Turmusani, Review of *Development of Disability Rights* by Kanter
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From the perspective of a professional who took part in the development of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), Arlene S. Kanter presents the processes that led to the Convention in her book *The Development of Disability Rights under International Law: From Charity to Human Rights*. This work offers a comprehensive analysis on the status of people with disabilities (PWD) under international law prior to the adoption of CRPD and outlines the legal protections found in the CRPD. The author argues that the Convention reflects a new vision of social order that values difference, interdependence, and community living. Grounded in a social model of disability, the Convention has shifted the responsibility for disability away from individuals. In this regard, the CRPD presents a new approach to human rights monitoring and enforcement.

In Chapter One, on the development of the CRPD, Kanter highlights the invisibility of persons with disabilities in society as an important reason behind the late recognition of their rights in national and international law. Yet, the author recognizes that the road to the CRPD has been paved by several attempts to protect the rights of PWDs since 1950. Examples include the 1950 UN Resolution on Social Rehabilitation of the Physically Handicapped, the 1975 Declaration on the Rights of Disabled Persons, and the Standard Rules of 1993. Moreover, there have been regional agreements such as Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. At the national level, leading disability legislation has been introduced in the United States and anti-discrimination laws.
targeting disability have materialized in Canada and the UK. All that said, it was the 2000
Beijing Declaration of Rights of Persons with Disabilities in the New Century that specifically
called for an international convention. Extensive ad hoc committee and working group meetings
took place in the years since, leading to the adoption of the Convention on the Rights of Persons
with Disabilities in 2006 by the UN General Assembly. Following this historical accounting,
Kanter concludes this chapter by presenting a broad overview of the Convention’s 50 articles and
its optional protocol.

Chapter Two unpacks the right of PWDs to live in the community as stated in Article 19.
Kanter argues that this is a new right. In this chapter she considers important rights to make a
home in community, with equal access to a range of support services and personal assistance to
enable independent living. The author gives a brief history of Independent Living movement and
the quest for deinstitutionalization in response to experiences of exploitation, isolation, and
mistreatment in institutional settings. Kanter throughout emphasizes the importance of exercising
control over individual choices to achieve healthy outcomes for wellbeing.

Chapter Three deals with Article 14 rights to liberty and security, which encompass the
right to consent to or refuse treatment. Kanter establishes the importance of Article 14 against the
historical detention of PWDs against their will and their subjection to involuntary treatment. She
argues that despite the past and present-day justifications for the involuntary treatment of people
with mental disability (which would highlight the role of the state to confine the liberty of
individuals found unable to care for themselves or posing danger to self or others), evidence
shows that voluntary treatment is more successful, sustaining, and has better outcomes. In
declaring the deprivation of liberty on disability grounds unlawful, the CRPD instructed state
parties to take effective measures to provide support and amend policy accordingly.
In Chapter Four, Kanter discusses freedom from torture and inhumane treatment as stated in Article 15. This article finds grounding in the underlying general principles of the CRPD, that is, inherent dignity, non-discrimination, independence, and equality; as well as other international documents, such as the Universal Declaration of Human Rights and the UN Convention Against Torture. Article 15 resonates especially with people with mental and intellectual disabilities who continue to experience cruel and unusual treatment in institutional and incarceral conditions. The article singles out types of treatments that are considered inhumane or degrading, such as forced drugging, electroshock, psychosurgery, restraints, and prolonged isolation. Such practices are not only degrading but also painful and destructive.

The author combines Articles 17 and 25, respectively the protection of physical and mental integrity and the right to health, in her Chapter Five analysis. The protection of a person’s integrity entails protection from forced sterilization, abortion, medication, or experimental therapy; and under Article 25, PWDs are entitled to the enjoyment of the highest attainable standards of health, including community-based services related to rehabilitation and sexual and reproductive services. In ad hoc committee meetings, Article 17 was debated at length. By spelling out these internal negotiation processes, Kanter illustrates how advocacy and lobbying organizations influenced the final CRPD text. It is in these moments especially where Kanter shines.

Chapters Six and Seven delve into access to justice for persons with disabilities and the legal capacity requirement before the law, respectively. The author argues that equal access to justice may be complicated by the theory of equality employed, and is best served when tied to an equal outcomes approach. But concepts of capacity can especially complicate equality theory and what access to justice looks like. In this sense, Article 12’s work on legal capacity acts as a
springboard for any articles related to equality before the law. Article 12 emphasizes the obligation of state parties to remove barriers and to provide adequate support services for independent living and decision-making. The article also met controversy in ad hoc committee meetings, landing eventually on a supported rather than a substitute decision-making model.

Kanter concludes her analysis by reflecting on the way forward, beyond the CRPD, and imagining a world where persons with disabilities are recognized as right holders entitled to full and equal citizenship, and to social participation and inclusion. She argues that the momentum behind the CRPD and the support it has received is unique, with 159 signatories and 151 ratifications. This illustrates the potential significance of the CRPD on the world stage to transform societies for people with and without disabilities alike. But for ratification to go beyond symbolic gesture and become binding commitment, effective measures are necessary for implementation, including monitoring and enforcement mechanisms.

As Kanter indicates in her insider account, the CRPD is likely to make a difference in the lives of PWD across the globe due to the participatory process that characterized its development. The CRPD seems to have honoured the disability movement’s “nothing about us without us” mantra by including key stakeholders throughout its negotiation. This created a paradigm shift, where the people involved in negotiations could upon returning to their respective countries mobilize for national alignment with international standards and cause significant social change.

In conclusion, Kanter’s work qualifies as excellent scholarship, her analysis throughout innovative, rigorous, and informative. She offers insight into international law and in so doing makes a significant contribution to the field of rights-based disability studies. Kanter has successfully managed to shed light on how the CRPD materialized, what its contents entail, as
well as its great potential in transforming our world into an inclusive place, one that recognizes, respects, and accommodates difference.