

“I would argue that a social justice approach should be central to medicine and utilized to be central to public health. This could be very simple: the well should take care of the sick.”

— Dr. Paul Farmer



HUMAN RIGHTS

&

SOCIAL
JUSTICE

LEARNING OUTCOMES

By the end of the lecture and tutorial, students should be able to:

Explain the basic context of human rights.

Discuss the relevance of human rights and social justice issues to health.

Evaluate the ways in which human rights impact on health.

Discuss the role of health professionals in promoting and protecting human rights through clinical practice, advocacy, and policy engagement.

CONTENTS

HUMAN RIGHTS AND SOCIAL JUSTICE: AN INTRODUCTION	01
ADVANTAGES OF A RIGHTS-BASED APPROACH TO HEALTH VISAVIS A NEEDS-BASED APPROACH TO HEALTH IN ADDRESSING HEALTH INEQUITY	02
THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)	04
THE CORE HUMAN RIGHTS LAWS	07
LINKAGES BETWEEN HEALTH AND HUMAN RIGHTS	08
WHAT IS THE RIGHT TO HEALTH?	09
NAVIGATING HUMAN RIGHTS IN HEALTHCARE: ROLES AND RESPONSIBILITIES OF HEALTH PROFESSIONALS	14

This E-Book is interactive. Please click on the links to navigate through the E-Book content.



HUMAN RIGHTS AND SOCIAL JUSTICE: AN INTRODUCTION

Human rights and social justice are fundamental principles deeply intertwined with the practice of medicine. For physicians, acknowledging and upholding these principles is crucial for several reasons. Firstly, they serve as moral and ethical guidelines, steering doctors in providing equitable and respectful care to all individuals, regardless of their status. Secondly, human rights and social justice ensure that healthcare is not a privilege but a universal right accessible to everyone, aligning with the medical profession's core values of prioritizing patient well-being.

Moreover, these principles nurture trust between doctors and patients, encouraging open dialogue, collaborative decision-making, and ultimately improved health outcomes. By advocating for human rights and social justice, physicians not only meet their professional obligations but also contribute to building a more just and compassionate society.

The first step in becoming a human rights-aware physician is to know the difference between a rights-based approach and a needs-based approach to health.

ADVANTAGES OF A RIGHTS-BASED APPROACH TO HEALTH VISAVIS A NEEDS-BASED APPROACH TO HEALTH IN ADDRESSING HEALTH INEQUITY

In addressing health inequity, understanding the differences between a rights-based and needs-based is important because they embody different philosophical and operational frameworks. A rights-based approach views access to healthcare as a fundamental human right for all people. It calls for laws and policies that ensure universal health coverage and equitable access to healthcare services. In contrast, a needs-based approach looks closely at which groups have the biggest health challenges or face the highest risks and prioritizes resource allocation to them. Both

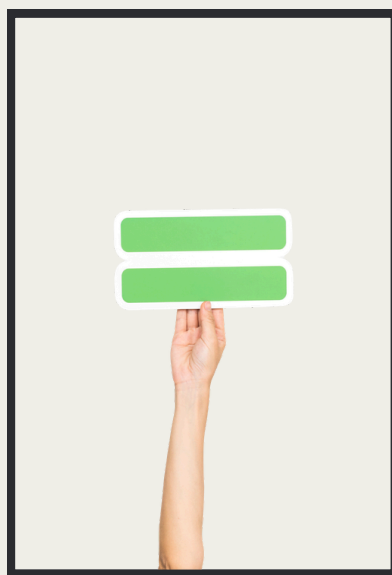
approaches strive to reduce health gaps, but differently. While the rights-based approach emphasizes entitlement and universality, grounded in legal and ethical obligations, the needs-based approach is more pragmatic and focuses on allocating resources where they are most needed. This distinction influences how governments create policies, allocate funds, and design programs aimed at reducing health inequality. Thus, these frameworks offer a perspective to examine health outcomes and their links to health (in)equity.

NEEDS-BASED APPROACH	RIGHTS-BASED APPROACH
Needs are identified by the provider.	The holder of rights has a role in the negotiation.
Needs are fulfilled out of a sense of benevolence of the provider.	Rights are fulfilled because rights holders have an entitlement.

NEEDS-BASED APPROACH	RIGHTS-BASED APPROACH
Needs may be reduced according to the dynamics of the situation.	Rights once given, may not be reduced but are open to expansion.
Needs may or may not be met, not obligatory.	Rights are enforceable – once given, they cannot be reduced.
If the provider does not meet needs, there are no direct consequences.	There are consequences for duty holders if rights are violated
Vulnerability is addressed as a symptom of poverty or marginalization.	Vulnerability is seen as a structural issue, both caused by and leading to unequal power relations in society.
A needs-based approach is based on passive recipients and does not lend itself to political mobilization.	For a right to be recognized, political mobilization is required. Hence a rights-based approach has the potential for political action.

In essence, a rights-based approach emphasizes the universality of healthcare as a fundamental human right, empowers them to advocate for policies and systems that prioritize equitable access to healthcare for all, and enhances doctors' ability to address systemic inequalities in healthcare. This way they can support efforts to ensure that all individuals receive the care they need to lead healthy lives.

In the next section, let's delve into the origins of human rights in the 20th century.



THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)



All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Art 1 (UDHR)

What is the UDHR?

The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly in 1948. The UDHR represents a landmark achievement in the history of human rights, articulating 30 articles affirming fundamental rights and freedoms that are inherent to all human beings regardless of nationality, ethnicity, or religion.

Why was the UDHR adopted?

In response to the horrific violations of human rights perpetrated by the Nazi regime during World War II, the

global community came together to establish the Universal Declaration of Human Rights (UDHR), which delineates the basic rights to which every individual is inherently entitled.

When was the UDHR adopted?

The United Nations General Assembly adopted the Declaration on 10 December 1948. Human Rights Day is now celebrated every year on 10 December.

Art 25

1. Everyone has the right to a standard of living adequate for the

health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 25.1 of the Universal Declaration of Human Rights UDHR) highlights the interconnectedness of health with other basic human needs, such as food, clothing, and housing,

acknowledging that these elements are collectively essential for the health and well-being of individuals and their families. It also emphasizes the importance of access to healthcare services, among other fundamental needs.

Eleanor Roosevelt played a pivotal role in the drafting and adoption of the Universal Declaration of Human Rights, championing its principles as the chair of the UN Human Rights Commission and leaving a lasting legacy as a defender of human rights worldwide.



Eleanor Roosevelt holding a poster of the Universal Declaration of Human Rights (in English), Lake Success, New York. November 1949

FDR Presidential Library & Museum

ARTICLES OF

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

1 Equality

Everyone is born free and equal in dignity and with rights.



2 Freedom from Discrimination

You should never be discriminated against for any reason.



3 Life, Liberty and Security

Everyone has the right to life, liberty and personal security.



4 Freedom from Slavery

No-one shall be held in slavery or servitude.



5 Freedom from Torture

No-one shall be subjected to torture or to cruel or degrading treatment.



6 Recognition as Person Before Law

You have the right to be treated as a person in the eyes of the law.



7 Equality Before the Law

You have the right to be treated by the law in the same way as everyone else.



8 Remedy by Tribunal

You have the right to remedy by competent tribunal.



9 Freedom from arbitrary arrest

No-one shall be subject to arbitrary arrest, detention or exile.



10 Fair Public Hearing

You have the right to a fair public hearing.



11 Innocent until Proven Guilty

You have the right to be considered innocent until proven guilty.



12 Privacy

No-one has the right to interfere with your privacy, family, or home.



13 Freedom of Movement

You have the right to freedom of movement in and out of the country.



14 Asylum

You have the right to seek asylum in other countries from persecution.



15 Nationality

You have the right to a nationality.



16 Marriage and Family

You have the right to marriage and to raise a family.



17 Property

You have the right to own property.



18 Freedom of Belief

You have the right to freedom of belief and religion.



19 Freedom of Opinion

You have the right to freedom of opinion and expression.



20 Freedom of Assembly

You have the right to freedom of peaceful assembly and association.



21 Take Part in Government

You have the right to take part in the government of your country.



22 Social Security

You have the right to social security.



23 Work

You have the right to desirable work and to join trade unions.



24 Rest and Leisure

You have the right to rest and leisure.



25 Adequate Living Standard

You have the right to a decent life, including food, clothing, housing, and medical care.



26 Education

You have the right to education.



27 Participate in Cultural Life

You have the right to Participate in the Cultural Life of Community.



28 Social Order

You have the Right to a Social Order that Articulates this Document.



29 Mutual Responsibility

We all have a responsibility to the people around us and should protect their rights and freedoms.



30 Freedom from State or Personal Interference

There is nothing in this declaration that justifies any person or country taking away the rights to which we are all entitled.

THE CORE HUMAN RIGHTS LAWS

The United Nations human rights system has its roots in the aftermath of World War II, a period marked by grave human rights violations and atrocities. The horrors of the war underscored the need for an international framework to protect and promote human rights globally. This led to the creation of the United Nations, with human rights as one of its core principles.

Universal Declaration of Human Rights (UDHR):

The cornerstone of the UN human rights system is the Universal Declaration of Human Rights. The articles of the UDHR have been further developed in subsequent international treaties, regional human rights instruments, national constitutions, and other legal frameworks.

International Covenant on Civil and Political Rights (ICCPR):

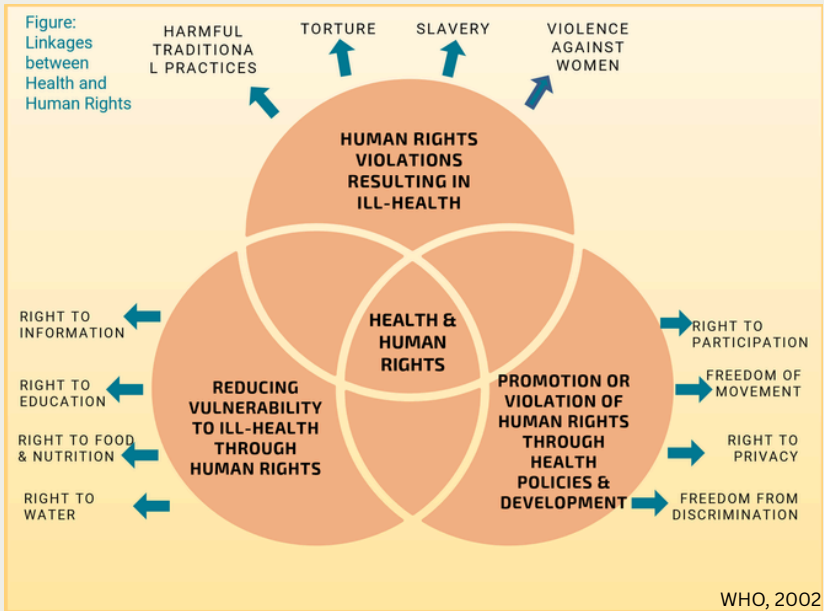
Building upon the UDHR, the ICCPR was adopted by the UN General Assembly in 1966 and entered into force in 1976. The ICCPR focuses on civil and political rights, including the rights to life, freedom of speech, religion, and fair trial.

International Covenant on Economic, Social, and Cultural Rights (ICESCR):

Adopted alongside the ICCPR in 1966, the ICESCR emphasizes economic, social, and cultural rights, such as the right to work, education, and healthcare. It recognizes that these rights are essential for individuals' dignity and well-being.

During the Cold War, the rivalry between the United States of America and the Soviet Union influenced human rights instruments like the ICCPR and ICESCR. The ICCPR focused on civil and political rights, reflecting Western priorities, while the ICESCR emphasized economic, social, and cultural rights, championed by socialist and non-aligned states. This ideological divide led to polarization within the UN human rights system, hindering effective action at times. Despite challenges, both treaties were adopted in 1966, showing a compromise between Western and Eastern bloc countries. Though Cold War politics often influenced their implementation, the principles they embody continued to advance human rights globally. The UDHR with the ICCPR and the ICESCR form the Bill of Rights.

LINKAGES BETWEEN HEALTH AND HUMAN RIGHTS



Health and human rights are profoundly interconnected, reflecting a bidirectional influence where one invariably impacts the other. The complex interplay between these domains is illustrated in Figure 1, which encapsulates the essence of their interaction. This relationship is typified by three distinct but overlapping types of interlinkages:

Violations of Human Rights Leading to Health Consequences: When human rights are neglected or violated, it can result in detrimental health outcomes. For example,

torture, a severe abuse of human rights, can lead to long-term psychological and physical harm. Similarly, slavery or human trafficking not only deprives individuals of their liberty and dignity but also exposes them to various health risks, including infectious diseases, psychological trauma, and physical injuries.

Health Policies and Programs Impacting Human Rights: Health initiatives can uphold or infringe upon human rights depending on their execution. A health program that mandates treatment without

informed consent may violate an individual's rights, whereas policies that ensure equal access to healthcare services for all, regardless of ethnicity, gender, or socioeconomic status, promote the right to non-discrimination and the right to health.

Reducing Health Vulnerability Through Human Rights: By respecting, protecting, and fulfilling human rights, societies can decrease vulnerability to ill health. Ensuring the right to clean water and adequate nutrition, for instance, can prevent diseases related to malnutrition and contaminated

water sources. Upholding the right to education can lead to better health literacy, empowering individuals to make informed health decisions, and participate actively in health-related matters.

These interlinkages underscore the imperative of integrating human rights into health strategies to not only improve health outcomes but also to ensure the dignity and rights of individuals are respected, protected, and fulfilled.

- Human rights and public health. (1999). In J. M. Mann, S. Gruskin, M. A. Grodin, & G. J. Annas (Eds.), *Health and human rights : a reader*. Routledge..

WHAT IS THE RIGHT TO HEALTH?

Not the Right to Be Healthy

The right to health should not be misunderstood for the right to be healthy; in fact, international law on the right to health affirms this perspective. After all, the State cannot provide people with protection against every possible cause of ill health or disability, such as the adverse consequences of genetic diseases, individual susceptibility or the adoption of unhealthy lifestyles, or other unforeseen circumstances.

Similarly, the right to health does not imply an unrestricted entitlement to medical treatment for any and every illness or disability.

Rather, it is the right to the enjoyment of a variety of facilities and conditions that are necessary for good health. These include healthcare services as well as broader factors like clean water, adequate nutrition, sanitation, and housing. More specifically, the right to health can be understood as a right to an effective and integrated health system, encompassing health

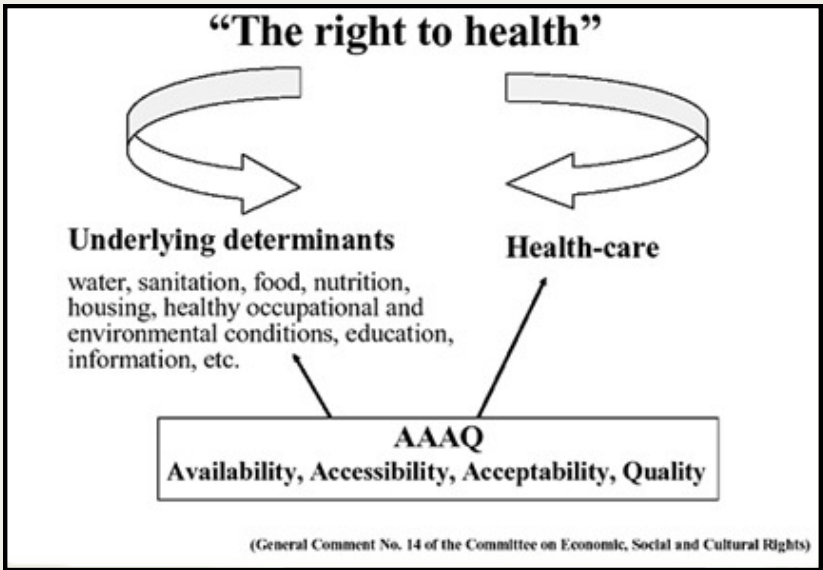
care and other determinants of health.

Cultural Rights [Article 12.1], the right to health is ‘the right of everyone to the enjoyment of the highest attainable standard of health.’ Aligning with the social model of health, the right to health recognizes that both health care and social conditions are important requisites contributing to health.

The Right to Health: A Broad Concept

According to the International Covenant on Economic, Social and

COMPONENTS OF THE RIGHT TO HEALTH



Art 12.1 on the right to health in the International Covenant on Economic, Social and Cultural Rights is elaborated in General Comment 14 of the ICESCR.

rights including the right to control one's health and body, including sexual and reproductive freedom or the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation.

The right to health also includes FREEDOMS and ENTITLEMENTS.

Freedoms relate to non-interference and include several

Entitlements relate to access and provision and include the right to a system of health protection which

provides equality of opportunity for people to enjoy the highest attainable level of health. (para 8, Gen Comment 14).

Key Components of the Right to Health

Accountability

By signing international human rights treaties that affirm the right to health, a state agrees to be accountable to the international community, as well as its citizens, for the fulfilment of its obligations.

Participation

The right to participate in decision-making is fundamental to all human rights. When it comes to health, a human rights perspective emphasizes that effective healthcare services can only be attained through the active involvement of individuals in their planning and implementation. Evidence indicates that engaging communities enhances the likelihood of meeting their needs more efficiently, consequently leading to improved health outcomes. Participation plays a crucial role in ensuring that the health system is attuned to the specific healthcare requirements of marginalized populations.

Standards of Health Care Services

The right to health imposes four essential standards on health care services:

1. Availability
2. Accessibility
3. Acceptability
4. Quality

AVAILABILITY

Availability of services requires that public health and health care facilities are available in sufficient quantity, giving due regard to a country's developmental and economic condition.

ACCESSIBILITY

The health system has to be accessible to all. Accessibility has four overlapping dimensions

1. Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable.
2. Physical accessibility: health facilities, goods and services must be within safe physical reach of all parts of the population.
3. Economic accessibility (affordability): health services must be affordable for all.
4. Information accessibility: accessibility includes the right to seek, receive, and impart information concerning health issues. For example,

governments must ensure that young people have access to sexual and reproductive health education and information presented in an unbiased manner.

ACCEPTABILITY

Acceptability requires that health services are ethically and culturally appropriate, i.e. respectful of individuals, minorities, peoples, and communities, and sensitive to gender and life-cycle requirements.

QUALITY

Quality requires that health services must be scientifically and medically appropriate and of the highest quality.

Progressive Realization of the Right to Health

The right to health approach recognizes that states are at different levels of development and some may have greater resource constraints than others. Further, there may be competing priorities demanding attention for funding.

Thus, a State is not compelled to implement all its obligations in relation to the right to health immediately. It may “progressively realize” the right to health.

However, the state has an ‘obligation to move as expeditiously and effectively as possible’ (para 31) to eliminate discrimination which

can be pursued with minimum resource implications (para 18) 3. For example, the removal of discriminatory laws does not require a lot of resources. Rather in removing discriminatory laws, the state ensures that available resources are distributed effectively and optimally and people do not suffer adverse health consequences because of discrimination.

Thus, even on very small and tight health budgets, states can design health systems so that poor and disadvantaged groups can enjoy better access to services.

HUMAN RIGHTS OBLIGATIONS OF GOVERNMENTS

The right to health imposes three obligations on governments. These include the right to RESPECT, PROTECT and FULFIL the right to health.

Respecting the right to health applies mainly to government laws and policies and requires that states refrain from undertaking actions that inhibit or interfere (directly or indirectly) with people’s ability to enjoy the right to health, such as by introducing actions, programs, policies or laws that are likely to result in bodily harm, unnecessary morbidity, and preventable mortality.

It also requires states to refrain from taking retrogressive measures (take-

backs) as part of its health-related laws and policies. In exceptional circumstances of urgent public health concerns such as the need to contain outbreaks or epidemics of serious infectious diseases, the state's obligation to respect can be superseded. An example would be the necessity to quarantine an individual with open pulmonary tuberculosis who refuses treatment, so as to prevent the spread of infection and secure public health. However, such measures by the government must be temporary and fully justifiable.

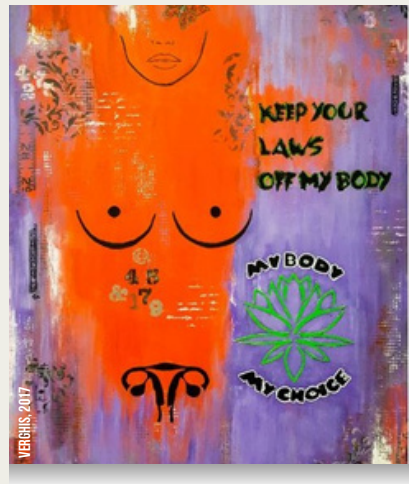
Protecting the right to health applies mainly to the obligations of governments to make efforts to minimize risks to health and to take all necessary measures to safeguard the population from infringements of the right to health by third parties. States are not responsible for the acts or omissions of non-governmental enterprises such as the private sector (for example, multinational corporations, including pharmaceutical companies, health insurance companies, biomedical research institutions, private care providers, and health management organizations); but they are responsible for taking measures aimed at ensuring that such bodies refrain from violating the rights of individuals and communities.

Fulfilling the right to health applies to positive measures that

governments are required to take, such as providing relevant services, to enable individuals and communities to enjoy the right to health in practice. It requires that all necessary steps be taken to ensure that the benefits covered by the right to health are provided and that appropriate legislative, administrative, budgetary, judicial, promotional, and other relevant measures are adopted to ensure its full realization. It also requires that special measures be taken to prioritize the health needs of the poor and otherwise vulnerable and disadvantaged groups in society.

United Nations. (1976). International Covenant on Economic, Social and Cultural Rights.

Committee on Economic Social and Cultural Rights. (2000). General Comment 14 of the International Covenant of Economic, Social and Cultural Rights.



NAVIGATING HUMAN RIGHTS IN HEALTHCARE: ROLES AND RESPONSIBILITIES OF HEALTH PROFESSIONALS

Why treat people and send them back to the conditions that made them sick?

Michael Marmot, Professor of Epidemiology



The interconnected roles of governments and health professionals in promoting human rights

Health professionals play a collaborative role with the State in advancing human rights in healthcare. While the State sets the legal and policy framework that defines the right to health, health professionals implement the policies and adhere to the standards set by the State to provide care. Similarly, while the State has the obligation to respect, protect, and fulfill the right to health, health professionals must uphold these principles in their daily practice by providing care without discrimination, safeguarding patient rights and dignity, and advocating for improved access to healthcare services for their patients. Regarding accountability, the State has a fundamental obligation of accountability for realizing the right

to health, while health professionals are called to be advocates for their patients and the broader community, calling attention to gaps in healthcare services and violations of health rights. Health professionals also play the vital role of directly educating patients about health and making decisions related to resource allocation, responsibilities that are similarly entrusted to the State. While the state leads in public health emergency responses, health professionals provide the essential services to implement the state's directives.

Thus, health professionals play a pivotal role in promoting and upholding human rights within the healthcare system. This section explores the multifaceted linkages between health and human rights, focusing on the responsibilities of healthcare workers across different spheres of practice.

Healthcare workers (can) influence human rights within the healthcare system in three spheres:

1. Individual patient care
2. Work sphere
3. Outside the work sphere

- respecting patient confidentiality
- taking the background of the patient into account maintaining professional skills at the highest possible level.

Individual Patient Care

The primary role of a health worker lies in individual patient care. Health workers providing the highest possible standard of care are already upholding human rights.

Upholding human rights in the patient care sphere includes:

- providing all necessary care without discrimination respecting the autonomy and dignity of all patients.
- obtaining informed consent from patients before treatment
- providing all information necessary for patients' decision-making

Work Sphere

The inner circle of patient care is, however, not isolated from the outside world. There can be issues both within and outside the work sphere that negatively influence human rights in patient care and create obstacles for health workers to provide the highest possible standard of care.

When health workers experience pressure to comply with obligations of a third party that compromise their ability to provide the best care to the patient, the situation can be described as a DUAL LOYALTY conflict in medical ethics.



Possible obstacles affecting human rights in patient care inside the work sphere include:

- Institutional rules and regulations
- Lack of knowledge of health workers
- Personal beliefs and attitudes of health workers
- Unequal power relations between health worker and patient
- Institutional discrimination

Outside the Work Sphere

Potential challenges impacting human rights in patient care beyond the workplace sphere encompass:

- Health laws and policies
- Denial or lack of necessary resources
- Societal beliefs and attitudes

The existence of such obstacles means that action in different spheres can be necessary for health workers to be able to respect human rights within their own work.

HOW CAN HEALTH PROFESSIONALS ENGAGE IN HUMAN RIGHTS ACTION?

Health professionals can engage in **six categories** of human rights action:

1. **Protection** - Protect individuals against shortcomings or mistreatment in healthcare system by stopping, preventing or remedying human rights violations.
2. **Documentation** – Human rights serve as a framework for the collection of evidence on what should or should not be happening within a healthcare system, what type of information is needed to

monitor progress in healthcare systems, and how to measure the impact of health policies and programs on individuals recording, monitoring and assessing.

3. **Dissemination** – advocate, disseminate and raise awareness on health and human rights issues.
4. **Mobilization** - When trying to gain support to address problems in healthcare systems, human rights can bring together different stakeholders by creating a common issue to rally around. Health care professionals can do their part by participating, stimulating and connecting different stakeholders.
5. **Creation** - Human rights can give direction to the development of new practices and procedures within healthcare systems including developing new ideas and alternatives.
6. **Policy advocacy** - Health professionals also have a role in shaping health policy, not only delivering individual care. By bringing clinic-based evidence and patient experiences into dialogue with ministries, professional bodies, and civil society, they can advocate for phased, multisectoral reforms that embed human rights into laws, financing decisions, and service design across areas such as prevention, treatment, mental health, disability, sexual and reproductive health, and responses to violence and other social determinants of health.

Adapted from IFHHRO. Steps for change. A human rights action guide for health workers. Utrecht: International Federation for Health and Human Rights Organizations; 2011.

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HUMAN RIGHTS

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JUSTICE

DR. SHARUNA VERGHIS

2026