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Right to Autonomy in Intl Law

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Right to Autonomy – Treaty development



UN Convention on the Elimination of Discrimination Against Women (CEDAW)

Right to Legal Capacity (Article 15)

UN Convention on the Right of Persons with Disabilities (CRPD)

Right to Legal Capacity (Article 12)

Right to Liberty (Article 14)

Right to Live in the Community (Article 19)

Right to Legal Capacity – Meaning and Interpretation

Tools for Interpretation

Text of CRPD

General Comment

Concluding Reports/Decisions on Individual Complaints

Substance of Interpretation by CRPD Committee

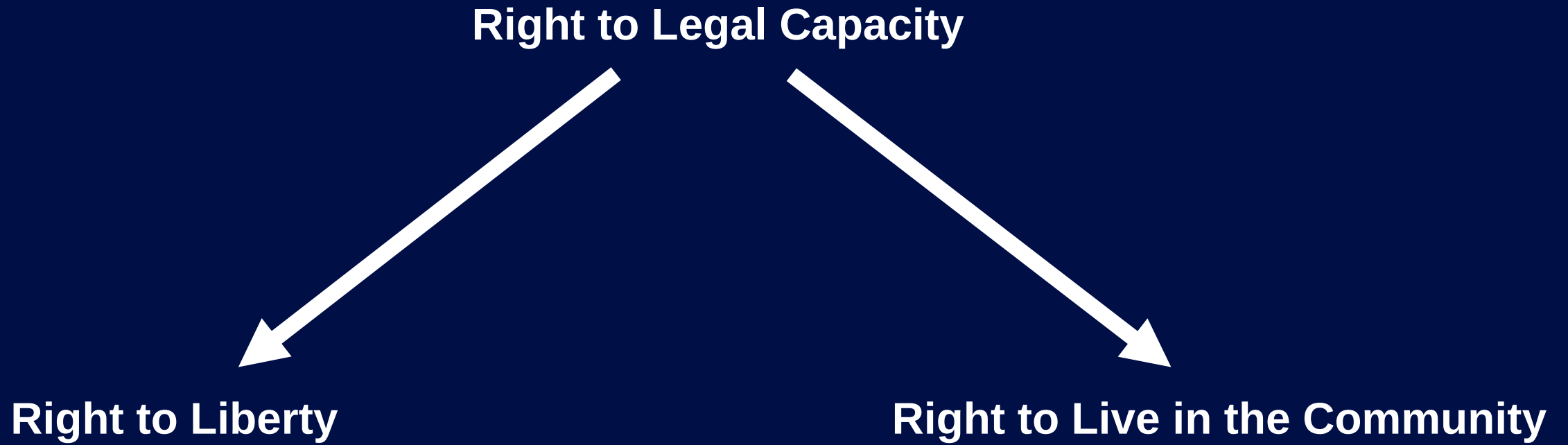
Agency AND Standing

NO Denials on the Basis of Disability (or any other protected status)

State Obligation to Provide Support for the Exercise of Legal Capacity

- Supported Decision Making MUST Replace Substituted Decision Making
- Will and Preference Paradigm MUST Replace Best Interests

Right to Autonomy – Rights interdependence



Right to Legal Capacity – Implications

Significant Law Reform Needed

Mental Health Law (Rights to Legal Capacity and Liberty)

Guardianship/Interdiction/Substituted Decision-Making (Rights to Legal Capacity, Liberty, and Live in Community)

Contract Law (Rights to Legal Capacity and Live in Community)

Criminal Law (Rights to Legal Capacity and Liberty)

Reform Underway (Examples)

Peru

Complete overhaul of civil code

Ireland

Assisted Decision-Making Act

Spain

New act changing legal capacity rights across 300+ different areas of civil code

Conclusions

Autonomy has new meanings in Intl Law (Disability and beyond)

Reform is needed

Research is needed

Thanks.



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