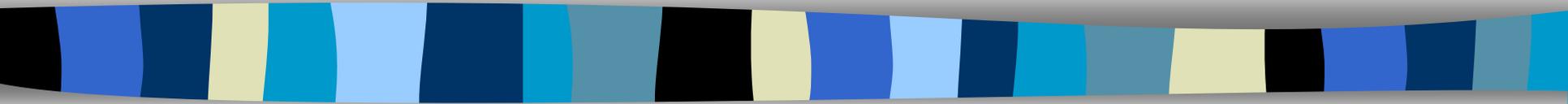


What's Human Rights got to do with it? Supported Decision-Making and a new lens for thinking about beneficiaries with disabilities

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Kristin Booth Glen

University Professor and Dean Emerita

CUNY School of Law

SDMNY Project Director



What Is Supported Decision-making?

- Supported decision-making (SDM) is “a series of relationships, practices, arrangements and agreements of more or less formality and intensity designed to assist an individual with a disability to make and communicate to others decisions about the individual’s life.”

– Robert Dinerstein



Where does SDM come from?

- Our common experience that everyone uses supports when they make decisions
- Human rights, particularly the United Nations Convention on the Rights of Persons with Disabilities (CRPD)



What are Human Rights?

- They are the obligations that nations of the world owe to all human beings, solely by virtue of their being born human
- They are not derived from, and do not depend on constitutions or statutes that can be changed or limited.



Human Rights are

- Inalienable
- Indivisible
- Inter-related
- Intra-connected
- Premised in Equality, Non-Discrimination and Dignity
- Positive (economic, social & cultural rights) as well as Negative (civil rights)



Dignity

n Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world

Universal Declaration of Human Rights,
(UDHR), Preface



Where Do Human Rights Come from?

- ❑ Consequence of WW II and the Holocaust
- ❑ Creation of the United Nations (1946)
- ❑ Universal Declaration of Human Rights (1948)(signed by all nations; has moral weight); announcing and recognizing the rights to which all persons are entitled by virtue of being born human;
- ❑ Subsequent legally binding treaties (e.g. International Covenant on Civil and Political Rights or ICCPR; International Covenant on Economic, Social & Cultural Rights or ICESCR; etc.); principles and rights become legal obligations of nations that ratify
- ❑ Treaties for 5 “Vulnerable Groups”



Vulnerable Groups Requiring Additional Conventions

- Racial and Ethnic Minorities (Convention on the Elimination of All Forms of Racial Discrimination or CERD, 1965)
- Children (Convention on the Rights of the Child, 1990)
- Women (Convention to Eliminate All Forms of Discrimination Against Women or CEDAW, 1979)
- People with Disabilities (Convention on the Rights of Persons with Disabilities or CRPD, 2008)
- Older Persons (in process)



Purpose of the CRPD

- To promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by PWDs
- PWDs include those who have long term physical, mental, intellectual or sensory impairment in which interaction with various barriers may hinder their full and effective participation in society on an equal basis with others



Dignity, cont'd

- UN Convention on the Rights of Persons with Disabilities (CRPD), Art. 3
- General Principles:
- (3) Respect for inherent dignity, individual autonomy including the *freedom to make one's own choices...*



U.N. Convention on the Rights of Persons with Disabilities (CRPD) Article 12

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to **the support they may require** in exercising their legal capacity.



Legal Capacity Defined

- “legal capacity includes the ‘capacity to act’ intended as the capacity [capability?] and **power to engage in a particular undertaking or transaction** to maintain a particular status or relationship with another individual, and more in general to create, modify or extinguish legal relationships”

Background Paper on Legal Capacity—Office of the High Commissioner for Human Rights



The “Human Right” of Legal Capacity

- All people have a right to make their own decisions, to have their decisions legally recognized, and to have whatever supports are necessary to enable them to exercise the right
- Legal capacity is the basis of, and essential to, “personhood”



So what might the human right of legal capacity mean for SSA? An analogy

- The human right to health...inspires human rights advocates, claimants, and those with the responsibility for fulfilling the right to try hard to satisfy its claims. That is, the right should, and often does, give rise to...*the virtue of creative resolve*. This resolve embodies a fundamental commitment to finding creative solutions to ..dilemmas. Contra critics, we should not reject the right even if it cannot tell us how to ration scarce health resources. Rather, the right gives us a response...in motivating us to search for ways of fulfilling everyone's basic health needs
Professor Nicole Hassan
- Or, we might say, ways of fulfilling everyone's basic need for, and right to, human dignity