle (such as access to transport or education), typical civil rights (such as freedom of choice and independent living) may lose a significant part of their moral importance in the personal lives of people with disability. The third requirement is to ensure an equal social value for every member of the society that enables full membership in the community, and the ability to participate in a way of life that society regards as being of value (Van Steenbergen, 1993). This clearly supports the Principle of Equal Opportunity as in Article 3 (e) of the CRPD.

Towards a Full Citizenship

The previous discussion of civil, political, and social rights endeavoured to provide an integration of Marshall’s three types of rights that would grant a status as a bona fide citizen in any given society. In other words, the status of true citizenship cannot be achieved unless the three different rights, in particular the social rights, are integrated to fulfil interdependent roles. The interdependent roles are fulfilled as “social rights of citizenship are shaped through the exercise of political rights or processes; and that civil or legal rights are required for the purposes of their enforcement” (Dean, 2007, p. 2). It was pointed out that civil and political rights have largely protected people against the abuses of power, while social rights have empowered people to pursue a life with dignity as human beings. The interactive roles of the tripod of three rights works towards achieving a full-citizenship, as demonstrated in Figure 2.

Figure 2 serves as a useful framework to understand the necessary preconditions for full citizenship. Ideally, full citizenship cannot be achieved by being granted only one of the three interrelated rights. For example, even if a person with a severe disability has been provided with a wide range of protective and caring services, such a person cannot enjoy full citizenship if any aspect of the three rights is overlooked. If

![Figure 2 A Full-Citizenship.](image-url)
someone lacks the right to adequate food, or health, education, or housing, that person risks exclusion from enjoying full citizenship in mainstream society.

This paper has sought to reinterpret the general principles of the CRPD around rights, inclusion, and equality (as shown in Table 1) in order to emphasise that people with disabilities should be able to participate as citizens of mainstream society in decisions affecting their lives. Kymlicka and Norman (1994) used the term “active citizenship” to distinguish it from “passive citizenship”, a product of the welfare state. Their argument was that “the welfare state has promoted passivity among the disadvantaged, without actually improving their life chances, and has created a culture of dependency” (pp. 355–356). It would be most unfortunate if the CRPD resulted in recasting people with disabilities as passive citizens by forcing them to depend on a range of protective measures. While concurring with Kymlicka and Norman’s position, this paper argues that the CRPD alone may not be sufficient to secure full citizenship for persons with disabilities. Furthermore, the paper argues that social work can play a critical role in ensuring the transition in status from a passive to active citizenship for people with disabilities. Social work is in a strategic position to ensure such transition.

**Changed Status of People with Disability**

The ratification of the CRPD in itself may not guarantee an immediate change of status from “passive” to “active” citizenship for people with disabilities, or from their exclusion to inclusion, since it will face a number of legal, political, and financial barriers in the process of implementation. Nevertheless, the significance of what the CRPD stands for in terms of changed status for people with disability should not be overlooked (as shown in Figure 3).

Figure 3 demonstrates the profound change of status necessary for people with disability if they are to overcome the negative, marginal, passive, and dependent status to which they have been subjected in the past. In fact, he CRPD acts as an instrument to ensure that such a change of status would take place. This transition of status (as outlined in Figure 3) is critical if people with a disability are to achieve the status of full citizenship. Thus, the CRPD should be used to genuinely change the status of people.

![Figure 3 Changed Status of People with Disability.](image-url)
with a disability rather than become yet another instrument to manage and control them.

The discussion so far has been rather optimistic in suggesting that the principles of the CRPD or the citizenship of people with a disability would be achieved once theories are advanced. The fact is the CRPD will confront obstacles to implementation, suggesting that the ideal of “full-citizenship” may yet be a remote ideal for people with disability. This raises questions about the realities for people with disability. The United Nations Economic and Social Commission for Asia and Pacific (UNESCAP, 2002) has identified poverty alleviation, through social security and livelihood programs, as one of the seven priority areas to tackle. It stated that 160 million persons with disabilities (over 40% of the total) in the Asia-Pacific region are living in poverty and are unable to benefit from their socioeconomic rights. There are other types of glaring statistics, such as: 20% of the world’s poorest people have a disability; only 2% of people with a disability are estimated to have access to basic health and education; 80% of people with disabilities are unemployed (Development Studies Network, 2009). As long as people with disabilities are unable to meet basic human needs they will be “trapped”, and their struggle for citizenship will take longer, or may never be realised. According to the Korean Disability White Paper (2005), as many as 87% of people with a disability believed they had actually experienced discrimination; and the rate of unemployment for workers with a disability was about nine times (29%) higher than other workers (3.3%), and they earned less than half the average national income.

Indeed, being confronted by every form of discrimination is a way of life for many people with disability. Over the years, people with a disability and their organisations have become increasingly concerned that many barriers continue to prevent them from exercising their human rights, rights that they should share with all other people, but which are not recognised. The reality for people with disability, as outlined above, does emphasise a general feeling of powerlessness, which is then exacerbated by their exclusion from political processes and political decision-making. Without participation in politics, “the attempt to reconstruct the structure of oppression and opportunity” (Twine, 1994, p. 174) may be limited. In a nutshell, exclusion nullifies the concept of full-citizenship. The United States of America had to adopt the intervention of the Americans with Disability Act (ADA) in 1990 to remove barriers that prevented their full participation as citizens in American society. These barriers served to perpetuate workplace inequality, social exclusion, and tarnished the human dignity and respect for people with disability, subsequently denying them full-citizenship. It is worth noting that ADA noted that “discrimination against people with disabilities is a social phenomenon that the ADA only begins to address . . . Only through implementing and embracing the ADA will the true vision of an equal society be realized”. Perhaps the same can also be said about the global disability movements to force the United Nations and individual governments to implement the CRPD.
Conclusion: The Interface between the CRPD and Social Work

This paper concludes by highlighting some of the implications that may arise from discussion of the notion of full-citizenship for people with disabilities. The paper began by exploring Marshall’s (1950) concept of citizenship to integrate the principles of the CRPD and social work, since it has direct relevance for social workers working with people with disability. Marshall’s concept of citizenship was incorporated into this paper because his theory refers to the full participation of people with a disability in society, and stresses how the relationships that citizens build within society as a whole, have implications for their achieving equality of status. In this respect, the concept of citizenship has been useful to underwrite the argument that the struggle for rights of people with a disability, and the issue of exclusion of people with a disability in particular, should be pursued in the overall context of full and inclusive citizenship. However, there remains a central question for social work as to what exactly a citizenship-rights base means for actual practice. This question can be approached from a number of different angles, triggering yet another argument. This paper has argued (as illustrated in Table 1) that the CRPD and social work can come together in working towards inclusion and equality, and to tackle the problems of discrimination. Furthermore, the paper argues that joining forces with the CRPD can be empowering for social work in that it can make use of the standards, methods, and even the rhetoric that the CRPD provides. As well, the interface between the CRPD and social work can strengthen social work practice by aligning with an internationally ratified set of principles and standards that governments and international institutions have specific obligations to meet. This should be seen as an attractive option for social work.

There is a tendency to assume that citizenship can be taken for granted in contemporary society, which overlooks the possibility that some groups in society are denied such status. This is a compelling reason to argue for further discussion on citizenship, with an encompassing notion that any discussion of welfare rights is not complete if it fails to include people who are excluded from the mainstream society, irrespective whether or not they have disability. Perhaps it has to be acknowledged that the concept of citizenship has not been widely accepted in the general discussion of people with disability and, accordingly, this paper advocates for the adoption of the concept of full citizenship rights as a social movement, and for the use the CRPD to support it. For many people with a disability, a condition of a full citizenship in many aspects of their daily life boils down to being able to access information about themselves, including information about their disability, medical treatment, and opportunities for self-actualisation. Yet, in arguing that full citizenship for people with a disability could be feasible if the CRPD and social work join the forces, one must also recognise that there will be some problems posed by national variations, as has been acknowledged by IFSW (http://www.ifsw.org). Conditions for achieving a full citizenship for people with a disability will vary from society to society, depending upon their different stages of development in the area of civil, political,
and social rights. Accounting for national variations poses a challenge for the CRPD because the concept of full citizenship for people with disabilities, as put forward in this paper, may not readily translate into the social fabric of the poorest nations of the world, as the voices representing DPOs from the Pacific and Asian Nations effectively remind us (Development Studies Network, 2009). Chronic poverty, high unemployment rates, low levels of education, and meeting basic human needs point to some of the threats to achieving a full citizenship for people with disability, especially in developing countries. In this respect, International Cooperation (as stipulated in Article 32 of the CRPD) is important.

It may be appropriate to conclude this discussion by pointing out that an option is available for social work to strengthen its identity by returning to, or rediscovering, rights-based practice. To the extent that social work already shares the moral demands and missions of the CRPD, such a re-orientation should not pose serious difficulty.

References


