

# Human Rights: what are they and why are they important in end of life care...

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# Human rights are.....

Basic rights that belong to every person in the world

Set the rule book for governments

Laid down in law

# Human rights values are.....FREDA

- F – Fairness
- R – Respect
- E – Equality
- D – Dignity
- A – Autonomy

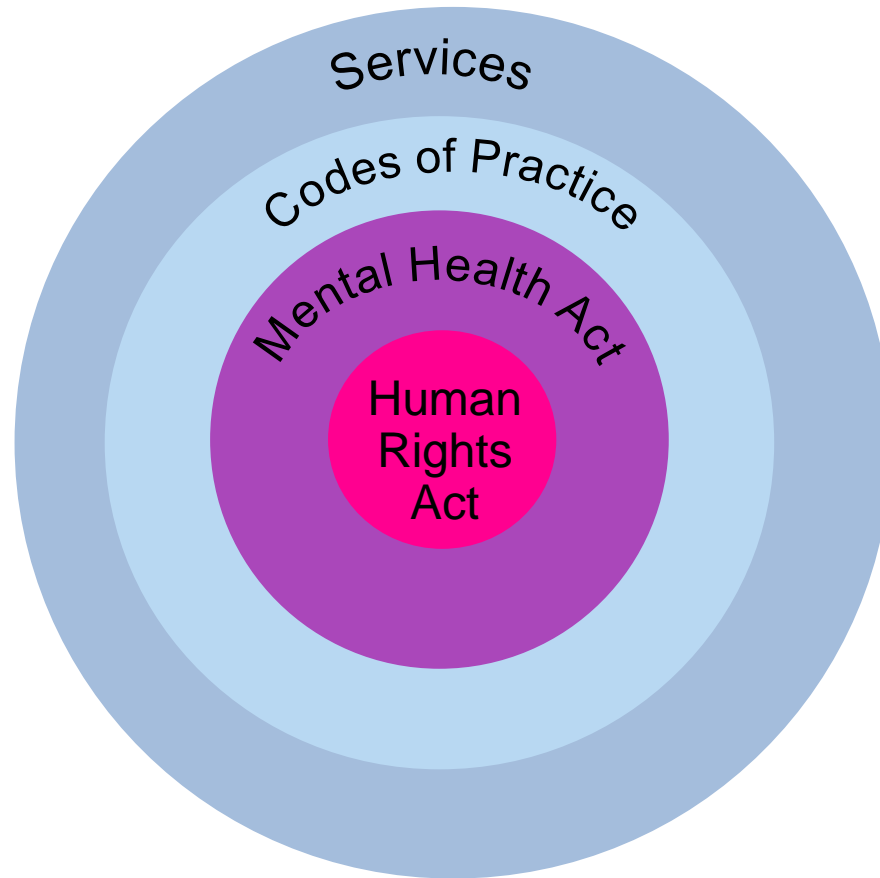
**Universal to everyone**

# What does human rights have to offer EoLC?

- Provides a **vital safety net** by outlining a set of **minimum standards**, backed up by law.
- Places a **duty** on public authorities to protect and respect human rights in **everything they do**.
- Provides a **foundation for all other health and social care legislation and policy**.



# How these fit together



# 6 rights most relevant to EoLC

-  Right to life (Article 2)
-  Right to private and family life, home and correspondence (Article 8)
-  Right to be free from inhuman or degrading treatment (Article 3)
-  Right to freedom of thought, conscience and religion (Article 9)
-  Right to liberty (Article 5)
-  Right to enjoy all these human rights without discrimination (Article 14)

# Who has duties?

<b>Core public authorities</b>	<b>Functional/hybrid public authorities</b>
Public authorities, including courts and tribunals	Private or voluntary bodies performing public functions



**Not for profits**  
**Charities**  
**Private companies**

# The test to restrict rights

LAWFUL

NECESSARY

LEGITIMATE





## Right to life: Article 2

- **RESPECT:** negative duty not to take away anyone's life
- **PROTECT:** positive duty to take reasonable steps to protect life
- **FULFIL:** procedural duty to investigate deaths where the public authorities may be implicated/involved

## Real case: right to life

Healthcare staff have a duty not to withdraw treatment where it is still of some benefit to the patient (Bland vs Airedale NHS Trust, 1993).

The Right to Life does not entitle anyone to compel healthcare staff to continue life-prolonging treatment, where this would expose the patient to inhuman and degrading treatment, breaching Article 3 (Burke vs GMC, 2005).

Any decision involving the withdrawal of life-sustaining treatment must be referred to a court (Briggs vs Briggs, 2016).

# Is there a right to die?

- The Right to Life does **not** include the right to die. Assisting someone to commit suicide is a criminal offence. The positive obligation to prevent inhuman and degrading treatment does not stretch to requiring a practitioner to assist a terminally ill person to die (Pretty vs UK, 2002).
- Administering pain relief that has the result of hastening death could be justified as protecting people from inhuman or degrading treatment where the purpose is to ease pain, depending on the circumstances. The **purpose cannot be to end life.**



## Right to be free from torture, inhuman and degrading treatment : Article 3

- **RESPECT:** negative duty not to treat someone in this way
- **PROTECT:** positive duty to take reasonable steps to protect people known to be at risk of such treatment
- **FULFIL:** procedural duty to investigate where inhuman or degrading treatment has taken place



# Right to liberty: Article 5

- **RESPECT:** negative duty not to deprive people of their liberty
- **PROTECT:** positive duty to take reasonable steps to protect liberty
- **FULFIL:** a set of procedural safeguards must be accessible

# DoLS and End of Life Care

## **Is the person under continuous supervision and control?**

- A person in a private room who is checked on every few hours will not necessarily be under continuous supervision and control

## **Is the person free to leave?**

- A person will be free to leave (even if they are physically unable to) if they are able to leave with, for example, the assistance of their family



## Right to respect for private and family life, home and correspondence: Article 8

- **RESPECT:** negative duty not to interfere with this right
- **PROTECT:** positive duty to take reasonable steps to protect people known to be at risk of having their rights violated, especially in relation to mental and physical well-being
- **FULFIL:** a procedural duty to ensure fair decision-making processes



## Right to freedom of thought, conscience and religion: Article 9

The right to freedom of thought, conscience and religion comprises 2 elements: an absolute element and an element that can be restricted.

**Absolute:** the right to hold a particular belief, including freedom to change religion or belief.

**Restriction:** the right to manifest one's religion or belief can be restricted, either alone or in community with others.



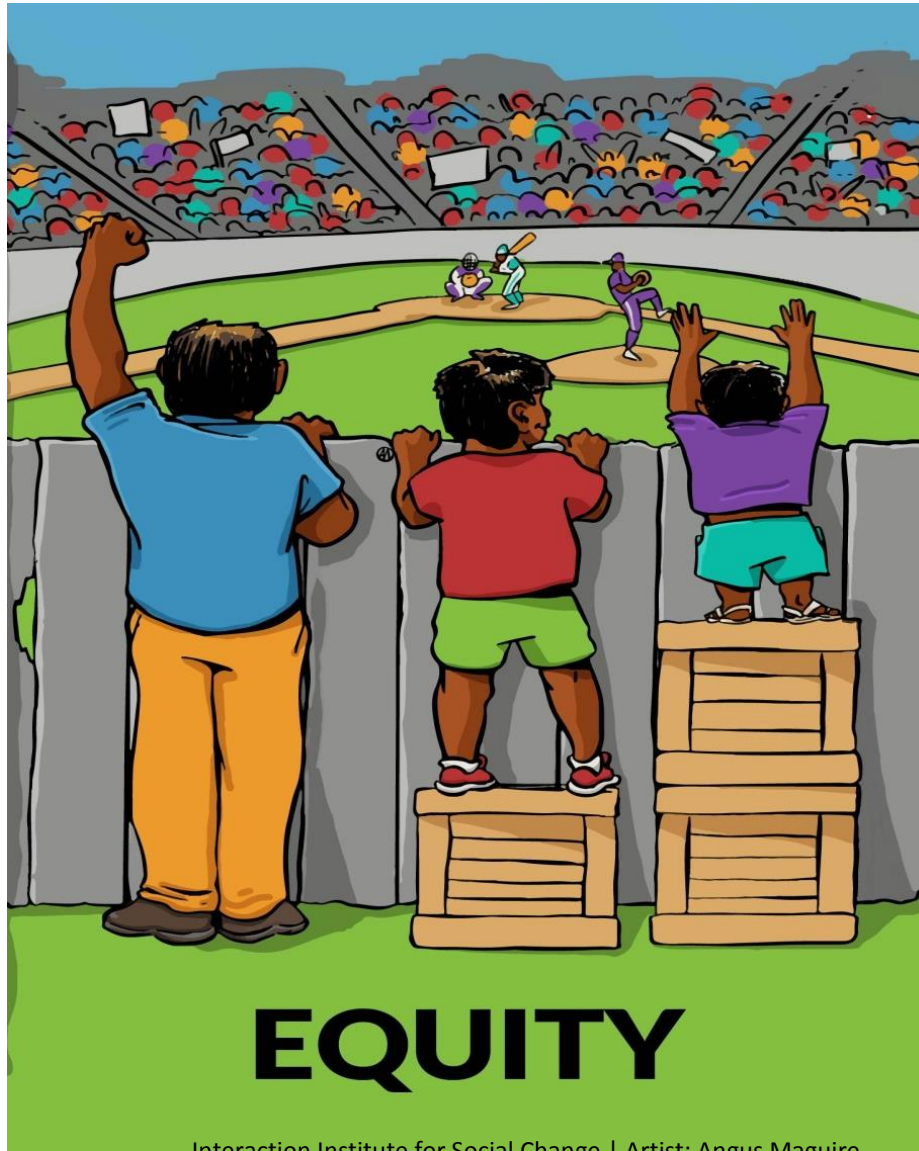


## Right not to be discriminated against: Article 14

Must be ‘piggy-backed’ to one of the other rights in HRA

**Open-ended:** it prohibits discrimination for any reason e.g. mental health, disability

Treating people differently isn’t always discrimination – can it be objectively and reasonably justified?



Interaction Institute for Social Change | Artist: Angus Maguire

# Human rights in practice

Empowerment

Accountability

Challenge

# How to raise a human rights issue

## 1. Raise the issue informally

Tip: often issues can be resolved informally with the person who made the decision.



## 2. Raise the issue with your manager

Tip: be clear about why you think there is a human rights issue to resolve.



## 3. Raise the issue at a higher level in your organisation

Tip: find out who is responsible for hearing staff concerns.



## 4. Contact the regulator

Tip: The CQC has a contact line for staff, and remember they have a new human rights approach to regulation.



## 5. Raise your concerns externally

Tip: think carefully about your options.

Source: British Institute of Human Rights (© 2016) **End of Life Care and Human Rights: A practitioner's guide** available at [www.bihhr.org.uk/health](http://www.bihhr.org.uk/health)

# Thank you for listening

## Any questions?

*Sue Ryder*

**The British Institute of Human Rights**  
bihr.org.uk  


 **Burdett Trust**  
for Nursing