

Glossary of Terms

Related to Human Rights in Patient Care

International Terms

A

Acceptability

One of four criteria set out by the Committee on Economic, Social and Cultural Rights by which to evaluate the right to the highest-attainable standard of health. “Acceptability” means that all health facilities, goods, and services must be respectful of medical ethics, culturally appropriate, and sensitive to gender and lifecycle requirements, and must also be designed to respect confidentiality and improve the health status of those concerned (Committee on Economic, Social and Cultural Rights, General Comment 14). See also “Accessibility,” “Availability,” and “Quality.”

Accessibility

One of four criteria set out by Committee on Economic, Social and Cultural Rights by which to evaluate the right to the highest-attainable standard of health. “Accessibility” means that health facilities, goods, and services have to be accessible to everyone, without discrimination. Accessibility has four overlapping dimensions: nondiscrimination, physical accessibility, economic feasibility (affordability), and information accessibility (Committee on Economic, Social and Cultural Rights, General Comment 14). See also “Acceptability,” “Availability,” and “Quality.”

Accession

Acceptance by a nonsignatory state of the opportunity to become a party to a treaty and to be legally bound by it, achieved by depositing an “instrument of accession.” Accession has the same legal effect as ratification, but unlike ratification, it is a one-step process. Actio Popularis (public action) Legal action brought by any member of a community in vindication of a public interest.

Adoption

Formal act by which negotiating parties establish the form and content of a treaty. The treaty is adopted through a specific act that expresses the will of the states and the international organizations that are participating in the negotiation of that treaty, for example, by voting on the text, initialing, signing, etc. Adoption may also be the mechanism used to establish the form and content of amendments to a treaty or to regulations under a treaty.

Treaties that are negotiated within an international organization are usually adopted by resolution of the representative organ of that organization. For example, treaties negotiated under the auspices of the United Nations or any of its bodies are adopted by a resolution of the General Assembly of the United Nations.

Adoption Theory

Theory maintaining that international law becomes an automatic part of domestic law following treaty accession or ratification, without further domestication.

Amicus Curiae (Friend of the Court) Legal document filed with the court by a third party, generally advocating a particular legal position or interpretation. (The plural form is “amici curiae.”)

Ambulatory Care

Medical care provided on an outpatient basis, including diagnosis, observation, treatment, and rehabilitation.

Availability

One of four criteria set out by Committee on Economic, Social and Cultural Rights by which to evaluate the right to the highest-attainable standard of health. “Availability” means that functioning public health and health care facilities, goods and services, and programs must be available in sufficient quantity—including the underlying determinants of health, such as safe drinking water, adequate sanitation facilities, clinics and health-related buildings, trained medical personnel, and essential drugs (Committee on Economic, Social and Cultural Rights, General Comment 14). See also “Acceptability,” “Accessibility,” and “Quality.”

B

Basic Needs

Used largely in the development of community to refer to basic health services, education, housing, and other goods that are necessary for a person to live.

Bioethics

Refers to “the broad terrain of the moral problems of the life sciences, ordinarily taken to encompass medicine, biology, and some important aspects of the environmental, population and social sciences. The traditional domain of medical ethics would be included in this array, accompanied now by many other topics and problems.” (Encyclopedia of Bioethics, Warren T. Reich, editor-in-chief, New York: Simon & Schuster Macmillan, 1995, page 250)

Biomedicine

The term unifies fields of clinical medicine and research for health purposes. Broadly it is also defined as the application of the principles of the natural sciences, especially biology and physiology, to clinical medicine.

C

Concluding Observations

Recommendations by a treaty's enforcement mechanism on the actions that a state should take in ensuring compliance with the treaty's obligations. Concluding observations generally follow both submission of a state's country report and a constructive dialogue with state representatives.

Country Report

State's report to the enforcement mechanism of a particular treaty on the progress that it has made in implementing it.

Convention

Term used interchangeably with "treaty," but can also have the specific meaning of a treaty binding a broad number of nations. Conventions are normally open for participation to the international community as a whole or a large number of states. Usually, instruments negotiated under the auspices of an international organization are entitled conventions, as are instruments adopted by an organ of an international organization.

Customary International Law

One of the sources of international law, consisting of rules of law derived from the consistent conduct of states, acting with the belief that the law requires them to act that way. It follows that customary international law can be discerned by states' widespread repetition of similar international acts over time (state practice). These acts must occur out of a sense of obligation and must be taken by a significant number of states and not be rejected by a significant number of states. A particular category of customary international law, *jus cogens*, refers to a principle of international law that is so fundamental that no state may opt out by way of treaty or otherwise. Examples might include prohibitions against slavery, against genocide, and against torture and crimes against humanity. Other examples of customary international law include the principle of non-refoulement and, debatably, the right to humanitarian intervention.

D

De Facto (in fact, in reality)

Situation or condition that exists that may not be explicitly expressed by law. For example, a law that is neutral on paper may be enforced in a discriminatory manner based on social or cultural contexts.

De Jure (by right, lawful)

Situation or condition that is based on a matter of law, such as those detailed in ratified treaties.

Declaration

An interpretive declaration by a state as to its understanding of some matter covered by a treaty or its interpretation of a particular provision. Unlike reservations, declarations merely clarify a state's position and do not purport to exclude or modify the legal effect of a treaty.

Dignity

Quality of being worthy, honored, or esteemed. Human rights are based on inherent human dignity and aim to protect and promote it.

Discrimination

Practical distinction between persons on the basis of race, sex, religion, political opinions, national or social origin, minority status, or personal antipathy.

Domestication

Process by which an international treaty is incorporated into domestic legislation.

Dual Loyalty

Role conflict between professional duties to a patient and to obligations—express or implied, real or perceived—to the interests of a third party, such as an employer, insurer, or the state.

E

Entry into Force

Moment in time in which a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine its entry into force, which may occur, for example, on a date specified in the treaty or a date on which a specified number of ratifications, approvals, acceptances, or accessions have been deposited with the depositary.

Essential Medicines

Medicines that satisfy the priority health care needs of the population. Essential medicines are intended to be available at all times in adequate amounts, in the appropriate dosage forms, with assured quality, and at a price the individual and the community can afford.

Exhaustion of Domestic Remedies

Condition required before submission of a complaint on behalf of a victim to any regional or international tribunal—in other words, all available procedures must first be used to seek protection from future human rights violations and to obtain justice for past abuses. There are limited exceptions to the requirement that domestic remedies be exhausted: for example, remedies may be unavailable, ineffective (as in a sham proceeding), or unreasonably delayed.

G

General Comments/Recommendations

Interpretive texts issued by a treaty's enforcement mechanism on the content of particular rights. Although these comments/recommendations are not legally binding, they are widely regarded as authoritative and have significant legal weight.

H

Health

State of complete physical, mental, and social well-being, rather than merely the absence of disease or infirmity (World Health Organization).

Health Care

1. Prevention, treatment, and management of illness and the preservation of mental and physical wellbeing through the services offered by the medical, nursing, and allied health professions. This definition and similar definitions are also sometimes given for “patient care.” The World Health Organization states that “health care” embraces all the goods and services designed to promote health, including preventive, curative, and palliative interventions, whether directed to individuals or populations.
2. Any type of services provided by professionals or paraprofessionals with an impact on health status (European Observatory on Health Systems and Policy).
3. Medical, nursing, or allied services dispensed by health care providers and health care establishments (Declaration on the Promotion of Patients’ Rights in Europe, World Health Organization, 1994). See also “Patient Care.”

Health Care Establishment

Any health care facility, such as a hospital, nursing home, or establishment for disabled persons (Declaration on the Promotion of Patients’ Rights in Europe, World Health Organization, 1994).

Health Care Providers

Physicians, nurses, dentists, or other health professionals (Declaration on the Promotion of Patients’ Rights in Europe, World Health Organization, 1994).

Health Care System

The organized provision of health care services.

Human Rights

Entitlements, freedoms, and privileges that adhere to all human beings, regardless of jurisdiction or other factors such as ethnicity, nationality, religion, or sex.

Human rights are universal legal guarantees that protect individuals and groups from interference with fundamental freedoms and human dignity. As defined in The United Nations System and Human Rights:

Guidelines and Information for the Resident Coordinator System (United Nations, Administrative Committee on Coordination, 2000), some of the most important characteristics of human rights are that they:

- are guaranteed by international standards;
- are legally protected;
- focus on the dignity of human beings;
- oblige states and state actors;
- cannot be waived or taken away;
- are interdependent and interrelated;
- are universal.

Human Rights Indicators

Criteria used to measure compliance with international human rights standards. Human Rights in Patient Care Concept that refers to the application of basic human rights principles to all stakeholders in the delivery of health care services, including patients and health care providers. The concept is complementary to bioethics but also provides a set of universally accepted norms and procedures for making conclusions about abuses within health care settings and for providing remedies. It uses standards contained in the international human rights framework, which are often mirrored in regional treaties and national constitutions. Human rights in patient care differs from patients' rights, which codify particular rights that are relevant only to patients. It draws on concepts, such as dual loyalty, in which health care providers have simultaneous and often conflicting obligations to their patients and to the state. See also "Dual Loyalty."

Interdependent/Indivisible

Term used to describe the relationship between civil and political rights and economic and social rights.

Interdependence and indivisibility mean that one set of rights does not take precedence over the other, and that guaranteeing each set of rights is contingent upon guaranteeing the other.

Indirect Discrimination

Descriptive term for a situation in which the effect of certain imposed requirements, conditions, or practices has a disproportionately adverse impact on a particular group. Indirect discrimination generally occurs when a rule or condition that applies to everyone is met by a considerably smaller proportion of people from a particular group, the rule is to their disadvantage, and the rule cannot be justified on other grounds.

Individual Rights in Patient Care

Rights that, when made operational, can be made enforceable on behalf of an individual patient. Individual rights in patient care are more readily expressed in absolute terms than are social rights in health care (Declaration on the Promotion of Patients' Rights in Europe, World Health Organization, 1994). See also "Social Rights in Health Care" and "Patients' Rights."

Informed Consent

Legal condition in which a person can be said to agree to a course of action based upon an appreciation and understanding of the facts and implications. The individual needs to be in possession of relevant facts and the ability to reason in order for consent to be considered informed consent.

Informed Consent in the Health Care Context

Process by which a patient participates in health care choices. The patient must be provided with adequate and understandable information on matters such as the treatment's purpose, alternative treatments, risks, and side effects.

Inpatient

A patient whose care requires a stay in a hospital or hospice facility for at least one night.

International Human Rights Law

Codification of the legal provisions governing human rights in various international and regional human rights instruments.

International Law

Set of rules and legal instruments that are regarded and accepted as binding agreements between nations. International law is typically divided into public international law and private international law. Sources are (a) custom; (b) treaties; (c) general principles of law; and (d) judicial decisions and juristic writings (Article 38[1] [d] of the Statute of the International Court of Justice).

J

Jus Cogens (Compelling Law)

Peremptory principle of international law (for example, prohibition on torture) from which no derogation by treaty is permitted.

M

Management of Quality

A coordinated activity, which consists in control and direction of organization as regards quality. (Ministry of Health of Ukraine, Order “On Approval of a Single Terminological Dictionary (*Glossary*) on the issues of quality of medical care management” of July 20 2011 No. 427).

Maximum Available Resources

Key provision in Article 2 of the International Covenant on Economic, Social and Cultural Rights, which obliges governments to devote the maximum amount of available government resources to realizing economic, social, and cultural rights.

Medical Intervention

Any examination, treatment, or other act that has preventive, diagnostic, therapeutic, or rehabilitative aims and which is carried out by a physician or other health care provider (Declaration on the Promotion of Patients' Rights in Europe, World Health Organization, 1994).

Monitoring/Fact Finding/Investigation

Terms often used interchangeably, generally intended to mean the tracking and/or gathering of information about government practices and actions related to human rights.

N

Negative Rights

Rights under which a state is obliged to refrain from unjustly interfering with a person and/or with their attempt to act.

Neglected Diseases

Diseases affecting almost exclusively poor and powerless people in rural parts of low-income countries that generally receive less attention and fewer resources.

O

Outpatient

Patient receiving treatment without any overnight stays at a health care institution.

P

Party

State or other entity with treaty-making capacity that has expressed its consent to be bound by that treaty through an act of ratification, acceptance, approval, or accession, etc., and where that treaty has entered into force for that particular state or entity. The state or entity is bound by the treaty under international law (Article 2[1][g] of the Vienna Convention, 1969).

Patient

1. User(s) of health care services, whether healthy or sick (Declaration on the Promotion of Patients' Rights in Europe, World Health Organization, 1994).
2. A person in contact with the health system, seeking attention for a health condition (European Observatory on Health Systems and Policies).

Patient Autonomy

The right of patients to make decisions about their medical care. Although providers can educate and inform patients, they cannot make decisions for those patients.

Patient Care

The services rendered by members of the health professions or by nonprofessionals under the supervision of health professionals for the benefit of the patient. See also "Health Care."

Patient-Centered Care

Doctrine recognizing the provision of health care services as a partnership among health care providers, patients, and patients' families. Decisions about medical treatments must respect patients' desires, needs, preferences, and values.

Patient Confidentiality

Doctrine that holds that the physician has the duty to maintain patient confidences. This is to allow patients to make full and frank disclosure to their physician, enabling appropriate treatment and diagnosis.

Patient Mobility

Concept describing patient movement beyond their catchment area or area of residence to access health care; mobility can take place within the same country or between countries.

Patient Responsibility

Doctrine recognizing the doctor-patient relationship as a partnership in which each side assumes certain obligations. Patients' responsibilities include communicating openly with the physician or provider, participating in decisions about diagnostic and treatment recommendations, and complying with the agreed-upon treatment program.

Patients' Rights

1. Set of rights calling for the accountability of the government and the health care provider in the provision of quality health services. Patients' rights are associated with a movement that has emerged as the result of increasing concern about human rights abuses in health care settings, particularly in countries in which patients assume a greater share of health care costs and, therefore, demand respect for their rights as "consumers" of health care services.
2. Set of rights, responsibilities, and duties under which individuals seek and receive health care services (European Observatory on Health Systems and Policies).
3. That which physicians and the state owe to a patient simply due to his or her status as a human being.

Patient Safety

Freedom from accidental injury due to medical care or medical errors (Institute of Medicine).

Positive Rights

Rights under which a state is obliged to act for an individual's benefit.

Primary Health Care

1. General health services that are available in a community, located near the places where people live and work.
2. First level of contact that individuals and families have with the health system.

Progressive Realization

Requirement in Article 2 of the International Covenant on Economic, Social and Cultural Rights that governments move as expeditiously and effectively as possible toward the goal of realizing economic, social, and cultural rights and to ensure that there are no regressive developments.

Protocol

Section in a treaty that clarifies terms, adds additional text as amendments, or establishes new obligations (such as quantitative targets for nations to achieve, for example).

Public Health

Collective actions of a society to ensure conditions in which people can be healthy (Institute of Medicine).

Public International Law

Body of laws that establish the framework and the criteria for identifying states as the principal actors in the international legal system. Public international law deals with the acquisition of territory, state immunity, and the legal responsibility of states in their conduct with each other. It is also concerned with the treatment of individuals within state boundaries, including human rights, the treatment of aliens, the rights of refugees, international crimes, and nationality. It further includes the maintenance of international peace and security, arms control, the pacific settlement of disputes, and the regulation of the use of force in international relations. Branches, therefore, include international human rights law, international humanitarian law, refugee law, and international criminal law.

Q

Quality

One of four criteria set out by Committee on Economic, Social, and Cultural Rights by which to evaluate the right to the highest-attainable standard of health. “Quality” means that health facilities, goods, and services must be scientifically and medically appropriate and of good quality—including skilled medical personnel, scientifically approved and unexpired drugs, and hospital equipment (Committee on Economic, Social and Cultural Rights, General Comment 14). See also “Acceptability,” “Accountability,” and “Availability.”

R

Ratification

Formal acceptance of the rights and obligations of a treaty. If a treaty has entered into force, the treaty thereafter becomes legally binding to parties that have ratified the treaty. Ratification requires two steps: (1) the execution of an instrument of ratification, acceptance, or approval by the head of state, head of government, or minister for foreign affairs, expressing the intent of the state to be bound by the relevant treaty; and (2) for multilateral treaties, the deposit of the instrument with the depositary; for bilateral treaties, the exchange of the instruments between parties.

Reservation

Statement by which a state purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that state. A reservation may enable a State to participate in a multilateral treaty in which it would otherwise be unable or unwilling to participate. States can make reservations to a treaty when they sign, ratify, accept, approve, or accede to it. When a state makes a reservation upon signing, it must confirm the reservation upon ratification, acceptance, or approval. Because the reservation purports to modify the legal obligations of a state, it must be signed by the head of state, head of government, or minister for foreign affairs. Reservations cannot be contrary to the object and purpose of the treaty. Some treaties prohibit reservations or only permit specified reservations.

Respect, Protect, and Fulfill

Governments' obligations with respect to rights. **Respect:** Government must not act directly counter to the human rights standard. **Protect:** Government must act to stop others from violating the human rights standard. **Fulfill:** Government has an affirmative duty to take appropriate measures to ensure that the human rights standard is attained.

Right to Health

Right to the enjoyment of a variety of facilities, goods, services, and conditions necessary for the realization of the highest-attainable standard of physical and mental health (Committee on Economic, Social and Cultural Rights, General Comment 14).

S

Secondary Health Care

General health services that are available in hospitals.

Social Rights in Health Care

Category of rights that relate to the societal obligation undertaken or otherwise enforced by government and other public or private bodies to make a reasonable provision of health care for the whole population. These rights also relate to equal access to health care for all those living in a country or other geopolitical area and also to the elimination of unjustified discriminatory barriers, whether financial, geographical, cultural, social, or psychological. Social rights in health care are enjoyed collectively (Declaration on the Promotion of Patients' Rights in Europe, World Health Organization, 1994). See also "Individual Rights in Patient Care."

Self-Executing Treaty

Treaty that does not require implementing legislation for its provisions to have effect in domestic law.

Shadow Report

Independent NGO's submission to a treaty-enforcement mechanism in order to help the NGO assess a state's compliance with that treaty.

Signatory

Party that has signed an agreement. A signatory to a treaty is not yet legally bound by the treaty; instead, a signatory agrees to an obligation not to defeat the object and purpose of the signed treaty. See also "Ratification."

Special Rapporteurs

Individuals appointed by the Human Rights Council to investigate human rights violations and then present an annual report with recommendations for action. There are both country-specific and thematic special rapporteurs, including one investigating violations of the right to the highest-attainable standard of health.

T

Terminal Care

Care given to a patient when it is no longer possible to improve the fatal prognosis of his or her illness/condition with available treatment methods and also the care given at the approach of death (Declaration on the Promotion of Patients' Rights in Europe, World Health Organization, 1994).

Tertiary Health Care

Specialized health services that are available in hospitals.

Transformation Theory

Theory maintaining that international law only becomes part of domestic law after domestication and after the incorporation of treaty provisions into domestic legislation.

Treaty

Formal agreement entered into by two or more nations, which is binding upon them. A bilateral treaty is a treaty between two parties. A multilateral treaty is a treaty between more than two parties.

W

Working Groups

Small committees appointed by the Human Rights Council to study a particular human rights issue. Working groups write to government officials concerning urgent cases and also help prevent future violations by developing clarifying criteria as to what constitutes a human rights violation.