



INTERNATIONAL DRUG CONTROL INTO THE 21ST CENTURY

EDITED BY
HAMID GHODSE



International Drug Control into the 21st Century

Edited by

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University of London, UK

ASHGATE

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Preface

Since 1992 the first chapter of the Annual Report of the United Nations International Narcotics Control Board (INCB) has addressed a specific drug-related theme of international importance. The theme was chosen each year on the basis that it reflected current concerns related to the conditions prevailing in the world at that time.

This book collects together these thematic sections in a single volume. In this form it provides a historic perspective on recent drug-related issues which it is hoped will be of interest to a wider and more general readership than that of the original reports.

With this expanded audience in mind, the Board's formal recommendations to governments and national and international authorities have been omitted. There have also been minor amendments to chapters, mostly affecting the order of the paragraphs. These editorial changes have been restricted to those required to adapt the format of the manuscript from that of a formal report to one intended for a general readership.

It is hoped that this book will be useful to all those involved in and/or interested in all aspects of drug abuse: current problems, preventative measures, drug policy etc. and that it will stimulate discussion and debate among them. The richness of the original reports and therefore of the chapters in this book reflect the range and the depth of knowledge of the members of the Board as well as ideas and contributions from its Secretariat and the support of many advisors. However, ultimate responsibility for the chapters of the Annual report lies with the Board.

It is a great pleasure to acknowledge the help of all those advisors, government officials, NGOs, members of the Secretariat and the UNODC over the last 20 years for their unstinting help in suggesting suitable topics for these important thematic chapters and in helping with their preparation. Particular personal thanks are extended to Mr Coli Kouame the Secretary of the Board for his enthusiasm, dedication and support for bringing these chapters together. My thanks are also due to Mr Herbert Schaepe, the past secretary of the Board; to the heads of Sections, Mr Akira Fujino, Mr Pavel Pachta, Mr Rosen Papov, Ms Carmen Selva-Bartolome, Ms Li-Qin Zhu, Ms Beate Hammond and of course to all the staff, past and present in the sections for their help and encouragement in editing this volume. I would like to thank Mr Bruce Tizard-Varcoe for all his help. I would also like to thank Ashgate Publishing and particularly Ms Alison Kirk for her encouragement, advice and support.

Hamid Ghodse

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Chapter 1

Introduction

With a history of nearly a century, the international drug control Conventions are among the oldest international Conventions ratified by most countries.^[1] Their original, and continuing, purpose is to secure a balance between the appropriate use of narcotic analgesics and psychotropic drugs and their undesirable effects such as abuse and dependence.^{[2], [3]}

National legislation is guided by these international obligations and the cornerstone of the Conventions is therefore to limit the use of these drugs to medical and scientific purposes. Over recent years the International Narcotics Control Board has brought to the attention of governments that, in addition to international control of production, manufacture and trade, other measures, particularly demand reduction, need to be promoted and advanced, if substance abuse and dependence are to be prevented.^[4]

The globalization of most aspects of life today brings with it many new opportunities for young people. They now have easy access to wide-ranging knowledge about the whole world rather than merely the village or town in which they live. These opportunities arise through information technology, travelling, befriending, access to jobs and so on. However, globalization also carries risks such as the adoption of aberrant behaviour, involvement in crime and copying problems that may be prevalent in other communities.^{[5], [6], [7]}

The young people of today live in a world that it is complex, providing them with both tremendous opportunities as well as challenges, with many benefits and many risks. The influence of their peers and their surroundings upon them and their behaviour, their lifestyle and their health is greater than ever before. Peer influences are no longer solely emanating from school or the local neighbourhood but can come from thousands of miles away. Indeed, adolescents' ideals and role models may be in another continent and their problems may start from under the same roof or from a long distance away.^[8]

The provision of a healthy environment has thus become more difficult today than it has been in the past and the socio-cultural control of behaviour less predictable than ever.^[5] There is now a higher proportion of children and adolescents with mental and behavioural problems as a result of complex societal changes and the control of traditional diseases appears relatively simple compared to those related to behavioural influences, including substance abuse, in the course of recreational activities.^{[8], [9]}

The particular vulnerability of children and their need for care and protection was recognized by The United Nations Convention on the Rights of The Child (1989) which stipulates under Article 33 that States Parties shall take all appropriate

measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances.^{[8], [10]}

The changes in the extent and nature of drug problems over the last three decades led the INCB, at the suggestion of Hamid Ghodse, to introduce a new chapter in its annual report. Traditionally, this report had previously focussed on control issues. The idea of the new chapter was to expand the report so that it also covered contemporary and topical issues related to its mandate. Since 1992 therefore, a particular theme has been selected each year for in-depth consideration. Governments, international organizations and NGOs have been encouraged to suggest topics for the chapter with final selection of the chosen theme reflecting the most relevant issue of the day. The Board and its secretariat then painstakingly prepared, debated and revised various drafts of the chapter prior to its inclusion in the Annual Report. Expert advice has been sought when necessary and consultation with appropriate international organizations has also been part of the process. However, the final decision of every aspect of the chapter, as of the Annual Report as a whole, has been that of the Board.

The thematic first chapter of the Annual Report has attracted much attention and has been welcomed by governments and by those working in the field of combating drug abuse problems. It has also made a significant contribution to public and academic debate about the whole range of drug problems and responses to them. Pro-drug lobbies and groups, although often critical of national and international drug control measures, have used it to focus their responses more cogently.

Since the introduction of the thematic chapter 15 years ago, the launch of the Board's Annual Report has been extremely successful in raising the profile of the contemporary global drug problem. The annual press conference, which formerly took place only in Vienna at INCB headquarters, has expanded to over 30 countries around the world, enhancing the cooperation of the world's media in promoting a response to the growing global drug problem.

In light of this level of interest, the Board requested Hamid Ghodse to compile and edit the thematic chapters into a single volume for a more general readership. The editing has concentrated on shaping individual chapters into a coherent whole without altering their meaning. Within the book, the order of the chapters remains chronological, reflecting the historical importance of different issues at different times. Minor editing has excluded subsidiary issues from some chapters where they were not directly related to the core of the chapter's theme and some chapters have had their subsections re-ordered. However, each chapter of the book faithfully reflects the underlying meaning of the original chapter at the time that it was published.

The book starts with a brief description of the mandate and the role of different organs within the international drug control system and the responsibility of the INCB as the quasi judicial arm and the guardian of the conventions. This is an important chapter because it clarifies for a general readership the position of the Board in relation to the thematic chapters which follow.

Legalization of Internationally Controlled Drugs (1992). The ‘Temptation of Legalization’

In the context of questioning and challenging existing policies, anti-prohibitionist movements have been gaining ground. In an increasing number of countries, there have been vociferous calls for the legalization of the possession and use of some or all drugs for non-medical purposes.

The Board had emphatically rejected such proposals in its 1991 Report for such a legalization and, in 1992, decided to make legalization the central issue of the thematic chapter and to provide an analysis of its meaning and consequences. The report highlighted the flexibility that exists within the Conventions for a certain degree of depenalization and for implementing non-penal corrective measures for offences recognized as punishable. It discussed the inconsistencies that exist within the proposal for legalization in its present formulation. But above all, the Board emphasized the tremendous risks that legalization would entail for public health, social well-being and the international drug control system.

In summary, full implementation of the control measures mandated by international drug control treaties and ECOSOC resolutions is vital to more efficient international drug control. Furthermore, by identifying challenges to the international drug control system, pinpointing loopholes, and calling for new action to meet new trends, the Board attempts to direct the efforts of the international community to achieve even more efficient drug control policies. Enhanced international cooperation, for which the 1988 Convention provides key instruments, is of equally vital importance. The necessary political will and the provision of adequate resources are recurrent themes in the report.

The Board's position received overwhelming support from governments at the Commission on Narcotic Drugs, the Economic and Social Council and the special plenary session of the General Assembly.

Demand Reduction (1993)

In 1993 demand reduction was the theme of the overview chapter and the Board called on governments to place higher priority on demand reduction policies. Some may think this an unusual issue for the Board because, as the Board itself has stated, an internationally standardized approach is hardly feasible in this field nor can demand reduction methods be imposed by legal documents. However, measures to reduce demand were required by the 1971 Convention and the 1972 protocol.

The Board stressed the importance of monitoring the drug abuse situation and of community involvement, and highlighted a few examples of successful demand reduction projects. The Board also noted the increasing emphasis on policies to mitigate the harmful effects of drug abuse. While acknowledging the importance of assisting victims of drug abuse and minimizing the potentially catastrophic effects of drug abuse on them, the Board warned that harm reduction policies cannot substitute for demand reduction policies.

Evaluation of the International Conventions (1994)

The General Assembly of the United Nations, in a resolution on measures to strengthen international cooperation against illicit drug activities (48/12), asked for the impact of the United Nations drug control treaties to be evaluated. The goal was to identify weaknesses as well as strengths in the treaty provisions.

In addition, since monitoring treaty implementation is the very essence of its work, the Board also decided to conduct its own evaluation of the effectiveness of the treaties and their implementation. This chapter highlighted some areas where the treaty provisions were weak, or not implemented, offering governments at the Commission on Narcotic Drugs or ECOSOC the opportunity to decide which weaknesses warranted intervention and the best way to remedy to such situations. One possible outcome would be to amend the drug control treaties.

The following two issues exemplify some of the difficulties associated with treaty implementation. The first one is not new. It relates to coca chewing and the drinking of coca tea. Legislation in three countries in Latin America tolerates the drinking of coca tea and coca chewing. This is in contradiction to the provisions of the 1961 Convention, which make it mandatory that those habits be prohibited, after a certain transitional period, which has elapsed. The Board, the guardian of the treaties, can only repeat every year that there is a treaty violation in the countries concerned. In this chapter the Board expressed the view that this contradiction should now be resolved. Based on adequate scientific evaluation of the coca tea and coca chewing habits, governments should decide whether treaty provisions are adequate.

The second issue related to the possible revision of the classification and control of the cannabis plant and cannabis products. It is suggested that the potency of those products should be taken into account, rather than the type of products per se (i.e. leaf/resin/flowering tops). The Board has on several occasions called attention to the emergence of new varieties of cannabis with leaves with a THC content much higher than the flowering or fruiting tops. Cannabis leaves as such do not fall under international control. Similarly there are now resins available with very high THC content.

The chapter pinpointed a number of other areas for possible amendments. For example, it called for a review of the controls over poppy straw and identified a number of possible adjustments of a more technical nature.

Overall, however, the chapter stressed that the present drug control system has achieved considerable success, for example in limiting diversion of narcotic drugs and of psychotropic substances from licit manufacture and trade into illicit channels.

It suggested that some of the shortcomings of the international drug control system relate to the fact that the Conventions were intended to be universal but have not yet been universally adopted nor applied. In other words, the system has not yet been given the chance to function at its full capacity. Universal adherence and implementation are therefore key conditions for efficient international drug control. However, to be efficient, the international drug control system has to have the ability to adapt rapidly to changing abuse and trafficking situations.

This implies a need for timely decisions to place new substances under control or to change their control regimes. The importance of timely updating of treaty provisions and adjustment of technical assistance was also stressed.

Giving More Priority to Combating Money-Laundering (1995)

It is well known that international trafficking in narcotic drugs and psychotropic substances is extremely lucrative for the key players and organizers. Huge amounts of capital are generated and the profits derived from such illegal activities are very often either integrated into the legal economy or are used in corrupt and criminal ways to enhance illegal activities.

The adoption of the 1988 Convention marked a decisive step in mobilizing the international community in the fight against illicit drug trafficking. Money-laundering offences are defined in the Convention, and parties to the Convention are required to make them serious criminal offences, to be severely punished and subject to extradition.

Money laundering was the focus of the thematic chapter in 1995 because of the impact that the effective implementation of measures against money laundering can have on curbing drug trafficking and therefore on achieving the objectives of the international drug control treaties. For example, powerful trafficking groups through their financiers can have a significant influence on politicians, the judicial system, the media and many other sectors of a society. Through this, they can impose their own laws, including the 'buying of public opinion' within the country.

Seizures of drugs, even in large quantities, cause only limited losses to drug traffickers, and these are quickly compensated for by increasing shipments.

However, confiscation of the assets and property of such criminals undermines their capacity to organize and to maintain their logistics and their ability to corrupt – this, of course, being the basis of their power. Confiscation is therefore an important weapon in destroying criminal organizations and their trafficking operations. It also offers the opportunity to utilize confiscated assets for the fight against drugs, for example to fund drug abuse prevention projects, to improve the capacity of law enforcement agencies or to enhance programmes for crop substitution and alternative development. All such measures help to intensify the fight against organized crime and the production of, and traffic in, narcotic drugs, thereby breaking the malignant circle. Confiscated assets and property can be divided between the governments involved, or can be donated to international organizations, such as UNDCP which is having to significantly reduce and restrict its projects because of a lack of financial resources.

Because of the international nature of money laundering, a global response is essential and the Convention stipulates that harmonized policies should be formulated. Furthermore, where necessary, countries should be assisted to implement them. Although some progress has been made, there is still an evident lack of universality in the implementation of money-laundering countermeasures and there is no generally applicable instrument for assessing their results.

The thematic chapter contained numerous examples of how global economic integration, opening of borders and deregulation of trade are facilitating drug trafficking and money laundering. It noted that, although financial operations are the points at which criminals are often the most vulnerable, and money trails are often the only way to trace the organizers of an illicit drug operation, many countries still need to put in place the appropriate laws and procedures to deal with this. In other words many countries were far from meeting their obligations in relation to the provisions and recommendations of the 1988 Convention (eg. the confiscation of proceeds and property, the reverse of the onus of proof, the implementation of controlled delivery, mutual legal assistance and extradition). In addition, it was the view of the Board that all countries should provide and enforce laws which enable them to confiscate all proceeds derived from drug trafficking and punish money launderers as well as drug traffickers.

The establishment of a comprehensive and universal framework was proposed to coordinate measures to deal with the proceeds of crime throughout the world. Such a framework should include the systematic collection and dissemination of information about the seizure and confiscation of assets derived from drug trafficking in addition to mechanisms to monitor the international community's progress in preventing and controlling money-laundering. The clear message must be that, from a moral and ethical point of view, no government and no society should accept that income can be derived from criminal activities such as drug trafficking and related activities.

Drug Abuse and the Criminal Justice System (1996)

In accordance with the international drug control treaties, national legislation must be adequate to deal with the complexities of large-scale trafficking networks and must provide for the efficient investigation and prosecution of drug traffickers. It is recognized however that many criminal justice systems are overburdened and indeed may be overwhelmed by the dimensions of today's world-wide drug abuse epidemic. Often, there are not enough resources to do more than apprehend the street seller or individual drug abuser, leaving intact the middle and top echelons of the drug trafficking hierarchy. In order to alleviate this situation, governments should consider targeting large-scale drug trafficking organizations and, simultaneously, may consider alternatives to incarceration for juveniles and first-time offenders. Treatment of drug abuse, in particular, can be a cost-effective alternative to imprisonment, reducing health-care costs as well as costs associated with criminal proceedings and imprisonment.

Many governments experience difficulties when trying to convict people higher up in the drug trafficking chain, because it is often difficult to establish the evidence connecting suspected drug kingpins to the crimes committed under their direction since they may never come in contact with drugs. In addition, prosecution of organizers of the drug trade may also be hampered by procedural barriers and evidentiary requirements. The chapter accordingly suggested that governments consider simplifying evidentiary requirements in certain cases, under the close

supervision of the appropriate judicial authorities and with adequate protections for the accused. This is important because, if drug kingpins go unpunished, public confidence in the criminal justice system is undermined.

The issue of drug-related corruption, bribery and intimidation of police, judicial officers, politicians, tax authorities and customs officers was highlighted. This is a major problem because of the immense economic power of drug traffickers. Improving the conditions of service of public officeholders is important in this context so that they are less vulnerable to such pressures before countermeasures are introduced.

A variety of international measures are also proposed, such as stepping up mutual legal assistance among states in investigations, prosecutions, extraditions and judicial proceedings; joint task forces to combat transnational crime syndicates; and channelling of seized criminal proceeds to help finance international drug control.

In relation to ongoing United Nations efforts to establish an international criminal court, it is suggested that if such an institution is set up, international drug trafficking should be included as an international crime under the new court's jurisdiction.

Preventing Drug Abuse in an Environment of Illicit Drug Promotion (1997)

The environment, in its broadest sense, has a major influence on demand for drugs. Over the last years, drug abuse is increasingly regarded as being acceptable or even glamorous with the fashion industry coining the term 'heroin chic' and pop stars making statements to the effect that the recreational use of drugs is a normal and acceptable part of a person's lifestyle. Simultaneously, powerful pressure groups run political campaigns aimed at legalizing controlled drugs.

In 1997 these issues were considered in some detail. For example, pop music is now a global industry and by far the most influential trendsetter for young people of most cultures. Song lyrics advocate the smoking of marijuana and the recreational drug habits of famous pop stars are familiar to many through media coverage, which tends to glamorize such behaviour. Even the occasional shock of overdose deaths, tends to be seen as an occasion to mourn the loss of an idol rather than an opportunity to confront the lethal effect of recreational drug use.

The portrayal by the media of certain drug issues, especially the use of marijuana and the issues of liberalization and legalization, has encouraged rather than prevented abuse. The Board views the overall coverage of the drug problem as far from balanced since influential newspapers and key television stations tend to focus exclusively on the controversial and provocative aspects of the issue rather than the risks. Legalization and liberalization and advocacy for the medical use of cannabis are the recurring attention-grabbers for reports and editorials. The Board is concerned, not because these topics are covered, but because it is only those topics that receive highlighted attention.

In particular, promotion of the use of cannabis (hemp) in foodstuffs, beverages, materials etc conveys an impression that it is an innocuous, edible or even

nutritious substance. This is often just one tactical element in a wider strategy, which has as its final aim the legalization of cannabis. Indeed some of those involved openly admit that legalization is their ultimate objective.

All of this is compounded by the range of information at our fingertips via the Internet. In the past, obtaining similar levels of knowledge required considerable research through libraries and medical journals; today it comes to our living room. It includes which common plants have hallucinogenic properties, how to grow cannabis indoors, or how to make a range of 'designer drugs'. There are news groups for exchanging information not only on making drugs, but also on how to avoid detection, for sharing experiences and for providing support to persons arrested for the illegal possession of controlled drugs.

All such developments have created an environment which is tolerant of, or even favourable to, drug abuse and which undermines actions to address the problem. The 1997 Annual Report focused on the issue of demand reduction and prevention within an environment that has become tolerant of drug abuse. It pointed out that governments have not only moral but also legal obligations, as specified in the international drug control conventions, to actively counter all forms of 'public incitement' that encourage the abuse of drugs and psychotropic substances.

In the long term, the creation of a culture that is predominantly against drug abuse is the most promising form of prevention and the change in public attitudes towards tobacco smoking is used as an example to show that it is possible to influence the public and to gradually change the environment. The change in smoking attitudes, which has led to a significant drop in tobacco consumption, has required years of efforts on a number of fronts.

This emphasizes the importance of sustained, long-term drug abuse prevention programmes but the chapter is realistic in noting that the elimination of all forms of drug experimentation, use and abuse will never be achieved. However, this should not be a reason to give up the ultimate aim of all prevention efforts, namely a drug-free society. Most prevention efforts do have an effect and, like commercial advertising, reach enough of the market to have a positive impact. Prevention programmes should be considered successful even though they may not prevent all illicit drug abuse.

Governments therefore must should take the initiative in the debate on drug issues and not leave the advocacy role only to those who wish to change public attitudes to drug abuse. This is all the more important because scattered evidence from public opinion polls suggests that the majority of people are not in favour of any form of legalization. However, those who support the legalization of non-medical use of drugs are gaining strength and are influencing political decision makers. Efforts to reduce drug abuse worldwide will be less effective if demand reduction programmes are undermined by advocacy for the legalization of drugs.

Innovative strategies are required and governments should seek the assistance of key youth influencers such as the media and the sport and entertainment industry. However, community leaders, politicians and educators all have an important role to play in confronting cultural trendsetters who are actively creating

a 'drug-friendly' environment. They must be encouraged to lend their support to their governments in tackling the menace of drug abuse and trafficking as well as the devastating health and social problems that are associated with it.

Internationally Controlled Drugs: Past, Present and the Future (1998)

Chapter 8 reviews the history of international drug control since the beginning of the century and assesses its achievements and the many remaining challenges.

The beginning of this twentieth century was characterized by the presence of heavy drug addiction in a few countries, particularly in Asia. In China alone, at least 25 per cent of the male population were smoking opium and there were around 10 million opium addicts in a total estimated population of approximately 450 million. Opium-smoking was also widespread in south-east Asia, in some parts of India and west Asia and also appeared in a number of European countries. Opium, however, was not the only drug of choice at that time. Other narcotic drugs such as morphine, heroin or cocaine were freely available and consumed for non-medical purposes. About 90 per cent of narcotic drugs in the United States were used for non-medical purposes, according to a government report.

The situation was such that action had to be taken to limit the flow of drugs and the addiction epidemics, which were spreading fast around the world. Therefore, the International Opium Commission met in Shanghai in 1909 to address this issue. That conference laid the foundation of the international drug control system that was to develop over the next 90 years – a global control system based on international consensus. At its centre are three widely-accepted and widely-ratified international treaties with comprehensive reporting and control mechanisms and an independent international expert body which monitors and supervises the compliance of governments with treaty obligations – the International Narcotics Control Board. The ninetieth anniversary of this first international conference on drug control which broke new ground should be duly celebrated.

Freedom from Pain and Suffering (1999)

International treaties not only recognize the dangers associated with drugs but also that such drugs are indispensable in medicine. Narcotic drugs have important and wide medical uses. They are used as anaesthetics and analgesics and for veterinary, dental and laboratory purposes. To ensure availability of such drugs for medical purposes is just as important as preventing their use for non-medical purposes. Chapter 9 examines issues relating to the adequate provision of these drugs.

Unfortunately, the medical need for opiates is not fully met in many parts of the world. The Board has, at regular intervals, examined the lack of availability of opiates in special reports, most recently in its 1995 Report 'Availability of Opiates for Medical Needs'. It noted that there were imbalances in the global availability of opiates, particularly of those related to the treatment of severe pain, and recommended that governments should critically examine their methods of