



Ankara University
SCHOOL OF MEDICINE

The First Medical School In The Republic of Turkey (1945)

Health and rights of health workers

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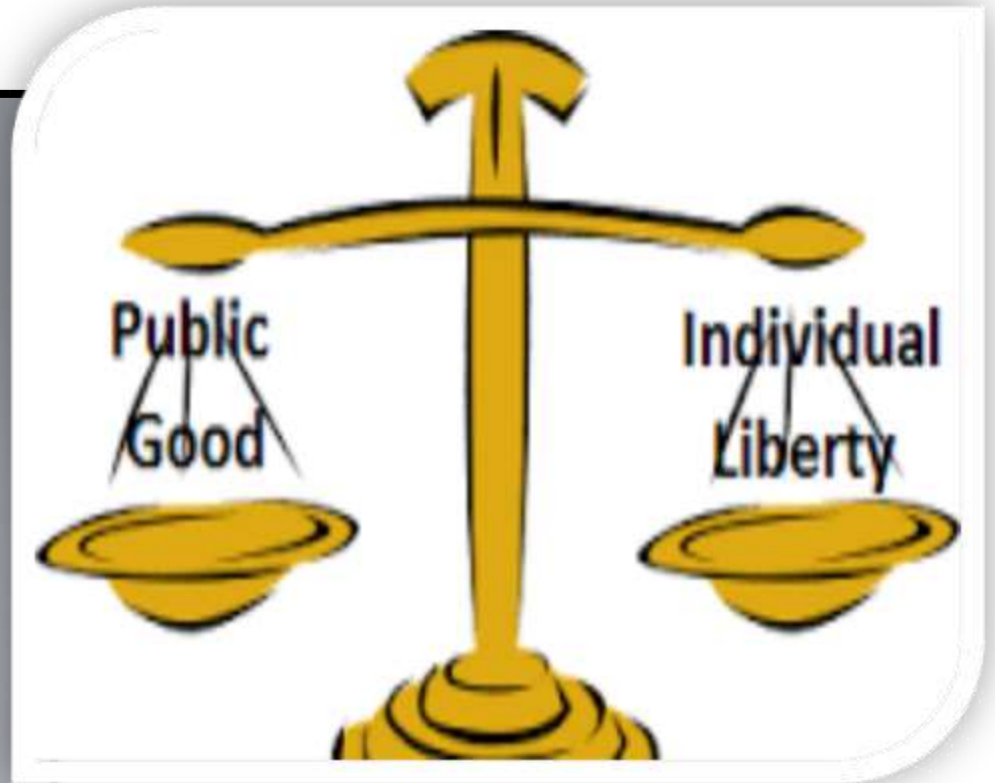
The highest attainable standard of health..

The WHO Constitution (1946) envisages

- *“...the highest attainable standard of health as a fundamental right of every human being.”*
- Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable (*drinkable*) water, sanitation, food, housing, health-related information and education, and gender equality.
- No doubts, these clusters of health rights also valid for health workers as human beings.



Health Care Rights

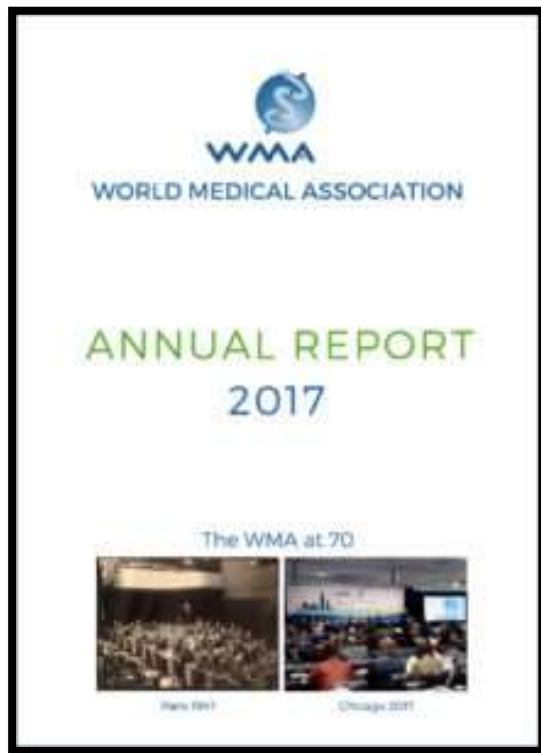




WORLD
MEDICAL
ASSOCIATION

[illegible]

The World Medical Association (WMA) is an international and independent confederation of free professional medical associations, therefore representing physicians worldwide. WMA was formally established on September 18, 1947 and has grown in 2018 to 113 national medical associations and more than **10 million physicians**.



PUBLIC HEALTH

Healthcare and Health Promotion Targeting a Whole Population

Public health refers to health care and health promotion that targets a whole population or a particular group within the population. While public health does not directly involve the provision of medical care to individuals, the World Medical Association (WMA) stresses the important role of physicians in addressing public health issues. Physicians have the responsibility to care for individual health while maintaining an awareness of public health issues and promoting public health.

<https://www.youtube.com/watch?v=Uv1JDz8Ttfk>

<https://youtu.be/Uv1JDz8Ttfk>

Medical vs. Public Health Ethics

Medical Ethics

Focuses on respect individual patient/subject and his/her right to choose

Prevent harm, do good for each patient/subject

Fair distribution of benefits, risks and cost – what is due or owed to individuals/group

Public Health Ethics

Focuses on promoting population benefit

Pursuit collective or common/public goods

Promoting equity at the population level – how does the intervention affect the overall burden of health and illness in society

Constitution of Turkish Republic

- Rights and Duties of the Individual
- I. *Personal inviolability, corporeal and spiritual existence of the individual*
- **ARTICLE 17-** Everyone has the **right to life** and the right to protect and improve his/her corporeal (*somatic, bodily*) and spiritual existence.
- The **corporeal integrity** of the individual shall not be violated except under **medical necessity** and in cases prescribed by law; and shall not be subjected to scientific or **medical experiments** without his/her consent.
- No one shall be subjected to torture or mal-treatment; no one shall be subjected to penalties or treatment incompatible with **human dignity**.

Constitution of Turkish Republic

- **Article 19 –**
- Everyone has the right to personal liberty and security.
- No one shall be deprived of his-her liberty except in the following cases where procedure and conditions are prescribed by law:
- execution of measures taken in conformity with the relevant provisions of law for the *treatment, education or rehabilitation* of a person of *unsound mind*, an *alcoholic, drug addict, vagrant*, or a *person spreading contagious (infectious) diseases* to be carried out in institutions when such persons constitute a danger to the public;...

The extent of social and economic duties of the State

- A States' obligation to support the right to health – including through the allocation of “*maximum available resources*” to progressively realize this goal is reviewed through various international human rights mechanisms, such as the *Universal Periodic Review*, or the *Committee on Economic, Social and Cultural Rights*. In many cases, the right to health has been adopted into domestic law or Constitutional law.

❑ **The extent of social and economic duties of the State** *(Turkish Constitution)*

- ❖ **ARTICLE 65-** The State shall fulfil its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties.

Rights-based approach and participation-1

- A **rights-based approach** to health requires that health policy and programmes must prioritize the needs of those furthest behind first towards **greater equity**, a principle that has been echoed in the recently adopted 2030 Agenda for Sustainable Development and Universal Health Coverage (UHC).
- The right to health must be enjoyed **without discrimination** on the grounds of race, age, ethnicity or any other status.



Rights-based approach and participation-2

- Non-discrimination and equality requires states to take steps to redress any discriminatory law, practice or policy.
- Another feature of rights-based approaches is meaningful *participation*.
- Participation means ensuring that national stakeholders – including non-state actors such as non-governmental organizations – (NGOs) are *meaningfully* involved in all phases of programming: Assessment, analysis, planning, implementation, monitoring and evaluation.



What is a rights-based approach?

- A recognition that reproductive health is part of human rights

Human Rights are governed by the following principles:

Universality: applicable to everyone regardless of race, creed, religion, sex, age,

Accountability: governments are held accountable to protect, fulfill and respect the rights of all its citizens

Indivisibility: all human rights are intrinsic and cannot be divided or selectively applied; there is no lessening or transferring, or alienation of these rights

Participation: everything that is construed as a human right guarantees that individuals are allowed to participate at all levels of society -- as a human being, as a woman, as a man, and that this participation will be respected



A rights-based approach to development includes the following elements:

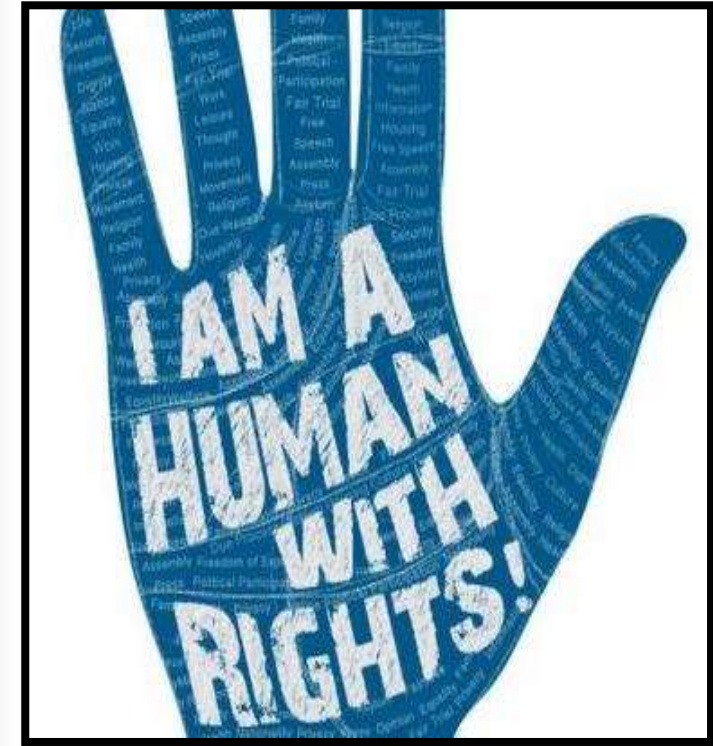
express linkage to rights

accountability

empowerment

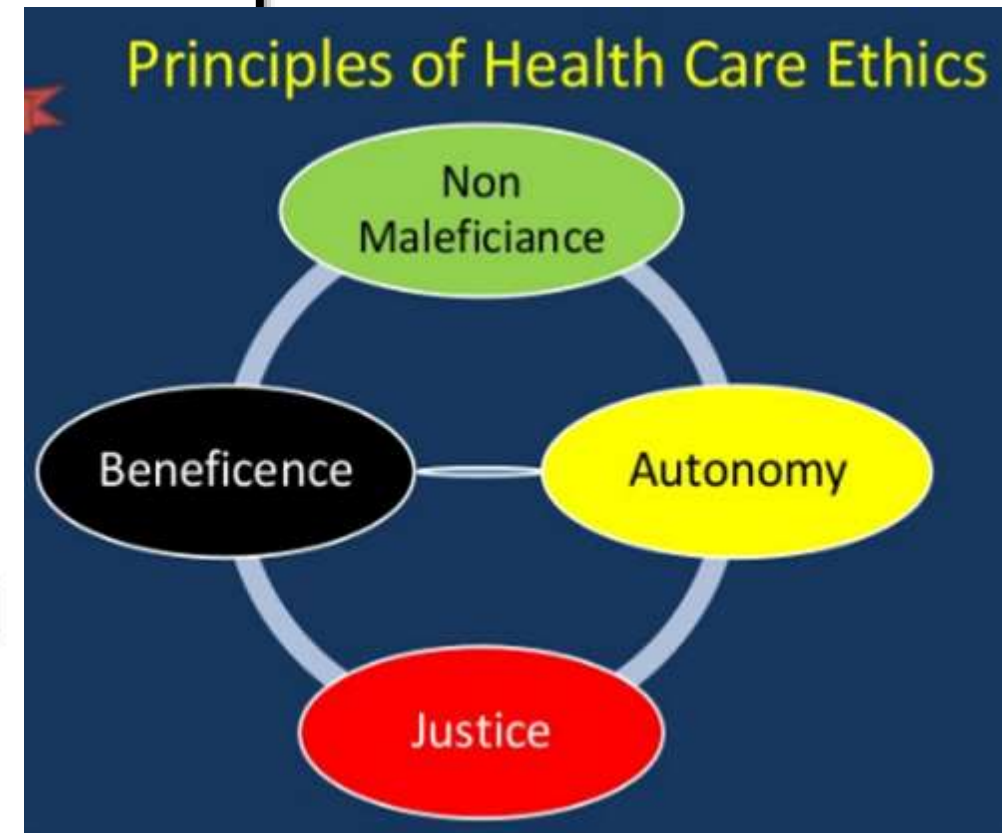
participation

non-discrimination and attentio



The human rights based approach ...

- Constitutes a framework of **action**, as well as a set of **tools** for migration policy-makers.
- Is based on the international framework of **human rights law** as provided in the core human rights instruments
- Upholds the principle of **non-discrimination**
- Establishes **accountability** between duty-bearers and rights-holders
- Focuses on **vulnerability**, marginalisation and exclusion
- Emphasises **participation** and **empowerment**



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



HEALTH WORKERS: BE HUMAN RIGHTS DEFENDERS

- Encourage professional health schools to include courses on the legal framework on the right to health.
- Advocate professional associations to offer training on human rights.



Core elements of a right to health

- **Non-retrogression**

- States should not allow the existing protection of economic, social, and cultural rights to deteriorate unless there are strong justifications for a *retrogressive measure*.
- For example, introducing school fees in secondary education which had formerly been free of charge would constitute a deliberate retrogressive measure.
- To justify it, a State would have to demonstrate that it adopted the measure only after carefully considering all the options, assessing the impact and fully using its *maximum available resources*.

<https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health> 27.2.19

Quality assurance of health services

- Facilities, goods, and services must be **scientifically and medically approved**. Quality is a key component of UHC and includes the experience as well as the perception of health care. **Quality health services** should be:
 - **Safe** – avoiding injuries to people for whom the care is intended;
 - **Effective** – providing evidence-based healthcare services to those who need them;
 - **People-centred** – providing care that responds to individual preferences, needs and values;
 - **Timely** – reducing waiting times and sometimes harmful delays.
 - **Equitable** – providing care that does not vary in quality on account of gender, ethnicity, geographic location, and socio-economic status;
 - **Integrated** – providing care that makes available the full range of health services throughout the life course;
 - **Efficient** – maximizing the benefit of available resources and **avoiding waste**.
- <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health> 27.2.19

Human Rights for Health Workers



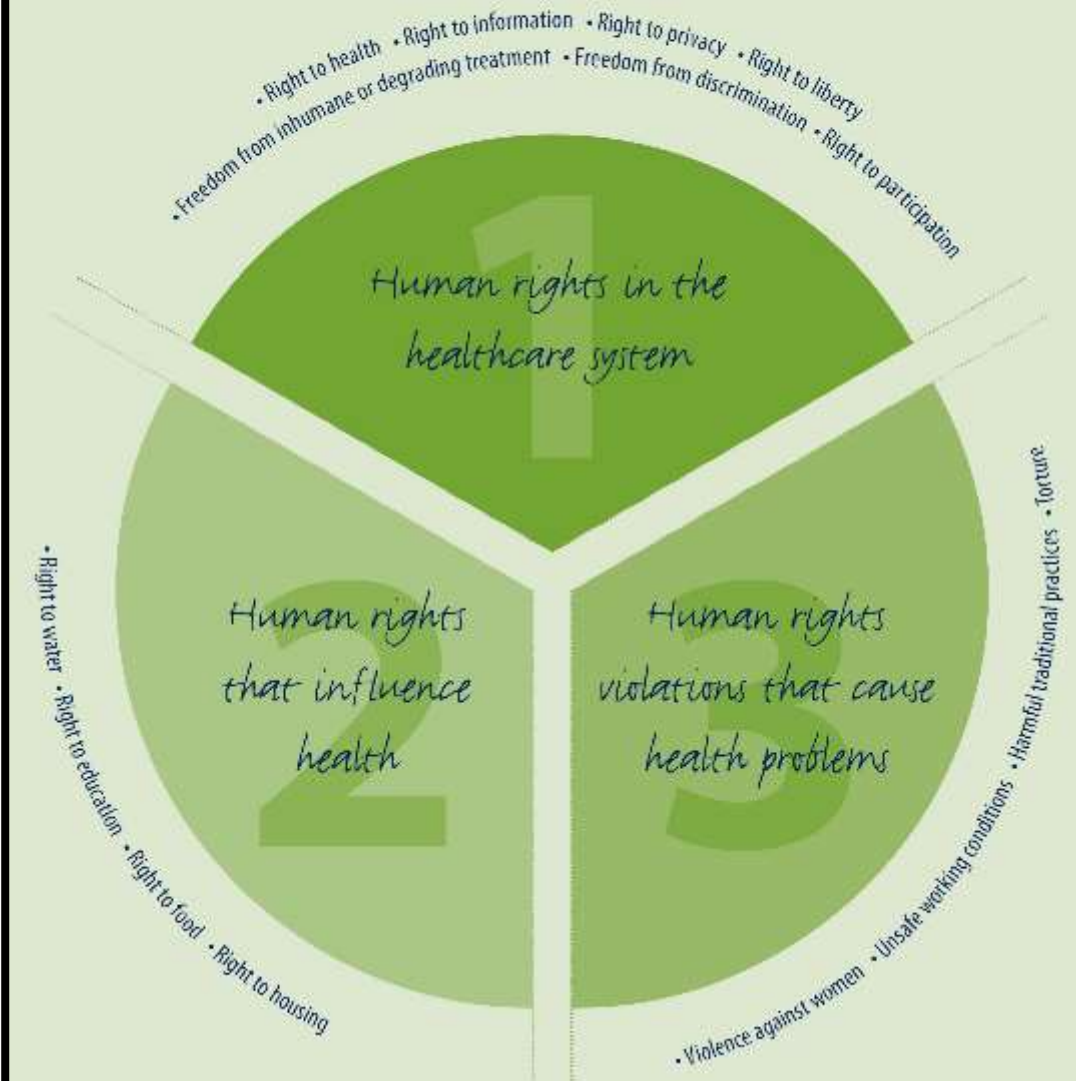
Human Rights for Health Workers

- **IFHHRO Training Manual**
- The online Human Rights for Health Workers – IFHHRO Training Manual shares materials developed *to train health workers in health and human rights issues*. It intends to bridge the gap between the legal conceptualization of the right to health and the daily practice of health workers by providing **human rights education** materials specifically designed for them.

<https://www.ifhhro.org/education/human-rights-for-health-workers-ifhhro-training-manual/> 27.2.19



The Three Dimensions of Health and Human Rights



WORKERS' BASIC RIGHTS in Canada

right to **Know**
what hazards are present in the workplace

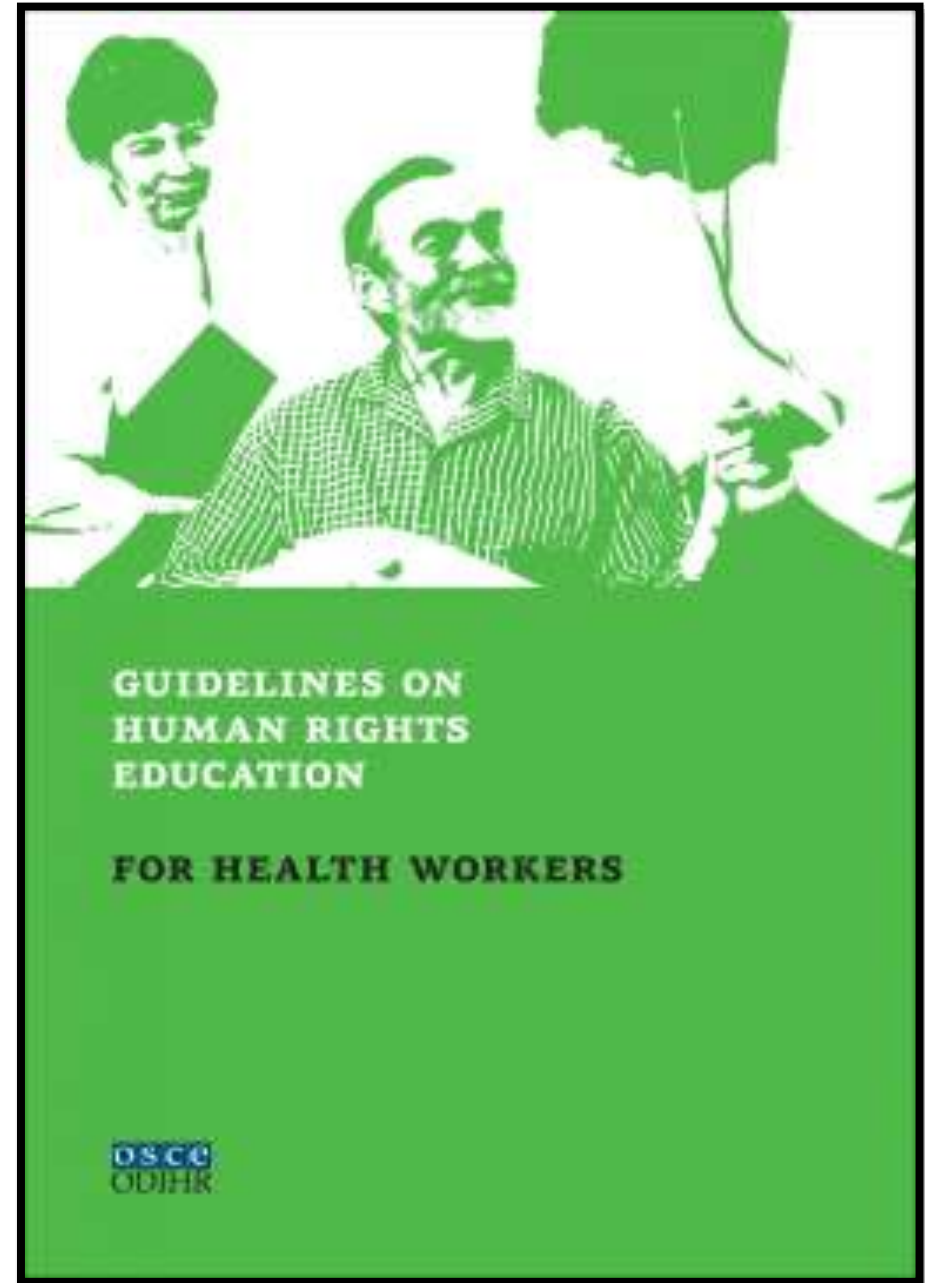
right to **Participate**
in keeping your workplace healthy and safe

right to **Refuse**
work that you believe to be dangerous to yourself or your co-workers



THREE BASIC RIGHTS

- Under the Occupational Health and Safety Act every worker has three rights
- The Right to Refuse



Your Right to...

Be Free From Retaliation

- ▶ Workers have the right to be free from retaliation for exercising safety and health rights.
- ▶ Workers have a right to seek safety and health on the job without fear of punishment.
- ▶ This right is spelled out in Section 11(c) of the OSH Act.
- ▶ Workers have 30 days to contact OSHA if they feel they have been punished for exercising their safety and health rights.



Act No. 6331 Occupational Health and Safety Law

Date of Enactment: 20/06/2012 (by TGNA)

Right to Abstain from Work ARTICLE 13 –

- ☐ (1) Workers exposed to **serious and imminent danger** shall file an application to the committee or the employer in the absence of such a committee requesting an identification of the present hazard and measures for **emergency intervention**. The committee shall convene without delay and the employer shall make a decision immediately and write this decision down. The decision shall be communicated to the worker and workers' representative in writing.
- ☐ (2) In the event that the committee or the employer takes a decision that is supportive of the request made by the worker, the **worker may abstain from work** until necessary measures are put into practice.

Additional aspects: Human rights education for health workers

Human rights training for health workers

Own practice

Advocacy

Policymaking

Deep understanding of human rights compels one to stand in solidarity with marginalized groups who suffer discrimination in terms of access to healthcare service delivery." – Physician, Niger State, Nigeria

Human rights education changes your perception in seeing medicine as an employment – where you



Violations against health workers and patients-1

- ✓ Violations against health workers and patients include ***harassment, beatings, torture, killings, disappearance, detention, prosecution***, as well as more insidious threats and obstructions to healthcare access.
- ✓ In some cases, state prosecutors have brought formal charges in courts against health workers for acting in accordance with their duty to provide impartial medical care.

<https://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/pdf/BellagioReport-03192014.pdf> 27.2.19

Violations against health workers and patients-2

- ✓ Facilities have been shelled, tear-gassed, looted, and occupied either for military purposes or to control access to care.
- ✓ In some cases, medical records or other *confidential information* has been demanded in order to identify individuals who may be political opponents of the perpetrators.
- ✓ Ambulances have been fired upon and their access across checkpoints has been unreasonably delayed or prevented entirely...

<https://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/pdf/BellagioReport-03192014.pdf> 27.2.19

Turkish Medical Deontology Regulation-1

- *Medical doctors, regardless of duty and specialization, in case of emergency care can not be provided, unless the ‘**force majeure**’ (compulsory reason), have to supply first aid. The dental practitioners are also subject to the same obligation in their field. (Art. 3)*
- *The physician and dental practitioner cannot disclose the **secrets** of his - her profession and art, unless they are legally obliged.
In cases presented in medical meetings or in publications, the patient's identity cannot be explained. (Art. 4)*

Turkish Medical Deontology Regulation-2

- The physician and dentist act in accordance with his - her conscience and professional beliefs while exercising his - her art and profession, without staying under any effect or influence.
The physician and dental practitioner are free to administer the treatment that will be applied. (Art. 6)
- *The physician makes diagnosis in accordance with scientific requirements and applies the required treatment.
Since these studies do not result in healing,
they cannot be criticized in terms of Deontology.*
- The physician can not guarantee the successful result of a treatment or a medical - surgical intervention. (Art. 13)

Turkish Medical Deontology Regulation-3

- The doctor, who is called to a family or any other institution to look after the patient, tries to provide protection as well. The physician shall inform the patients and those living together about their preventative health responsibilities to each other and to their neighborhoods.

The physician, however, endeavors to ensure compliance with the principles of hygiene and protection, even at the cost of refusing treatment.
(Art. 15)

Turkish Medical Deontology Regulation-4

- *The physician and dentist may **refuse** to take care of the patient for professional or personal reasons, except in the case of **emergency assistance**, formal or humanitarian duty.* (Art. 18)
- The physician and the dentist cannot recommend a treatment to the patient that the patient's financial power will not suffice as he would not make the unnecessary expenses to the patient and would not be sufficient. (Art. 20)

Turkish Medical Deontology Regulation-5

- It is appropriate that the physician and dentist **do not pay** for the examination and treatment to their colleagues for themselves, for wives or husbands, and for children and parents. In these cases, they may ask for the *compulsary expenses*. (Art. 32)
- Physicians and dental practitioners should maintain good collegial relations and help each other spiritually. First of all they should try to solve their professional disputes among them, and if they cannot succeed this, they should inform their colleagues, *Review Board (Ethical Committee)* and their *Medical Chamber*.. (Art. 37)

Turkish Regulation for Specialization in Medicine

- ***THE RIGHT to SPARE SUITABLE TIME:***
- The physician is expected to show the patient the necessary ***care***, record the information and documents in a good way, give the patient information about the disease.
- These are all time-consuming actions. Therefore, a physician has the right not to have more than 20 patients a day in a polyclinic.
- **WHO advises** an average time of 20 minutes for examining for an ordinary patient. (*Psychiatric cases might need longer time..*)

Informed (Enlightened) Written Consent

PRINCIPLES of ETHICS for PHYSICIANSHIP / Turkish Medical Association

Informed Consent

Article 26- The patient's health, the patient's health and the diagnosis, the type of treatment, the chance and the duration of the treatment, the risks of the treatment method, the use of the drugs given and the possible side effects, the results of the illuminates treatment options and risks are explained to the patient.

Illumination should be appropriate to the cultural, social and mental state of the patient.

The information should be given in a manner to be understood by the patient.

Persons to be informed outside the patient is determined by the patient.

Any health-related initiative (intervention) can be made with the free and enlightened consent of the patient.

*Received consent is invalid if it is received through oppression, threat or tricking or not **written** in certain cases..*

Physicians should have :

- **ADVISORY RIGHTS:**

The physician must have the right of consultation at the time of need.

- **HEALTH PROTECTION RIGHT:**

- *The physician should have the right to request working conditions that minimize **health risks** while practicing his-her profession.*

- **The RIGHT to REQUEST the QUALIFIED REVENUE:**

- *Monitoring the developments in the medical profession requires a certain cost. It is necessary for the physician **to train him - herself adequately** at the level of development of country medicine. Physicians require a certain share of budget for book purchase, medical journal subscription and congress participation. They should be paid in return for the **risky service**, which requires heavy professional knowledge - skills and intensive labor.*

Physicians have the rights (Turkish Criminal / Civil Procedure Code)..

- **Avoiding witnessing** due to Professional responsibility
- Article 46 - (1) Those who can withdraw from the witnesses due to their occupation and their continuous efforts and the following are the subjects and conditions of wince (*abstaining*) :
- Information that **physicians**, dentists, pharmacists, midwives and their assistants and all other medical professions or arts learn about the patients and their relatives.
- In the presence of the consent of the person concerned, the physician cannot avoid witnessing.
- **Turkish Civil Procedure Code** art. 249 also recognizes similar right to physicians etc..
- **Notifying contagious, occupational disease, worksite accidents and crimes** under related legal provisions are not in this context.



General points



CONVENTION ON THE RIGHTS OF THE CHILD



The UN Convention on the Rights of the Child is the first legal binding document recognising the individual rights of children all over the world. In its 54 articles, it sets the fundamental requisites for the protection and welfare of children. It was unanimously adopted by the UN General Assembly on the 20th November 1989 and put into effect in 1990. Almost all UN Member States, including Cyprus, have ratified



- **HRBA** is an approach that:
 - requires that special attention be given to disadvantaged individuals and communities;
 - requires active and informed participation of individuals and communities in policy decisions that affect them; and
 - requires effective, transparent and accessible monitoring and accountability mechanisms
- HRBA monitors not only health outcomes, but also some of the processes by which they are achieved.

List of important rights

Some universally recognized rights seen as fundamental, i.e., contained in the

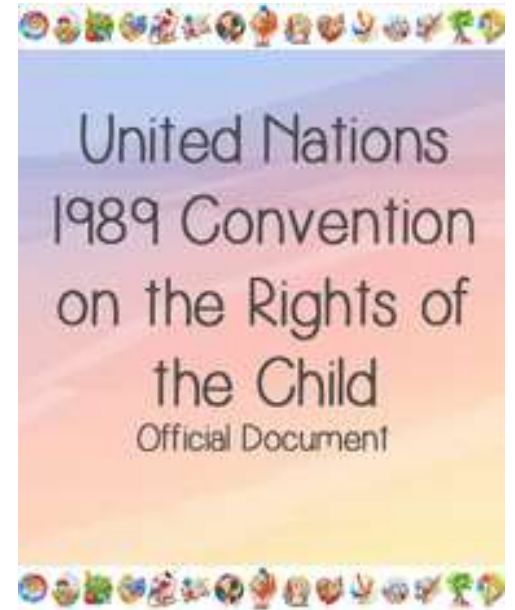
United Nations Universal Declaration of Human Rights,

The U.N. International Covenant on Civil and Political Rights,

or the

U.N. International Covenant on Economic, Social and Cultural Rights, include the following:

- 1.Right to self-determination***
- 2.Right to liberty***
- 3.Right to due process of law***
- 4.Right to freedom of movement***
- 5.Right to freedom of thought***
- 6.Right to freedom of religion***
- 7.Right to freedom of expression***
- 8.Right to peacefully assemble***
- 9.Right to freedom of association***



INTERNATIONAL BILL OF HUMAN RIGHTS

UNIVERSAL DECLARATION OF HUMAN RIGHTS
(UDHR)

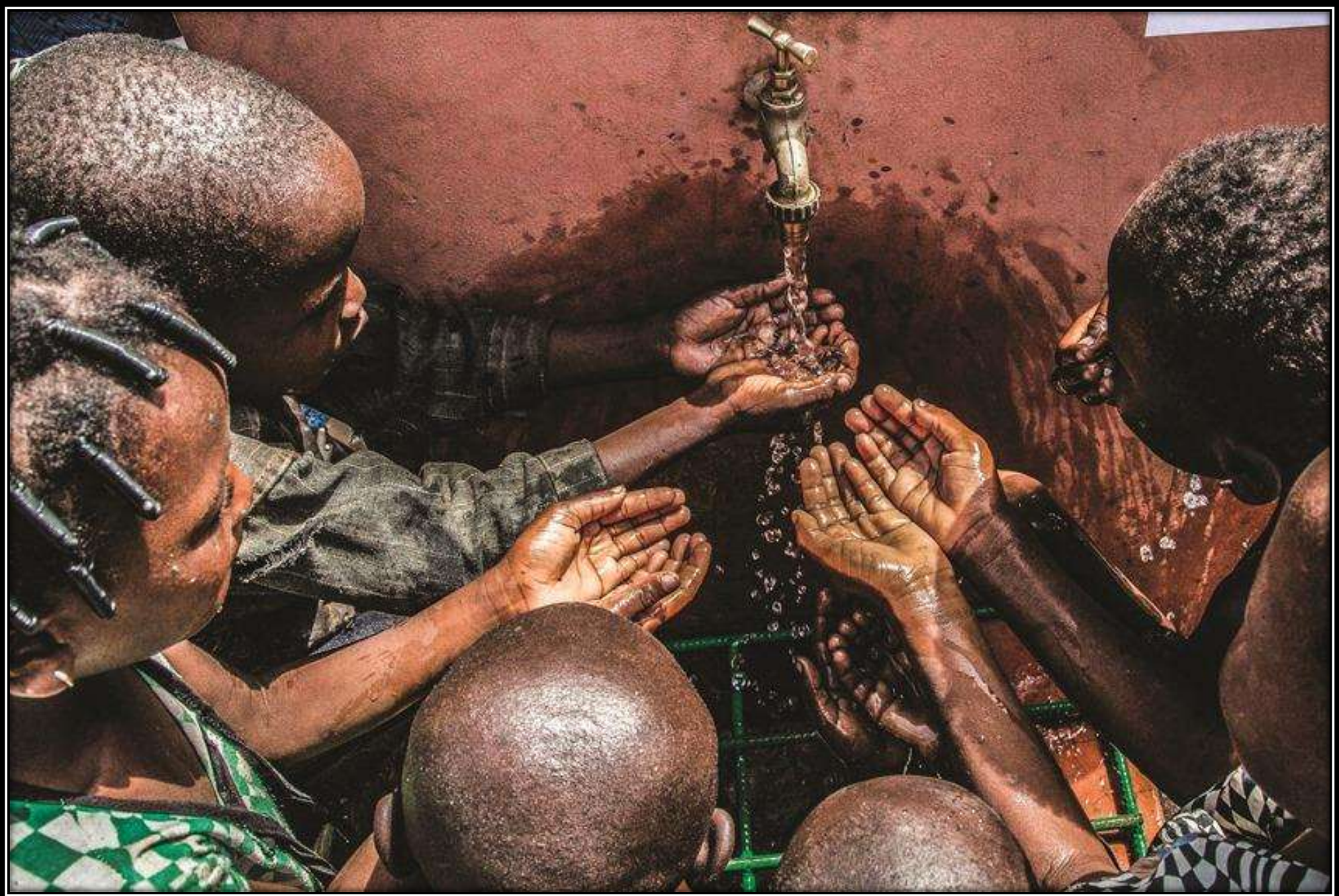
INTERNATIONAL COVENANT ON
CIVIL AND POLITICAL RIGHTS
(ICCPR) AND ITS PROTOCOL

INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS (ICESCR)



Physician's Responsibilities

- Human dignity
- Honesty
- Responsibility to society
- Confidentiality
- Continued study
- Freedom of choice
- Responsibility to improve community



Thank you for defending health rights....



Never forget; HEALTH is a Basic Human RIGHT!