

4. GUIDING PRINCIPLES

The GDG agreed that several key principles underpin the recommendations and best practice statements in these guidelines. More importantly, these *guiding principles* underlie all aspects of the care of children with chronic pain. These principles are based on human rights conventions and ethics considerations.

1. *Access to pain management is a fundamental human right*

Fundamental human rights recognized in international human rights instruments⁵⁹⁻⁶¹ include the right to be free from torture, and from cruel, inhuman or degrading treatment or punishment. States therefore have an obligation to protect persons from torture and maltreatment and this right is threatened if persons do not have access to essential medicines for pain relief. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted in his third report to the Human Rights Council of the United Nations on 14 January 2009⁶² (paragraph 72): “...the Special Rapporteur is 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.” The recommendations continue (paragraph 74e): “Given that lack of access to pain treatment and opioid analgesics for patients in need might amount to cruel, inhuman and degrading treatment, 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.”

A further report of the Special Rapporteur on 1 February 2013⁶³ (paragraph 56) reaffirms: “... that the failure to ensure access to controlled medicines for the relief of pain and suffering threatens fundamental rights to health and to protection against cruel, inhuman and degrading treatment. 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.”

Various governmental and inter-governmental bodies have articulated the dual obligation of ensuring adequate availability of opiates for medical and scientific purposes, while at the same time preventing illicit production and trafficking of these drugs.⁶⁴⁻⁶⁶ The Preamble to the 1961 Single Convention on Narcotic Drugs⁶⁷ states 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”, while also noting the potential for misuse of these medicines and the need to prevent and combat misuse with effective measures.

2. *Children have the right to enjoyment of the highest attainable standard of health*

The United Nations Convention on the Rights of the Child (CRC)⁶⁸ presents several Articles relevant to the child with chronic pain.