

Advancing Palliative Care as a human right

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Palliative Care perspectives

- To the palliative care community it is clear that palliative care and pain relief basic human right
- *“to leave a person in avoidable pain and suffering should be regarded as a serious breach of fundamental human rights”*
Somerville 1995
- *“the relief of severe, unrelenting pain would come at the top of a list of basic human rights.”*
Cousins 1999

Urgency to address pain relief

Torture by omission: “unrelieved pain contravenes the right of the patient to self-determine his or her health care and can destroy autonomy”

Cousins 1999

- Global Day Against Pain (2004)
- The Cape Town Declaration (2002)
- The Korea Declaration (2005)
- World Hospice Day (2008)
- The Joint Declaration and Statement of Commitment on Palliative Care and Pain Treatment as Human Rights (2008)

Palliative Care community – call to governments for:

- The creation and implementation of palliative care policies
- Equity of access to services, without discrimination
- Availability and affordability of essential palliative care medications, including opioids
- The provision of palliative care at all levels of care
- The integration of palliative care education at all levels of the learning continuum from informal caregivers to health professionals

Foundations of a right to Palliative Care?

Multiple sources

International Human Rights Law

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 12 (1) The State Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

“Core obligations” of all signatory nations,
irrespective of resources.

In the context of palliative care

This would oblige nations :

- To ensure a universal access to palliative care services,
- To ensure the provision of basic medications for symptom control and terminal care, including analgesics
- To ensure the adoption and implementation of national pain and palliative care policies

*Statements by UN Special Rapporteurs on
human rights*

The Special Rapporteur on the Right to Health

“Many other right-to-health issues need urgent attention, such as palliative care...Every year millions suffer horrific, avoidable pain...Palliative care needs greater attention.”

Statement made to the UN Human Rights Council by
The Special Rapporteur on the Right to Health - 2008

The UN Special Rapporteur on Torture, Cruel and Inhuman Treatment

“The de facto denial of access to pain relief, if it causes pain and suffering, constitutes cruel, inhuman or degrading treatment ...all measures should be taken to ensure full access [to pain treatment and opioid analgesics] and to overcome current regulatory, educational and attitudinal obstacles to ensure full access to palliative care.”

The UN Special Rapporteur on Torture in his report to the Human Rights Council - January 2009

The two Rapporteurs also made a joint statement to the Chairperson of the Commission on Narcotic Drugs in late 2008.

After reviewing the inadequacies of pain management and Palliative Care around the world, they stated that...

“The failure to ensure access to controlled medicines for the relief of pain and suffering threatens fundamental rights to health and to the protection against cruel inhuman and degrading treatment. International human rights law requires that governments must provide essential medicines – which include, among others, opioid analgesics – as part of their minimum core obligations under the right to health...

...Lack of access to essential medicines, including for pain relief, is a global human rights issue and must be addressed forcefully...”

Do we need to use HR to advance PC in our own settings?- if so:

- Document the need
- Document resources, knowledge regarding effectiveness of palliative care and pain management
- Does your national/regional department of health know what the government has committed to as signatory nation?

How do we use HR to advance PC in our own settings?

- Do government employees know what policies are required?
- Are they concerned about sharing scarce resources equitably?
- Can we provide a workable proposal to our government?

Workshop

In our work setting is there a need to enhance:

- Access to care?
- Access to medication (pain medication)?
- Education of health care personnel/policy makers?
- Equity of access? for marginalised communities?

Steps to promote these issues in your setting

- Document need & knowledge
- Offer assistance in writing regulations/conducting cost-benefit analysis
- Identify Human Rights instruments and structures that can be used
- Identify regional & international resources to assist your efforts
- Sensitivity to relationship with Government health departments