

# The Global Drug War: Fueling Lack of Access to Essential Medicines



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**The war on drugs has had a disastrous impact on human rights, notable among them the right to health. The over-emphasis on suppression and punishment has created major obstacles to ensuring availability of internationally controlled substances for medical use. The nature of the international drug policy regime has directly resulted in drug laws based on fear and stigma, instead of science and evidence. Millions of people around the world are needlessly dying in pain because of an imbalanced approach to drug policy.**

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## **Dangerous Lack of Access to Controlled Medicines**

Multiple controlled substances have important medical uses for pain relief, opioid dependence treatment, psychiatry, neurology, and more.<sup>i</sup>

Five-and-a-half billion people live in countries with inadequate access to medicines for pain relief,<sup>ii</sup> according to the International Narcotics Control Board (INCB), which is the body responsible for monitoring the implementation of the UN drug conventions. This means that millions of people are suffering from avoidable pain, including 5.5 million terminal cancer patients, one million people with end-stage AIDS, 800,000 victims of accidents and violence, millions of women in labor, and millions more recovering from surgery.<sup>iii</sup>

Morphine is an inexpensive and highly effective pain relief medicine for moderate to severe pain. It is widely unavailable despite adequate production, however, especially in middle- and low-income countries. Ninety-two percent of the world's morphine is consumed by 17% of its population,<sup>iv</sup> with use concentrated in the U.S., Canada, Western Europe, Australia, and New Zealand.<sup>v</sup> It is derived from the opium plant and is listed as a controlled substance under the UN Convention on Narcotic Drugs.

## **Single Convention on Narcotic Drugs, 1961**

One of three UN treaties on international drug control, the 1961 Convention, recognizes that "*the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering.*"<sup>vi</sup> Hence, the Convention creates a dual obligation on states to curtail illicit use and production of controlled substances, while ensuring that they are still available for medical use. However, many governments consistently fail to make these available in their countries due to an excessive emphasis on prohibitionist approaches.

The World Health Organization (WHO) has included morphine in its *List of Essential Medicines*, a list of medicines that address priority health care needs that are selected based on their public health relevance, evidence of clinical efficacy and safety, and their cost-effectiveness<sup>vii</sup>. The WHO has also recognized that pain treatment is an essential part of cancer and HIV treatment.<sup>viii</sup> Also included in this list are buprenorphine and methadone, which are used to treat people dependent on opioids such as heroin, as well as medications commonly used in anesthesia, neurology and psychiatry.

## **Impact of UN Policy on Access to Controlled Pain-Relief Medication**

Through its Conventions, the UN lays out the framework within which national governments must formulate their drug laws, thereby giving direction to national drug laws. The balance envisioned in the Preamble of the 1961 Convention has given way to a disproportionate focus on prevention of use and trade.<sup>ix</sup> While many factors contribute to the lack of access to controlled medicines, limited government action guided by an imbalanced implementation of UN Conventions continues to be the most significant barrier.

Because pain relief medicines such as morphine are included in the 1961 Convention, governments must control the entire process of their manufacture, distribution and use. Hence, if the government doesn't supply an adequate amount for medical use, or enable private actors to do so, they will simply not be available.<sup>x</sup>

### **Problems With the Current System**

Presently, national governments give the INCB an estimate of the amount of morphine and other controlled substances that they will require for the following year. The INCB must approve a quota based on the estimates and instruct producing countries to grow or produce a stipulated amount of the raw material.

Most national governments, however, grossly underestimate the amount of morphine they need. For example, as Human Rights Watch reports, the West African nation of Burkina Faso's estimate to the INCB in 2009 was 49 grams of morphine. It is estimated that the average terminal cancer or AIDS patient needs 60-75 milligrams of morphine per day for about 90 days. Burkina Faso's 2009 estimate to the INCB would thus be adequate morphine for just *eight* patients.<sup>xi</sup>

The imbalanced approach of international drug policy and the obligations it imposes on states have resulted in excessive rules and regulations for the distribution, licensing and prescribing of controlled medicines by many states. These include arbitrary restrictions on pharmacies permitted to sell certain medicines, on medical professionals permitted to prescribe them, and on the number of doses allowed per patient, often coupled with burdensome paperwork.<sup>xii</sup>

Furthermore, this restrictive regulatory environment acts as a deterrent to medical professionals, who become fearful of legal sanction and harsh punishments. The current system is based on misinformed fears of drug use and addiction. It fuels the perpetuation of restrictive regulations as well as insufficient investment in training of medical professionals. This, in turn, leads to a poor understanding of certain substances and a gross failure in making them accessible for medical purposes.

### **The Long-Term Impacts of Untreated Chronic Pain**

Persistent pain can have a devastating effect on patients, with important physical, psychological and social consequences. Not only can it lead to reduced mobility and loss of strength but it can compromise the patient's immune system and interfere with their ability to eat, sleep and interact with other people. Patients who suffer from moderate to severe pain are also far more likely to suffer from depression and anxiety. The debilitating effect of physical pain and the psychological strain it causes can even influence the course of the disease.<sup>xiii</sup>

People suffering from severe pain interviewed by Human Rights Watch expressed the same sentiments as victims of torture – all they wanted was for the pain to stop, many of whom wanted to die or commit suicide to end the pain and suffering.<sup>xiv</sup>

### **International Human Rights Crisis**

The right to health is recognized and codified under international law<sup>xv</sup> and thus imposes an obligation on states to take steps to help its citizens achieve this right. Multiple human rights bodies and experts<sup>xvi</sup> have confirmed that provision of controlled medicines is a part of states' obligations under this right.<sup>xvii</sup> To the extent that the denial of pain-relief treatment causes severe pain and suffering, it can also constitute "cruel, degrading, and inhuman treatment or punishment."<sup>xviii</sup> Both of these human rights are being denied to billions of people around the world, largely fueled by the international war on drugs.

### **The 2016 United Nations Special Session on Drugs**

The outcome document adopted at the United Nations General Assembly Special Session (UNGASS) on the World Drug Problem in April 2016 included, for the first time, an entire section on lack of access to controlled medicines.

The document reiterated a "strong commitment to improving access to controlled substances for medical and scientific purposes by appropriately addressing existing barriers in this regard, including those related to legislation, regulatory systems, health-care systems, affordability, the training of health care professionals, education, awareness-raising, estimates, assessment and reporting, benchmarks for consumption of substances under control, and international cooperation and coordination, while concurrently

preventing their diversion, abuse and trafficking.”<sup>xix</sup>

The UNGASS outcome document included the following recommendations:

- Consider reviewing national regulatory and administrative mechanisms;
- Remove unduly restrictive regulation and impediments to ensure access to controlled substances for medical and scientific purposes;
- Strengthen the functioning of national control systems and domestic assessment programs;
- Address issues related to affordability of controlled substances for medical and scientific use;
- Strengthen the capacity of competent national authorities to adequately estimate and assess the need for controlled substances.

### After UNGASS: Looking Ahead

While the advancement of the issue at UNGASS represents an important step in the right direction, it must be noted that in many countries, a generation of doctors have been practicing with undue restrictions on administering certain essential medicines. Health professionals must be adequately trained, removing stigma and misinformed fears of addiction, while ensuring that steps are taken to prevent illicit diversion of controlled medicines. Undoing the damage done by decades of drug war rhetoric will require time and continuous efforts by the UN Member States.

It is unacceptable that our misguided drug policies result in the suffering of millions, despite substantial evidence of the importance of controlled substances for medical purposes. The need for appropriate regulatory restrictions on essential medicines must not override the fundamental right to health.

<sup>i</sup> World Health Organization (2011), Ensuring balance in national policies on controlled substances, Guidance for availability and accessibility of controlled medicines [http://apps.who.int/iris/bitstream/10665/44519/1/9789241564175\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/44519/1/9789241564175_eng.pdf)

<sup>ii</sup> International Narcotics Control Board Report (2014), [https://www.incb.org/documents/Publications/AnnualReports/AR2014/English/AR\\_2014.pdf](https://www.incb.org/documents/Publications/AnnualReports/AR2014/English/AR_2014.pdf)

<sup>iii</sup> World Health Organization (2012) – Briefing Note, Access to Controlled Medications Programme [http://www.who.int/medicines/areas/quality\\_safety/ACMP\\_Br\\_Note\\_Genr1\\_EN\\_Apr2012.pdf?ua=1](http://www.who.int/medicines/areas/quality_safety/ACMP_Br_Note_Genr1_EN_Apr2012.pdf?ua=1)

<sup>iv</sup> Global Commission on Drug Policy (2015), the Negative impact of drug Control on Public Health: The Global Crisis of

Avoidable Pain,

<http://www.globalcommissionondrugs.org/reports/>

<sup>v</sup> International Narcotics Control Board Report (2014), [https://www.incb.org/documents/Publications/AnnualReports/AR2014/English/AR\\_2014.pdf](https://www.incb.org/documents/Publications/AnnualReports/AR2014/English/AR_2014.pdf)

<sup>vi</sup> United Nations, Single Convention on Narcotic Drugs (1961), [https://www.unodc.org/pdf/convention\\_1961\\_en.pdf](https://www.unodc.org/pdf/convention_1961_en.pdf)

<sup>vii</sup> World Health Organization – Essential Medicines and Health Products [http://www.who.int/medicines/services/essmedicines\\_def/en/](http://www.who.int/medicines/services/essmedicines_def/en/)

<sup>viii</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>ix</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right HRW 2009, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>x</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right HRW 2009, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>xi</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right HRW 2009, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>xii</sup> Open Society Foundations (2015), The Impact of International Drug Policy on Access to Controlled Medicines, [https://www.opensocietyfoundations.org/sites/default/files/impact-international-drug-policy-access-controlled-medicines-20151203\\_0.pdf](https://www.opensocietyfoundations.org/sites/default/files/impact-international-drug-policy-access-controlled-medicines-20151203_0.pdf)

<sup>xiii</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right HRW 2009, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>xiv</sup> Human Rights Watch (2009), “Please, do not make us suffer anymore...” Access to Pain as a Human Right HRW 2009, <https://www.hrw.org/report/2009/03/03/please-do-not-make-us-suffer-any-more/access-pain-treatment-human-right>

<sup>xv</sup> United Nations, International Covenant on Economic, Social and Cultural rights, Article 12,

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>xvi</sup> Committee on Economic, Social and Cultural Rights (CESCR), Committee on the Rights of the Child (CRC), and the United Nations Special Rapporteur on the Right to Health

<sup>xvii</sup> Open Society Foundations (2015), The Impact of International Drug Policy on Access to Controlled Medicines, [https://www.opensocietyfoundations.org/sites/default/files/impact-international-drug-policy-access-controlled-medicines-20151203\\_0.pdf](https://www.opensocietyfoundations.org/sites/default/files/impact-international-drug-policy-access-controlled-medicines-20151203_0.pdf)

<sup>xviii</sup> Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment

<sup>xix</sup> United Nations Economic and Social Council, Special Session of the General Assembly on the world drug problem to be held in 2016, E/CN.7/2016/L.12/Rev.1\* available at [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_59/E\\_CN7\\_2016\\_L2\\_Rev1\\_e\\_V1601764.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_59/E_CN7_2016_L2_Rev1_e_V1601764.pdf)