

# Chapter I.

## The health and welfare of mankind: challenges and opportunities for the international control of drugs

### A. Health and welfare as the main objectives of the international drug control treaties

1. The ultimate goal of the three international drug control conventions is to protect public and individual health and welfare. All three treaties—the Single Convention on Narcotic Drugs of 1961,<sup>3</sup> the Convention on Psychotropic Substances of 1971<sup>4</sup> and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>5</sup>—make reference to that concern. Along with the limitation of the use of narcotic drugs and psychotropic substances exclusively for medical and scientific purposes, the conventions require Governments to take all practicable measures for the prevention of drug abuse and for the early identification, treatment, education, aftercare, rehabilitation and social reintegration of the persons involved (article 38 of the 1961 Convention and article 20 of the 1971 Convention).

2. With the special session of the General Assembly on the world drug problem to be held in 2016, the time has come to make a critical assessment of the global drug situation and drug control policies and to review how the main principles of the drug control treaties and the inherent balanced approach have been implemented in practice. The world has changed, as have drug policies, and it is therefore necessary to consider how policy changes

to address emerging challenges can be achieved within the existing international legal drug control framework, which continues to enjoy almost universal support, although its objectives have sometimes been misunderstood or misinterpreted. Building on its findings with respect to the implementation of a comprehensive, integrated and balanced approach, as examined in the annual report of the Board for 2014 and previous years, the Board presents in this thematic chapter a number of additional considerations on the subject of drugs and health.

### B. Drugs and the health and welfare of mankind

3. The use of substances to influence mood, sensation, perception and cognition is a near-universal human phenomenon. The substances so used, whether consumed in the form of naturally occurring plant material, extracts, derivatives or pure synthetics, are generically referred to as “drugs” (this term will be used in the present chapter for the sake of brevity). Many of those substances pose the risk of addiction or, more largely, problematic patterns of use and abuse among people who take them.

4. The use of a substance liable to abuse—regardless of whether the substance is controlled—has characteristic risks, with the level and combination of risks varying widely depending on the substance, the individual, the social setting and the mode of administration. The abuse of any substance poses a risk to the health and welfare of

<sup>3</sup>Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol (United Nations, *Treaty Series*, vol. 976, No. 14152).

<sup>4</sup>United Nations, *Treaty Series*, vol. 1019, No. 14956.

<sup>5</sup>*Ibid.*, vol. 1582, No. 27627.



the users and those around them. Drugs are placed under international and national control precisely because they can seriously endanger the health and welfare of individuals. Similarly, all Governments have chosen to distribute most medications in pharmacies and by prescription because many of those substances may have seriously toxic and noxious effects when administered without expert supervision.

5. Psychoactive substances—whether or not they are under international control—are no ordinary commodities in the sense that a large fraction of the revenue to the sellers comes from users whose habits and addiction are not under voluntary rational control. Even in a hypothetical political, social and legal system that assumed that the consumption choices of adults should be left unconstrained and that producers should be free to supply and foster consumer demand with the use of marketing, an exception might reasonably be made for psychoactive substances. This would be done to protect consumers against gaps in their knowledge and defects in their own decision-making (which can be impaired by the consumption of the substance itself), to minimize avoidable disease and death and to protect others from the consequences of drug-influenced behaviour.

6. In recent years, there have been additional challenges such as the appearance of new psychoactive substances. Governments acknowledge the complexity of dealing with an ever-changing spectrum of substances made especially to circumvent controls. In most cases, such substances have unknown short- and long-term effects and may have highly addictive and toxic profiles. A growing number of those substances are now being manipulated and peddled to people, especially youth, at the expense of their health. It is therefore a matter of health and welfare to ensure that those substances are kept away from potential users and that the targeted population groups are provided with information on the risks associated with such substances and primary prevention services.

7. The international drug control conventions recognize and promote the medical use of narcotic drugs and psychotropic substances, which serve as an indispensable source of relief from pain and suffering and other medical conditions. However, although these drugs can be a source of great benefit, they also have the potential to be a source of harm. The conventions therefore oblige States parties to properly regulate, control and limit exclusively to medical and scientific purposes the production, manufacture, export, import and distribution of, trade in, and use and possession of drugs, which, if inappropriately administered, can also be subject to abuse.

8. Globally, access to medicines containing controlled substances is still very uneven, with consumption concentrated primarily in some developed countries. Three quarters of the world's population live in countries with low levels of access, or no access, to medicines containing scheduled substances. The International Narcotics Control Board (INCB) has long pointed out such major discrepancies and has repeatedly stressed that the situation could be improved through corrective action by States to address the regulatory, attitudinal, knowledge-related, economic and procurement-related problems identified as the main causes of inadequate availability. The present annual report of the Board is accompanied by a supplement devoted exclusively to the analysis of this issue.<sup>6</sup>

9. The imbalance in the availability of opioid analgesics is particularly worrying, as the latest data show that many of the conditions that require pain management, particularly cancer, are prevalent and increasing in low-income and middle-income countries.<sup>7</sup> At the same time, in recent years there has been an increase in the abuse of prescription drugs and related overdose deaths in countries with high per capita levels of consumption of opioid analgesics.

10. The conventions do not require any specific modality for the treatment of drug addiction; INCB urges States parties to base any such practice on scientific evidence. The provision of appropriate treatment services for drug abuse is as much an obligation for States parties as is the suppression of drug trafficking. Failure to provide appropriate treatment can exacerbate the health and social damage resulting from drug abuse and contribute to illicit demand for substances of abuse. It is therefore generally recognized that medically accepted standards of care for opioid dependence, including for opioid-dependent persons under criminal justice supervision, advance the goals of the international drug control treaties. The use of substitution therapy for the treatment of opioid dependence has a substantial evidence base, but its application varies among Member States.

11. The Board considers that programmes for the treatment of drug abuse should be held to the same standards of safety and efficacy as programmes for the treatment of other ailments. Inhumane or degrading forms of treatment of drug users should be eliminated.

<sup>6</sup> *Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes (E/INCB/2015/1/Supp.1).*

<sup>7</sup> World Health Organization and Worldwide Palliative Care Alliance, *Global Atlas of Palliative Care at the End of Life (Worldwide Palliative Care Alliance, 2014).*



### C. The conventions and their results

12. The achievements of the conventions are difficult to measure because of the difficulty of predicting what would have happened in the absence of international agreement on drug control measures. In 1906/7, prior to the adoption of any international drug control agreement, global opium production was estimated at 41,600 tons, with a world population of less than 2 billion. The most recent estimate of global illicit opium production, published in the 2015 edition of the UNODC *World Drug Report*,<sup>8</sup> was 7,554 tons, a fraction of what was produced 100 years ago, whereas the world's population today is over 7 billion. In addition, the difficulty of diverting from licit international trade narcotic drugs, psychotropic substances and precursor chemicals can be attributed, at least partly, to the effective implementation of the treaties by Governments.

13. Moreover, the abuse of drugs has been contained in comparison with the consumption of other substances that are more easily available, such as alcohol and tobacco. The prevalence of abuse of drugs is much lower than that of alcohol and tobacco. Alcohol causes more violence, and tobacco more harm to health, than all the controlled drugs combined, mainly due to the greater availability of and exposure to those two substances and the prevalence of their use and abuse. Indeed, alcohol and tobacco kill many times more the number of people than controlled substances do. These examples from commercially regulated markets underline the dangers of the use of controlled substances for non-medical purposes. The conventions are designed to protect the health and well-being of populations by avoiding these dangers.

14. The challenge for States when implementing their treaty obligations is to determine the appropriate balance of their drug control efforts. States ought to ensure that their control efforts do not result in unwanted side effects. Problem users, who constitute only a minority of all drug users, consume the overwhelming majority of drugs, typically more than 80 per cent by volume. Furthermore, drug users who are continuously or regularly intoxicated account for a larger proportion of the total health and social damage. One of the most efficient ways to deter traffickers would be to reduce their user base. Removing a significant portion of the source of demand by implementing effective prevention and treatment measures would have a significant impact upon any illicit drug market. Such action should include efforts to prevent drug use in an effective and systematic manner.

15. Although integrated and balanced approaches have existed since the inception of the treaties, they have come to the forefront of international drug control only in recent decades. There are some historical and legal factors for this. International conventions, by definition, deal with cross-border issues of mutual interest to sovereign States, such as international trade. Hence, the conventions, as adopted, focused largely on international trade and trafficking, whereas the development and implementation at the national level of the measures that we now call "demand reduction"—while mandated by the conventions—were left to the discretion of each sovereign State.

### D. Socioeconomic and sociopolitical context of drug control

16. Addressing social, economic and political issues that can create opportunities for violence and drug use may be as valuable as the efforts directly targeting the drugs themselves. As the Board has noted in the past, both the supply and demand sides of the drug problem are affected by socioeconomic factors such as poverty, hunger, economic inequality, social exclusion, deprivation, migration and displacement, limited access to education and employment prospects, and exposure to violence and abuse. Those factors are important drivers of the drug problem and need to be taken into consideration as part of a comprehensive approach. When designing and implementing policies to assist people living with substance abuse disorders, States must look deeper at socioeconomic factors such as poverty, marginalization, gender and child development. The role and responsibility of families and society in protecting children by creating environments that are conducive to prevention of drug abuse cannot be overemphasized.

17. The drug problem has many contributing factors and can be influenced by policies in other areas not aimed specifically at illicit drug supply and use. For example, policies that strengthen resiliency at the individual, family and community levels can reduce vulnerability to drug abuse and enhance the prospects for the speedy and lasting recovery of those who have developed drug abuse problems. Robust public institutions that are transparent and accountable can help minimize corrupting efforts of drug trafficking organizations. Likewise, strong communities with rich economic potential are more likely to withstand the deleterious impact of illicit drug crop cultivation and the corrupting influence of drug dealing and drug trafficking.

<sup>8</sup>United Nations publication, Sales No. E.15.XI.6.



## E. Social health and challenges

18. Promoting the welfare of mankind requires the prevention and reduction of social harm. Some drug users suffer health damage due to the drugs themselves, impurities in the drugs or the means by which the drugs are administered. Other drug users cause harm to themselves or to others by acting carelessly, negligently or criminally while under the influence of drugs, and some users find that their drug use has escaped voluntary control and has become an unwanted and in some cases persistent and recurrent addiction that can result in significant health and personal costs, not to mention the costs to family and society. Even people with no diagnosable drug abuse disorder may contribute to a social problem both by supporting illicit drug markets and by engaging in risky behaviour while under the influence of the drug. An important social harm is the impact of the incarceration of drug users, for whom incarceration can have significant financial, familial and occupational repercussions.
19. In addition to the damage drugs cause to the users and the people around them, activities and circumstances related to the illicit production and supply of drugs also threaten the health and welfare of the individual, the community and the State. In the case of substances sold on illicit markets, product quality is unknown, as illicit drugs can be of unknown or deleterious quality. Illicitly supplied drugs may be adulterated or may contain dangerous impurities, and drug users typically have little capacity to ascertain what they are actually consuming. These factors all increase the risk of accidental overdose and other forms of toxicity.
20. Some drug-taking behaviour particularly compounds the problem of drug abuse. An example is the spread of HIV and the hepatitis C virus through the use of non-sterile injecting equipment. Since those viruses can also be transmitted in other ways, persons who never use controlled substances may also become infected as an indirect consequence of the drug-taking activities of others.
21. The cost of drugs can impoverish, or further impoverish, persons dependent on the drug in question. This leads some drug users to become involved in criminal activity to support their drug addiction, leading to further harm not only for the drug user but also for others and society as a whole.
22. The behaviour of illicit drug markets generates harm for society, most notably violence by, among and against drug traffickers. Criminal elements meet the illicit demand for drugs, and illicit drug markets are controlled by organized criminal groups. Violence, social disorder and corruption associated with the illicit production and supply of drugs threatens the security of citizens and undermines the rule of law. Weak governance provides, in turn, ground for the development of the illegal drug industry and markets.
23. Law enforcement efforts targeting illicit markets may either reduce or exacerbate such violence and also generate harm: violence against and by law enforcement agents; incarceration and other forms of punishment; and corruption among, and human rights violations by, law enforcement agencies.
24. Violence is perhaps the most visible and pernicious outcome of drug trafficking. The lucrative economic opportunities generated by the illicit demand for drugs attract criminals and enhance their willingness and capability to use violence to protect their illicit drug operations. Territorial disputes among rival drug trafficking organizations, score-settling and intimidation lead to the use of violence to dominate the illicit trade in drugs; this is especially true for communities situated in or near illicit drug production areas, along drug trafficking routes and in neighbourhoods where drug dealing openly occurs. Also, there are many transit countries in which violence associated with drug trafficking takes place. High levels of violence may result when one group of drug traffickers challenges another, or the State, for control of an area. When drug dealing becomes intertwined with political conflicts, horrific levels of violence may ensue.
25. Drug-related corruption undermines national and global efforts to combat lawlessness. At the national level, corruption threatens the legitimacy of political institutions and industries. The corruption of political parties, state agencies, officials, professionals and leaders of the community obstructs political and economic development in many countries. Drug trafficking organizations understand this well and seek to undermine state capacity by means of corruption and violence. Corruption and drug-related problems are mutually reinforcing, and corruption and other social problems greatly contribute to the development of the illicit drug industry.
26. Corruption of state officials continues to be a constant challenge in drug control efforts, undermining public welfare. States must seek ways to ensure that public and law enforcement officials, as well as politicians, can fulfil their duties honestly. Citizens need to demand more from their elected representatives and state officials. Nothing has a more debilitating effect on efforts to curtail the illicit drug trade than the successful attempts of criminal organizations to intimidate and corrupt public officials.





27. One of the most serious challenges includes the loss of state control to organized criminal groups. Impunity and ungovernability pose a challenge to the collective security and well-being of any State, as well as the regional and global community. When state structures become involved with and affected by violence and systemic corruption, drug trafficking can further weaken the efficacy of Governments to the point of creating “failed State” conditions at the national or subregional level. Given the enormous amounts of money available to drug traffickers, law enforcement agencies are especially vulnerable to the threat of corruption, and that threat is greatly exacerbated when law enforcement agents are inadequately paid.

28. One of the most recent challenges to the international drug control system is that posed by the use of the Internet for drug trafficking. States must do more to enable the investigation of such illegal operations in order to ensure that such operations are identified, restricted and eliminated and that the international postal system is not used for illicit drug shipments. Internet pharmacies and other dispensing methods that physically separate the prescriber or provider from the patient pose a particular risk and require the development of more effective regulatory approaches. In such systems of supply, it is more difficult for prescribers and dispensers to evaluate the needs of patients to ensure that the prescriptions will be used for legitimate medical purposes so as to protect the health and well-being of the individual. States should be mindful of the challenges that such methods for the supply of medications may pose.

## F. Supply reduction efforts and their limitations

29. In any drug control system, supply reduction and the enforcement of regulations will always be an important element of an integrated and balanced approach. Efforts to suppress the illicit production and supply of drugs, when properly designed and implemented, are essential tools for reducing the social and health damage resulting from illicit drug markets.

30. In recent years, some criticisms have singled out efforts to suppress the illicit supply and use of drugs, claiming that they are failed policies on the grounds that drug abuse remains prevalent. The logic behind that argument is questionable. Nobody has advocated abandoning the global response to AIDS or hunger because those problems have not been eliminated. Rather, those efforts

are held to be the more reasonable standards for improving the situation, compared with the alternative of inaction.

31. All other things being equal, higher prices—which may result from a more restricted illicit supply due to law enforcement efforts—will lead to reduced demand. But higher drug prices can affect not only the problems associated with drug-taking but also the problems associated with drug trafficking and with law enforcement efforts. Where the extent of the trafficking falls less than proportionally to the increase in prices, more vigorous law enforcement activity may increase the total revenue available to traffickers and thus increase the incentive to engage in that illicit trade and to struggle for dominance within that trade.

32. Law enforcement policy therefore needs to be carefully designed, keeping in mind both the objective of drug control and the possible unintended results. It is not the case that the world must choose between “militarized” drug law enforcement and the legalization of non-medical use of internationally controlled drugs. The conventions do not mandate a “war on drugs”.

## G. The principle of proportionality

33. Incorporating the provisions of the international drug control conventions into national law is subject to the internationally recognized principle of proportionality. That principle guides a State’s response to acts prohibited by law or custom. When applied to the criminal justice system, the principle permits punishment as an acceptable response to crime, provided that it is not disproportionate to the seriousness of the crime.

34. Whether or not a response to drug-related offences is proportionate depends in turn on how the legislative, judicial and executive arms of government respond in both law and practice. Given their limited resources, Governments should ensure that law enforcement and justice systems accord high priority to investigating, prosecuting and convicting the most violent of actors and those involved in the illicit supply chain, such as those who control, organize, manage or provide inputs, production and other services for drug trafficking organizations.

35. The deterrent effect of criminalizing drug possession depends on the specific circumstances of countries. The conventions oblige States to ensure that possession



of drugs—even in small quantities—shall be a punishable offence. At the same time, the conventions offer alternatives to conviction or punishment including treatment, education, aftercare, rehabilitation and social reintegration. The 1988 Convention allows a certain flexibility regarding sanctions for possession for personal consumption, making that obligation subject to the constitutional principles and the basic concepts of the legal system of States. As the Board has stated on numerous occasions, the international drug control conventions do not require the incarceration of drug users. Rather, they oblige States parties to criminalize supply-related behaviour while encouraging them to consider prevention, treatment and rehabilitation as alternatives to punishment.

## H. Respect for human rights

36. Drug control action must be consistent with international human rights standards. States parties need to make full use of international legal instruments to protect children from drug abuse and ensure that national and international drug control strategies are in the best interests of the child. The Board has also advised all countries that continue to retain the death penalty for drug-related offences to consider abolishing capital punishment for this category of offences.

37. In addition to indirect and unintentional consequences for human rights via lawless, corrupt and arbitrary governance, violence can threaten efforts to safeguard human rights. This is especially true when drug trafficking and corruption weaken legitimate institutions of governance and contribute to the failure of national authorities or prevent weak States from developing robust structures.

## I. Unintended consequences

38. There are a number of unintended consequences that can flow from a variety of factors, including the unbalanced implementation of national and international drug control measures. However, the argument that the unintended consequences of implementation of the drug control system are evidence that currently scheduled substances should be authorized for non-medical purposes is based on the incorrect assumption that those undesired consequences cannot be addressed within the framework of the international drug control system. While these

consequences are unintended, they are not unexpected, and they may be prevented or managed. The challenge that States parties face is to implement their treaty obligations in a balanced way that minimizes the negative impact of drug abuse and measures to control drug trafficking, and to educate and treat victims of such trafficking.

39. Most of the discussion surrounding the non-medical use of scheduled substances ignores the nature of drug abuse and addiction and the particularities of drug law implementation. This ignores the realities of many countries, in which the Governments are already overwhelmed by the negative effects, particularly the negative social effects, of loosely controlled or poorly regulated alcohol and tobacco products and in which narcotic drugs for medical use are either too scarce or overconsumed and abused.

## J. Conclusions and recommendations: how drug control can promote human health and welfare

40. Drugs can be used as medicines but can also cause serious harm to health. Drug control policies can prevent harm but can also result in unintended damage. The international drug control system should therefore promote the application of scientific knowledge, humane thinking, proportionality and moderation to the set of problems related to drugs. Use of scheduled substances for non-medical purposes is not an adequate solution to the existing challenges.

41. States parties have made important strides towards a more cohesive and coherent drug control strategy as envisioned in the conventions. However, the evolving nature of this complex social problem requires that States be cognizant of the challenges and opportunities they face. The special session of the General Assembly on the world drug problem to be held in 2016 is a timely opportunity to reaffirm drug control policies and practices grounded in evidence and science. Some of the existing policies in some countries, such as militarized law enforcement, policies that disregard human rights, over-incarceration, the denial of medically appropriate treatment and inhumane or disproportionate approaches, are not in accordance with the principles of the conventions. It is recommended that States approach this review with



the goal of reinforcing what works while modifying what does not and expanding the range of interventions to cope with new psychoactive substances, marketing technologies used to promote and facilitate drug abuse such as the use of the Internet and social media. Simplistic calls for permitting and regulating the non-medical use of scheduled substances should be seen as inadequate to remedy the drug-related problems to be faced in a globalized and unequal world.

42. The continued threat of transnational organized crime needs to be managed in a more focused, cohesive and international manner. States need to improve the quality and transparency of government institutions and agencies so as to confront corruption. Destination countries need to assume their share of responsibility and take more effective action to suppress domestic drug trafficking and demand.

43. States are reminded of their obligations to employ effective drug abuse prevention, treatment and rehabilitation programmes. Such programmes can involve more than drug-specific policies; interventions that strengthen social ties and individuals' capacity for self-determination and resilience tend to reduce the prevalence of drug abuse.

44. States should provide effective and humane help to people affected by drug abuse, including both medically appropriate and evidence-based treatment. Drug users should be offered alternatives to punishment. Harsh treatment programmes, including any that involve the use of physical punishment, should be discontinued. Evidence-based treatment modalities that have been found to reduce drug abuse behaviour deserve consideration. Reducing drug abuse is a major step towards protecting and improving the health and well-being of individuals and societies. Reducing the adverse health and social consequences of drug abuse is a complementary element of a comprehensive demand reduction strategy. However, prevention of substance abuse in society in general, and in particular among young people, should remain the primordial objective of government action.

45. The international drug control system, as established by the conventions and built upon by the relevant political declarations, provides a comprehensive and cohesive framework which can be effective only if States fulfil their treaty obligations, taking into account their domestic situation, including realities of drug supply and demand, the capacity of state institutions, social considerations and the scientific evidence of the effectiveness of existing and future policy options.

