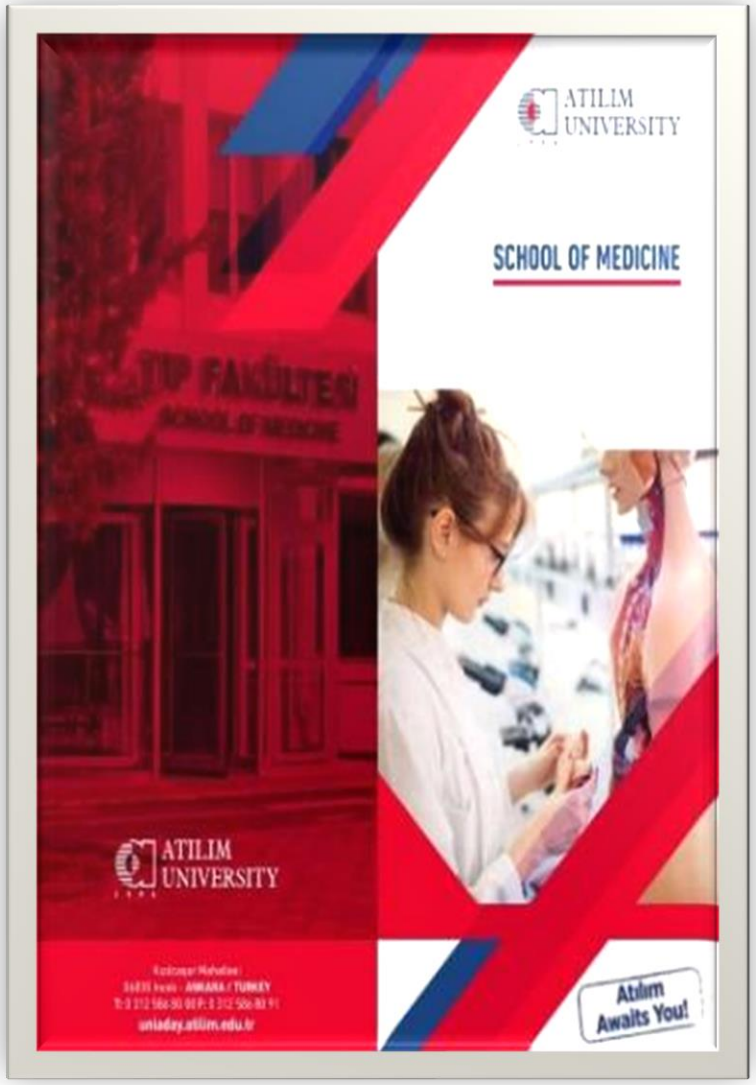


Medical Law

Ahmet SALTIK, MD

Professor of Public Health

LLM in Health Law

BSc in Public Administration & Political Sciences

The branch of law that deals with the application of medical knowledge to legal problems. While the **medical law** covers an area of regulations relating to the medical operations, the industry operators, the procedures involved in the medical operations, characteristics of medical experts performing medical operations, as well as the relations that occurred while performing medical activities, the **health law** regulates a wide area of activities, not only medical activities, but also the procedures that are being implemented, the need and necessity of the procedure, professionals who carry out the procedure.

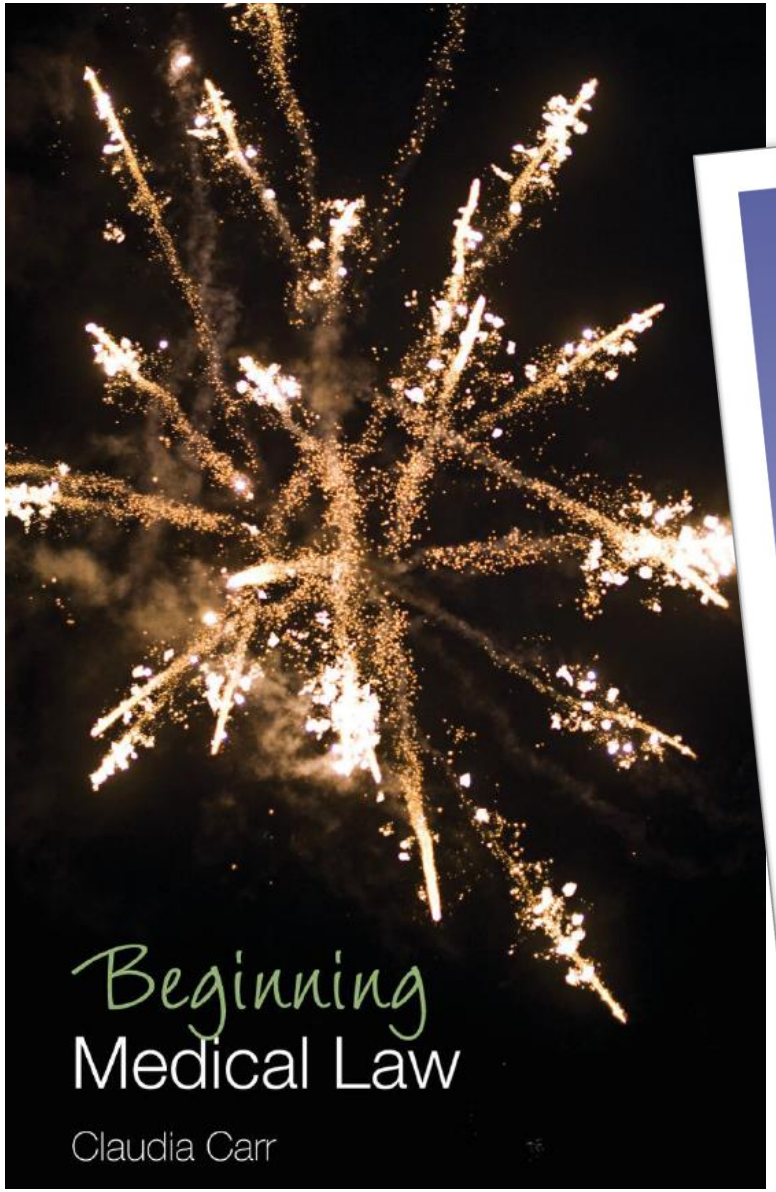
Atılım Univ. School of Medicine
Phase 1 lecture, 20th April 2023
2022-23 academic year,
spring semester, Ankara/TURKIYE

PRIMUM NON NECERE!

nullum crimen sine lege, nulla poena sine lege..

«At his best, man is the noblest of all animals; separated from law and justice, he is the worst.» **Aristotle**

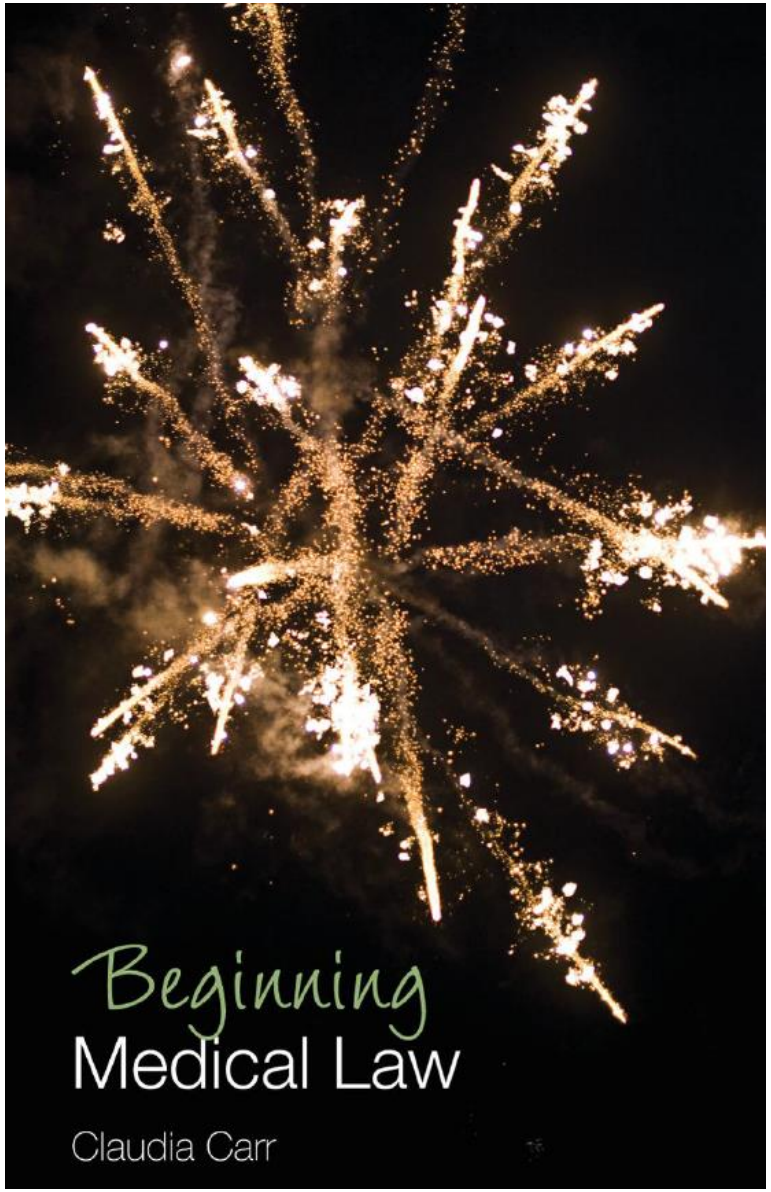
PRIMUM NON NECERE!



Beginning
Medical Law
CLAUDIA CARR

www.routledge.com/cw/beginningthelaw

PRIMUM NON NECERE!



Whether you're new to higher education, coming to legal study for the first time or just wondering what Medical Law is all about, **Beginning Medical Law** is the ideal introduction to help you hit the ground running. Starting with the basics and an overview of each topic, it will help you come to terms with the structure, themes and issues of the subject so that you can begin your Medical Law module with confidence.

Adopting a clear and simple approach with legal vocabulary carefully clarified, Claudia Carr breaks the subject of Medical Law down using practical everyday examples to make it understandable for anyone, whatever their background. Diagrams and flowcharts simplify complex issues, important cases are identified and explained and on-the-spot questions help you recognise potential issues or debates within the law so that you can contribute in classes with confidence.

Beginning Medical Law is an ideal first introduction to the subject for LLB, GDL or ILEX and especially international students, those enrolled on distance learning courses or on other degree programmes. *www.routledge.com/cw/beginningthelaw*

PRIMUM NON NECERE!

Medical law and ethics is an area of law which is rarely absent from the media and often appears part of our everyday lives in a way that few other areas of law do. We often hear and read about debates concerning assisted suicide and developments in assisted reproduction that are frequently captured by the tabloid press in a way that does them little justice.

When you read this book it is hoped that you will be motivated to read further. By all means, read the current media reports in respected broadsheets such as *The Times* and *The Guardian* newspapers, but do also attempt to gain some academic depth by looking for relevant articles in academic journals such as the *Medical Law Review* and the *Journal of Medical Ethics* to name just two.

PRIMUM NON NECERE!

A true depth of understanding can only really be achieved by reading the primary sources – it is therefore imperative to read the key cases fully.

Getting into good habits early is always very advantageous! A similar sentiment applies to the statute law – the *Human Fertilisation and Embryology Act 2008* is surprisingly readable and accessing the original source and reading the relevant sections will give you a far greater understanding of the subject area.

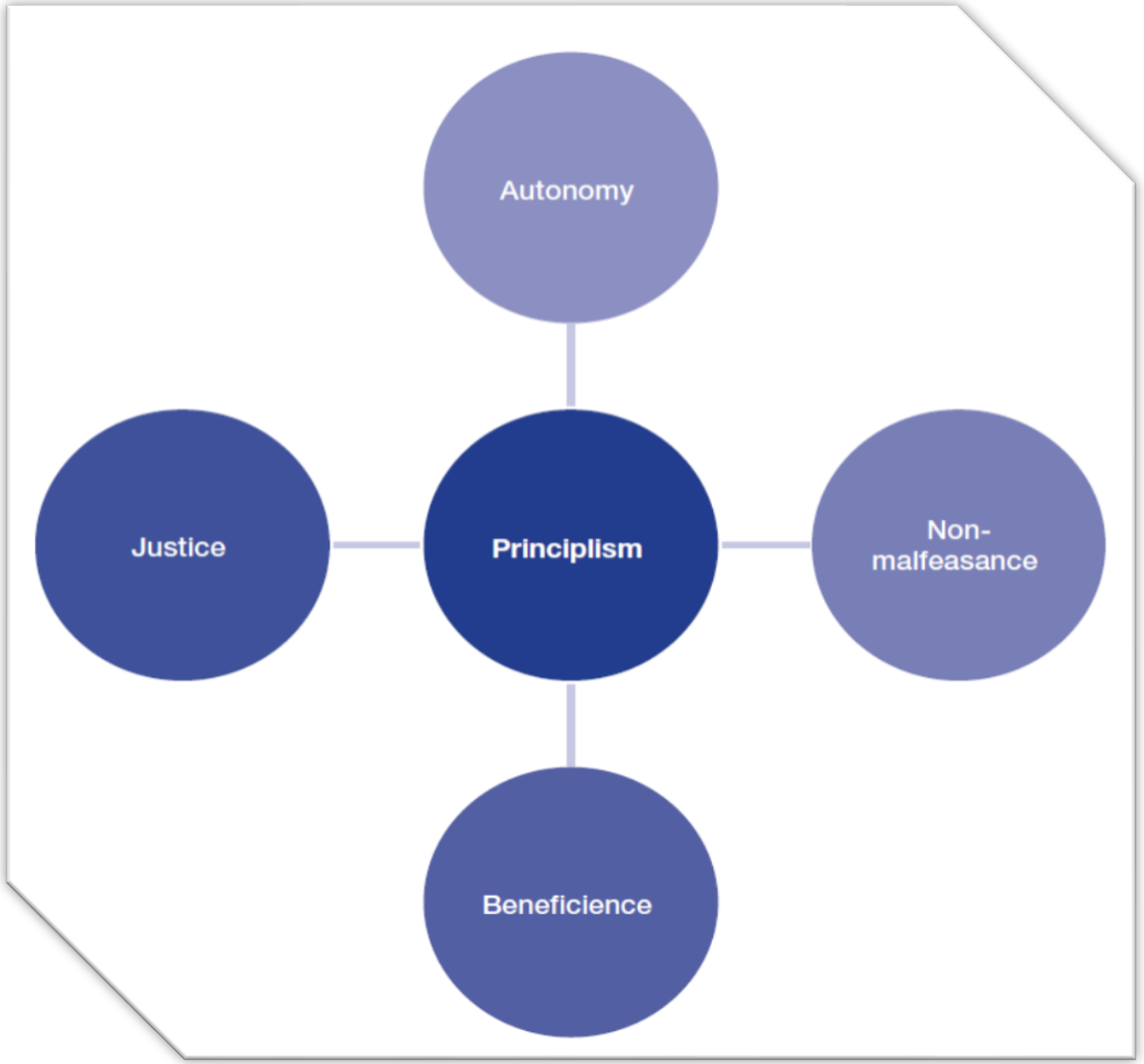
Medical ethics or bioethics easily engages one's emotions and it is very possible that you may have already formed your own ideas on subjects such as *abortion, assisted conception or end of life* issues.

It is important, however, to engage with other arguments and academic opinions and then use these arguments to either challenge or reinforce your own opinions.

PRIMUM NON NECERE!

Principlism

is based upon ***4 fundamental principles*** and represents the most influential set of guidelines to apply to *bioethical dilemmas*.



Non-malfeasance!

The principle ***primum non nocere***, meaning '***above all do no harm***', is the foundation stone of medical treatment and non-malfeasance imposes a duty upon the medical professional ***not to harm others***.

PRIMUM NON NECERE!

- For some considerable time the courts have recognised the importance of ***patient autonomy*** although initially more readily in the USA than the UK.
- The fundamental nature of **patient autonomy** was recognised as long ago as 1914 when
- Cardozo J in *Schloendorff v New York Hospital* stated that '*every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent, commits an assault*'.
- Today ***autonomy*** ***remains one of the most important and fundamental guiding principles in the care of patients***.
- Beauchamp & Childress define ***autonomy*** as '*self rule that is free from both controlling interference by others and from limitations, such as inadequate understanding that prevent meaningful choice*'

What is Health law?

- **WHO-World Health Organisation** defines **Health,** in Its' Constitutions as;
- «***A state of complete physical, mental and social well-being and not merely the absence of disease or infirmity***.»
- **Health law** is a field of law that encompasses
  - federal, state and local laws, rules, regulations
  - *and other jurisprudence among providers, payers and vendors to the health care industry and its patients,*
  - and delivery of care services, with an emphasis on operations, regulatory and transactional issues.

Introduction to Law and the Public's Health

- ***Public Health Law*** can be defined as;
- the legal powers and duties of government, in collaboration with multiple partners (e.g. healthcare, business, the community, the media, and academy),
- to assure the conditions for people to be healthy and safe *(to identify, prevent, and ameliorate risks to health in the population)*.
- The prime objective of **Public Health Law** is to pursue the *highest possible level of physical and mental health* in the population, consistent with the values of ***social justice.***

(Gostin 2008; Oxford Textbook of Public Health, section 3.4, pp 294 – 301)

Introduction to Law and The Public's Health

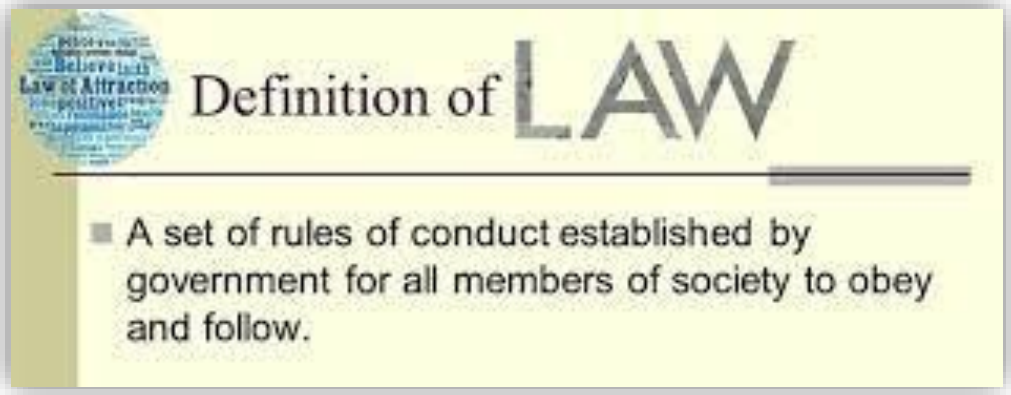
- ***Social justice***
- Social justice is viewed as so central to the **mission of public health** that it's been described as the field's core value:
- '***The historic dream of public health... is a dream of social justice***' *(Beauchamp 1999, p. 105)*.
- Among the most basic and commonly understood meanings of justice is ***fair, equitable, and appropriate treatment*** in the light of what is due or owed to individuals and groups *(John Rawls, 1971)*.

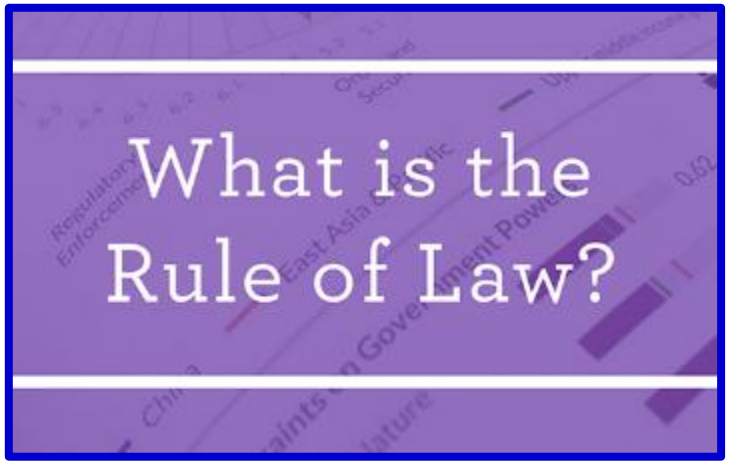
(Oxford Textbok of Public Health, section 3.4, pp 294 – 301)

What is Law ??

Definitions:
Law

- Law has many definitions:
  - Rules that are subject to the enforcement power of a government entity.
  - The structures, norms, and rules that a society uses to resolve disputes, govern itself, and order the relations between members of the society.
  - "The enterprise of subjecting human conduct to the governance of rules."*
- What does law mean to you?



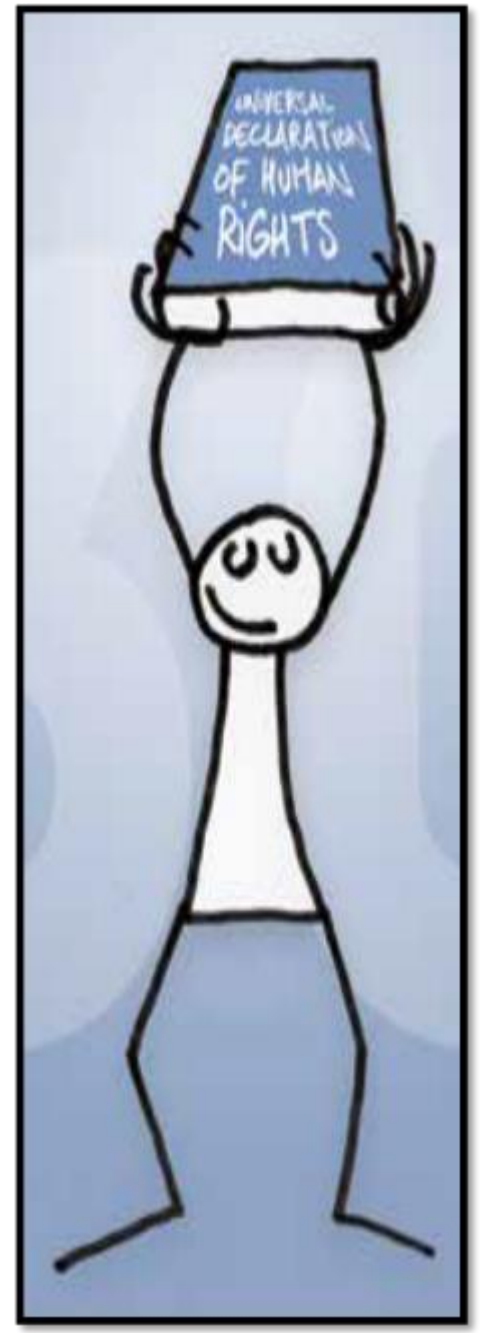


Medical Law & Health Law

- ***Medical law;*** *The branch of law that deals with the application of medical knowledge to legal problems.*
- While the **medical law** covers an area of regulations relating to the medical operations, the industry operators, the procedures involved in the medical operations, characteristics of medical experts performing medical operations, as well as the relations that occurred while performing medical activities,
- The **health law** regulates a wide area of activities, not only medical activities, but also the procedures that are being implemented, the need and necessity of the procedure, professionals who carry out the procedure.

BASIC CHARACTERISTICS	
Medical law	**Heath law**
Medical law covers an area of regulations relating to the medical operations, the industry operators, the procedures involved in the medical operations, characteristics of medical experts performing medical operations, as well as the relations that occurred while performing medical activities. the health law regulates a wide area of activities, not only medical activities, but also the procedures that are being implemented, the need and necessity of the procedure, professionals who carry out the procedure, regulative of drugs and other medical devices **M**edical law finds its utility in relation to patients' health, such as: life, body integrity, health, self-determination, as well as personal dignity	**H**ealth law regulates a wide area of activities, not only medical activities, but also the procedures that are being implemented, the need and necessity of the procedure, professionals who carry out the procedure, covers a wide area of regulations concerning health, procedural matters and organization of the public health system. **H**ealth care is a wider discipline that concerns all legal acts to human health. **C**overs the area of procedures, patients, doctors, informed consent and fact that matters to human health. *UDC: 614.251 doi:10.5633/amm.2018.0206 MEDICAL LAW AND HEALTH LAW – IS IT THE SAME? Nikola Todorovski*

US President Franklin Roosvelt



Law's Paramount Role: 10 Great Public Health Achievements, United States, 1900-1999*

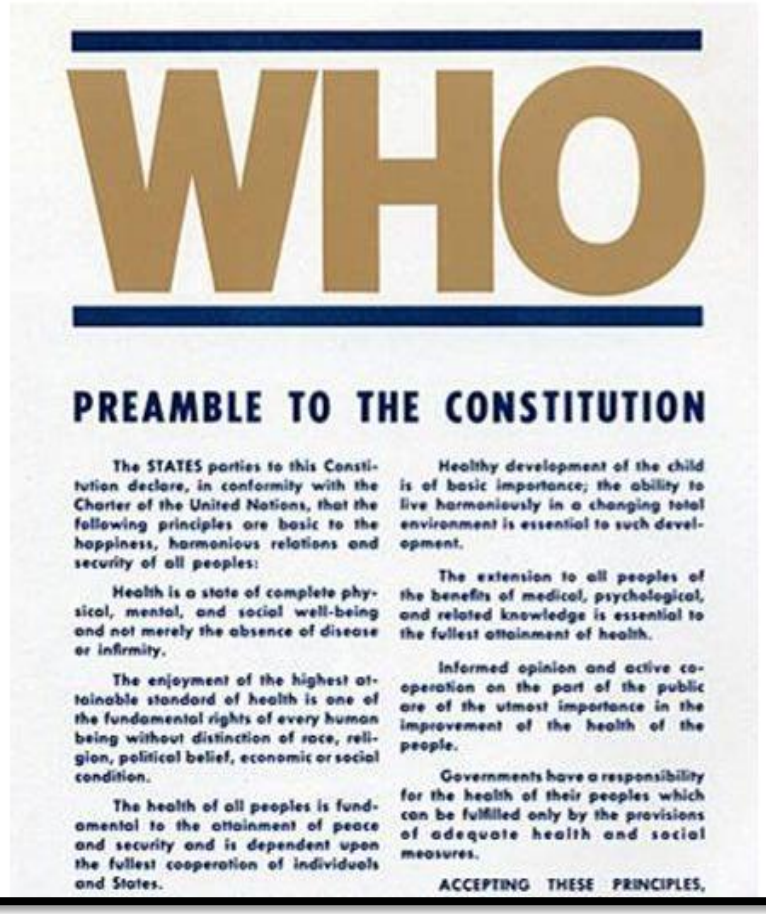
Do you know how law contributed to these achievements?

- Vaccination
- Motor-vehicle safety
- Safer workplaces
- Control of infectious diseases
- Decline in deaths from coronary heart disease and stroke
- Safer and healthier foods
- Healthier mothers and babies
- Family planning
- Fluoridation of drinking water
- Recognition of tobacco use as a health hazard

CDC

CENTERS FOR DISEASE™ CONTROL AND PREVENTION

WHO and the Right to Health and well being:



WHO

PREAMBLE TO THE CONSTITUTION

The STATES parties to this Constitution declare, in conformity with the Charter of the United Nations, that the following principles are basic to the happiness, harmonious relations and security of all peoples:

Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest cooperation of individuals and States.

Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development.

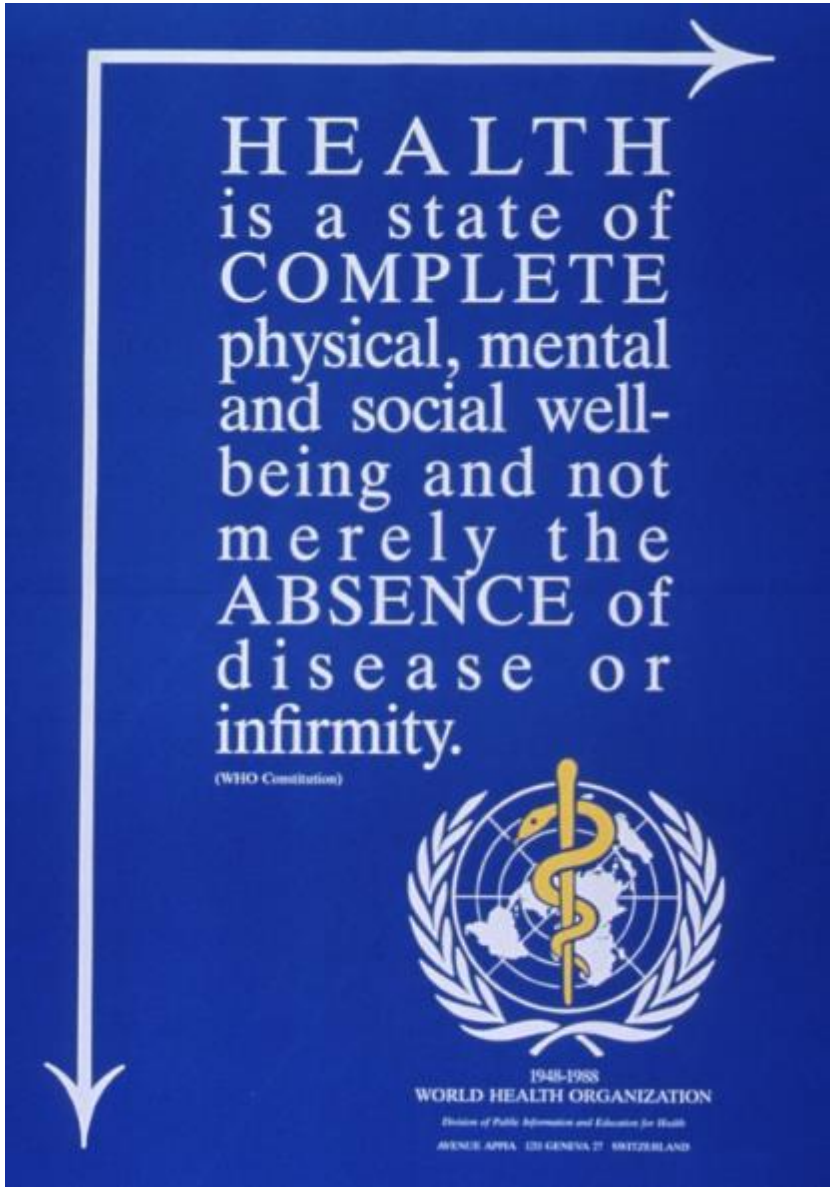
The extension to all peoples of the benefits of medical, psychological, and related knowledge is essential to the fullest attainment of health.

Informed opinion and active cooperation on the part of the public are of the utmost importance in the improvement of the health of the people.

Governments have a responsibility for the health of their peoples which can be fulfilled only by the provisions of adequate health and social measures.

ACCEPTING THESE PRINCIPLES,

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."



WHO Constitution

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity

Health promotion - "measures to preserve and increase the level of public health to ensure its full physical, spiritual and social welfare".

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

Constitution of the World Health Organization: Principles (1)

1. ***Health** is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.*
2. The enjoyment of the highest attainable standard of health is one of the ***fundamental rights*** of every human being without distinction of race, religion, political belief, economic or social condition.
3. **The health of all-HFA** peoples is fundamental to the attainment of **peace** and **security** and is dependent on the fullest co-operation of individuals and States.
4. The achievement of any State in the ***promotion and protection of health*** is of value to all.
5. Unequal development in different countries in the promotion of health and control of diseases, especially *communicable disease*, is a ***common danger***.

Constitution of the World Health Organization: Principles (2)

6. Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development.

7. The extension to all peoples of the benefits of ***medical****, psychological and related knowledge is essential to the fullest attainment of health.*

8. ***Informed opinion*** and active co-operation on the part of the public are of the utmost importance in the improvement of the health of the people.

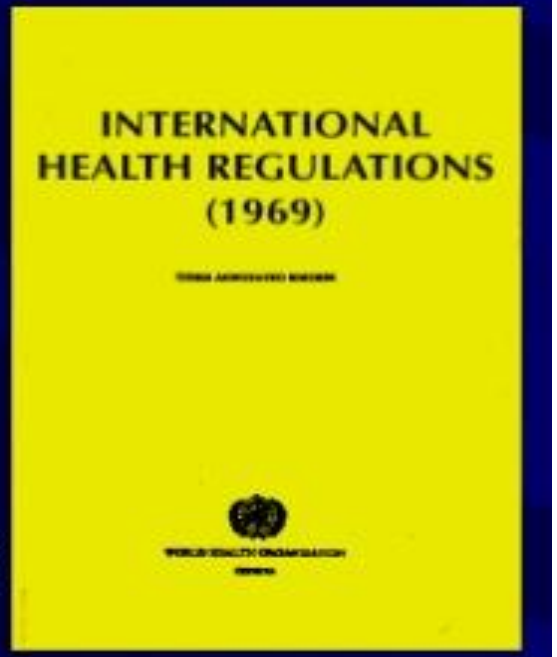
9. **Governments have a responsibility** ***for the health of their peoples-HFA*** which can be fulfilled only by the provision of adequate health and *social measures*

Turkiye ratified The WHO Constitution by a Parliamentary Act # 5062 in 1947 and became a member of the WHO - World Health Organization. Turkiye has been a member of European Region..

What are IHRs?

An international legal instrument, legally binding on all WHO Member States who have not rejected them

- **IHR (1969):**
  - **Objective: Maximum security against international spread of diseases with minimum interference with world traffic**
  - **Scope: Only 3 diseases (Cholera, plague, yellow fever)**
  - **Limitations:**
    - **Dependence on affected country to notify;**
    - **Lack of mechanisms for collaboration between WHO and affected country**



The International Health Regulations *(IHR)*

- **The International Health Regulations (IHR)** are a legal instrument which requires WHO Member States to notify diseases of international importance:
- **Plague**, **Cholera** and **Yellow Fever** are mandatory to be notified.
- Countries have not uniformly complied with disease notification, often fearing unwarranted reactions that might affect travel and trade..
- Global rules to enhance national, regional and global public health security are other regulations of IHRs.

(http://www.who.int/en/, 04.04.2014, www.who.int. /mediacentre/ factsheets/fs200/en/i4ndex.html, 23.06.08)

The International Health Regulations *(IHR)*

- In addition, the official international reporting *(notifying)* mechanism has not been evolved with the new communications environment, and does not include many communicable diseases of importance to international public health.
- A revision of the **IHR** is therefore being directed towards a stronger role in *global communicable disease surveillance and control*. ***The revised IHR*** emphasizes the **immediate notification** of all disease outbreaks of urgent international importance.

(www.who.int./mediacentre/ factsheets/fs200/en/index.html, 23.06.08)

– from policy to people's health security

the spread of diseases and other health risks, including radiation and chemical hazards

5 reasons why the IHR matter

HEALTH THREATS HAVE NO BORDERS

The IHR strengthen countries' abilities to control diseases that cross borders at ports, airports and ground crossings

TRAVEL AND TRADE ARE MADE SAFER

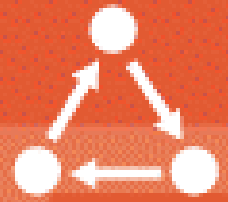
The IHR promote trade and tourism in countries and prevent economic damage

GLOBAL HEALTH SECURITY IS ENHANCED

The IHR establish an early warning system not only for diseases but for anything that threatens human health and livelihoods

DAILY THREATS ARE KEPT UNDER CONTROL

The IHR guide countries to detect, assess and respond to threats and inform other countries quickly



ALL SECTORS BENEFIT

The IHR prepare all sectors for potential emergencies through coordination and information sharing

Principles of the IHR Monitoring Scheme post-2016

- Transparency
- Mutual accountability
- Trust building
- Appreciation of public health benefits
- Dialogue
- Sustainability

Keep in mind : ***The decisions of the World Health Organization are advisory.***

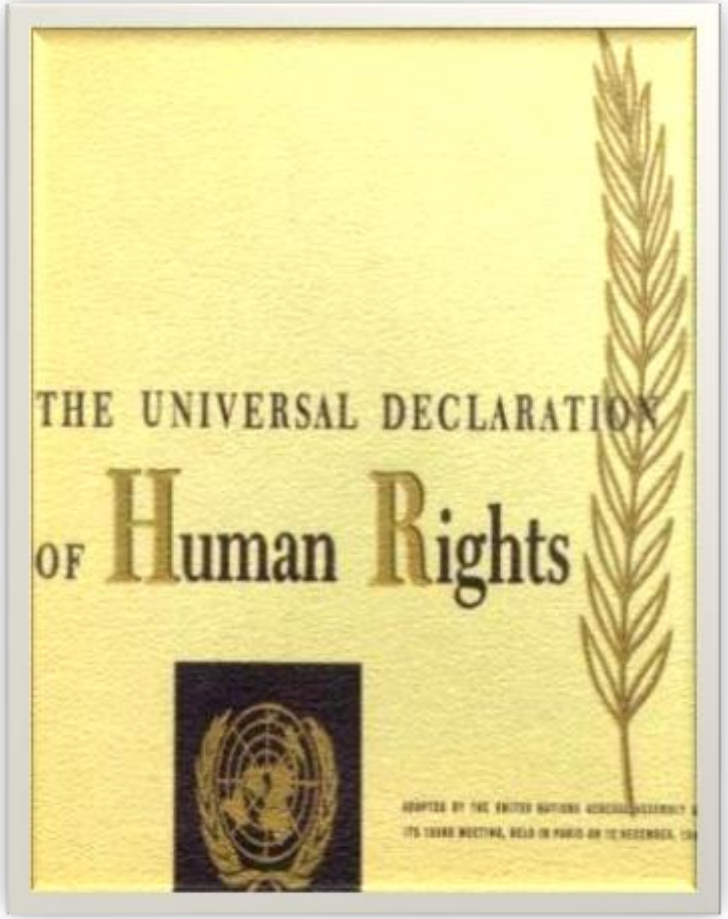
From three diseases to all public health events

From passive to pro-active using real time surveillance/evidence

From control at borders to detection and containment at source

Universal Declaration of Human Rights

- **Article 25 :**
- Everyone has the right to a standard of living adequate for the health and well-being of himself and of 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.
- *Motherhood and childhood* are entitled to special care and assistance.
- ***All children****, whether born in or out of wedlock, shall enjoy the same* ***social protection****.*



https://www.youtube.com/watch?v=DmhFw2FIs9k

https://www.youthforhumanrights.org/what-are-human-rights/videos/food-and-shelter-for-all.html

https://www.youtube.com/watch?v=Kwrl_IEoKQ0

“The right to health”

Underlying determinants

water, sanitation, food, nutrition, housing, healthy occupational and environmental conditions, education, information, etc.

Health-care

AAAQ

Availability, Accessibility, Acceptability, Quality

(General Comment No. 14 of the Committee on Economic, Social and Cultural Rights)

Dr. Tedros Adhanom Ghebreyesus,
Director-General of WHO / *Human Rights Day,* 10th December 2017

"..of The enjoyment of the highest attainable standard of health is one the ***fundamental right***s of every human being without distinction of race, religion, political belief, economic or social condition."

Almost 70 years after these words were adopted in the *Constitution of the World Health Organization*, they are more powerful and relevant than ever.
Since day one, the **right to health** has been central to WHO's identity and mandate.
It is at the heart of my top priority: ***Universal health coverage***.
The right to health for all people means that everyone should have access to the health services they need, *when and where* they need them, without suffering financial hardship. / **Your health your right!**

Dr. Tedros Adhanom Ghebreyesus,
Director-General of WHO / ***Human Rights Day,*** 10th December 2017

«*..No one should get sick and die just because they are poor,*
or because they cannot access the health services they need.
Good health is also clearly determined by other basic human rights
including access to safe drinking water and sanitation, nutritious foods,
adequate housing, education and safe working conditions.

The right to health also means that everyone should be entitled
to control their own health and body, including having access
to sexual and reproductive information and services,
free from violence and discrimination. / **Your health your right!**

Your health your right! : Dr. Tedros Adhanom Ghebreyesus, Director-General of WHO / *Human Rights Day,* 10th December 2017

Everyone has the right to *privacy* and to be treated with *respect and dignity*.
Nobody should be subjected to medical experimentation,
forced medical examination, or given treatment without informed consent.

That's why WHO promotes the idea of ***people-centred care****;*
it is the embodiment of human rights in the practice of care.
When people are marginalized or face ***stigma or discrimination****,*
their physical and mental health suffers. Discrimination in health care
is unacceptable and is a major barrier to development.

But when people are given the opportunity to be active participants
in their own care, instead of passive recipients, their human rights respected,
the outcomes are better and health systems become more efficient.

Dr. Tedros Adhanom Ghebreyesus,
Director-General of WHO / *Human Rights Day,* 10th December 2017

We have a long way to go until everyone – no matter who they are, where they live, or how much money they have – has access to these basic human rights.

The central principle of the *2030 Agenda for* ***Sustainable Development*** is to ensure that no one is left behind.

I call on all countries ***to respect and protect human rights in health*** – in their laws, their health policies and programmes. We must all work together to combat ***inequalities and discriminatory practices*** so that everyone can enjoy the benefits of good health, no matter their age, sex, race, religion, health status, disability, sexual orientation, gender identity or migration status. / **Your health your right!**

Constitution of the Republic of Turkiye - Article 2

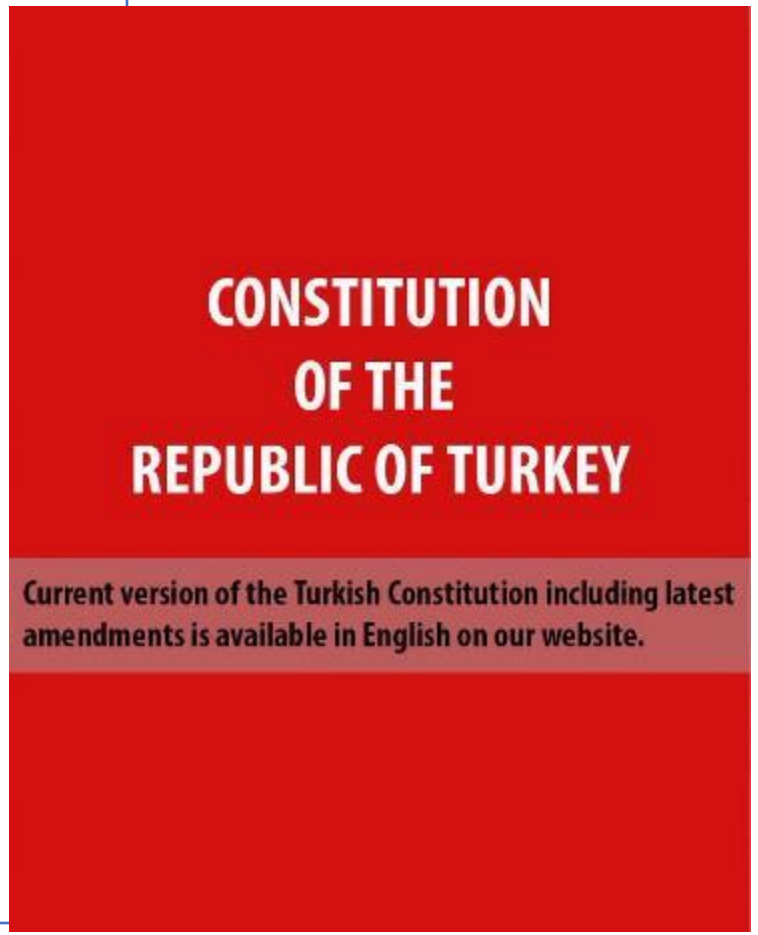
- The Republic of Turkiye is a
  - *democratic*,
  - *secular* and
  - *social* state
  - governed by *rule of law*,
  - within the notions of public *peace*,
  - national *solidarity* and *justice*,
  - ***respecting human rights***,
  - loyal to the nationalism of **Atatürk**,
  - and based on the fundamental tenets set forth in the preamble.

So, it can easily be inferred that; Health services in Turkiye must be in accordance with the Article 2 of Turkish Constitution and; indispensably should be defined as :

- Democratic
- Secular
- Fair
- Based on solidarity
- Respectful to human rights
- Social
- Depends on Atatürk's principles

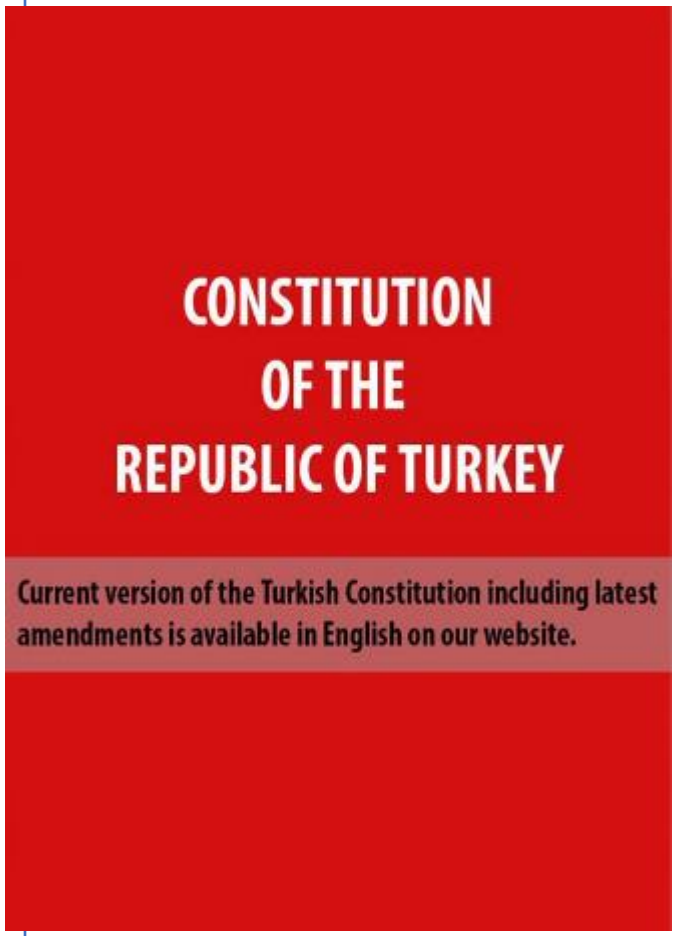
Constitution of the Republic of Turkiye - Article 17

- *Everyone has the right to life and the right to protect and improve his/her corporeal 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 the Republic of Turkiye - 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 diseases*** to be carried out in institutions when such persons constitute a **danger to the public**;



Constitution of the Republic of Turkiye - Article 41

Protection of the family, and children's rights

- Family is the foundation of the Turkish society and based on the **equality** between the spouses.
- *The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice.*
- Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests.
- *The State shall take measures for the protection of the children against all kinds of abuse and violence.*

Constitution of the Republic of Turkiye - Article 49

Provisions relating to labour

Right and duty to work

- ✓Everyone has the right and duty to work.
- ✓The State shall take the necessary measures to raise the standard of living of workers,
- ✓*and to protect workers and the unemployed in order to improve the general conditions of labor,*
- ✓to promote labor, to create suitable economic conditions for ***prevention of unemployment*** and to secure labor peace.

Constitution of the Republic of Turkiye - Article 56

- **Everyone has the right to live in a healthy, balanced environment.** It is the duty of the state and citizens to improve the natural environment, and to prevent environmental pollution. *To ensure that everyone leads their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the state shall regulate central planning and functioning of the health services.*
- The state shall fulfill this task by utilizing and supervising the health and social assistance institutions, in both public and ***private sectors***. In order to establish widespread health services, ***general health insurance*** may be introduced by law.

Constitution of the Republic of Turkiye - Article 58

- **Protection of the youth**
- The State shall take measures to ensure the education and development of the youth into whose keeping our independence and our Republic are entrusted, in the light of ***positive science***, in line with the principles and reforms of **Atatürk**,
- and in opposition to ideas aiming at the destruction of the ***indivisible integrity of the State*** with its territory and nation.
- The State shall take necessary measures to **protect youth** from *addiction to alcohol and drugs, crime, gambling, and similar vices, and ignorance*.

Constitution of the Republic of Turkiye - Article 60

- ***Right to social security***
- Everyone has the right to social security.
- The State shall take the necessary measures and establish the organisation for the provision of ***social security***.

UDHR article 22 :

*Everyone, as a member of society, has the right to **social security**…*

Turkish Social Security system was renewed by the Act of (no 5510) «***Social Insurances and General Health Insurance***» and covered entire population with mandatory membership by paying ***premium in addition to taxation***.. ***Is it fair??***

Constitution of the Republic of Turkiye - Article 61

Persons requiring special protection in the field of social security

- The State shall protect the *widows and orphans* of martyrs of war and duty, together with invalid and war veterans, and ensure that they enjoy a *decent standard of living*.
- The State shall take measures to *protect the disabled* and secure their integration into community life.
- *The aged* shall be protected by the State. State assistance to, and other rights and benefits of the aged shall be regulated by law.
- The State shall take all kinds of measures for social resettlement of ***children in need of protection***.
- To achieve these aims the State shall establish the necessary organizations or facilities or arrange for their establishment.

Constitution of the Republic of Turkiye - Article 90

Ratification of international treaties

- The ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkiye shall be subject to adoption by the Grand National Assembly of Turkiye ***by a law*** approving the ratification.
- *to these agreeNo appeal to the Constitutional Court shall be made with regard ments, on the grounds that they are unconstitutional.*
- In the case of a conflict between international agreements, duly put into effect, concerning ***fundamental rights and freedoms*** and the laws due to differences in provisions on the same matter, the *provisions of international agreements shall prevail*.

Constitution of the Republic of Turkiye - Article 119

Administration of State of Emergency

In the event of **war**, the emergence of a situation necessitating war, mobilization, an ***uprising***, strong rebellious actions against the motherland and the Republic, widespread acts of violence of internal or external origin threatening the indivisibility of the country and the nation, emergence of widespread acts of ***violence*** aimed at the destruction of the Constitutional order or of fundamental rights and freedoms, serious deterioration of public order because of acts of violence, occurence of ***natural disasters***, ***outbreak of dangerous epidemic diseases*** or emergence of a ***serious economic crisis..***

Constitution of the Republic of Turkiye - Article 135

Professional organizations having the characteristics of public institutions

- Professional organizations having the characteristics of public institutions and their higher bodies are public corporate bodies established by law, with the objectives of meeting the common needs of the members of a given profession, to facilitate their professional activities, to ensure the development of the profession in keeping with common interests, to safeguard professional ***discipline and ethics*** in order to ensure ***integrity*** and ***trust*** in relations among its members and with the public; their organs shall be elected by secret ballot by their members in accordance with the procedure set forth in the law, and under judicial supervision.

Constitution of the Republic of Turkiye - Article 135

Professional organizations
having the characteristics of public institutions

- Persons employed in principal and permanent positions in public institutions, or in state economic enterprises shall not be required to become members of public professional organizations…

- ***Turkish Medical Association*** *(TMA) is a typical sample for physicians' professional organisation under the art. 90 of The Constitution.*

WMA DECLARATION on the RELATION of LAW & ETHICS

- ***Adopted by the 164th WMA Council Session, Divonne-les-Bains, France, May 2003 and adopted as a Declaration by the 70th WMA General Assembly, Tbilisi, Georgia, October 2019***
- Ethical Values and legal principles are usually closely related, but ***ethical obligations typically exceed legal duties***. In some cases, the law mandates **unethical** conduct. The fact that a physician has complied with the law does not necessarily mean that the physician acted ethically.
- **When law is in conflict with medical ethics**,
- Physicians should work to change the law.
- In circumstances of such conflict, ***ethical responsibilities supersede legal obligations***.

https://www.wma.net/policies-post/wma-council-resolution-on-the-relation-of-law-and-ethics/ 22.12.19

Administrative Units of Turkish Health Ministry

TURKISH PUBLIC HOSPITALS AUTHORITY

TURKISH MEDICINES AND MEDICAL DEVICES AGENCY

DIRECTORATE GENERAL OF HEALTH FOR BORDER AND COASTAL AREAS of TURKEY

DIRECTORATE GENERAL of PUBLIC HEALTH

DEPARTMENT OF AUDIT SERVICES and INTERNAL AUDIT UNIT

STRATEGIC DEVELOPMENT DEPARTMENT

LEGAL OFFICE

DIRECTORATE GENERAL OF HEALTH SERVICES

DIRECTORATE GENERAL OF EMERGENCY HEALTH SERVICES

DIRECTORATE GENERAL OF MANAGEMENT SERVICES

DIRECTORATE GENERAL OF HEALTH PROMOTION

DIRECTORATE GENERAL OF HEALTH INFORMATION SYSTEMS

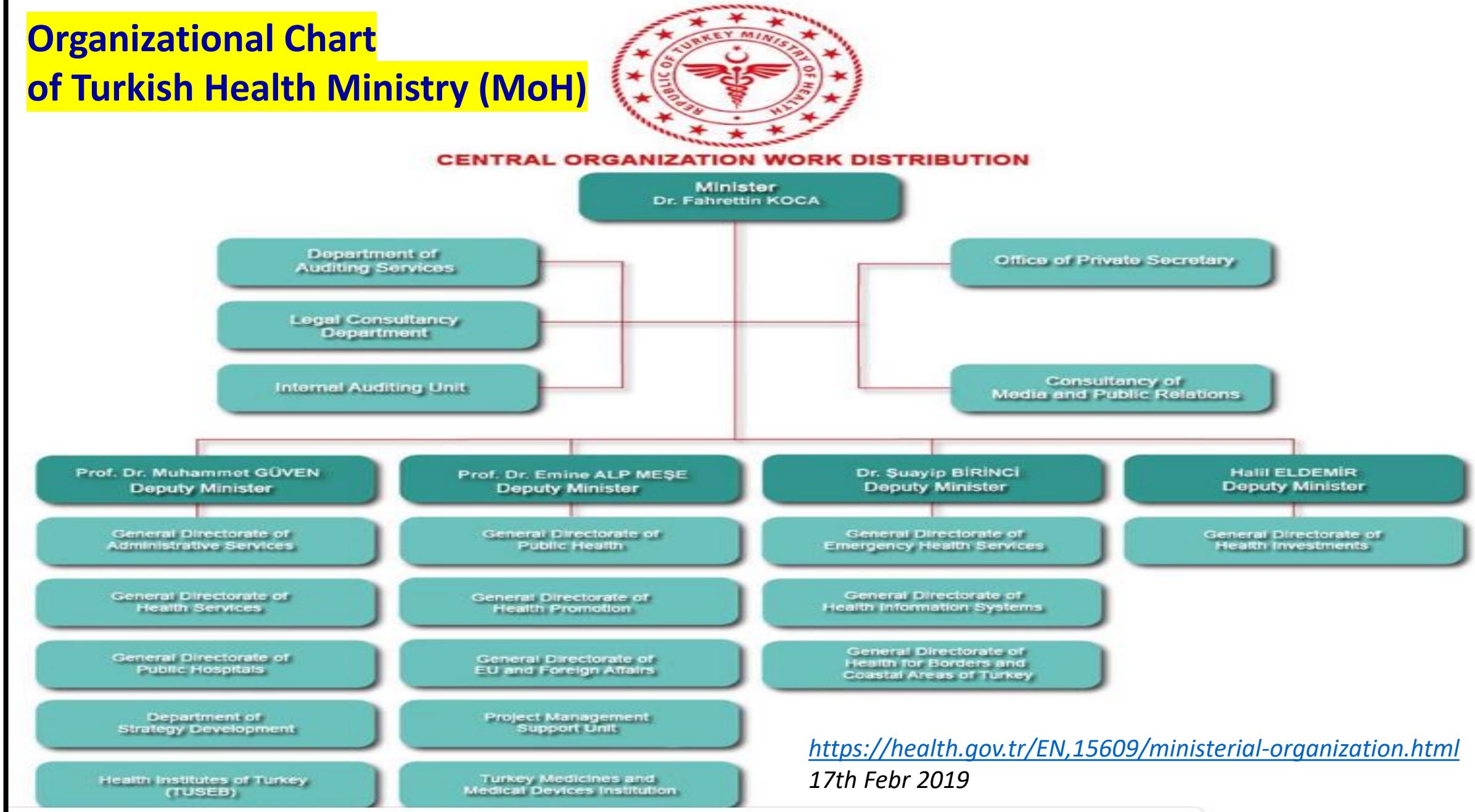
DIRECTORATE GENERAL OF HEALTH RESEARCH

DIRECTORATE GENERAL OF HEALTH INVESTMENTS

DIRECTORATE GENERAL OF FOREIGN RELATIONS AND EUROPEAN UNION AFFAIRS

PROJECT MANAGEMENT SUPPORT UNIT

Organizational Chart of Turkish Health Ministry (MoH)



https://health.gov.tr/EN,15609/ministerial-organization.html

17th Febr 2019

Crucial Mission of Law within Public's Health-1

- This lecture has sought to demonstrate ***the powerful potential of law*** to prevent injuries and diseases.
- *Law can build the infrastructure of public health agencies*, ensuring a broad mission and adequate powers.
- It can protect individuals from excessive or unjustified coercion or ***discrimination***.
  It can promote **social justice** by narrowing ***health disparities***.
- At the same time, government has multiple ***legal tools*** available to improve the public's health and safety, ranging from its economic power to tax and spend, to its authority to alter the environments in which people live *(e.g. informational, built, and socioeconomic)*, through to direct and indirect regulation, including, where necessary, de-regulation.

  (Oxford Textbook of Public Health, section 3.4, pp 294 – 301)

Crucial Mission of Law within Public's Health-2

- ✓ With the potential for rapid dissemination of pathogens, products, services, and marketing throughout the World,
- ✓ the need for ***global governance*** cannot be overstated.
- ✓ No country acting alone can stem the tide of injuries and disease.
- ✓ *Global health leadership* could establish ***health-promoting*** norms, set benchmarks, monitor progress, and encourage compliance by state and non-state actors.
- ✓ Global leadership, moreover, must act beyond the health sector, engaging ***legal regimes*** such as trade, intellectual property, food, migration, and the environment.

(Oxford Textbook of Public Health, section 3.4, pp 294 – 301)

Crucial Mission of Law within Public's Health-3

- When law is used in a systematic and coordinated way at the local, national, and international levels, it can go a long way towards preventing infectious diseases, NCDs, and injuries *(both unintentional and violence-related)* for Public Health practitioners;
- This lecture is to effectively use the battery of ***legal tools*** at their disposal. And when those tools are inadequate, *public health agencies must work with civil society and communities to raise the level of political awareness.*
- In a complex and globalized world, ***public health is a deeply legal*** and political pursuit—well beyond purely science and technology.

(Oxford Textbook of Public Health, section 3.4, pp 294 – 301)

Interface between law and health

- Medicine and law were related from early times.
- *This relation resulted as a necessity of protecting communities from the irresponsible acts of impostors.*
- The law indirectly influences medical practice by structuring the delivery and financing of medical services, and it does so directly in three major ways:
- *- license requirements,*
- *- restrictions on practice, and*
- *- redress for wronged patients.*
- The law generally supports customary medical practice and provides the medical profession with a great deal of autonomy.
- *A dramatic example is the determination of death and the issuance of a death certificate.*

Role of state in ensuring health:

- The **State priority** is reflected through its policies and programmes undertaken by governments.
- Government has identified ***6 priority programme areas***, namely :
  1 urban low cost sanitation,
  2 urban waste water management,
  3 urban solid waste management including hospital waste management,
  4 rural environmental sanitation,
  5 industrial waste management and air pollution control,
  6 and strengthening of health surveillance and support services.
- Health is a State subject in many countries.
- However, many states do not have a clear Public Health Policy.
- The strategies of the states are mostly guided by the National Health Policy and the National Programs.

Key aspects of right to health

- The **right to health** is an inclusive right:
- We frequently associate the ***right to health*** with access to ***health care*** and the building of hospitals.
- This is partially correct, but the ***right to health*** extends further.
- It includes a wide range of factors that can help us lead a healthy life;

➢ *Safe drinking water and adequate environmentel sanitation;*

➢ *Safe food & food security, adequate (sufficient & balanced) nutrition*

➢ *Healthy & safe working and environmental conditions, secure housing;*

➢ *Health-related education and information (health literacy);*

➢ *Gender equality…* **Elimination of POVERTY!**

➢ ***Peaceful solidarity**, international co-opertion and coordination by the UN.*

The right to health contains freedoms: These freedoms include

- The right to be free from non-consensual medical treatment, such as medical experiments and research or forced sterilization,
- *and to be free from torture and other cruel, inhuman or degrading treatment or punishment*.
- The right to health contains entitlements:

➢ *The right to a system of health protection providing* ***equality*** *of opportunity for everyone to enjoy the highest attainable standard level of health;*

The right to health contains freedoms: These freedoms include

➢ The right to prevention, treatment and control of diseases;

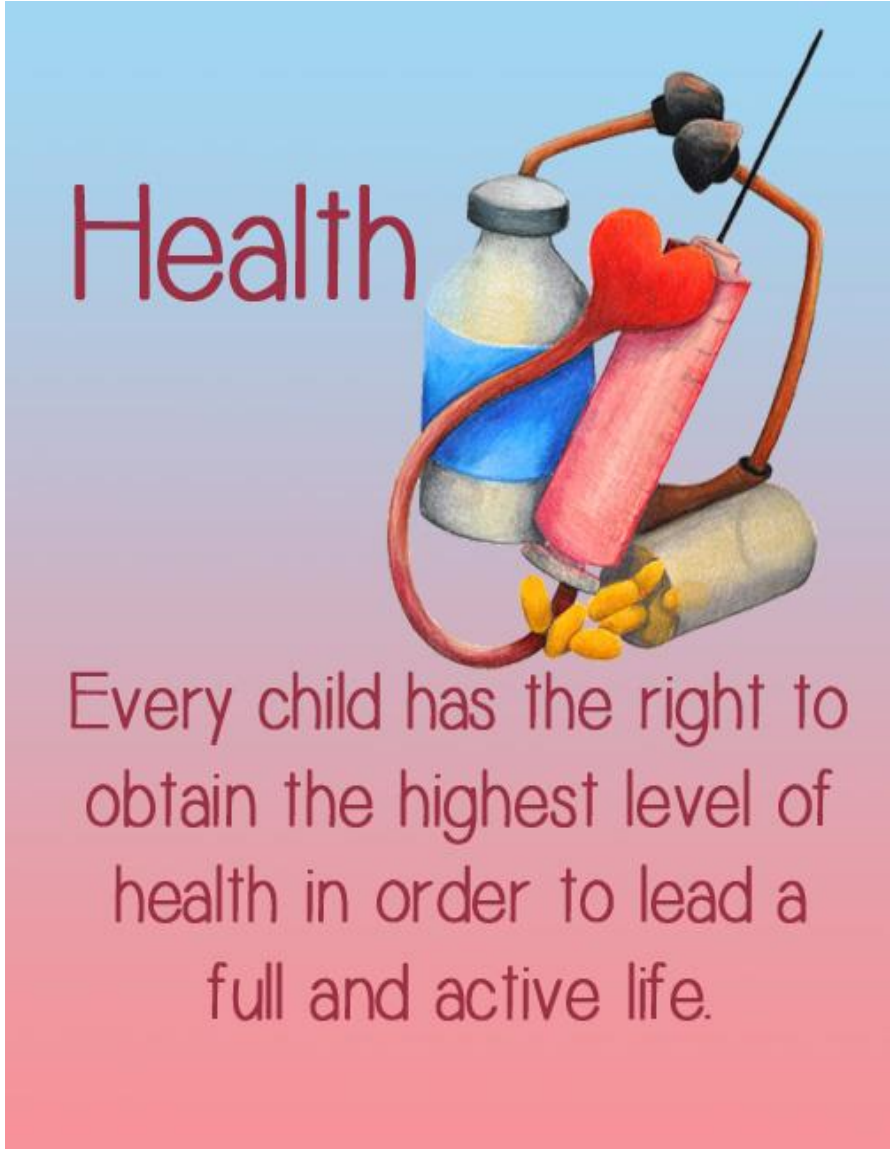
➢ *Access to essential medicines (drugs);*

➢ Maternal, child and reproductive health;

➢ *Equal and timely access to basic / essential health services;*

➢ The provision of health-related education and information;

- *Health services, goods and facilities must be provided to all without any discrimination.*
- All services, goods & facilities must be available, accessible, acceptable & of good quality.



Umumi Hıfzıssıhha Yasası / General Public Health Law #1593

- ON DÖRDÜNCÜ BAP
  Ceza hükümleri
  Madde 282 –
  (Değişik: 23/1/2008-5728/48 md.)

- *Bu Kanunda yazılı olan yasaklara aykırı hareket edenler veya zorunluluklara uymayanlara, fiilleri ayrıca suç oluşturmadığı takdirde, …. Türk Lirasından ……. Türk Lirasına kadar idari para cezası verilir.*

- Section 14
  Criminal provisions
  Article 282 –
  (Amendment: 23/1 / 2008-5728 / 48 art.)

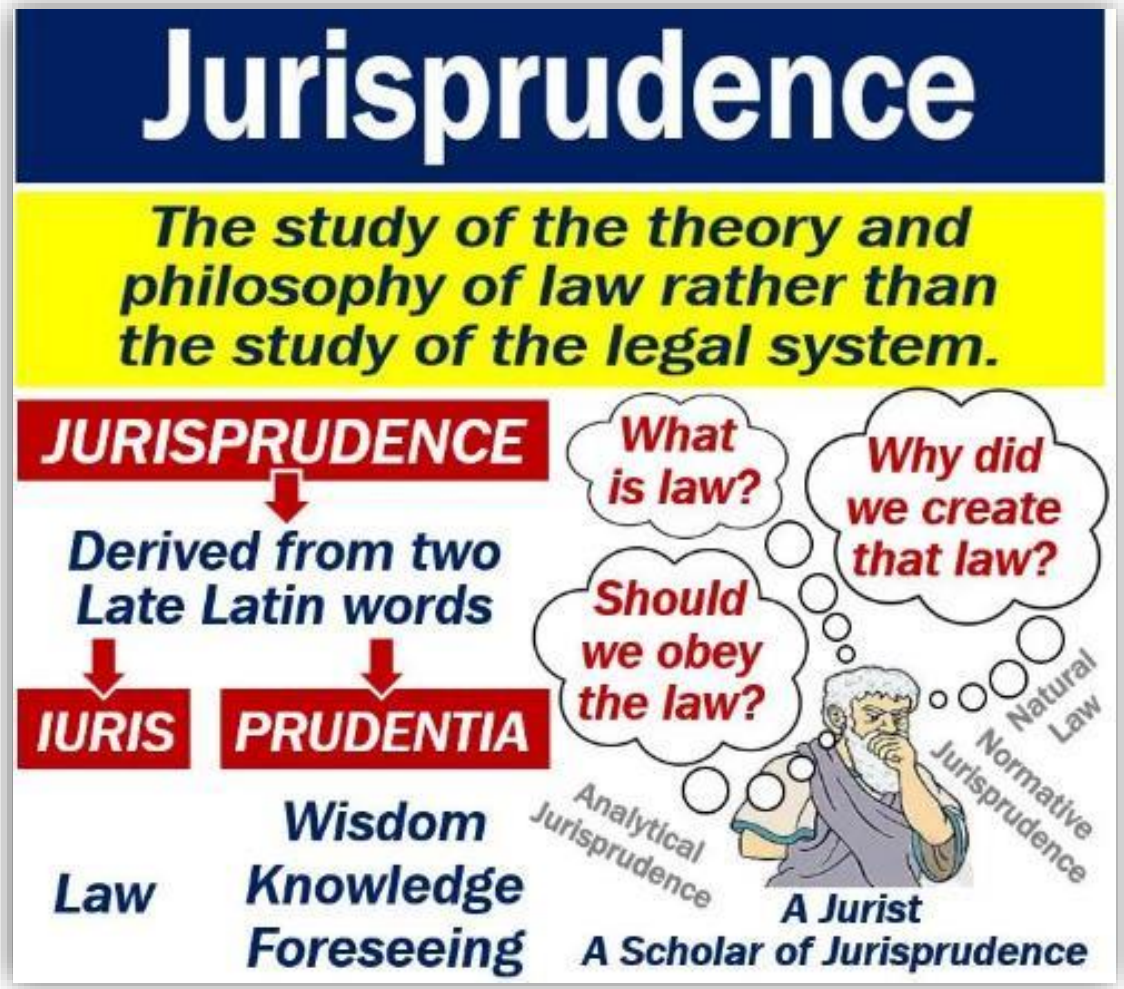
- *Those who act against the prohibitions written in this Law or who do not comply with the obligations, unless they constitute an offense, administrative money penalty from ….. Turkish Liras up to …. TL is given.*

Rapidly escalating crime figures against physicians - other health staff and forcing for migration are a serious, sad indictment of our society.

While the modern health officer must be an educator and a statesman, rather than merely a police officer, many of his duties are still necessarily concerned with law enforcement. . . . Health officers must be familiar not only with the extent of their powers and duties, but also with the limitations imposed upon them by law.

James A. Tobey, 1947

www.cdc.gov/phlp



Thank you for your attendance..

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Thank you for valuable participation….