

Palliative Care as a Human Right

Palliative care is the holistic management of physical, psychological, legal, and spiritual problems faced by patients with life-threatening illness and by their families. Palliative care can be delivered in a variety of settings, including hospitals, outpatient clinics, residential hospices, nursing homes, community health centers, and at home. It is fundamental to health and human dignity and is a basic human right. It can and should be provided alongside curative treatment that begins at the time of diagnosis.

Millions of patients worldwide do not receive the palliative care they need.

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

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

- An estimated 40 million people need of palliative care annually. Nearly 8 out of 10 live in low- or middle-income countries.¹
- Worldwide, only about 14 percent of people who need palliative care receive it.²
- The global number of people older than 60 years of age is rapidly growing,³ as is the prevalence of non-communicable diseases.⁴ As a result, the need for palliative care is expected to rise.⁵
- Tens of millions of people suffer from moderate to severe pain without having access to pain medicines like morphine, including 5.5 million terminal cancer patients, 1 million end-stage AIDS patients, and 0.8 million patients injured by accidents or violence.⁶
- Approximately 80 percent of the world’s population does not have access to morphine for pain relief,⁷ despite that morphine is not protected by patent and can cost as little as a few cents per unit.⁸
- 17 percent of the world’s population consumes 92 percent of the world’s morphine, primarily in North America, Oceania, and Western Europe.⁹

- Despite carrying the largest burden of HIV/AIDS in the world, Africa has the lowest levels of consumption of opioid analgesics.¹⁰
- In the world’s poorest countries, a patient with pain dying from HIV/AIDS or cancer consumes an average 200 mg of morphine; while the average morphine consumption per death in pain from HIV/AIDS or cancer in some of the world’s richest countries is 99 000 mg.¹¹

Palliative care is increasingly recognized under international and regional 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 Rights, 2000 (I)

“Governments must guarantee essential medicines—which include, among others, opioid analgesics—as part of their minimum core obligations under the right to health, and take measures to protect people under their jurisdiction from inhuman and degrading treatment.”

—UN Special Rapporteur on Torture, 2013 (II)

- Palliative care is a recognized component of the right to the highest attainable standard of health, which is protected in article 12 of the International Covenant on Economic, Social and Cultural Rights, and in article 24 of the Convention on the Rights of the Child.

- According to the UN Committee on Economic, Social and Cultural Rights, states are obligated to respect the right to health and must not deny or limit equal access to preventive, curative, or palliative health services.¹² These obligations include providing nondiscriminatory access to essential medicines and health facilities, especially for vulnerable or marginalized groups.¹³
- Access to essential medicines, 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. Twenty palliative care medications are on the list of essential drugs, including morphine.¹⁴
- Ensuring pediatric palliative care is a human rights obligation. According to the UN Committee on the Rights of the Child, “children are entitled to quality health services, including prevention, promotion, treatment, rehabilitation and palliative care services.”¹⁵
- Access to adequate pain relief is protected under Article 7 of the International Covenant on Civil and Political Rights, which prohibits torture, inhuman or degrading treatment or punishment.¹⁶
- The UN Special Rapporteurs on Torture and on Health have stated that the denial of access to pain relief, if it causes severe pain and suffering, may amount to cruel, inhuman or degrading treatment or punishment.
- The 2015 Inter-American Convention on the Human Rights of Older Persons is the first treaty to explicitly refer to palliative care in multiple provisions. It requires countries to provide access to palliative care without discrimination, prevent unnecessary suffering and futile procedures, and appropriately manage problems related to the fear of death.¹⁷
- The World Health Assembly issued its first global resolution on palliative care in 2014, Resolution WHA67.19, calling upon WHO and Member States to improve access to palliative care as a core component of health systems.¹⁸
- In a study on the impact of the world drug problem on the enjoyment of human rights, The UN High Commissioner for Human Rights affirmed that access to controlled drugs is a critical part of the right to health.¹⁹

- Palliative care advocates launched the Prague Charter “Palliative Care: a human right” in 2013, which urged governments worldwide to focus efforts into developing or improving palliative care, including widening patient access to pain medication.²⁰

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 Torture (III)

Governments should take the following steps:

- Include palliative care in the national health plan. According to the maximum available resources, ensure that it is progressively available in sufficient quantity; accessible to everyone without discrimination; respectful of medical ethics; and is culturally, scientifically and medically appropriate. It must be of good quality, reflecting the particular rights of children and older people.
- Ensure adequate availability of pain relief. This includes removing unnecessary regulations that restrict availability and access to essential medications like oral morphine.
- Integrate palliative care into the curriculum and training programs of medical, nursing, and other health care professionals, particularly home- and community-based palliative care.
- Raise public awareness about the right to pain relief and pain medication, and the availability of treatment for severe pain in the country.

Quotes

- (I) UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14, The right to the highest attainable standard of health, E/C.12/2000/4, August 11, 2000, para. 25.
- (II) Human Rights Council, Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, February 1, 2013, A/HRC/22/53, para. 55–56; Also see para. 51–54, and Recommendations on para. 86.
- (III) 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, para. 74(e).

Notes

1. WHO, Fact sheet N°402, Palliative Care, July 2015, <http://www.who.int/mediacentre/factsheets/fs402/en/>.
2. WHO, Fact sheet N°402, Palliative Care, July 2015, <http://www.who.int/mediacentre/factsheets/fs402/en/>.
3. UN Department of Economic and Social Affairs—Population Division, World Population Ageing 2013, <http://www.un.org/en/development/desa/population/publications/pdf/ageing/WorldPopulationAgeing2013.pdf>, p. xii.
4. WHO, Global status report on noncommunicable diseases 2010 —Description of the global burden of NCDs, their risk factors and determinants, April 2011, http://www.who.int/nmh/publications/ncd_report2010/en/, p. 9.
5. Knaul, Felicia M; Farmer, Paul E; Bhadelia, A; Berman, Philippa; Horton, Richard, Closing the divide: the Harvard Global Equity Initiative—Lancet Commission on global access to pain control and palliative care, The Lancet, vol. 389, p. 722, August 22, 2015.
6. WHO, Ensuring balance in national policies on controlled substances: Guidance for availability and accessibility, 2011; http://apps.who.int/iris/bitstream/10665/44519/1/9789241564175_eng.pdf, p. 4.
7. WHO, Ensuring balance in national policies on controlled substances: Guidance for availability and accessibility, 2011; http://apps.who.int/iris/bitstream/10665/44519/1/9789241564175_eng.pdf, p. 4.
8. Seya MJ, Gelders SFAM, Achara OU, Milani B, Scholten WK. A First Comparison between the Consumption of and the Need for Opioid Analgesics at Country, Regional and Global Level. J Pain & Palliative Care Pharmacother, 2011; p. 16.
9. INCB, Report of the International Narcotics Control Board for 2014, United Nations, E/INCB/2014/1, March 2015, <https://www.incb.org/incb/en/publications/annual-reports/annual-report-2014.html>, p. 3.
10. INCB, Report of the International Narcotics Control Board on the Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes 2010, E/INCB/2010/1, January 2011, http://www.unodc.org/documents/lpo-brazil/noticias/2011/03-marco/life/Report_of_the_Board_on_the_availability_of_controlled_substances.pdf, p. 24.
11. Knaul, Felicia M; Farmer, Paul E; Bhadelia, A; Berman, Philippa; Horton, Richard, Closing the divide: the Harvard Global Equity Initiative – Lancet Commission on global access to pain control and palliative care, The Lancet, vol. 389, p. 723, August 22, 2015.
12. UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14, The right to the highest attainable standard of health, E/C.12/2000/4, 11 August 2000, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11, para. 34.
13. CESCR General Comment 14, para. 43.
14. CESCR General Comment 14, para. 12.
15. UN Committee on the Rights of the Child, General Comment No. 15, The right of the child to the enjoyment of the highest attainable standard of health, CRC/C/GC/15, April 17, 2013, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11, para. 25.
16. 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>, para. 72; Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, February 1, 2013, A/HRC/22/53, para. 55–56, para. 51–54, and para. 86; 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, p. 4.
17. OAS, Inter-American Convention on the Human Rights of Older Persons, AG/doc.5493/15 corr. 1, June 14, 2015.
18. WHA, Resolution WHA67.19, Strengthening of palliative care as a component of comprehensive care throughout the life course, May 24, 2014.
19. UN High Commissioner for Human Rights, Study on the impact of the world drug problem on the enjoyment of human rights, A/HRC/30/65, September 4, 2015, <http://tinyurl.com/nk7ebvv>, para. 31–34.
20. European Association for Palliative Care, Prague Charter “Palliative Care: a human right,” 2013, <http://www.eapcnet.eu/Themes/Policy/PragueCharter.aspx>.

* All electronic links were accessed on August 27, 2015.

Open Society Public Health Program

The Open Society Public Health Program aims to build societies committed to inclusion, human rights, and justice, in which health-related laws, policies, and practices reflect these values and are based on evidence. The program works to advance the health and human rights of marginalized people by building the capacity of civil society leaders and organizations, and by advocating for greater accountability and transparency in health policy and practice.

For more information, see: www.osf.to/health.