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The Chairperson

Committee on Health

Parliament of the Republic of Uganda

Position paper by the Palliative Care Association of Uganda (PCAU), beneficiaries of palliative care, and other stakeholders involved in patient care and advocacy on the Narcotic Drugs and Psychotropic Substances (Control) Bill 2023.

Brief Background

The constitutional court of Uganda repealed the Narcotic Drugs and Psychotropic Substances (Control) Act, 2016 in May 2023. The Parliament of Uganda is now in the advanced stages of tabling a fresh Narcotic Drugs and Psychotropic Substances (Control) Bill 2023. The Minister of State for Internal Affairs presented the Bill for the first reading, and it was forwarded to the Committee on Defence and Internal Affairs and the Committee on Health for scrutiny. The Bill re-enforces Uganda's position that misuse and or the illicit use and diversion of narcotic drugs and psychotropic substances must be controlled. The Bill introduces a more rigorous and criminal-law-based legal regime, in a bid to domesticate the global war on drugs.

Narcotic drugs mean any substance that dulls the senses and relieves pain. Some people use the term to refer to all illegal drugs but technically, it refers only to opioids. Opioids are natural, synthetic chemicals that interact with receptors on nerve cells in the body and brain and reduce the intensity of pain signals and feelings of pain¹. Opioids include the illegal drug heroin, synthetic opioids such as fentanyl, and pain medications available legally by prescription, such as oxycodone, hydrocodone, morphine, and many others.

Globally, there has been misuse of opioids. The world is now facing two crises related to the use of opioids. On one hand, there is inappropriate use and over-prescription which is causing significant harm and loss of life. On the other hand, there is a dire lack of access to opioids such as morphine in many parts of the world.² Over 5 billion people globally are unable to access essential opioids, and more than six million people die in unbearable pain. Up to 92% of morphine is consumed by just 17% of the global population, all living in high-income countries³.

Opinion on the Narcotic Drugs and Psychotropic Substances (Control) Bill 2023

The World Health Organization's (WHO) guiding principle of "balance" refers to a government's dual responsibility to create a system of regulation that enables adequate access and availability to controlled substances for medicinal and scientific purposes while also avoiding abuse, diversion, and trafficking⁴.

The Narcotic Drugs and Psychotropic Substances (Control) Bill 2023 has eight parts that provide for the

1 Definition of Narcotic Drugs: Centre for Disease Control and Prevention (CDC), <https://www.cdc.gov/opioids/>

2 WHO 2023, Left behind in pain Extent and causes of global variations in access to morphine for medical use and actions to improve safe access.

3 International Narcotics Control Board. Availability of internationally controlled drugs: Ensuring adequate access for medical and scientific purposes - indispensable, adequately available, and not unduly restricted. New York. New York: United Nations, 2016:1e99.

4 Revised edition of "Narcotic and psychotropic drugs: achieving balance in national opioids control policy: guidelines for assessment", World Health Organization, Geneva, 2000 (WHO/EDM/QSM/2000.4).

prohibition of possession, trafficking in, and cultivation of narcotics and psychotropic substances; forfeiture of narcotic drugs and psychotropic substances; restraint orders and rehabilitation, among others. **The Bill takes a criminal law rather than a public health or human rights-based approach to the matter of drug use.** The Bill is largely silent on the need to ensure adequate access to opioids for medical and scientific use. Right from the title of the Bill, it is strongly biased towards control.

Safe and timely access to certain opioids is important for public health. Pain is a major public health problem in our region and globally. Poorly controlled pain is disabling; it causes physical, psychological, social, and spiritual suffering⁵. The medical and scientific use of certain opioids should therefore be at the fore or among the objects of any law on narcotics and psychotropic substances. Morphine for example is an essential medicine and a gold standard for pain relief that has been included in the WHO Model List of Essential Medicines (MLEM) since 1977. In the WHO indicators on assessing the development of palliative care worldwide,⁶ availability and access to essential medicines for palliative care across all levels of the health system is key, with special emphasis on the use of opioids for the management of pain and other symptoms, supported by respective risk management strategies. Its medical uses span multiple clinical settings in today's medical practice, including surgical care, cancer care, palliative care, emergency care, and paediatric care, among others. It is the most basic requirement for the provision of palliative care.⁷ The Bill in its current state does not adequately focus on pain as a public health matter.

This position is retrogressive given the Ugandan Government's effort in strengthening the health care system to respond to pain relief and palliative care services. For example, in 2004, government issued the Statutory Instrument No 24 "the National Drug Authority (Prescription and Supply of Certain Narcotic Analgesic Drugs) Regulations", 2004 which allowed specially palliative care trained nurses and clinical officers to prescribe morphine for pain and symptom control in palliative care.

The Need for Access to Essential Controlled Pain Medicine in Uganda

All available data point to a great disparity in access to controlled pain medicines including morphine for pain control and strong opioids more broadly. In 2021, over 80% of the morphine available (in weight) was distributed for consumption to countries within the World Health Organization (WHO) Region of the Americas (mostly in North America) and European Region, and to high-income countries.⁸ Although Uganda is heralded as an example for other countries due to, among others, local manufacturing of oral morphine, availability of hospice and palliative care services, and nurse prescribing, access to controlled medicines remains limited.⁹ For example, only about 300 health facilities in 107 districts of the 146 districts and cities in Uganda have at least one health facility accredited to order for, stock, and prescribe oral liquid morphine in the country¹⁰. In Uganda, only about 11% of the estimated 500,000 adults and children needing palliative care, including pain relief, have access to it. This compares well with many low-income countries, where levels of avoidable pain are even worse.¹¹

Recommendations

The Single Convention on Narcotic Drugs of 1961, as amended in 1972, establishes a framework of dual obligation for Governments to: ensure the availability of drugs for medical purposes and prevent abuse and diversion.¹² Despite the mandate that these obligations be enforced equally, the dominant paradigm enshrined in the drug conventions is an enforcement-heavy criminal justice response to controlled substances that prohibits and penalizes their misuse. This is detrimental and violates the rights of patients in need. Freedom from pain is a Human Right.

Considering the above, the Palliative Care Association of Uganda makes the following recommendations:

1. Memorandum 4: Objects of the Bill:

The objectives of the Bill should provide for safeguarding access to controlled medicines for medical and scientific use, which is completely missing.

5 Knaul FM, Farmer PE, Krakauer EL, De Lima L, Bhadelia A, Jiang Kwete X et al. Alleviating the access abyss in palliative care and pain relief—an imperative of UHC e: the Lancet Commission report. *Lancet*.

6 Assessing the development of palliative care worldwide: a set of actionable indicators. Geneva: World Health Organization; 2021. Licence: CC BY-NC-SA 3.0 IGO

7 World Health Organization Model List of Essential Medicines for Children, 1st List, 2007. Geneva: World Health Organization; 2007 (<https://apps.who.int/iris/handle/10665/70659>, accessed 24 July 2023).

8 The selection of essential drugs: report of a WHO expert committee. Geneva: World Health Organization; 1977 (<https://apps.who.int/iris/handle/10665/41272>, accessed 24 July 2023).

9 Ooms G, Barriers to Accessing Internationally Controlled Essential Medicines in Uganda: A Qualitative Study *Journal of Pain and Symptom Management* <https://haiweb.org/wp-content/uploads/2021/01/Barriers-to-Accessing-Internationally-Controlled-Essential-Medicines-in-Uganda> (accessed on 24th July 2023).

10 Kagarmanova, Palliative care in Uganda: quantitative descriptive study of key palliative care indicators <https://bmcpalliativecare.biomedcentral.com/articles/10.1186/s12904-022-009307> (accessed 24 July 2023).

11 <https://www.theguardian.com/global-development/2023/mar/06/ugandas-pioneers-of-palliative-care-undaunted-by-huge-challenges->

12 UN Single Convention on Narcotic Drugs, 1961 As Amended by the 1972 Protocol Amending The Single Convention On Narcotic Drugs, 1961, <https://www.unodc.org/pdf/convention>

2. Part 1: Preliminary (2) Interpretation of Medical Practitioner

The definition of a **'medical practitioner'** in the Bill should be specified as a person registered as a medical practitioner under the Medical and Dental Practitioners Act or a **specialist palliative care trained nurse and clinical officer** as recognized in the Statutory Instrument No 24 "the National Drug Authority (Prescription and Supply of Certain Narcotic Analgesic Drugs) Regulations", 2004 to prescribe morphine for pain and symptom control in palliative care.

3. **Article 6 (2):** The Bill criminalizes persons moving with or transporting any parcel, package, or container with narcotic drugs. This article should be reframed to feature the reality and purpose of the various patients and caregivers who move from one health facility to another, those who work and attend social gatherings while using controlled pain medicines. The Bill should not restrict patients and caregivers to move any parcel, package, or container with narcotic drugs. Many patients are bedridden in homes and supported by their families and friends who may carry narcotics for pain relief to them during medical refills. They shouldn't be penalized under this bill.
4. In line with the above article, many Ugandans travel abroad for treatment and receive prescribed controlled medicines which they must travel with into the country. The same goes for guests of the state such as tourists, among others. The Bill should be clear on the matter of possession of prescribed narcotics for people in transit to Uganda.
5. **Article 10:** Supply of toxic chemical inhalants to young persons: The Bill should explicitly define 'toxic chemical inhalants' to avoid ambiguity.

While we make the above recommendations, it is a fact that when prescribed opioids and other psychotropic substances are illicitly used, prolonged use without medical review, and used without medical supervision can heighten the risk for harmful use, development of opioid use disorder, and other health problems. People receiving opioids for medical purposes may also use excessive dosages as a coping strategy for emotional distress, known as opioid-related chemical coping.¹³ We therefore recommend that:

6. The Bill should be specific in areas where prescribed opioids for medical and scientific purposes are to be utilized in fields that include palliative care, anaesthesia, critical care, surgery, obstetrics, mental health services, and treatment of substance use disorders among others. The Bill should be seen to balance control and access and adding this safeguarding object for access for medical and scientific purposes should do it. The Bill doesn't cater to unregistered narcotics in possession of patients that are coming from abroad, there is a need to consider revisions of the narcotic lists provided. There is need for this bill to be explicit on the matter of the use of narcotics for medical and scientific purposes.
7. Section 57 in the Bill described an Advisory Committee for the Rehabilitation of Narcotic Addicts which shall consist of a Chairperson and several members, not exceeding seven, as the Minister may deem fit. We recommend that the Minister includes "A Palliative Care Specialist on the Committee." As part of the Advisory Committee for the Rehabilitation of Narcotic Addicts

In conclusion, Uganda is internationally acclaimed for its efforts in this field of health and is ranked among the models of palliative care provision in the world.¹⁴ This has been possible, in part, due to allowing nurses and clinical officers in Statutory Instrument No. 24 "the National Drug Authority (Prescription and Supply of Certain Narcotic Analgesic Drugs) Regulations", 2004 to prescribe certain oral narcotic analgesic drugs, for pain and symptom control in palliative care. Initially, the training of nurses and clinical officers in Uganda did not allow them to prescribe medicines,¹⁵ and Uganda was the first country globally to take progressive steps. This has seen an increase in access to palliative care services in the rural districts of Uganda which are mainly served by nurses and clinical officers. The Bill does not recognize this achievement and could negatively impact access to controlled medicines for medical and scientific use, particularly the provision of palliative care services and the management of drug dependency in the country passed in its present state.

Our Appeal

The Palliative Care Association of Uganda (PCAU) appeals that the highlighted parts and the entire Bill be framed to respect the principle of dual balance on control against misuse and access to opioids for medical and scientific use.

¹³ Opioid overdose [website]. Geneva: World Health Organization; 2022 (<https://www.who.int/news-room/fact-sheets/detail/opioid-overdose>, accessed 24th July 2023).

¹⁴ WHPCA/WHO. Global atlas of palliative care at the end of life. Geneva, Switzerland: Worldwide Hospice and Palliative Care Alliance/World Health Organization, 2014.

¹⁵ The National Drug Authority (Prescription and Supply of Certain Narcotic Analgesic Drugs) Regulations 2004, Supplement 13 (23rd April 2004).

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This position paper has been endorsed by the following organizations and stakeholders:


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2. The African Palliative Care Association (APCA)
3. Hospice Africa Uganda (HAU)
4. Rays of Hope Hospice Jinja (RHHJ)
5. Makerere Mulago Palliative Care Unit (MMPCU)
6. Mildmay Uganda (MUg)
7. Kawempe Home Care (KHC)
8. Lweza Community Health Programme
9. Uganda Cancer Society (UCS)
10. New Life Hospice Arua (NELIHA)
11. Uganda Network on Law Ethics and HIV/AIDS (UGANET)
12. Individual patients, caregivers, and other stakeholders advocating for Palliative Care

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