Open Letter to the United Nations: Ensuring Continued Medical Cannabis Access During the COVID-19 Pandemic

May 3, 2020, signed by IACM, SCC and joined by Coalition Plus, FAAAT, ICEERS, IDHDP and IMCPC.

For a summary of this letter translated into various languages, visit the IACM Bulletin.

Excellencies, honorables Rapporteurs, and Experts,*

We are grateful for your active involvement in monitoring the situation of human rights in this unprecedented and extraordinarily challenging time. In light of the current COVID-19 pandemic, nearly all jurisdictions have issued stay-at-home orders, instaured physical distancing measures, and closed all but essential businesses and services to slow the spread of the SARS-CoV-2 virus.

We write to you, in your capacity as United Nations Special Rapporteurs, to assist in the scope of your mandate to **ensure that patients who are prescribed *Cannabis* for the management of health conditions can continue to fully enjoy and realize their rights,** in particular in what concerns **the safe and uninterrupted access to their treatment** in a way that is consistent with public health.

Phytomedicines and compound drugs made from the *Cannabis* plant, medications recognized useful by the World Health Organization for several indications,[1] are a crucial part of the treatment regimens of hundreds of thousands of individuals throughout the world. This includes many people who have vulnerable immune systems because of a serious medical condition or advanced age. Some patients use *Cannabis* medicines to reduce seizures in epilepsy, ease stiffness and muscle spasms caused by multiple sclerosis, or to soothe the agitation of autism and dementia. Others use it to reduce nausea and mitigate appetite loss. Others are administered *Cannabis* medication to alleviate side effects associated with chemotherapy or HIV/AIDS treatments, post-traumatic stress disorder, or chronic pain, particularly as *Cannabis* medicines are used as adjunct or complement to opioid pain relief medicines.[2]

Cannabis medicines are multifaceted remedies for a wide variety of conditions, due to their impact on the complex cell-signaling endocannabinoid system,[3,4] and are vital for many people who depend on these medications to maintain good health. For these individuals, the uncertainty of the pandemic is aggravated by the possibility of losing access to a treatment option that is not only a valid therapeutic tool, but is also crucial to their wellbeing.

Cannabis medicines are used as phytopharmaceuticals (raw herbal formulas, extracts, tinctures and other prepared formulas) as well as in compound pharmaceutical preparations (either from naturally-obtained or from synthetic cannabinoids as active pharmaceutical ingredients). All are valid, and the diversity of formulas offers doctors and healthcare practitioners a broader range of therapeutic instruments to address the unique needs of each individual patient. Both the drug control conventions [5] and the WHO consider of equal value Western medicine, and the traditional or indigenous systems of medicine.

And, whether under a traditional medicine or a pharmaceutical scheme, herbal drugs are fully integrated to most of national public health regulations [6] and present in numerous pharmacopeias.[7] The choice of, and distinction between different formulas

of *Cannabis* and cannabinoid medicines is of the sole competence and authority of the patient and its prescriber, in a joint, active and informed process of therapeutic care.
In 2009, Manfred Nowak, then Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, noted 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"[8] and the breaches to the right to health are flagrant.[9]
Political doubts about the validity of a treatment can in no way justify the interruption of such treatment. Justifying such an interruption on the grounds of pandemic-related public health concerns is cynical. As 61 United Nations Human Rights experts noted on March 26, "people who use drugs […] need to receive support from governments" and "everyone, without exception, has the right to life-saving interventions and this responsibility lies with the government. The scarcity of resources or the use of public or private insurance schemes should **never be a justification to discriminate against certain groups of patients.**"[10]
As a recall, the International Narcotics Control Board (INCB) explains that "**addressing the discrepancy in the availability of narcotic drugs for medical purposes is one of the obligations of Governments** in complying with the international drug control convention"[11] a treaty-mandate further reinforced by international human right law, such as Article 12.2(d) of the International Covenant on Economic, Social and Cultural Rights.[12] *Cannabis* medicines are controlled under the drug control convention as a "narcotic drug", i.e. a medical product which "continues to be indispensable for the relief of pain and suffering" and for which "adequate provision must be made to ensure the availability of narcotic drugs for [medical] purposes."[13] On March 17th, the INCB "[called] on governments to ensure continued access to controlled medicines for pain relief and palliative care and for mental health and neurological conditions during the COVID-19 pandemic."[14] This is valid for *Cannabis* medicines.
Any action that can be taken to lessen the burden on individuals for whom *Cannabis* products are prescribed for the management of health conditions – same as from any other medicinal product – is necessary. Ideas or suggestions formulated by patients' peer groups and organizations, or medical *Cannabis* stakeholders, should be given attention so as to protect patients from being further impacted by the pandemic.
During this very trying time, the vast majority of jurisdictions with pre-existing programs for access to medical *Cannabis* have deemed *Cannabis* dispensaries essential,[15] whatever legal form they have. Such a decision allows to continue providing a legal, stable, and safe access to medication for patients, while maintaining strict physical distancing and safety measures. We are grateful for those who have done so. However, the situation is extremely variable between territories. We believe the full respect of the rights of people who use *Cannabis* for medical purposes relies on the application of the following points by governments and administrations:

1. The declaration of medical *Cannabis* **dispensaries as *essential* services**, and the application of provisions to ensure they do not shut down during stay-at-home orders; the

insurance that in the event some personnel are ill, quick hires can be undertaken;

2. Updates in regulations to **allow and encourage online ordering**, curbside, and home delivery, while maintaining the safest practices possible for minimal contact with patients;

3. The provision of **guidance, and standard operating procedures**, to medical *Cannabis* dispensaries so they can implement best practices to protect public health in the face of the pandemic (e.g., guidance on handling products, money, credit cards or ID cards, rules for physical distancing, etc.).

In these countries, where some form of safe, legal access has been possible and the right has been fully realized before the coronavirus outbreak, **it is inconceivable to back off and discontinue access during this time. Human rights are not reversible**.

* * *

Many other countries in the world do not provide any legal way of access to *Cannabis* for treatment and medical care. Those countries may not be obliged to provide access now, because the right to access to *Cannabis* medicines might arguably be subject to the principle of progressive realization of the right to health contained in international law.

Nevertheless, these countries without proper legal dispensation systems for medical *Cannabis* do have informal, non-regulated ways of access to *Cannabis* – the illicit market – ways of access that are used by patients, when no other options are available.[16]

Patients whose health condition, economic resources, and livelihood permits sometimes engage in the cultivation of their own *Cannabis* plants, and production of their own medical formulas.

In the past decades, even without a legally-regulated medical *Cannabis* model, many countries have undertaken mild, partial or superficial changes in laws or regulations regarding the use or possession of *Cannabis* products, regardless of the purpose of use (therapeutic or not), when destined to personal consumption in private spaces. These models have permitted patients a de-dramatized, facilitated, safer, access to *Cannabis*-based medicines, without fear of criminal or administrative consequences. In some countries, people who use *Cannabis* and who cultivate it for non-medical purposes joined, protected under the freedom of association and the non-criminalization policies, to collectively exercise their right to personal use. These structures called *Cannabis* social clubs have spread through the planet, adapting to local legislation.

In the major part of the globe where there is no safe or legal way to access *Cannabis* as a treatment option, patients rely on *Cannabis* clubs (or other informal dispensation systems) to access their medicine. We consider these ways of access fundamentally constitutes a means for patients who need *Cannabis* to exercise their right to health

and treatment. Hence, the principle of inalienability and non-revocability applies in a similar manner. Therefore, we suggest:

4. **That instructions be given to police** and law enforcement forces to stop intervening people self-providing *Cannabis* products, on the basis of discretionary powers;
5. An immediate **suspension of all police raids and crackdowns on household crops**;
6. The prolongation of the measures suggested above in point 1-3 to *Cannabis* social clubs and to any other informal system currently in place and used de facto by patients as a safe way of accessing their *Cannabis*-based treatment.

* * *

In 2010, the former Special Rapporteur on the right to health, Anand Grover, analyzed that "the current international drug control regime also **unnecessarily limits access to essential medications, which violates the enjoyment of the right to health**. The primary goal of the international drug control regime, as set forth in the preamble of the Single Convention on Narcotic Drugs (1961), is the 'health and welfare of [humankind]', but the current approach to controlling drug use and possession works against that aim".[17] As measures of emergency, and to avoid a regression in the already scarce means of enjoyment of their rights all by patients for whom *Cannabis* medicines are deemed useful, the following elements are needed, everywhere:

7. **Consultation with physicians by telemedicine** should be made available. If possible, the continuity of care and treatment would be ensured by the same team of caregivers. If not possible, the change in caregivers should not mean the involuntary discontinuation of a *Cannabis*-based treatment, or be conditioned to it;
8. **A flexibilization of expiration dates for medical *Cannabis* certificates**, prescriptions, cards, or other justificative documents, is needed to allow for extensions until after the crisis has abated;
9. Where relevant, **traditional medical practitioners** and traditional or indigenous healers must be granted recognition as essential services. Specific safety and public health guidance is desirable for traditional healers to contribute to the containment

of the pandemic, as well as hamper the spread of false information.

We respectfully suggest that the Office of the High Commissioner contemplates the current pandemic – and the increased risks it places over patients that rely on *Cannabis* medicines – as an actuator to engage and monitor this topic, which overlaps several areas that relate to the dignity and rights of persons, and affects people throughout the world, in all social groups, and of all ages.

There is a need to scrutinize and report on the situation of human rights for patients using medicinal *Cannabis* throughout the world, to examine ways and means of overcoming existing obstacles to the full and effective realization of these rights, to raise awareness, identify best practices, provide technical assistance when relevant, and issue concrete recommendations.

Because these mandates are held by the Special Procedures of the Human Rights Council, we consider relevant their contribution in what relates to the right to health and other economic, social and cultural rights, the right not to be subject to torture and other cruel, inhuman or degrading treatment or punishment, as well as the rights of persons with disabilities, of older persons, of indigenous peoples, and of other minorities.

Rest assured of our highest consideration for the High Commissioner, Rapporteurs and Independent Experts in the important work they continue to unfold during these uncertain times. The clinicians, patients, researchers and health experts that compose our organizations remain available to provide any further information if needed.

Please accept, excellencies, our sincere salutations,

– **International Association for Cannabinoid Medicines (IACM)** – Köln, founded 2000
– **Society of Cannabis Clinicians (SCC)** – Santa Monica, founded 1999
joined by
– **Coalition PLUS** – Paris, founded 2008
– **For Alternative Approaches to Addiction, Think & do tank (FAAAT)** – Paris, founded 2015
– **International Center for Ethnobotanical Education, Research, and Service (ICEERS)** – Halsteren, founded 2009
– **International Doctors for Healthier Drug Policies (IDHDP)** – London, founded 2011
– **International Medical Cannabis Patients Coalition (IMCPC)** – Prague, founded 2013

Further Reading

- Examining Medical Cannabis Models Worldwide: Access Amidst Lockdown

Footnotes

1. The WHO Expert Committee on Drug Dependence considers that “preparations 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." The Expert Committee also noted a number of indications linked to different preparations, extracts or products made out of *Cannabis*, such as anorexia associated with AIDS, nausea and vomiting in cancer chemotherapy, neuropathic pain, chronic cancer pain, Lennox-Gastaut and Dravet syndromes, neonatal hypoxic-ischaemic encephalopathy, perinatal asphyxia, etc. See: WHO Technical Report Series No. 1018

2. An overview and update of indications for which *Cannabis* medicines have been shown positive potential can be found on the websites of the International Association for Cannabinoid Medicines and of the Society of Cannabis Clinicians.

3. J. Wu. *Cannabis*, cannabinoid receptors, and endocannabinoid system: yesterday, today, and tomorrow. Acta Pharmacologica Sinica 40(2019):297–299.

4. "The endocannabinoid system is a biochemical communication system in the human body, which plays a crucial role in regulating our physiology, mood, and everyday experience." See a briefing on the endocannabinoid system on Project CBD.

5. K. Riboulet-Zemouli. Factsheet Traditional Medicine & *Cannabis*. ResearchGate, 2020.

6. See WHO global report on traditional and complementary medicine 2019

7. D. Tabajara de Oliveira Martins, et al. The historical development of pharmacopoeias and the inclusion of exotic herbal drugs with a focus on Europe and Brazil. *Journal of Ethnopharmacology* 240(2019):111891.

8. See document A/HRC/10/44

9. See OHCHR/WHO fact sheet #31

10. No exceptions with COVID-19: "Everyone has the right to life-saving interventions" – UN experts say

11. See E/INCB/2015/1/Supp.1

12. "The steps to be taken by the States Parties to the present Covenant, to achieve the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, shall include those necessary for the creation of conditions which would assure to all medical service and medical attention in the event of sickness."

13. Preamble of the Single Convention on Narcotic Drugs, 1961.

14. See UNIS/NAR/1407

15. In most countries with medical Cannabis programs, access is maintained in pharmacies, and where special dispensary systems are in place, decisions have been taken such as in the USA States of California, Massachusetts, Michigan, Ohio, New Jersey, Illinois, New York, Louisiana, Pennsylvania, etc.

16. In Spain for instance, where the estimated 200,000 patients using Cannabis medicines are used to access their medicines via the illicit market or via *Cannabis social clubs* (see The Objective, March 23, 2020), the emergency measures to hamper the spread of the SARS-CoV-2 virus led to the closure of Cannabis social clubs and the discontinuation of informal supply chains (see EduCannem, March 16, 2020) besides repeated call by the federations of Cannabis clubs (see ConFAC, March 16, 2020, and patients (see El Plural, March 26, 2020). Police raids and arrests of the managers of Cannabis social clubs have been reported even when they enforced special sanitary measures to avoid congregations of Club members gathering on the premises (see Diari de Sabadell, March 19, 2020).

17. See A/65/255

*The letter was addressed to the following:

To:

– Michelle Bachelet Jeria, *United Nations High Commissioner for Human Rights;*

– Dainius Pūras, *Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;*

– Catalina Devandas Aguilar, *Special Rapporteur on the rights of persons with disabilities;*
– Nils Melzer, *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;*
– Karima Bennoune, *Special Rapporteur in the field of cultural rights;*
– Victoria Tauli Corpuz, *Special Rapporteur on the rights of indigenous peoples;*
– Fernand de Varennes, *Special Rapporteur on minority issues;*
– Rosa Kornfeld-Matte, *Independent Expert on the enjoyment of all human rights by older persons;*
– Renato Zerbini Ribeiro Leão, *Chair,* Shiqiu Chen, Laura-Maria Craciunean-Tatu, Sandra Liebenberg, *Vice-Chairs,* and Olivier de Schutter, *Rapporteur, Committee on Economic, Social and Cultural Rights of the United Nations;*
– Ahmed Amin Fathalla, *Chair,* Tania María Abdo Rocholl, Photini Pazartzis, Yuval Shany, *Vice-Chairs,* and Ilze Brands Kehris, *Rapporteur, United Nations Human Rights Committee;*
Copied to:
– António Guterres, *United Nations Secretary-General;*
– Tijjani Muhammad-Bande, *United Nations General Assembly 74th session President;*
– Tedros Adhanom Ghebreyesus, *World Health Organization Director-General;*
– Peter Salama, *World Health Organization, Executive Director for Universal Health Coverage / Life Course;*
– Mariângela Batista Galvão Simão, *World Health Organization, Assistant Director-General for Access to Medicines and Health Products;*
– Ibrahima Socé Fall, *World Health Organization, Assistant Director-General for Emergency Response;*
– Ghada Fathi Waly, *United Nations Office on Drugs and Crime Executive-Director;*
– Jean-Luc Lemahieu, *United Nations Office on Drugs and Crime Director for Policy Analysis and Public Affairs;*
– Miwa Kato, *United Nations Office on Drugs and Crime Director for Operations;*
– Winnie Byanyima, *Joint United Nations Programme on HIV/AIDS Executive-Director;*
– Cornelis de Joncheere, *International Narcotics Control Board, President.*

MAY 3, 2020