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Commission on Narcotic Drugs
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Item 5 (d) of the provisional agenda*
Implementation of the international drug control treaties: International cooperation to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion

Statement submitted by the Multidisciplinary Association for Psychedelic Studies (MAPS), a non-governmental organization in special consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* E/CN.7/2024/1.
** Issued without formal editing.

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Statement submitted by the Multidisciplinary Association for Psychedelic Studies (MAPS), a non-governmental organization in consultative status with the Economic and Social Council of the United Nations on behalf of the International Alliance of Cannabinoid Medicines Patient Council (IACM Patient Council)

Cannabis for Medical Purposes: Non-discriminatory access

MAPS is honored to introduce the IACM Patient Council, an international coalition of patient organizations under the International Alliance of Cannabinoid Medicines (IACM). We help give a voice to patients, protect their rights and interests in the ever-developing world of cannabis for medical purposes ("medical cannabis").

We wish to highlight Member States commitments derived from the 1961 Single Convention on Narcotic Drugs, concerning the health and welfare of humankind.

A HUMAN RIGHTS APPROACH TO DISABILITY

IACM Patient Council works to ensure access to medical cannabis and cannabinoids, furthering the development of clinical research everywhere. We salute countries that have an effective legal framework for therapeutic access and invite those where medical cannabis is not regulated to take a step toward fulfilling their obligation to ensure patient access to this essential herbal medicine. We stand ready to assist policymakers, placing our knowledge and experience at their service.

It's time to rethink medical cannabis policies to enable non-exclusionary access and foster adequate availability. This will advance human rights by ensuring that patients using cannabis for medical purposes are receiving what they are entitled to, i.e a standard of living adequate for their health, as set out in the *Universal Declaration of Human Rights* (UDHR).[1] For State Parties to the *Convention on the Rights of Persons with Disabilities* (CRPD)[2], this is in alignment with their obligation to adopt legislation to abolish discrimination.

IACM Patient Council advocates for a human rights-based approach to disability, relying on countries' capacity to implement economic, social, and cultural rights as enshrined in international law. These rights recognize and include the right to health[3], the rights of people with disabilities, equality, and non-discrimination concerning the use of cannabis. Among the victims of the "war on drugs" are the disabled, the sick and the dying, denied treatment known to relieve suffering. For example, withholding access to medical cannabis to children with intractable epilepsy can be life-threatening. The alternatives to many widely accepted and historically validated herbal treatments, including cannabis, are pharmaceutical medications which for many are ineffective or, in some instances, exceedingly harmful. Within this context, as the European Union Drugs Agency (formerly EMCDDA) rightly noted[4]: "The preference of some patients for the medical use of whole cannabis plant preparations rather than pharmaceuticals bears strong similarities to the reasons people give for using traditional herbal medicines." This statement also aligns with the WHO's definition of "traditional medicine"[8].

Recently, the United States of America Food and Drug Administration concluded that "marijuana has a currently accepted medical use in the United States for anorexia related to a medical condition; nausea and vomiting (e.g. chemotherapy-induced); and pain",[12] echoing WHO's position that also acknowledges several indications.[6] Working with patients in their local communities, we applaud governmental institutions sharing best practices and honoring their commitments to access and availability, eradicating the final remnants of stigma associated with the war on drugs.

ADDRESSING OBSTACLES TO PATIENT ACCESS

The highest courts in several countries have ruled that patients do, in fact, have fundamental, constitutional rights to personally produce, possess, and consume cannabis, and the right to access regulated supplies of all products in all forms and concentrations.[7] And yet, today, many patients continue to suffer in pain, being denied legal access.

In most countries, patients using medical cannabis do not have access to affordable treatment under their public health system due to lack of reimbursement even though cannabis has been recommended by a health professional as essential medication and the therapy of choice. Moreover, medical cannabis products are almost exclusively subject to discriminatory taxation. This situation constitutes, in our opinion, a violation of the CRPD[8] and the *International Covenant on Civil and Political Rights* (ICCPR)[9]. This patient discrimination violates States' international obligation to provide equal access to health care for all, leaving no individual behind.

Furthermore, the CRPD[10] requires States to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. In addition, following the principle of non-discrimination, patients using medical cannabis must be able to benefit from the same range and quality of health services, at an affordable cost, as those offered to people using opiates or any other medication to alleviate the same health condition[11].

Countries imposing taxation on medical cannabis fail to meet their obligations under the CRPD, which requires them to take all necessary measures to ensure that the various rights set out in the Convention – including non-discrimination on the grounds of disability – are not only protected but also promoted. To ensure the implementation of all legal obligations and policy commitments related to access and availability of controlled medicines for legitimate medical purposes, we wish to bring to the attention of the Commission the impact of the taxation of cannabis medicines, the obstacle it represents in terms of access to advanced treatments for patients suffering from chronic diseases, and the discrimination and social injustice it fuels for this group of people living with a disability. International commitments are seriously compromised by the failure to implement normal, rational, and non-discriminative access for patients using cannabis medicinally.

RECOMMENDATIONS

We wish to:

Remind treaty signatories of their international obligations not to interfere directly with exercising the right to health, to actively combat discriminatory practices limiting medical cannabis access for medical necessities, and to prevent the violation of fundamental human rights, while urging them to enact corrective measures to that effect;

Call on INCB, in the **framework** of its mandate to monitor compliance with the Single Convention, including its access and availability requirements, to enter into a dialogue with civil society groups with real world experience and perspectives of both the physicians and the patients;

Invite the Commission to **engage** with WHO and Human Rights treaty bodies, with a view to setting up an inter-agency working group on the rights of patients who use controlled medicines, including cannabis;

Urge the Commission to create spaces for the meaningful discussion of these issues and for multi-stakeholder monitoring of the harmonious and complementary **implementation** of Member States' commitments under the drug control conventions and human rights instruments.

Vienna, 12 February 2024

References:

[1] UDHR, (1948), art. 25(1)
[2] CRPD, (2007): Article 4: States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.
[3] Including but not limited to the ICCPR, UDHR, CRPD, the International Covenant on Economic, Social and Cultural Rights (ICESCR).
[4] EU Drugs Agency (EUDA), formerly (EMCDDA). (2018). Medical use of cannabis and cannabinoids: Questions and answers for policymaking. www.emcdda.europa.eu/system/files/publications/10171/20185584_TD0618186ENN_PDF.pdf

[5] “the sum total of the knowledge, skill, and practices based on the theories, beliefs, and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness.” On this topic, see also: Joint statement of 55 NGOs (including IACM) at the reconvened 63rd CND, 2 December 2020, "Science-based scheduling for cannabis and other herbal medicines" https://undocs.org/en/E/CN.7/2020/NGO/8

[6] See WHO Technical Report Series No. 1018: “[P]reparations of cannabis have shown therapeutic potential for the treatment of pain and other medical conditions such as epilepsy and spasticity associated with multiple sclerosis, which are not always controlled by other medications.” https://iris.who.int/bitstream/handle/10665/325073/9789241210270-eng.pdf On this topic, see also: Joint statement of 193 NGOs (including many IACM patient council member organizations) at the reconvened 63rd Commission on Narcotic Drugs, 2 December 2020, "Support patient access to medicine, vote yes!" https://undocs.org/en/E/CN.7/2020/NGO/7

[7] Such rulings (which vary in nature) have been passed in countries like Canada where in R. *v.* Smith, 2015 SCC 34, [2015] 2 SCR 602. the Supreme Court of Canada ruled that: ‘‘The restriction to dried marijuana in the Marihuana Medical Access Regulations *MMARs* breaches the s. 7 of the *Canadian Charter of Rights and Freedoms*, of individuals who have been issued an Authorization to Possess (“ATP”) marijuana under the *Regulations* but require other forms of cannabis to treat symptoms of serious illness. The provision is arbitrary and cannot be justified in a free and democratic society’’

[8] CRPD: Article 3(b) and Article 25: States Parties recognize that persons with disabilities have the right to enjoy the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.

[9] ICCPR, (1966): Article 2 (1)

[10] CRPD: Article 1 and Article 25.

[11] CRPD: Article 25 (a).

[12] HHS / FDA position: cannabisembassy.org/HHS-FDA

IACM Patient Council:

SPAIN – DOSEMOCIONES
GREECE – MAMAKA
GERMANY – SCM-GERO KOHLHAAS
SWITZERLAND – MEDCAN
ISRAEL – CANNA FLORA
NETHERLANDS (KINGDOM OF THE) – PGMCG
PERU – CANNABIS DE ESPERANZA
CZECHIA – KOPAC
MEXICO – CANNATIVA
UNITED STATES – Veterans for Medical Cannabis Access
AUSTRIA – ARGE CANNA
CYPRUS – FRIENDS OF CANNABIS
PORTUGAL – ASSOCIAÇÃO MÃES PELA CANÁBIS
IRELAND – IRISH MEDICINAL CANNABIS COUNCIL
NORWAY – PASCAN - CHRISTOFFER H. RØRTVEIT
ITALY – TUTELA PAZIENTI CANNABIS MEDICAL
SWEDEN – SWEDISH ASSOCIATION FOR MEDICAL CANNABIS
CANADA – AUBE - The voice of medical cannabis patients
BRAZIL – SOU CANNABIS

NGO co-signers:

The Cannabis Embassy
Fields of Green for All
Veterans Action Council
FAAAT-Forum Drugs Mediterranean