Human Rights, Access to Justice and Rights Restrictions: Concepts and Context

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Where do human rights come from?

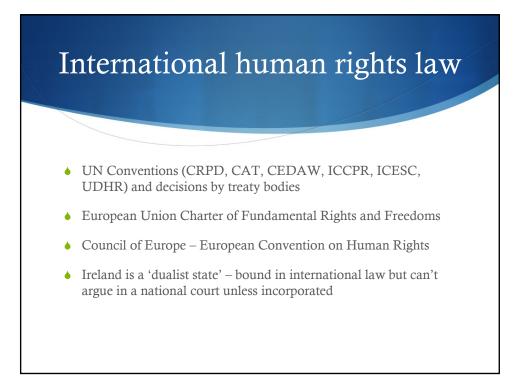
Legal frameworks

- Other sources
- International human rights framework (UN, EU, Council of Europe)
- National human rights law (Constitution, legislation)
- Philosophy

Morality

- Religion
- Culture

When we talk about 'our human rights' which sources of rights are we referring to? Which sources of rights should Human Rights Review Committees look to?



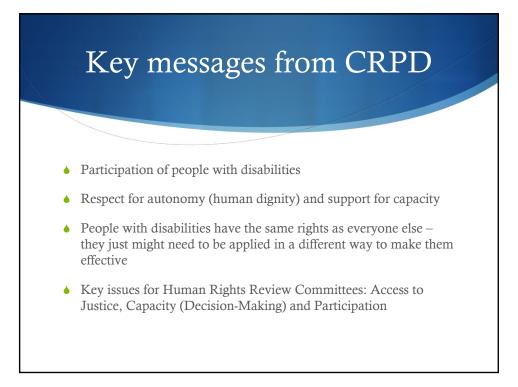
National Human Rights Law

- Bunreacht na hEireann 1937 specifies some rights (right to free primary education, right to equality before the law)
- Some rights are not written in the Constitution but implied from it (right to privacy, right to marry, right to earn a living)
- Legislation e.g. Employment Equality Act, Equal Status Act (ECHR Act in UK)



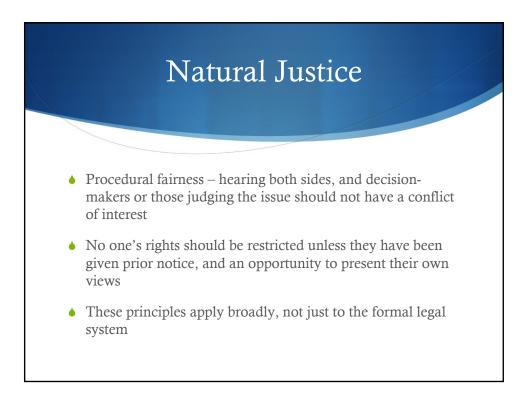
Focus on the CRPD

- Convention is an authoritative source of rights because:
- Covers all kinds of rights: civil, political, economic, social cultural
- Consolidates all existing IHRL and applies to a disability context
- International consensus, Ireland has signed and is committed to ratifying



Access to Justice: Article 13

- States shall provide effective access to justice for persons with disabilities on an equal basis with others
- Procedural and age-appropriate accommodations
- Effective role of people with disabilities as direct and indirect participants
- Appropriate training for those working in the field of administration of justice



Equality and Capacity: Article 12

- Right to recognition everywhere as persons before the law
- Persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life
- Appropriate measures to provide access to the support they may require in exercising their legal capacity
- Guidance: presume capacity first, offer support to exercise capacity (e.g. advocate)



Future Directions

- Human Rights Review Committees using Convention as guidance for their procedures, processes, and discussions about rights
- Organisations understanding the changes the Convention brings and planning programmes based on human rights framework
- Clarity on what 'human rights' are and what our responsibilities are to protect them