

**HUMAN RIGHTS**  
**Medical humanities II**  
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# Human rights violations

- Human rights violations occur when actions by state (or non-state) actors abuse, ignore, or deny basic human rights (including civil, political, cultural, social, and economic rights).
- Breaches of [International humanitarian law](#) represent the most serious of human rights violations.

“All human beings are born free and equal in dignity and rights”

The Universal Declaration of Human Rights

# *Substantive rights*

NOT TO BE KILLED: abortion, capital punishment, euthanasia, war...



FREEDOM FROM TORTURE

The prohibition of torture and inhuman or degrading treatment or punishment is absolute; such a fundamental right deserves no exceptions or limitations (art.5 of UDHR)

- a negative obligation - not to inflict torture, inhuman or degrading treatment or punishment
- a positive obligation - State must take measures to protect its citizens

- Broad term "ill-treatment" - cover both torture and other methods of abuse prohibited by international law, including inhuman, cruel, humiliating, and degrading treatment, outrages upon personal dignity and physical or moral coercion

Declaration of Tokyo (1975), uses a briefer, less legalistic definition which omits the element of severity of suffering but which otherwise embodies the elements of torture

# *Substantive rights*



Art. 4 of UDHR: no one shall be held in slavery (>27 mil)

Group rights: indigeous people, women, children and refugees



# *Future generations*

- In 1997 [UNESCO](#) adopted the Declaration on the Responsibilities of the Present Generation Towards the Future Generation.



- National security

With the exception of non-derogable human rights, the UN recognizes that human rights can be limited or even pushed aside during times of national emergency

- Relativism and universalism

Relativists argue that human rights must avoid pushing the values of a single culture at the expense of others

Universalists argue that human rights have always existed

# The Human Rights Protection of Vulnerable Groups

- Groups that are structurally discriminated against and groups that have difficulties defending themselves are:  
1) women and girls; 2) children; 3) persons deprived of their liberty; 4) refugees; 5) internally displaced persons; 6) stateless persons; 7) national minorities; 8) indigenous peoples; 9) migrant workers; 10) disabled persons; 11) elderly persons; 12) HIV positive persons and AIDS victims; 13) Roma/Gypsies/Sinti; 14) lesbian, gay and transgender people.....

# Convention on the Rights of Persons with Disabilities

- [international human rights treaty](#) of the UN
- intended to protect the rights and dignity of persons with disabilities
- global movement from viewing persons with disabilities as objects of charity, medical treatment and social protection towards viewing them as full and equal members of society, with human rights.

# **Convention on the Rights of Persons with Disabilities**

- adopted by the UN General Assembly 2006, came into force on 3 May 2008. As of September 2014, it has 159 signatories and 151 parties

# Convention on the Rights of Persons with Disabilities

- The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

- "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

# **Article 5 - Equality and non-discrimination**

- 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
  
- 3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

# Rights of people with mental illness/mental disability/psychiatric disorders

- Much of the hardship experienced by people with mental disabilities, however, is caused by discrimination and the absence of legal protections against improper and abusive treatment.



“All persons with a mental illness, or who are being treated as such persons, shall be treated with humanity and respect for the inherent dignity of the human person.”

Principles for the Protection of Persons  
with Mental Illness

- In 1993, the World Conference on Human Rights meeting in Vienna reemphasized the fact that people with mental and physical disabilities are protected by international human rights law and that governments must establish domestic legislation to realize these rights.
- In what has come to be known as the “**Vienna Declaration**,” the World Conference declared that “all human rights and fundamental freedoms are universal and thus unreservedly include persons with disabilities.”

International human rights law creates a number of broad protections that provide important rights to people with mental disabilities, including:

- 1) the right to the highest attainable standard of physical and mental health;
- 2) protections against discrimination
- 3) protections against torture, inhuman, or degrading treatment;
- 4) protections against arbitrary detention.

# **Basic Principles for the Treatment of Prisoners**

- 1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
- 2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

# Prisoners and Human Rights

Prisoners, just like all other people, are entitled to enjoy their human rights.

- **particularly relevant for prisoners -**

*The right to be treated with humanity, dignity and respect while in detention.*

# INTERNATIONAL HUMAN RIGHTS STANDARDS FOR PRISON OFFICIALS

- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. There are no exceptions.
- No prisoner shall be subjected, even with his or her consent, to any medical or scientific experimentation which may be detrimental to health.

# Standard Minimum Rules for the Treatment of Prisoners

were adopted on 30 August 1955 by the [United Nations Congress on the Prevention of Crime and the Treatment of Offenders](#)

- **Recommendation Rec(2006)2**  
**of the Committee of Ministers to member states on the European Prison Rules**

# The Rights of Refugees

- refugee is defined as a person who  
*“owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or return there because there is a fear of persecution...”*

1951 United Nations Convention

Relating to the Status of Refugees

(the Refugee Convention)



# The Rights of Refugees

- Prohibition on the forced return of a refugee is called *nonrefoulement* and is one of the most fundamental principles in international refugee law.

This principle is laid out in Article 33 of the *Convention Relating to the Status of Refugees*,

- Some countries detain asylum seekers upon arrival, during the asylum process or while waiting for deportation.

# The Rights of Refugees

- Articles 12 - 30 of the Refugee Convention set out the rights which individuals are entitled to once they have been recognised as Convention refugees. All refugees must be
  - granted identity papers and travel documents that allow them to travel outside the country
  - must receive the same treatment as nationals of the receiving country, must receive the most favourable treatment provided to nationals of a foreign country and which must be at least as favourable to that accorded aliens generally in the same circumstances.

# The Rights of Refugees

- The United Nations High Commissioner for Refugees (UNHCR) was created in 1951 to assist in the international protection of refugees. The organization's primary objective is to ensure that all persons can exercise the right to seek asylum and find safe refuge in another state, and to return home voluntarily.
- The 1951 Refugee Convention does not force a state to admit a refugee, that is to grant asylum.
  - a gap here between the individual's right to seek asylum and the state's discretion in providing it.

# What's the difference between immigrant and refugee?

- The distinction is significant and could determine whether the migrants are subject to deportation to their home country or eligible to remain in the States under asylum.
- An immigrant is someone who chooses to resettle to another country.
- A refugee is someone who has been forced to flee his or her home country. As such, refugees can apply for asylum, a process that could take years.

# What's the difference between immigrant and refugee?

- "Migrants, especially economic migrants, choose to move in order to improve the future prospects of themselves and their families," the U.N. High Commissioner for Refugees says. "Refugees have to move if they are to save their lives or preserve their freedom."