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**Occupational Justice as the Freedom to Do & Be:
A conceptual tool for advocating for human rights**

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WFOT Congress, Cape Town South Africa, May 2018

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Learning objectives

1. Explore how international conventions can be used to advocate against barriers to occupational participation.
2. Understand occupational justice as freedoms to do and be
3. Apply a tool to analyse situations where the freedom to do and be is repressed
4. Offer critical commentary to inform ongoing development of the tool

Occupational Justice is...

‘Occupational justice is orientated to promoting fairness, equity, and empowerment to enable opportunities for participation in occupations for the purposes of health and quality of life’

(Durocher et al., 2014, pp. 431-432)



Types of Occupational Injustice



Occupational
Deprivation



Occupational
Marginalization



Occupational
Imbalance



Occupational
Alienation



Occupational
Apartheid

Occupational Rights



The right to exert individual and population autonomy through choice in occupations (marginalization)



The right to develop through participation in occupations for health and social inclusion (deprivation)



The right to benefit from fair privileges for diverse participation in occupation (imbalance)



The right to experience occupation as meaningful and enriching (alienation)

All inclusive occupational right (Hammell, 2008)



The right for all people to engage in meaningful occupations that contribute positively to their own well-being and the well-being of their communities.

Critiquing occupational justice



- Lack of conceptual clarity or links to other bodies of scholarly work (Durocher et al, 2014).
- Concepts of rights and justice differ in different contexts and cultures - making occupational justice hard to define or apply (Whalley Hammell, 2017).
- Alignment with a medical model makes it difficult to think beyond the client's diagnosis (Galvin & Wilding, 2017)
- Lack of clarity on how it can be put into practice (Galvin & Wilding, 2017).
- Occupational injustice and rights are unknown & hold very little weight in advocacy with clients.

World Federation of Occupational Therapists Position Statement on Human Rights



The Legally Binding Conventions

Core International Human Right Instrument	Date of origin	Monitoring body
<u>ICERD</u> <u>International Convention on the Elimination of All Forms of Racial Discrimination</u> (progressive)	21 Dec 1965	<u>CERD</u>
<u>ICCPR</u> <u>International Covenant on Civil and Political Rights</u> (immediately enforceable)	16 Dec 1966	<u>CCPR</u>
<u>ICESCR</u> <u>International Covenant on Economic, Social and Cultural Rights</u> (progressive)	16 Dec 1966	<u>CESCR</u>
<u>CEDAW</u> <u>Convention on the Elimination of All Forms of Discrimination against Women</u> (progressive)	18 Dec 1979	<u>CEDAW</u>
<u>CAT</u> <u>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</u> (progressive)	10 Dec 1984	<u>CAT</u>
<u>CRC</u> <u>Convention on the Rights of the Child</u> (progressive)	20 Nov 1989	<u>CRC</u>
<u>ICMW</u> <u>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</u> (progressive)	18 Dec 1990	<u>CMW</u>
<u>CPED</u> <u>International Convention for the Protection of All Persons from Enforced Disappearance</u> (progressive)	20 Dec 2006	<u>CED</u>
<u>CRPD</u> <u>Convention on the Rights of Persons with Disabilities</u> (progressive)	13 Dec 2006	<u>CRPD</u>
<u>UNDRIP</u> <u>United Nations Declaration on the Rights of Indigenous Peoples</u> (not binding)	13 Sept 2007	EMRIP (expert mechanism)

The Universal Declaration of Human Rights: The minimum standards necessary for people to live with dignity.



Image Credit <http://blogs.reuters.com/great-debate/tag/nelson-mandela/>

Preamble: Recognition of the inherent dignity required for equity, and inalienable rights of all members of the human family as foundations for freedom, justice and peace in the world....

Human dignity means that a person or group feels self respect and self worth. Human dignity is harmed when individuals and groups are marginalized, ignored or devalued...(Halpern et al; the Attorney General of Canada et al).'

Activity 1

In considering that every human deserves dignity, respect and worth, what are the occupations that no human should be expected to give up?



The Capability Approach



Raw capacity: The basic abilities of humans e.g. learning



Capabilities: The freedom to do and be e.g. literacy, access to books, education etc.



Functionings: Doings and beings e.g. reading a novel



The Capability Approach

The focus here is on the freedom that persons actually have to do this or be that – things persons have reason to value

(Sen, 2009, pp. 231-232)

Justice is:

The extent to which society protects and promotes human freedoms (opportunity and choice) to do things that people individually or collectively value.

Community Development is:

Growing the opportunities and capabilities to do and be what humans have reason to value

The Capability Approach

Valuing freedom (Sen, 2009)

Choice and Opportunity: More freedom gives us more *opportunities* to *choose* what we want to do.

Responsibility:

With *choice* comes *responsibility* for what we do and the contributions we make to our own and others' well-being.

Activity 2

Reflect: Have you seen an example in your own practice where the populations you work with have had to give up occupations that they should not be expected to give up?

In your group, **share:**

- Your name
- Where you are from
- Some of your examples



Negative and Positive Freedoms

Negative freedom: freedom from!

The freedom *from* external interference which prevents us from doing what we want.

'I am a slave to no-one'

Positive freedom: freedom to!

The freedom *to* do and choose what that might be. It gives us the **choice** to do and be how we want to live our lives.

'I am my own person'



**Resources to identify
where freedoms to do
and be are repressed.**



HUMAN RIGHTS PRINCIPLES

(The advocates for human rights , 2011)

Dignity
 Equality
 Freedom
 Justice
 Peace



Human Rights Tool: What are the freedoms to do and be no human should be expected to give up?

Categories	CCPR Articles: (-ve freedoms)	ICESCR Articles: (+ve freedoms)
Protection of the basic freedoms to choose what we want to do and be	1: Self detemination 4,5: protection from derogation of rights and freedoms 7: freedom from cruel or inhuman treatment. 8: from slavery 9: freedom to do and be without arbitrary arrest 10: respect for the convicted 12: freedom of movement 18: freedom of thought, conscience & religion 19: freedom of expression 23: to marry and have a family	1: Self determination 4,5: protection from derogation of rights and freedoms 6,7,8: freedom to work in good conditions 9: access to social security 10: for family, marriage motherhood, childhood. 11: adequate standard of living – food house clothes 12: to enjoy good health 13,14: education 15: cultural life
Freedom to participate	22: freedom of association and to join a trade union 25: Particpation in public affairs and to vote	
Freedom to do and be without distinction or discrimination	2: rights without discrimination 3: gender equity 20: freedom from hate speech or propoganda 24: child protection 26: equality before the law 27: minorities have freedom to enjoy their culture	2: rights without discrimination 3: gender equity

Activity 3

Take one example from the previous activity.

Using the human rights tool on the previous slide, identify the human rights that are breached.



Ideas on what can be done about a breach of human rights to ensure a freedom to do or be

Protecting the freedom to do and be: Investigate the root causes and evidence based solutions

Challenge discrimination: Advocate for marginalised groups and keep organisations accountable. Write submissions and get advice from Human Rights Commissions and advocates.

Participation: Empower rights holders and increase opportunities and choice

Prioritise dignity over improving impairments: Remind yourself to ask what doings and beings should my clients not be expected to give up

(The Advocates for Human Rights , 2011)

Activity 4

Considering these ideas, discuss what could be done about these breeches to occupational rights?





Feedback and concluding thoughts

Please fill in the feedback form provided.

- Could you find a human right that fitted with your justice issue?
- Was this a new way of thinking for anyone and could you think like this in your every day work?
- Was the tool linking the loss of freedoms to do and be to human rights helpful?
- Could you see solutions that were achievable?

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