

Human rights and nursing

RCN position statement



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Why are human rights relevant to nursing and the Royal College of Nursing?

The Royal College of Nursing (RCN) and its members have long been involved in human rights activities, both nationally and internationally. The RCN is committed to supporting and advocating human rights for the positive and practical difference they make to people, patients and nursing.

It does this for five reasons:

1. The RCN is one of the world's leading member-driven health care organisations and advocating the highest standards of care and dignity for people needing nursing care is at the heart of its work.
2. The RCN has an important role to play, along with its international alliances, in bringing attention to human rights abuses affecting patients and nursing staff, thereby encouraging practical action.
3. The RCN believes that the first priority of nurses and their teams is care of their patients, and referring to international human rights agreements can help patients and the nursing staff who care for them.
4. The human rights set out in the Universal Declaration of Human Rights (UN, 1948), the European Convention on Human Rights, the UK's Human Rights Act (Parliament, 1998) and other international and national agreements adhered to by the UK are key to health and the effective delivery of nursing, and complement the objects of the RCN's *Royal Charter* (RCN, 2012).
5. *The Code of Ethics of the International Council of Nurses* (2006) specifically calls on national nursing associations to develop position statements and guidelines on human rights.

To be effective, it is essential that the RCN position on human rights and any actions it takes are built on the strongest possible foundation. These must be grounded in international and national agreements and law, as well as codes of nursing conduct and ethics.

This document sets out the RCN's position on nursing, health and human rights. It also provides the legal and ethical background to the position.

The RCN's position on nursing and human rights

The RCN believes that human rights agreements and legislation are of increasing importance to people needing nursing care and to nursing staff, and are essential tools in helping to achieve better outcomes for them.

The RCN strongly supports the ideals and principles set out in the Universal Declaration of Human Rights (UDHR), which is the primary statement of globally agreed human rights. The great value of such global agreements should never be underestimated and, as the UDHR states, they provide "a common standard of achievement for all peoples and all nations" (UN, 1948, preamble).

Human rights and the promotion and protection of health are inextricably linked (WHO, 2002). The RCN supports the position of its global nursing body, the International Council of Nurses (ICN), that advocating a human rights-based approach to health is fundamental to nursing (ICN, 2006 and 2011).

The RCN believes that a human rights-based approach is essential, both in developing health policies and services and in individual practice, and that nurses have a particular obligation to "safeguard and actively promote people's health rights at all times and in all places" (ICN, 2011).

Primarily, nurses owe a duty of care to their patients and are accountable for their actions in protecting patients' human rights. Nurses also have professional responsibilities set out in the relevant codes which apply to their role (NMC, 2008; ICN, 2006). However, nurses' own fundamental human rights are also of significant importance. Nurses should also be able to carry out their professional duties in a safe working environment and without violence or intimidation. Nurses are therefore both "duty bearers" in the eyes of domestic law and "rights holders" under the European Convention on Human Rights.

The RCN, as a national nursing body, supports the mainstreaming of a human rights-based approach to health care delivery. The RCN is committed to taking this approach in its own work by shaping nursing and health policy, and by developing and communicating principles and practice standards, such as the RCN's *Principles of nursing practice* (RCN, 2010).

The RCN deplores the targeting of health professionals and their families, and subjecting them to imprisonment, torture, unfair trial or killing, when they are seeking to carry out their professional duties. The RCN, acting directly and in collaboration with others, will call on national and international organisations and governments to meet their international human rights obligations and to hold to account those who do not.

The RCN will speak up on the violation of patients' and nurses' human rights, particularly in relation to "access to essential health care, torture and inhuman, cruel and degrading treatment and/or patient safety" (ICN, 2011).

Background

Human rights, as defined in the UDHR (UN, 1948), play an increasingly important role in the world for individuals, organisations and countries. The UDHR was forged in the General Assembly of the United Nations (UN) in the spirit of humankind preventing repetition of the horrors suffered by so many during the Second World War.

Shortly afterwards the Council of Europe agreed the European Convention on Human Rights (1950), to enforce many of the rights enshrined in the UDHR. In 1959 the European Court of Human Rights was created, for the first time allowing individuals to take cases of human rights violations by their countries to an international body. The judgements of the European Court are legally binding in all 47 members states of the Council of Europe.

The UK's five great documents – the Magna Carta (as confirmed by Edward I in 1297); the Petition of Right (1627); the "Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown" (Bill of Rights, 1689); the Act of Settlement (1700); and the Human Rights Act 1998 – regulate "relations between the Crown and the people" (Maer and Gay, 2009). These provide the legislative base for human rights in the UK. The most recent legislation is the Human Rights Act (Parliament, 1998).

The RCN's position is founded on its fundamental support for, and the UK's adherence to, the:

- Universal Declaration of Human Rights (UN, 1948)
- Geneva Conventions of 1949 and their additional protocols (UN 1949, 1977, 1978)
- International Bill of Human Rights (UN 1948, 1966, 1989)¹
- European Convention on Human Rights (Council of Europe 1950)
- human rights elements of the Treaty of Lisbon (European Community, 2007)²
- Charter of Fundamental Rights of the European Union (European Parliament, 2000)³
- UN Convention on the Rights of the Child (UN, 1990)⁴
- and ensuing UK and international law (Parliament, 1998).

Human rights are enshrined in the national constitutions and legislation of most countries. When a country becomes party to international human rights agreements it assumes obligations and duties under international law (UN OHCHR). Some rights arise from "general practice accepted as law" (Statute of the International Court of Justice, Article 38 (1) (b), 1948) and are considered as customary international law. Every country is accountable for these rights.

The preamble to the UDHR sets out its aim: "*... a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction*"(UN, 1948).

¹ The International Bill of Human Rights brings together all the key human rights agreements of the United Nations.

² See in particular Articles 2, 3, 6, Title II and Article 168.

³ See Articles 31, 32 and 35.

⁴ See also www.unicef.org/crc. The Convention forms the values basis of children and young people's nursing. The RCN actively worked to support UK adoption of the Convention and it was ratified in 1992. Since then the Convention has been incorporated into domestic legislation in Wales (see www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-rightsofchildren.htm). The RCN works with other organisations to lobby for its incorporation into UK law, but the Convention has not yet been incorporated into the domestic legislation of any other UK country.

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Human rights and health

With the development of an international human rights framework after World War II, there was a strong focus on promoting civil and political rights. More recently, however, there has been stronger emphasis on a wider approach to human rights, particularly by non-governmental organisations, and a push to give equal weight to social and economic rights, including the right to health (Eide, 2011).

The UDHR states that: *“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including... medical care and necessary social services and the right to security in the event of...sickness.”* (UN, 1948, Article 25(1).)

The United Nations Economic and Social Council comments that: *“Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The realization of the right to health may be pursued through numerous, complementary approaches, such as the formulation of health policies, or the implementation of health programmes developed by the World Health Organization (WHO), or the adoption of specific legal instruments”* (UN, 1966).

In situations of conflict, the Geneva Conventions (UN, 1949) set out the agreed international standards to which the parties involved will be held to account. This includes caring for the sick, treating people humanely, and protecting and respecting those involved in civilian health care provision.

Human rights in a UK context

As well as advocating human rights internationally, RCN members should be aware that human rights apply in the UK under international and national law. The most significant UK legislation is the Human Rights Act (1998) which came into force in 2000. UK legislation is based on the principles and meaning set out in the European Convention of Human Rights (ECHR) (Council of Europe, 2010), in UK historic laws guaranteeing people’s rights⁵, and in the international agreements to which it is

party. These UK rights and duties apply to people requiring nursing care and to nurses. They are legally enforceable, and health and social care providers have a duty to meet patients’ entitlements (Department for Constitutional Affairs, 2006).

UK health regulatory bodies, governmental and non-governmental organisations, and the legislation⁶ provide significant detail regarding the entitlements of patients (including how they can expect to be treated by nursing staff) and of nursing staff (including how they can expect to be treated by patients).

The Human Rights Act (1998) sets the legal framework for the rights of patients, nurses and midwives. The UK regulator, the Nursing and Midwifery Council (NMC), has set a code of conduct focused on nurses and midwives. Priorities within *The code: Standards of conduct, performance and ethics for nurses and midwives* (NMC, 2008) are:

“The people in your care must be able to trust you with their health and wellbeing. To justify that trust, you must:

- *make the care of people your first concern, treating them as individuals and respecting their dignity*
- *work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community*
- *provide a high standard of practice and care at all times*
- *be open and honest, act with integrity and uphold the reputation of your profession.*

As a professional, you are personally accountable for actions and omissions in your practice, and must always be able to justify your decisions.

You must always act lawfully, whether those laws relate to your professional practice or personal life.”

⁵ The Magna Carta (as confirmed by Edward I, 1297); the Petition of Right (1627); the “Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown” (Bill of Rights, 1689); the Act of Settlement (1700); and the Human Rights Act (1998).

⁶ See Nursing and Midwifery Council, www.nmc-uk.org; Department of Health, <http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Managingyourorganisation/Equalityandhumanrights/Humanrights/index.htm>; Care Quality Commission, www.cqc.org.uk; Monitor, www.monitor-nhsft.gov.uk; British Institute of Human Rights, www.bih.org.uk; and Amnesty International www.amnesty.org/en/region/uk

The RCN, human rights and the role of nurses internationally



Nurse midwives using mobile services to make pregnancy care available to women and newborns with no access to care in Nepal ©Kidasha/CWS Nepal

As a member of the International Council of Nurses (ICN), the RCN has contributed to the ICN position statement on nurses and human rights (ICN, 2011), which it endorses and advocates, along with *The ICN Code of Ethics for Nurses* (ICN, 2006). Key elements of the ICN position statement include:

“Nurses have an obligation to safeguard and actively promote people’s health rights at all times and in all places. This includes assuring that adequate care is provided within the resources available and in accordance with nursing ethics.

Nurses are accountable for their own actions and inactions in safeguarding human rights, while national nurses’ associations (NNAs) have a responsibility to participate in the development of health and social legislation related to patient rights.



Protecting children’s rights to privacy and dignity in Uganda ©CFHI/MCAI

Where nurses face a “dual loyalty” involving conflict between their professional duties and their obligations to their employer or other authority, the nurse’s primary responsibility is to those who require care.

Nurses have the right to practise in accordance with the nursing legislation of the country in which they work and to adopt The ICN Code of Ethics for Nurses or their own national ethical code. They also have a right to practise in an environment that provides personal safety, freedom from abuse and violence, threats or intimidation.” (ICN, 2011.)

The internationally agreed ICN position statement provides an important foundation for agreeing the specific role of representative nursing trade unions and professional organisations and their members, at local, national and international level.

This RCN position statement builds directly upon this foundation.

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