Box 1. Reflective notes

- What 'rights' would you wish to assign to your patients in your own practice?
- What 'rights' would you wish for yourself in your own practice?
- Do these rights ever conflict? Whose rights should take precedence and when?

H is for human rights

Human rights certainly seem like a good idea but are they morally sound? Human rights do not figure in the major moral theories. Deontology holds that we have duties to one another, not rights. Virtue ethics holds that we should act well to one another. Utilitarianism does not go much for individual duties or rights at all but rather for what is best for the majority. The problem with rights for philosophers is that they seem to 'top slice' a limited set of moral demands rather than ensuring a fair slice of the cake for all.

MacIntyre points out that there is no word for 'rights' in any language prior to the 14th century. The idea of a moral right is ancient however. The theme of Sophocles' play *Antigone* is that there is an inherent higher law that binds even the king. In 1215 the English Barons forced King John to recognise that his own power was limited by the rule of law, ensuring certain limited rights of all — well for 'free men' anyway!

So rights tend to figure more in political philosophy and social policy than in moral philosophy as such. In human society they tend to be used instrumentally, as a way of ensuring certain human duties are not ignored, particularly by those in power. This has been an increasingly powerful moral force in history.

One of the most dramatic and prophetic statements of human rights was given in a sermon by a Dominican Friar, Antonio de Montesinos, in Hispaniola on 21 December 1511, challenging the unrestrained power of the conquistadors in South America. He demanded 'tell me by what right of justice do you hold these Indians in such a cruel and horrible servitude? On what authority have you waged such detestable wars against these people?' The claim that all people, not just powerful Westerners, had rights caused outrage at the time, but also led directly to reform.

Rights had been let out of the bag. Thomas Paine in his *Rights of Man* in 1791 argues that rights originate in nature. This theme appears in the US Declaration of Independence in 1776: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life, liberty, and the pursuit of happiness ...'. This narrative has its apogee in the United Nations Universal Declaration

of Human Rights in 1948. Now we seem to be assailed by rights. For example, the NHS Constitution lists 28 rights of patients.

But if my right to X is in direct conflict with your right to Y we have an insoluble dilemma. This is why ethicists tend to view rights as a blunt backup tool for when our true moral duties are not working as they should. Perhaps in today's world that may be uncomfortably more often than we wish.

CPD further study and reflective notes

The notes in Boxes 1 and 2 will help you to read and reflect further on any of the brief articles in this series. If this learning relates to your professional development then you should put it in your annual PDP and claim self-certified CPD points within the RCGP guidelines set out at <http://bit.ly/UT5Z3V>.

If your reading and reflection is occasional and opportunistic, claims in this one area should not exceed 10 CPD credits per year. However if you decide to use this material to develop your understanding of medical philosophy and ethics as a significant part of a PDP, say over 2 years, then a larger number of credits can be claimed so long as there is evidence of balance over a 5-year cycle. These credits should demonstrate the impact of your reflection on your practice (for example, by way of case studies or other evidence), and must be validated by your appraiser.

David Misselbrook,

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Box 2. Further reading

Primary source

Paine T. *Rights of man*, 1791. In: Philip M (ed.). *Rights of man, common sense, and other political writings*. Oxford: Oxford World's Classics, 2008.

Further study:

NHS Constitution, 2013 update: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf (accessed 11 Jul 2013).

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