

Palliative Care as a Human Right

Palliative care is fundamental to health and human dignity and is a basic human right. Palliative care is highly effective in managing pain and physical symptoms and can improve adherence to medications. It can and should be delivered with curative treatment that begins at the time of diagnosis. But palliative care goes much further than physical care. It is a holistic approach that improves the quality of life for patients and their families by addressing the psychosocial, legal, and spiritual problems associated with life-threatening illness.

The need for palliative care is growing worldwide.

- Fifty-eight million people die each year. According to the World Health Organization, 60 percent of people would benefit from palliative care.¹
- Eight million people died from cancer in 2007, and this is projected to increase to 12 million by 2030.² More than 50 percent of cancer patients experience pain, and between 60 to 90 percent of patients with advanced cancer experience moderate to severe pain.³
- Two million people died of AIDS in 2009, and 2.6 million more were newly infected with HIV, bringing the total number of HIV-positive people to 33 million.⁴ Between 60 to 80 percent of patients with AIDS experience moderate to severe pain and can suffer from a range of symptoms, which palliative care can help to alleviate.⁵

Palliative care is inexpensive and can be provided across all care settings.

- Severe pain can be effectively managed with inexpensive oral morphine. Oral morphine in powder or tablet form is an essential medicine as declared by the World Health Organization. It is not protected by patent and can be produced for as little as US\$0.01 per milligram.⁶
- Research studies have shown that oral morphine has been used safely in managing chronic cancer pain in patients.
- Palliative care can be delivered in a variety of settings including hospitals, outpatient clinics, residential hospices, nursing homes, community health centers, and at home.

Palliative care is recognized under international human rights law.

It is critical to provide “attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity.”

—UN Committee on Economic, Social and Cultural Rights⁷

“The failure to ensure access to controlled medications for pain and suffering threatens fundamental rights to health and to protection against cruel, inhuman and degrading treatment.”

—UN Special Rapporteurs on Health and Torture⁸

- Under article 12 of the International Covenant on Economic, Social and Cultural Rights and article 7 of the International Covenant on Civil and Political Rights, countries are obliged to take steps to ensure that patients have access to palliative care and pain treatment.
- According to the UN Committee on Economic, Social and Cultural Rights, “States are under the obligation to respect the right to health by . . . refraining from denying or limiting equal access for all persons . . . to preventive, curative and palliative health services.”⁹
- Access to essential drugs, as defined by the WHO Action Programme on Essential Drugs, is part of the minimum core content of the right to the highest attainable standard of health.¹⁰ Fourteen palliative care medications are currently on the WHO Essential Drug List.
- The UN Special Rapporteur on Torture, Cruel, Inhuman or Degrading Treatment or Punishment has stated that “the de facto denial of access to pain relief, if it causes severe pain and suffering, constitutes cruel, inhuman or degrading treatment or punishment.”¹¹

Palliative care is denied to millions of patients worldwide.

“The pain was so bad that my whole body seemed to break. We would call the ambulance every 2 to 3 hours because I could not stand the pain. It was intolerable to live like that.”

—Vasili, a 66-year-old cancer patient from Ukraine

- Eighty percent of the world population has either no or insufficient access to treatment for moderate to severe pain.¹²
- Low and middle income countries account for six percent of morphine use worldwide while having about half of all cancer patients¹³ and 95 percent of all new HIV infections.¹⁴
- Thirty-two countries in Africa have almost no morphine availability at all.¹⁵
- In the United States, over a third of patients, from children to the elderly, are not adequately treated for pain. In France, a study found that doctors underestimated pain in over half of their AIDS patients.¹⁶

Without urgent action to make palliative care available, vast suffering will continue.

“All measures should be taken to ensure full access and to overcome current regulatory, educational and attitudinal obstacles to ensure full access to palliative care.”

—UN Special Rapporteur on Torture¹⁷

Governments should take the following steps:

- Develop a national palliative care strategic plan to meet needs and address obstacles and set benchmarks to ensure progress.
- Integrate palliative care into the national public health system by including it in all national health plans and policies and developing the necessary standards, guidelines, and clinical protocols.
- Eliminate regulatory barriers that restrict availability and access to essential palliative care medications, especially oral morphine.
- Integrate palliative care into the curriculum and training programs of medical, nursing, and other health care professionals.

Notes

1. Stjernsward J, Clark D. Palliative Medicine: A global perspective. In: Doyle D, Hanks G, Cherny N, Calman K, eds. *Oxford Textbook of Palliative Medicine*, 3rd ed. Oxford: Oxford University Press, 2004:1197e1224.
2. World Health Organization, “Are the number of cancer cases increasing or decreasing in the world?”, April 2008, <http://www.who.int/features/qa/15/en/index.html>.
3. Human Rights Watch, “Please, Do Not Make Us Suffer Any More...”: Access to pain treatment as a human right, March, 2009, <http://www.hrw.org/en/reports/2009/03/02/please-do-not-make-us-suffer-any-more>, p 5.
4. Global report: UNAIDS report on the global AIDS epidemic 2010. Geneva (2010.)
5. Vogl D, Rosenfeld B, Breitbart W, Thaler H, Passik S, McDonald M, Portenoy RK, “Symptom prevalence, characteristics, and distress in AIDS outpatients,” *Journal of Pain and Symptom Management*. Vol. 18 No. 4 (1999): 253; Silverberg MJ, Gore ME, French AI, Ghandi M, Glesby MJ, Kovacs A, Wilson TE, Young MA, Gange SJ, “Prevalence of clinical symptoms associated with highly active antiretroviral therapy in the Women’s Interagency HIV Study,” *Clinical Infectious Diseases*. Vol. 40, No. 3 (2005): 491.
6. Kathleen M. Foley, Judith L. Wagner, David E. Joranson, and Hellen Gelband, “Pain Control for People with Cancer and AIDS.” *Disease Control Priorities in Developing Countries* (2nd Edition), ed., New York: Oxford University Press, 2006; 981–994.
7. Committee on Economic, Social and Cultural Rights (CESCR) General Comment 14, para. 25.
8. Letter from Manfred Nowak, Special Rapporteur on Torture, and Anand Grover, Special Rapporteur on the right to the highest attainable standard of health, to Her Excellency Ms. Selma Ashipala-Musavyi, Chairperson of the 52nd Session of the Commission on Narcotic Drugs, December 10, 2008, http://www.hrw.org/sites/default/files/related_material/12.10.2008%20Letter%20to%20CND%20fromSpecial%20Rapporteurs.pdf (accessed November 6, 2009), p. 4.
9. CESCR General Comment 14, para. 34.
10. CESCR General Comment 14, para. 12.
11. Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/10/44, January 14, 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/G0910312/PDF/G0910312.pdf?OpenElement> (accessed August 4, 2009), para. 72.
12. World Health Organization Briefing note, “Access to Controlled Medications Programme,” September, 2008.
13. WHO, National Cancer Control Programme: Policies and Managerial Guidelines, 2002, p. 17.
14. National institute of allergy and infectious diseases, NIH, DHHS, “HIV Infection in Infants and Children,” July 2004, <http://www.niaid.nih.gov/factsheets/hivchildren.htm>; Fauci AS. “AIDS epidemic: Considerations for the 21st century,” *New England Journal of Medicine*, vol. 341, no. 1414, 1999, pp. 1046–1050.
15. INCB, Report of the International Narcotics Control Board for 2004, United Nations, E/INCB/2004/1, 2005; INCB, “Use of essential narcotic drugs to treat pain is inadequate, especially in developing countries,” press Release, March 3, 2004.
16. Larue, Francois et al., “Underestimation and under-treatment of pain in HIV disease: a multicentre study,” *British Medical Journal*, vol. 314, no. 23, 1997, <http://www.bmj.com/cgi/content/full/314/7073/23> (Accessed March 2010).
17. Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC.10/44, January 14, 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.44AEV.pdf>, (accessed November 10, 2009), para. 74(e).