Positive behavioural support and the UNCRPD

Jeffrey Chan, PhD¹, Phillip French, BA Hons, LLB Hons² and Lynne Webber, PhD³

¹Office of the Chief Practitioner, Department of Communities, Brisbane, Queensland, Australia
²Faculty of Law, University of New South Wales, Sydney, New South Wales, Australia
³Office of the Senior Practitioner, Department of Human Services, Melbourne, Victoria, Australia

Abstract
People with a learning disability who present with challenging behaviours, such as physical aggression, property damage or self-injury have been subjected to a range of clinical interventions and practices that have included aversive behavioural techniques and restrictive interventions. These practices and approaches have contributed to a poorer outcome in quality of life, social exclusion, and are often punitive and dismissive of a person’s human rights. Positive behavioural support (PBS) is an evidenced-based therapeutic approach that places a person’s behaviour within an ecological context and focuses on preventive strategies that address the behaviour through the use of environmental changes and skill teaching. PBS is also a values-based approach that is consistent with human rights as documented in the UN Convention on the Rights of Persons with Disabilities (CRPD). It is imperative that clinical practice is consistent with such legal frameworks. This paper will explore the relationship between PBS and the CRPD, and discuss some implications of CRPD on PBS practice.

Keywords: Positive behaviour support, human rights, learning disability, challenging behaviours, Convention on the Rights of Persons with Disabilities, clinical practice

Introduction
People with learning disability are a vulnerable group in society who are exposed to a range of biopsychosocial stressors, all of which are known to have a negative impact within the general population (Allen, 2008). Hence, it is not surprising to find challenging behaviours and mental ill-health to be common in this population group (Allen, 2008; Deb, Thomas & Bright, 2001a). The negative impact of such factors and stressors often result in challenging behaviours such as physical aggression, pica, withdrawal, self-harm, property damage and criminal offending (Allen, 2009a; Chan, Hudson & Sigafoos, 2003; Deb, Thomas & Bright, 2001b; Dunlap et al, 2010; Lowe et al, 2007).

People with learning disability and challenging behaviours are also more likely to experience negative consequences such as social exclusion, abuse, being in out-of-home care, at increased risk of institutionalisation and be subject to a range of restrictive interventions (Chan & Sigafoos, 2000; Webber, McVilly, Stevenson & Chan, 2010a; Dunlap et al, 2010; Webber, McVilly & Chan, in press). It is common for such persons to be treated with a range of behaviour interventions that have included aversive approaches (Allen et al, 2005; Lowe et al, 2005; Sailor et al, 2010; Vause et al, 2009). Furthermore, they may be subject to restrictive practices such as mechanical, physical, chemical restraints and seclusion (Lowe et al, 2005; Webber et al, 2010a). The ethical appropriateness and therapeutic benefits of such practices are questionable and remain a concern (Allen, 2009b; Brylewski & Duggan, 2004; Tyrer et al, 2008; Webber et al, 2010a), the effectiveness of antipsychotic medication to treat challenging behaviours being a prime example (cf, Tyrer et al, 2008). More importantly, aversive approaches to the treatment of people with learning disability and challenging behaviours are inconsistent with human rights (French, Chan & Carracher, 2010; Owen et al, 2009) and they often do not address the underlying issues that

Correspondence: Dr Jeffrey Chan, Chief Practitioner Disability, Department of Communities, 75 William Street, Level 3B, Neville Bonner Building, Brisbane 4000, Queensland Australia.

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give rise to the behaviours (Webber, Ramcharan & McLean, 2010b).

Positive behavioural support is an empirically driven science that addresses the causes of challenging behaviours. Moreover, the principles underlying PBS are consistent with the values underpinning the human rights of people with disabilities (Allen, 2009a; Carr et al, 2002). Recently, there has been an emergence of the application of a human rights paradigm to clinical practice and service delivery to people with learning disability and challenging behaviours (French et al, 2010; Office of the Senior Practitioner, 2009; Owen & Griffiths, 2009; Ward & Stewart, 2008). This paper aims to illustrate the contextual fit of PBS within a human rights paradigm as described in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). First, an overview of PBS with emphasis on its contextual principles, values and relevance to human rights is presented. Secondly, an overview of the CRPD and its synergy with PBS is discussed.

**Development of PBS: Definition, framework and values**

PBS rejects the practice of aversive techniques on ethical grounds and has developed practical tools that promote human rights by combining non aversive ABA techniques with an ethical framework derived from social role valorisation and person centred approaches (Allen et al, 2005; Singer & Wang, 2009). PBS is defined by Carr et al (2002) as an applied science that utilises educational and systems change to enhance a person’s quality of life and to minimise challenging behaviour. Carr (2007) further argued the focus of PBS is not on problem behaviour, but on problem contexts that give rise to behaviours. The aim of PBS is to provide the support needed by individuals in terms of skills and strategies to improve their quality of life. Hence, PBS interventions comprise multi-elements, with a strong emphasis on prevention (Allen, 2009a; Carr et al, 2002; Frey, Boyce & Tarullo, 2009; Sugai & Horner, 2009) that are widely practised in human services settings other than in disability-specific services (Sailor et al, 2009).

One of the main principles underlying PBS is the emphasis on quality of life and how a person with challenging behaviours should be ethically supported (Carr et al, 2002). According to Singer and Wang (2009), the justification of the refocus in PBS on quality of life arises from the fact that a good quality of life is not readily available to people with challenging behaviours, making it a moral imperative for PBS practitioners to deliver practice and services that will improve their quality of life. Improving quality of life involves social inclusion, choice, personal competence and autonomy for the person (Allen et al, 2005; Deci & Ryan, 2008; LaVigna & Willis, 2005). People with learning disability experience further disadvantage when the ecological and social contexts restrict the exercise of choice and inclusive practices or when their underlying physical and psychological needs are not well understood (Finlay, Walton & Antaki, 2008; French et al, 2010; Owen & Griffiths, 2009; Tarulli & Sales, 2009). Hence for PBS to be effective it must be built on a biopsychosocial assessment of a person’s needs and intervene to address these.

New public policy and legal frameworks now seek to ensure positive outcomes in social inclusion and autonomy for the person in addition to behaviour change in the person (Allen, 2009a; Bigby, 2010; Carr et al, 2002; Cumella, 2010; Finlay et al, 2008; French et al, 2010; Turnbull et al, 2008). Singer and Wang (2009) argue that while individualised planning and goal-setting may be the aim in PBS, the professional-dominated planning meetings may often offer a limited menu of options for the person. It is a common experience for people with learning disability not to have control in their daily lives and activities, nor have control over with whom these activities are to be conducted (Carr et al, 2002; Finlay et al 2008). Research in the U.K and Australia has found that while staff may agree with the principles of choice, participation and inclusion, few find ways to support people with more severe level of learning disability (Bigby et al, 2009; Finlay et al, 2008). The studies further highlight the power imbalance between staff and people with more severe level of learning disability who often do not have control in their daily lives.

There is a role for PBS practitioners to remediate this power imbalance through supporting self-determination for people with learning disability (Singer & Wang, 2009). Educating people and staff so that they have the skills to increase their autonomy and to pursue their goals in meaningful social relationships, and prevent restrictions and limitations are important elements of PBS practice (Bigby et al, 2009; Carr et al, 2002; Singer & Wang, 2009). Remediating the power imbalance also calls for a deeper reflection on the professional conduct and practice of PBS practitioners in their relationship with people with challenging behaviours.
It is also common for people with learning disability to have minimal to no opportunities to exercise autonomy in their treatment as this is often determined by medical or social service professionals (Tarulli & Sales, 2009). While PBS espouses the values of empowerment through person-centred planning and teaching of self-determination, there is a potential vulnerability of PBS to maintain the professional as the ‘only expert’ implicit in its practice. For example, it is common to find more professionals at a behavioural support meeting than the person with learning disability and members of their support network.

To safeguard against falling into the traditional trap of the professional as the ‘only expert’, PBS emphasises partnerships with the person and other relevant stakeholders, such as family, friends, neighbours or the person’s colleagues (Carr et al, 2002; Singer & Wang, 2009) as an important element of PBS practice. People with learning disability should no longer be viewed as passive recipients of their treatment because their experience and life story also make them the ‘expert’ who can actively contribute to the PBS process (Carr et al, 2002; Singer & Wang, 2009; Tarulli & Sales, 2009), thus upholding their dignity.

In summary, PBS is an empirical applied science founded on the values-based principles of human dignity that aims to achieve a better quality of life, autonomy and inclusion. It is a holistic approach that develops strategies to address the deficiency in the person’s ecological and social contexts and the teaching of skills, rather than focusing on the person’s challenging behaviour. PBS espouses the importance of partnerships with the person with learning disability and stakeholder participation. More importantly, PBS rejects aversive approaches in the treatment of people with challenging behaviour. As such, the framework and values of PBS are consistent with a human rights paradigm that is further strengthened by the CRPD.

**CRPD: Overview, key features and implications for PBS**

There are a number of papers that provide a detailed description of the development of the CRPD (eg, Kayess & French, 2008). This section will highlight the salient features of the CRPD with particular emphasis on the application of human rights to PBS. The United Nations General Assembly adopted the CRPD in December 2006 as the first major human rights framework of the 21st Century (French, 2007). Nations that have ratified the CRPD and its Optional Protocol (such as Australia and the United Kingdom) are legally bound by them and they have an obligation to adopt all appropriate legislative, administrative and other measures to give effect to the rights recognised in the CRPD.

The purpose of the CRPD is:

‘… to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all people with disabilities, and to promote respect for their inherent dignity. People with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.’ (p.4)

The CRPD applies to all people with disability, and it mandates the social or ecological approach as fundamental to the realisation of human rights for people with disability. The CRPD has been widely interpreted as embodying a ‘paradigm shift’ away from the medical and welfare models of disability to a social model of disability. Consistent with this social perspective, the overwhelming emphasis of the CRPD is on removing barriers or changing ecological and social contexts to positively situate impairment and disability as an expected dimension of human diversity and experience (French, 2007).

In many ways, the CRPD resonates with PBS as a values-based approach seeking to promote and protect the person’s rights through its emphasis on improving quality of life by addressing deficiencies in ecological and social contexts. This critical feature of PBS has synergy with the paradigm shift the CRPD presents. The CRPD emphasises the need to understand challenging behaviour in terms of the barriers and limitations that are often placed on the lives of people with learning disability. For example, many people with learning disability are often not in control of their lives and daily activities, so it is not surprising that their challenging behaviours may be valid responses to their poor environments (Ramcharan et al, 2009). People with learning disability also have a right to effective treatment and assessments (Vause et al, 2009). In the PBS approach, assessment focuses on ecological contexts which can be particularly effective given the emerging evidence to show that ecological interventions (such as organisational systems
that better support staff) can produce positive outcomes (Sanders, 2009; Singh et al, 2009; Singh et al, 2006; Singh et al, 2010).

The CRPD places fundamental emphasis on the acceptance of impairment as an ordinary incident of human diversity, and on the inclusion and participation of people with disability in all aspects of community life. It aims to address violations of ‘traditional’ rights that are more likely to be, or which are uniquely, experienced by people with a disability. For example, Article 19: Living independently and being included in the community is an application of the traditional rights to freedom of movement, liberty and security to one of the most pervasive human rights violations, that is, confinement to residential institutions experienced by people with a disability generally. Article 19 requires parties to the CRPD to ensure that people with disability are able to realise their right to live in the community with choices equal to others. This includes the right to choose a place of residence and with whom to live. A PBS approach would seek first (or concurrently) to realise a person's fundamental rights in order to create the conditions where a person with learning disability can realise positive potential for life-enriching and pro-social behaviour. To do otherwise, would arguably not be considered as PBS, as it perpetuates or contributes to human rights violations by obliging or compelling the person's conformity to rights-offending environments.

Article 21 of the CRPD Freedom of expression and opinion, and access to information is a further important innovation in the application of traditional human rights to the specific circumstances of people with disability. It is also of direct relevance to PBS practice. Article 21 places major emphasis on the acceptance and facilitation of alternative and augmentative means of communication. It is well recognised that challenging behaviour frequently arises from an individual's inability to effectively communicate their needs and wishes (Carr et al, 2002; Finlay et al, 2008). Challenging behaviour may also serve as an expression of protest to the failure of others to respond to what is being communicated (Ramcharan et al, 2009; Webber et al, 2010b). Furthermore, people with communication impairment are more likely to be risk of being subject to restrictive practices (Office of the Senior Practitioner, 2010). PBS places major emphasis on recognising and understanding the communicative functions of challenging behaviour, and on providing people with alternative pro-social means of communicating their needs and wishes. This approach finds strong support in CRPD. PBS practitioners will therefore benefit from the ability to re-frame and argue for this in terms of the realisation of a fundamental human right.

Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment protects the person from medical or scientific experimentation without free consent and requires states to take effective legislative, administrative, judicial or other measures to prevent people with disability from torture or cruel, inhumane or degrading treatment. While PBS has rejected the use of aversive and punitive techniques, many of these techniques are still practised by behaviourists and others who reject or are unaware of the PBS approach. For example, in the United States it was reported that techniques such as electric shock are still being used (Ahern & Rosenthal, 2010). Indeed, many of the past ABA aversive practices (such as seclusion, spraying a person's face with water or the use of ‘over-correction’ techniques where a person is made to walk naked to the toilet in front of others because the person had soiled themselves), do not affirm the inherent dignity of the person. The United Nations recently referred specifically to ‘severe forms of restraint and seclusion’ and other restrictive practices, and called for the ‘reframing’ of violence and abuse perpetrated against people with disability as torture or a form of ill-treatment in the hope that this will provide stronger legal protection and redress for these violations of human rights (United Nations, 2008).

The CRPD recognises the human right to the Protection of the integrity of the person (Article 17). This is an emerging development in international human rights law and imposes an obligation on parties to recognise the right of all people with disability to respect for their physical and mental integrity. Article 17 is particularly directed towards protection from restrictive practices and compulsory treatment. This was one of the most contentious debates in the CRPD negotiations. Its final form reflects an inability to agree on more detailed provisions that would have proscribed a range of safeguards against the unwarranted use of restrictive practices and compulsory treatment. Nevertheless, there can be no doubt that the basic thrust of the Article provides a powerful mandate for PBS as a positive, human rights based alternative to restriction and compulsion as methods of controlling and changing behaviour.
Conclusion
PBS has strong empirical foundations and is a values-based approach consistent with the human rights of people with learning disability. Increasingly, practitioners will be called upon to justify their interventions in terms of upholding human rights, and may expect that there will be areas where practice will be found wanting. The adoption of the CRPD puts beyond any doubt that people with learning disability are human right bearers and are entitled to full protection from violence, abuse, torture, cruel and degrading treatment. As the Special Rapporteur on Torture has recently highlighted, this most certainly includes the right to protection from harm done in the name of treatment (United Nations, 2008). Just as importantly the CRPD mandates positive action for the realisation of the human rights of people with disability, including in relation to the development and facilitation of communication, and support for autonomy and inclusion. It thus provides a useful tool and a further challenge for all PBS practitioners to ensure that practices not only comply with human rights, but also that they work to help people with challenging behaviour exercise all these rights.

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