

Submission of Shadow Report  
Panama 2015 Universal Periodic Review

International Association for Hospice and Palliative Care (IAHPC), a civil society organisation, respectfully submits this report for the 22nd Session of the HRC UPR.

Title: Palliative Care and Access to Opioid Medicines in Panama 2014

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### **Organization of report**

- I. Methodology
- II. 2010 UPR Panama statements and accepted recommendations
- III. Panama's human rights treaty obligations re palliative care and access to controlled essential opioid medicine
- IV. Panama Progress since 2010 UPR
- V. WHA resolution leadership
- VI. Recommendations

### **Section I. Methodology**

- A. IAHPC reviewed Panama's 2010 UPR and the WG recommendations, as well as Panama's acceptance;
- B. IAHPC reviewed international law and multilateral treaties ratified by Panama, as well as relevant UN Treaty Body and Specialised Agency statements pertinent to member state provision of palliative care and opioid medicines for pain relief;
- C. IAHPC reviewed Panama's progress to date on accepted 2010 UPR recommendations with IAHPC members and experts in Panama;
- D. IAHPC accepted recommendations of Panama experts in palliative care

## **Section II. 2010 UPR Panama Statements and Accepted Recommendations**

1. In its 2010 UPR, Panama stated that it is committed to the right to life

37. As a State party to the American Convention on Human Rights and the International Covenant on Civil and Political Rights and its optional protocols aiming at the abolition of the death penalty, Panama is also bound to guarantee this right to every person.

2. One direct consequence of this right is the requirement that the State provide effective health care, whose aim is to preserve human life [...]. This right implicates the obligation to provide palliative care as per CESCR Comment 12, para. 14.

3. Commenting on the right to health in the 2010 UPR, Panama stated that:

63. "The 2010–2014 strategic plan sets out State initiatives to address the problems of the most vulnerable population groups." [A priority is] "increasing the coverage and quality of basic health services, with particular emphasis on primary care and the development of the hospital network; establishing a support network for the poorest families and older adults; and introducing social protection measures for vulnerable groups."

Again, this priority implicates the provision of palliative care. Seriously ill persons and the frail elderly are "vulnerable groups". Palliative care can be considered a social protection measure.

Panama accepted the following recommendations regarding the right to health from Bangladesh and Colombia during the 2010 Review:

68.32. Continue to implement the strategic plan 2010-2014 to increase health coverage for the most vulnerable groups of the population (Colombia);

68.33. Continue to strengthen its efforts in health reform, in particular with regard to primary health care (Bangladesh);

## **Section III. Obligations of Panama under existing multilateral and regional treaties; comments of treaty bodies and UN specialized agencies re provision of palliative care, including access to essential opioid medicines;**

- A. Single Convention on Narcotic Drugs:

**PP2:** "Recognizing that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes;"

Article: GENERAL OBLIGATIONS

The parties shall take such legislative and administrative measures as may be necessary:

- a) To give effect to and carry out the provisions of this Convention within their own territories;
- b) To co-operate with other States in the execution of the provisions of this Convention; and
- c) Subject to the provisions of this Convention, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.

Panama ratified the Single Convention on 4 December 1963.

Panama ratified the Protocol Amending the Single Convention on 19 October, 1972

## B. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1976

### Article 12

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health [...]

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Panama ratified in ICESR in 1977

## SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

General Comment No. 14 (2000)

### I. NORMATIVE CONTENT OF ARTICLE 12

7. Article 12.1 provides a definition of the right to health, while article 12.2 enumerates illustrative, non-exhaustive examples of States parties' obligations.

9. The notion of "the highest attainable standard of health" in article 12.1 takes into account both the individual's biological and socio-economic preconditions and a State's available resources. There are a number of aspects which cannot be addressed solely within the relationship between States and individuals; in particular, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health [...] the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.

## C. ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS IN THE AREA OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS "Protocol of San Salvador"

### Article 10 Right to Health

1. Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being.

2. In order to ensure the exercise of the right to health, the States Parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right:

a. Primary health care, that is, essential health care made available to all individuals and families in the community;

b. Extension of the benefits of health services to all individuals subject to the State's jurisdiction; [...]

f. Satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

## D. UN TREATY BODIES AND SPECIALIZED AGENCIES

### HUMAN RIGHTS COUNCIL

1. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover: Laws prohibiting the possession and use of drugs also impact the availability and accessibility of medicines required for palliative care and other health conditions. Access to controlled medicines is essential in the management of moderate to severe pain, including as part of palliative care for people with life-limiting illnesses; certain emergency obstetric situations; and management of epilepsy. The right to health requires States to provide essential drugs mentioned in the WHO list of essential medicines. Recognizing the need of opioid analgesics in relieving pain, WHO has categorized them as essential medicines. It is therefore incumbent on the State to facilitate physical and economic access to such essential medicines. Patients with cancer and HIV require such analgesics to relieve pain.

2. Ibid: “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.”

3. Special Rapporteur on Torture at the 10th session of the Human Rights Council  
Applying a human rights-based approach to drug policies  
[...] I explored the question of access to palliative care and pain relief. Worldwide, millions of people continue to suffer from severe pain that often could be alleviated by drug-based palliative care and pain relief. Apart from other reasons, such as poverty and overall problems relating to health care, restrictive drug policies have contributed to a situation in which access to narcotic drugs is still severely restricted and sometimes unavailable, in particular in the global South. I am of the opinion 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.

4. HRC Resolution 15/22 on the “Right of everyone to the enjoyment of the highest attainable standard of physical and mental health”

The Human Rights Council,

“Concerned that, for millions of people throughout the world, the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through access to medicines that are safe, effective, affordable and of good quality, in particular essential medicines, vaccines and other medical products, and to health-care facilities and services, still remains a distant goal and that, in many cases, especially for those living in poverty, this goal remains remote,”

“Recalling that access to medicine is one of the fundamental elements in achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and that it is the responsibility of States to ensure access for all, without discrimination, to medicines, in particular essential medicines, that are affordable, safe, effective and of good quality,”

“Recalling further Commission on Narcotic Drugs resolution 53/4 of 12 March 2010...”

2. Encourages the Special Rapporteur, in fulfilling his mandate:

“(m) To continue to address the issue of access to medicines that are safe, effective, affordable and of good quality, taking note of the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines;”

4. Calls upon all States:

“(k) To take into account the fact that access to medicine is a fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;”

5 . Palliative care

54. General comment No. 14 states that measures should be taken to ensure attention and care for those who are chronically and terminally ill, sparing them avoidable pain and enabling them to die with dignity (E/C.12/2000/4, para. 25).

Palliative care is the primary approach, from a health perspective, of seeking to improve the quality of life of patients diagnosed with life-threatening illnesses through prevention and relief of suffering...

## WORLD HEALTH ASSEMBLY

Resolution EB134.R7

Preambular Paragraph 7 of the resolution tabled by Panama and passed unanimously at the 2014 WHA, states:

“Affirming that access to palliative care and to essential medicines for medical and scientific purposes manufactured from substances under control, including opioid analgesics such as morphine, in line with the three United Nations international drug control conventions, contributes to the realization of the right to the enjoyment of the highest attainable standard of health and well-being;”

and Operational Paragraph 1 of the resolution

1. URGES Member States:

(1) to develop, strengthen and implement, where appropriate, palliative care policies to support the comprehensive strengthening of health systems to integrate evidence-based, cost-effective and equitable palliative care services in the continuum of care, across all levels, with emphasis on primary care, community and home-based care, and universal coverage schemes;

In its oral statement at the World Health Assembly, in support of the historic resolution on palliative care drafted and tabled by Panama, the representative for Panama appealed: “to countries to make sure that there is sufficient supply of all essential medicines for palliative care for both children and adults and also improvement of the availability of opioid medicines”.

## ECONOMIC AND SOCIAL COUNCIL

Resolution ECOSOC 2005/25 on Treatment of pain using opioid analgesics (36th plenary meeting 22 July 2005)

“The Economic and Social Council,  
(...)”

1. Recognizes the importance of improving the treatment of pain, including by the use of opioid analgesics, as advocated by the World Health Organization, especially in developing countries, and calls upon Member States to remove barriers to the medical use of such analgesics, taking fully into account the need to prevent their diversion for illicit use;

## IV. PANAMA PROGRESS TO DATE SINCE 2010 UPR

We would like to commend Panama for undertaking the following initiatives described in Paras. 64, 65, and 66 of the 2010 UPR:

64. [Conducting] outreach programs based on the principles of equality and non-discrimination [...] in an effort to guarantee the two essential, interrelated components of the right to health — availability and accessibility — and thus ensure that everyone has the same degree of access to health care. The Ministry of Health has set up innovative primary care centres to reinforce primary health services. These centres are developing a new model of care, as well as human resources and information and communication technologies that are beginning to facilitate a comprehensive approach.

65. The Ministry of Health has established the right to universal, free access to health-care services in its facilities for the following vulnerable groups: children up to the age of 5 years, women during pregnancy and the post-natal period, persons with disabilities and indigenous peoples in the most underprivileged sectors of society.

66. There are also a number of innovative plans, including a palliative care programme and a companionship and spiritual support programme for people with chronic illnesses, including cancer.

1. To comply with the Government's Law 68 of November 20th, 2003 that in its chapter V, article 23 provides that: “The acting health care team at every hospital unit must keep all those measures to enable the best quality of life support possible to the patient until his death, for which the hospitals should have palliative care units operational”.

2. “Primary care facilities should offer extended palliative care, to ensure the best quality of life and pain relief through the medical personnel they have”, the Government of Panama, through the Ministry of Health approved the resolution no. 499 of June 21th, 2010 establishing the National Palliative Care program and other provisions.

3. During four consecutive years the National Palliative Care Program staff has driven the development and implementation of this resolution. Through training of personnel and by promoting the provision of supplies in different Health Regions, the Program has, step by step, implemented these units or palliative care services.

4. However, there are still difficulties in prescribing and dispensing prescriptions containing morphine and other controlled substances for medical use. This is reflected in the per capita mean of morphine in mg: 0.8 mg versus a global mean of 5.9 mg per capita for the year 2013.

5. The population could receive better care related to palliative care if the rules governing prescription and dispensation of opioids and other controlled substances for medical use were modified to improve the balance between control measures and access.

6. Such a measure should be accompanied by in situ training and transversal training in Universities and medical schools aimed at improving knowledge of pain management and decreasing fear of dependence syndrome.

7. Pharmacists in various regions of the country are facing challenges dispensing opioid prescriptions generated in healthcare facilities other than their own, even when they may have sufficient morphine to meet the needs of their region.

In summary: The Government has taken important steps to advance palliative care, both at the national and international levels. Panama's leadership in drafting and tabling WHA Resolution EB134/R7 was indispensable to the resolution's unanimous ratification at the 2014 World Health Assembly. The new challenge is to fully implement the Resolution in Panama.

**A key point that must be highlighted:** Since the creation of the National Palliative Care Program various health regions have implemented palliative care services. The Program has trained a large number of health professionals in the field and has improved the supply and estimates of medications containing controlled substances for medical use.

#### **V. Recommendations:**

That the National Assembly

Strengthen or appropriately adapt The Law of Controlled Substances for Medical Use

Adopt a resolution allowing all pharmacies to dispense prescriptions for opioids

Initiate a program oriented to teach pain management, palliative care and overcome the barrier of fear of dependence syndrome to improve prescribing and dispensing of opioids, in particular oral morphine, where clinically indicated.

Review in order to Enact a palliative care law regarding patients' rights similar to that ratified by Colombia in September, 2014.