

HUMAN RIGHTS PRINCIPLES AND CODE OF CONDUCT

for the National University of Ireland
and its Member Institutions



HUMAN RIGHTS PRINCIPLES AND CODE OF CONDUCT

for the National University of Ireland
and its Member Institutions





Copyright © 2013 National University of Ireland (NUI)

All rights reserved. This information may be freely used and copied for non-commercial purposes, provided that the source is acknowledged.

ISBN

9780901510570

An electronic version of the document is available at www.nui.ie

National University of Ireland, 49 Merrion Square, Dublin 2, Ireland

Telephone: +353 1 439 2424 Fax: +353 1 439 2466 Email: registrar@nui.ie Website: www.nui.ie

The Human Rights logo selected in 2011 on the basis of an international competition was designed by Predag Stakic of Serbia.

Contents

Background	5
Principles	6
Code of Conduct	8
Universal Declaration of Human Rights	14

Background

The National University of Ireland (NUI) was founded under the Irish Universities Act 1908 and given its charter in that year. Re-structured under the Universities Act 1997, NUI today is a federation of autonomous self-governing universities, having other higher education institutions associated with the university as recognised colleges. All of these institutions have joined together in the preparation of this document, which has been prepared with expert advice from the Irish Human Rights Commission and other stakeholders. In bringing the document to completion, NUI was greatly assisted by the work of an Expert Group on Human Rights, chaired by the Chancellor Dr Maurice Manning and with representatives from each of the four NUI constituent universities and the Royal College of Surgeons in Ireland.

The preparation of these principles and code of conduct was informed by the growing recognition within Ireland that all public institutions must operate in full compliance with the highest standards of human rights, and by appreciation of the new challenges and opportunities associated with the increasing internationalisation of NUI universities and member institutions both at home and abroad.

The purpose of these principles and code of conduct is to guide NUI universities and member institutions as they discuss, adopt and implement their own policies and decisions relevant to their various activities and areas of operation.

Principles

- (i) The National University of Ireland and its members institutions are committed to the promotion of and respect for universal, inherent, inalienable, and indivisible human rights, as articulated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights (collectively, the International Bill of Rights), as well as the European Convention on Human Rights, the Revised European Social Charter, and the European Union Charter of Fundamental Rights, and other international conventions on human rights to which Ireland is a party. This commitment is consistent with the Charter of the National University of Ireland, the objects of Irish universities as set out in the Universities Act 1997, the principles of academic freedom enshrined in that Act, and the legal obligations of the Irish State.
- (ii) The National University of Ireland and its member institutions consider promotion of the understanding of human rights and respect for human rights as integral to all their activities, including teaching, research and service to the broader community. They recognise the particular role played by universities in the development of human rights and the influence universities can have in promoting respect for human rights. With the support of the Irish Human Rights Commission, and its successor, they will take steps to raise awareness of human rights principles among staff, students, and others associated with their institutions, and to ensure that any threats to the enjoyment of human rights are considered in relevant decision-making.
- (iii) The National University of Ireland and its member institutions have a special responsibility to ensure that as far as lies within their capacity the human rights of their students, staff and associates are fully respected, regardless of the country where they are located. This includes but is not limited to freedoms that are necessary for the good functioning of a university, such as freedom of association, freedom of expression, and freedom from discrimination. Restrictions on the right to access education should be a particular concern.

- (iv) While the presence of an NUI institution in a country does not, in the view of the University, signal support for institutions or government actions in that host country, the National University of Ireland and its member institutions must ensure that none of their activities, including partnerships they undertake with institutions in different countries, are seen as providing support for the violation of human rights. This is particularly urgent in situations where there are credible reports of gross violations of human rights, including killings, arbitrary detention, disappearances, unlawful arrest and/or unfair trial, torture or other cruel, inhuman or degrading treatment including gender-based violence. Special attention should also be given to the treatment of women, human rights defenders and ethnic, religious and other minorities as well as the existence of State-supported or sanctioned discrimination.

- (v) These commitments and the legal obligations of Irish universities in relation to human rights apply equally to all the domestic and foreign operations of the National University of Ireland and its member institutions. They may be considered to have particular application in the context of internationalisation.

Code of Conduct

1. United Nations “Protect, Respect, Remedy” Framework

In the development of a code of conduct to guide NUI institutions in their international engagements, the UN Framework and Guiding Principles on Business and Human Rights has been used as a model and adapted to the university context. This UN Business and Human Rights framework is based on recognition of:

- “(a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

Based on the UN Framework, it can be concluded that in order to meet their responsibility to respect human rights, the NUI institutions should have in place policies and processes appropriate to their size and circumstances, to include the following three elements:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse impacts they cause, or to which they contribute, on human rights.

Also drawing from the Framework, the assessment that the NUI institutions should carry out in terms of any potential human rights impact of their engagement may be expressed in the following terms:

“In order to gauge human rights risks, universities should identify and assess any actual or potential adverse impacts on human rights with

which they may be involved either through their own activities or as a result of their partnerships with other universities, higher education institutions or agencies. This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the university and the nature and context of its international engagement.”

Before entering into a partnership agreement or establishing a campus, as part of normal due diligence, NUI institutions should make themselves aware of the human rights situation in the country concerned, using authoritative sources of information such as:

1. United Nations – including Office of the High Commissioner for Human Rights and the Human Rights Council, (www.ohchr.org),
2. The Council of Europe – including the Commissioner for Human Rights and European Court of Human Rights (www.coe.int),
3. The Department of Foreign Affairs,
4. Any independent National Human Rights Institution based in the country [the Irish Human Rights Commission, or its successor, could provide information where there are such institutions],
5. Non-Governmental Organisations such as Amnesty International (www.amnesty.org) and Human Rights Watch (www.hrw.org).

For countries in which there is already an agreement or partnership, NUI institutions will be concerned to ensure a framework for ongoing monitoring of the human rights situation in the country, as it relates to the institution concerned. In reporting on their overseas provision, to the Senate or to the Governing Authority of the institution concerned, as appropriate, NUI institutions should include regular (at least annual) reports in relation to any relevant human rights issues.

NUI institutions should take all appropriate steps to satisfy themselves that on the basis of the information available, the establishment or continuation of a partnership or campus is consistent with NUI's commitment to the advancement of human rights and academic freedom. In entering into agreements with universities, institutions and other international partners, NUI institutions should make known the commitment of the University to the promotion and protection of human rights and academic freedom. NUI institutions will seek to promote the universality of all human rights in their dealings with local partners and this will include due diligence/risk assessment analyses from time to time, as required. The purpose of this would be to address the potential situation where a university has dealings with other State agencies or private contractors and where issues of labour rights abuses by private contractors or other agencies may arise or be publicised. Having carried out due diligence/risk assessment, the NUI institution will be in a position address such issues as may arise.

There are two areas in which NUI institutions should pay particular attention to human rights situations. The first is where there are gross violations of human rights in a country. The second is in relation to the rights and freedoms of those wishing to study and to students and academics.

a. The General Human Rights Situation in a Country: Gross Violations

As noted above, information on the human rights situation in almost every country is widely available and should be a factor for consideration in decisions on agreements and campus developments.

While it is recommended that the NUI institutions would consider the general human rights situation in a country, they should give particular attention to reports of gross human rights abuses carried out (or not prevented) by State authorities including: killings, arbitrary detention, disappearances, unlawful arrest and/or unfair trial, torture or other cruel,

inhuman or degrading treatment including gender-based violence. Special attention should also be given to the treatment of women, human rights defenders and ethnic, religious and other minorities as well as the existence of State-supported or sanctioned discrimination. Consideration should also be given to restrictions on the right to access third level education. Freedom of expression and association are considered below. It may be noted that where a State has recently emerged from conflict, risk of gross human rights abuses is heightened. The action taken by the State to prevent, punish and remedy gross human rights abuses should be taken into account in considering the human rights situation in a country.

b. Academic Freedoms

It is acknowledged that the presence of an NUI institution within a country may be seen as giving particular support to any repression of traditional academic freedoms that may take place in a country. NUI institutions will wish to pay particular attention to restrictions on freedom of expression, access to universities (particularly gender or other discrimination), and freedom of association. Academics and students can frequently be the target of repressive regimes and often require particular attention from the international community to ensure their protection. NUI institutions will be particularly concerned where there are circumstances in a country that can restrict academic freedom, discriminate regarding access to higher education or result in targeting of students or academics. In such circumstances, there will be a need for NUI institutions to undertake an assessment of the risk to students and academics.

In relation to both of the above, factors to be taken into consideration by NUI institutions include the scale, and nature of human rights abuses. They must also consider whether their presence in the country will be interpreted as support for such abuses, or whether their presence will assist in supporting reforms in human rights and academic freedoms. This can be undertaken by way of a human rights impact assessment. The IHRC has

indicated willingness to help NUI in the drawing up of human rights impact assessments. It is suggested that these might be associated with the periodic reputational risk assessments which NUI institutions will carry out from time to time.

Without unduly inhibiting their capacity to enter into agreements with universities and agencies overseas, NUI institutions should consider clearly setting out human rights principles in their agreements, particularly as regards 'academic freedoms' and gross violations of human rights. Agreements should clearly state the principles under which NUI operates and its commitment to human rights, and what it expects from partner organisations. NUI institutions will not enter into or continue partnership arrangements where unacceptable restrictions are placed on the University. Conditions of work for academic and administrative staff employed by NUI institutions in their international academic engagements must be consistent with the maintenance of the highest academic standards. For example, academics visiting a country should have an opportunity to meet with whomever they wish and not suffer restrictions to their own academic freedoms.

(i) Where there is already a poor human rights record in a country prior to establishing a partnership/campus

- Where human rights abuses occur during a partnership agreement, NUI institutions should have a clear policy for action. Where the international community has identified and criticised gross human rights abuses such as attacks on civilians, NUI institutions should ensure that they take appropriate action, whether publicly or privately. In deciding what action to take – for example, issuing a statement or withdrawing temporarily from a country – the institution concerned should source information from the UN, Department of Foreign Affairs and major NGOs. In particular the UN will frequently issue recommendations applicable to non-State actors in the country that can steer the NUI institution towards the correct action.

- In situations of political or civil unrest or disturbance, where students or academics are arrested, NUI institutions will take all appropriate action to support the individual(s) concerned. Such action will include, as appropriate, making arrangements for the individual(s) to be visited by a member of staff and to be legally represented. In addition, the NUI institution will make representations to the Government concerned and liaise with the Department of Foreign Affairs.
- Where an NUI institution decides to withdraw, either on a temporary basis or permanently, from a country, because of human rights abuses or threats to the safety of its staff, it should take all possible steps to ensure that the interests of students enrolled on programmes of study or research are salvaged and that as far as possible, arrangements are put in place to enable them to continue their studies/research, whether in Ireland or elsewhere. Every reasonable action should be taken to ensure students are not placed at a financial loss due to any such withdrawal.
- Where an institution decides, having consulted the relevant agencies (UN, DFA etc.), that the most effective action it can take is privately to lobby the relevant authorities in the country concerned, it can expect to face strong public criticism internationally and in Ireland because of its failure to issue a public condemnation of the abuses which have taken place, or to suspend its activities in the country. An institution should be prepared publicly to justify the course of action it has decided on and so to counteract the negative publicity and the risk of damage to its reputation and to that of NUI. The adoption of these Human Rights Principles and the implementation of the Code of Conduct will assist NUI or any NUI institution in communicating its approach in such situations.

Source: *United Nations Department of Public Information, NY*

Universal Declaration of Human Rights



Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as 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.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and

fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

ISBN 978-0-901510-57-0



9 780901 510570 >