



Draft AU Protocol on Rights of Older Persons

Letter for Partners to Submit to Governments/Ministries

As international civil society organisations working in the field of palliative care, we commend the African Union for its efforts to protect the rights of older persons in the region by preparing the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, as well as the Addis Ababa Declaration on Social Protection for Inclusive Development. We welcome the additional human rights protections it will bring for older persons in Africa, and appreciate the inclusive language.

However, we are concerned that the language on palliative care was removed from the most recent draft of the Protocol.

The following provision from an earlier draft of the Protocol, which did include palliative care, was deleted:

"...Guaranteed the rights of Older Persons in accessing health services that meet their specific needs, by providing age - sensitive primary health care [...] and by providing Older Persons with long term-term care that allows for independent living and palliative care which spares avoidable pain and enable Older Persons to die in dignity."

Footnote 20 to Article 16, (p. 14) in the Draft Protocol [CAMSD/EXP/4( 1V)] explains that this paragraph was struck for the following reason:

"There was an item calling on Member States to ensure that older persons who are dying receive palliative care and provide them with a choice to terminate their lives. The Commissioners felt that unless there was a clear understanding of what this really entailed, it would be difficult for States Parties to implement this in Africa. The feeling was that this would equate to Euthanasia, a concept that has not yet found wide acceptance in the continent."

As professional organizations that include many clinicians who work in the specialty of palliative care, we would like to state categorically that palliative care *does not equate to, or lead to euthanasia*. Rather, it ensures that patients and families receive care that focuses on relieving suffering, thus allowing older persons to live with dignity until their natural end. In fact, the provision of palliative care reduces public demand for euthanasia.

Respectfully taking note of the drafters' concern about euthanasia, we propose that they re-insert the deleted paragraph, with the following minor change;

Specifically, we recommend replacing "to die in dignity"

with

"to live with dignity, and with pain and symptom control, until their natural end."



The full provision would thus read:

....Guarantee the rights of Older Persons in accessing health services that meet their specific needs, by providing age-sensitive primary health care [...] and by providing Older Persons with long term-term care that allows for independent living and palliative care that spares them avoidable pain and enables Older Persons to live with dignity, and with pain and symptom control, until their natural end.

Palliative care provides appropriate treatment for patients suffering from pain and other symptoms, as well as social, emotional, and spiritual support for the family as a whole. The 2014 World Health Assembly resolution 67.19, "Strengthening of palliative care as a component of comprehensive care throughout the life course," which was sponsored by several African Union countries, defines palliative care [in Preambular Paragraph 6] as

an approach that improves the quality of life of patients (adults and children) and their families who are facing the problems associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and correct assessment and treatment of pain and other problems., whether physical, psychosocial or spiritual;

Furthermore, the African Union Specialised Technical Committee on Health, Population and Drug Control stated in Para. 37 (iv) of its April 2014 report STC- HPDC/MIN/Draft/Rpt.(I), that Member States should:

[...]

develop and advocate for balanced national policies that aim at improving access to medicines for pain and palliative care, meanwhile preventing their misuse, abuse and trafficking;

and Paragraph 8, of the COMMON AFRICAN POSITION (CAP) FOR THE UN GENERAL ASSEMBLY SPECIAL SESSION ON THE WORLD DRUG PROBLEM, APRIL 19-21 2016, STC/EXP/DC/3(1), calls for:

greater support to ensure the provision of opiates and other essential and controlled medicines for *palliative care and pain relief*, as enshrined in the international drug conventions, to remove barriers that prevent the import, distribution and use of these essential medicines.

Palliative care is of particular importance for Older Persons as this group is most likely to develop chronic, life-limiting illnesses that are accompanied by symptoms such as pain. In the absence of palliative care services, millions of Older Persons will experience avoidable pain and suffering. The UN Independent Expert on the Rights of Older Persons recently stated that "Palliative care is not only about lifting older persons out of needless pain and distress; it is an imperative to maintain their dignity at the end of their lives,"

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15152>

We also note that the recently adopted Convention on the Rights of Older People of the Organization of American States, as well as the Recommendation of the Council of Europe's Committee of Ministers,



---

include multiple provisions that explicitly guarantee a right to palliative care for older persons. We attach both documents to this letter with relevant provisions highlighted.

We the undersigned organizations strongly urge member states of the African Union to ensure that the final draft of the Protocol includes language stipulating Older Persons' right to palliative care and pain relief as part of basic healthcare services.

Please feel free to contact us about any questions you may have about palliative care and the rights of older persons.

Very truly yours,

Dr. Emmanuel Luyirika  
Executive Director, African Palliative Care Association

Katherine Pettus, PhD  
International Association for Hospice and Palliative Care Advocacy Officer