

Dealing with health rights violations

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Who is responsible for my human rights?

For every human right, there is a matching responsibility, usually called a “duty”. This means that for every human right, there is a rights holder and a duty bearer:

- A rights holder is someone who can claim rights.
- A duty bearer is someone who is responsible for making sure that a human right can be enjoyed, like a healthcare worker, or the Ministry of Health.



For example:

Irene is a sex worker. She is a rights holder: She has the rights to health, to access healthcare without discrimination, and to equality. When she goes to the clinic, healthcare workers have a duty to provide her with adequate healthcare services, to treat her fairly and not to discriminate against her: The healthcare workers are duty-bearers.

What are the duties of healthcare workers?

Different healthcare workers have different duties in each country, depending on the laws and policies of each country. We will discuss the healthcare duties of all healthcare workers, including healthcare workers in Botswana, Malawi and Zambia.



Healthcare workers have a duty to:

- Treat all healthcare users with dignity.
- Treat all healthcare users equally and without unfair discrimination.
- Act in the best interests of healthcare users.
- Respect the privacy of healthcare users and keep information about healthcare users confidential.
- Give healthcare users information so that they can make their own decisions about their health and bodies.
- Get informed consent before testing or treating.
- Respect the right of healthcare users to refuse treatment.
- Help people with disabilities, for example, to get up or down stairs, or access parts of a healthcare facility if they cannot do these things on their own.



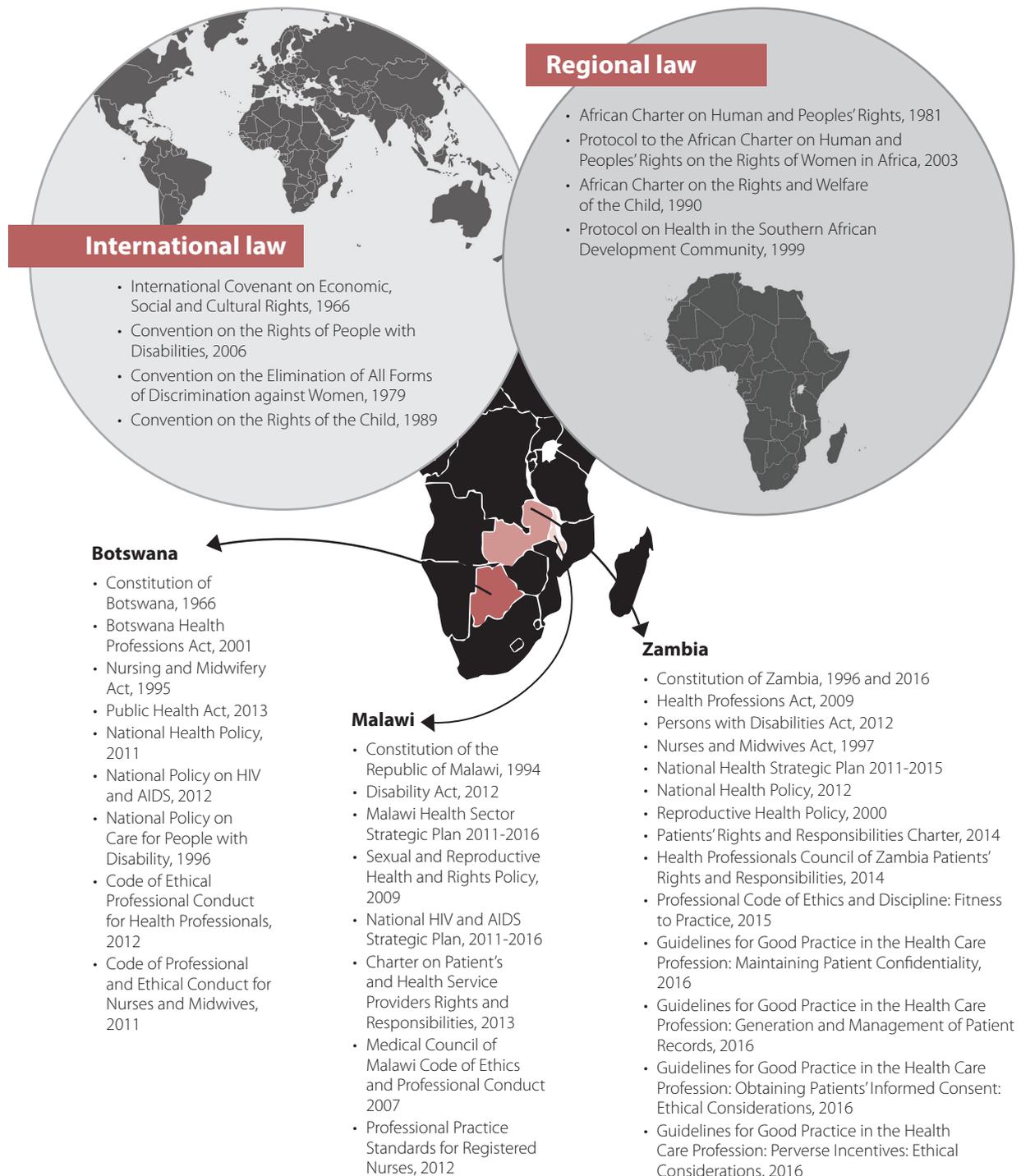
Healthcare workers have a duty NOT to:

- Force people to have a test or treatment that they do not want.
- Ask for bribes or favours in exchange for providing services.
- Pass on confidential information that a healthcare user has shared in private, unless the healthcare user gave them permission to do this.
- Abuse healthcare users in any way, including verbally, sexually, physically or emotionally.
- Refuse to provide healthcare services to someone because of their sexual orientation, HIV status, disability or because they are a sex worker.

Where do health rights and healthcare duties come from?

There are international, regional and national laws that protect your health rights and set out the duties of healthcare workers. In addition to these laws, there are also government policies, patient charters and professional codes of conduct that list the rights of healthcare users and the duties of healthcare workers.

If you are a healthcare user in Botswana, Malawi or Zambia, your health and human rights, and the duties of healthcare workers, come from some of these sources:



The right to complain about poor healthcare

It is a basic rule under all law that for every right, there must be *a remedy* – a way of sorting out the problem with a solution, like an apology or compensation. This means that if a human right is violated, there should be an effective remedy.

All people have the right to complain and ask for a remedy if they believe their rights have been violated. If human rights are violated in a healthcare facility, or if the quality of healthcare services or facilities was not good enough, healthcare users have the right to complain.

Your have a right to a remedy when your rights are violated:

- You have the right to take action if the healthcare services you used were poor, unsafe or discriminatory, or if you think your human rights were not respected or violated.
- You have the right to complain and to take your case to court.

If a rights holder has been prevented from claiming their rights or if a duty bearer has failed in their responsibilities to protect human rights, then the duty bearer should be held accountable.



Note:

There are many ways to hold a duty bearer accountable. For example, you can use the courts or you can make a complaint. This guide is about how to use complaints processes.

What is a complaint?

A *complaint* is a statement that something is unacceptable. It says that you are unhappy or dissatisfied about something that happened to you. Remember you have a right to complain if you receive inadequate healthcare services.

With healthcare, a complaint can be about:

- Not getting healthcare services or medicines.
- The standard of a healthcare facility.
- The quality of healthcare services.
- A hospital policy.
- The attitudes or behaviour of healthcare workers – if any of the doctors, nurses or other hospital staff made you feel uncomfortable, or treated you in a way that you think was unfair or discriminatory.

What can I complain about?

A healthcare user has the right to make a complaint about any wrongdoing, failure or bad service in healthcare, including human rights violations.

Why should I complain?

There are a few good reasons why people should complain about healthcare. Making a complaint can have benefits or advantages for the individual healthcare user, for other healthcare users and for the whole community.

Why should I complain?





Advantages for the healthcare user:

- Making a complaint can lead to something being done to make up for what happened to you.
- Complaining is a way of enforcing your rights and making sure you are getting the best possible healthcare services.
- Complaining can bring justice through compensating you and making wrongdoers accountable for their actions.

Advantages for other healthcare users:

- Managers and supervisors might not always know what is going on inside their healthcare facilities. Through complaints, people in power can become aware of what is happening and might be able to take steps to prevent violations of healthcare rights.

Advantages for the whole community:

- Complaining about healthcare sends a message that healthcare needs to be improved and can benefit the broader community through demanding these types of improvements:
 - Better healthcare facilities.
 - Better healthcare services.
 - Improved healthcare worker skills.
 - Better awareness of the rights of patients.
 - Better laws, policies and regulations.
 - Less stigma and discrimination against key populations and vulnerable people.
 - More responsive healthcare facilities that accommodate the needs of different users.

How is making a complaint different from going to court?

If a healthcare user's rights are violated, you can make a complaint or take the case to court. If you understand the differences between these processes, it will help you to decide which one is best for you.





Here are some general differences between making a complaint and taking a case to court:

About the process

- *Complaint:* Less formal – you can make a complaint on your own without a lawyer.
- *Court:* More formal – there are strict rules about time, procedure and how things are presented in court, and you will usually need a lawyer to assist you.

Advantages

- *Complaint:* Complaints processes are usually quicker and cheaper than court processes.
- *Court:* Courts can set a new standard for how all people should be treated or respected.

Disadvantages

- *Complaint:* Some complaints processes may not be effective.
- *Court:* Going to court can take a long time and can be very expensive.