

F. Special topics

1. Drug control and human rights: marking the anniversaries of the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights

249. The year 2018 will be a milestone marking several anniversaries: the seventieth anniversary of the adoption of the Universal Declaration of Human Rights in 1948, the twenty-fifth anniversary of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 and the thirtieth anniversary of the adoption of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. These anniversaries provide a unique opportunity to reflect on the relationship between drug control and human rights and on the implications of that relationship for national responses to the world drug problem.

250. In the outcome document of the special session of the General Assembly on the world drug problem held in 2016, the international community reiterated its commitment to respecting, protecting and promoting all human rights, fundamental freedoms and the inherent dignity of all individuals and the rule of law in the development and implementation of drug policies. One of the operational recommendations contained in the outcome document is to enhance the knowledge of policymakers and the capacity, as appropriate, of relevant national authorities on various aspects of the world drug problem in order to ensure that national drug policies, as part of a comprehensive, integrated and balanced approach, fully respect all human rights and fundamental freedoms and protect the health, safety and well-being of individuals, families, vulnerable members of society, communities and society as a whole, and to that end encourage cooperation with and among UNODC, INCB, WHO and other relevant United Nations entities, within their respective mandates. The importance of protecting and advancing human rights principles and standards has also been fully recognized and reflected in all 17 Sustainable Development Goals of 2030 Agenda for Sustainable Development, adopted by world leaders in September 2015.

251. The Board has repeatedly stressed the importance of respecting and protecting human rights and fundamental freedoms as part of the effective implementation of the international drug control treaties. **The Board continues to emphasize that for drug control action to be**

successful and sustainable, it must be consistent with international human rights standards.

252. The right to health is set out in article 25 of the Universal Declaration of Human Rights in the context of the right to an adequate standard of living. The right to the highest attainable standard of health is recognized in article 12 of the International Covenant on Economic, Social and Cultural Rights. For the full enjoyment of the right to health it is important to have access to essential medicines.⁸⁰ WHO has compiled a list of medicines considered essential to satisfying the priority health-care needs of the population. The list contains several narcotic drugs and psychotropic substances under international control. The international drug control treaties require States parties to ensure the availability and rational use of internationally controlled narcotic drugs and psychotropic substances for medical purposes.⁸¹ Since its establishment, the Board has promoted national and international measures to strive towards an adequate availability of internationally controlled drugs for medical purposes that is not unduly restricted.

253. For the full enjoyment of the right to health it is also important that States provide equal opportunities for everyone to enjoy the highest attainable level of health and the right to the prevention and treatment of diseases. The international drug control treaties require parties to take measures to prevent drug abuse and to ensure the early identification, treatment, education, aftercare, rehabilitation and social reintegration of those who abuse drugs.⁸² The need for non-discriminatory access to health care, rehabilitation and social reintegration services, in particular for women, including in prison and post-prison settings, was underscored in the 2016 report of the Board. The Board highlighted the importance of giving priority to providing easily accessible health care, including targeted and evidence-based interventions, to drug-dependent women. Drug-dependent women often face stigma preventing them from seeking and/or accessing the services they need. The Board also discussed the need for effective preventive measures in its annual reports for

⁸⁰See also general comment No. 14 (2000) on the right to the highest attainable standard of health, adopted by the Committee on Economic, Social and Cultural Rights (E/C.12/2004/4), and OHCHR, *Fact Sheet No. 31, Human Rights Fact Sheet Series* (Geneva, June 2008).

⁸¹In the preambles of the 1961 Convention as amended by the 1972 Protocol and the 1971 Convention, the States parties recognized that adequate provision must be made to ensure the availability of narcotic drugs and psychotropic substances, respectively, for medical purposes. See also art. 9, para. 4 of the 1961 Convention as amended by the 1972 Protocol, which requires INCB, in cooperation with Governments, to ensure the availability of narcotic drugs for medical and scientific purposes.

⁸²See art. 38 of the 1961 Convention as amended by the 1972 Protocol and art. 20 of the 1971 Convention.

1997 and 2009, whose thematic chapters were devoted to preventing drug abuse in an environment of illicit drug promotion and to primary prevention of drug abuse. The annual report for 2013 discussed how drug abuse could disproportionately affect specific populations such as women, low-income populations and children. The Board stresses the importance of protecting the rights of persons with mental illness and improving mental health care in line with General Assembly resolution 46/119 of 1991 and the Convention on the Rights of Persons with Disabilities. The Board also highlights the need to protect children from drug abuse and prevent the use of children in the illicit production of and trafficking in illicit substances, in accordance with the Convention on the Rights of the Child, in particular its article 33.

254. The Board stresses the need to protect the rights of alleged drug offenders and drug users at all stages of the criminal justice process. The prohibition of arbitrary arrest and detention, torture and other forms of ill treatment, the right to life, the prohibition of discrimination, the presumption of innocence and the right to a fair trial are among the important elements of an effective criminal justice system, as provided for in the international human rights instruments. Violations of these principles undermine the rule of law and are contrary to the aims of the international drug control treaties. The international drug control treaties, the Political Declaration adopted by the General Assembly at its twentieth special session and the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem all call for a balanced approach, respect for the principle of proportionality and respect for human rights.

255. Under the international drug control treaties, States are required to be proportionate in their responses to drug-related offences and their treatment of suspected offenders. The obligation under the international drug control conventions to establish certain types of conduct as punishable offences and to ensure that serious offences are liable to adequate punishment is subject to the constitutional principles of States and to the principle of proportionality. While serious offences may be punishable by incarceration, other forms of deprivation of liberty, pecuniary sanctions or confiscation, offences of lesser gravity are not necessarily subject to such punitive sanctions. In appropriate cases of a minor nature, States are encouraged to provide alternative measures such as education, rehabilitation or social reintegration, in particular for persons affected by drug abuse.

256. Extrajudicial responses to drug-related criminality are in clear violation of the international drug control

conventions, which require that drug-related crime be addressed through formal criminal justice responses, as well as of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which require adherence to internationally recognized due process standards.

257. Although the determination of sanctions is a prerogative of States, the Board continues to encourage all States that retain the death penalty for drug-related offences to commute death sentences that have already been handed down and to consider the abolition of the death penalty for drug-related offences in view of the relevant international conventions and protocols, and resolutions of the General Assembly, the Economic and Social Council and other United Nations bodies on the application of the death penalty.

258. States parties have achieved varying levels of progress in the adoption of drug control policies that are consistent with international human rights law. The Board will continue to highlight the importance of respect for human rights and fundamental freedoms in the implementation of international drug control conventions and invites all States to seize the opportunity provided by the anniversaries noted above to reflect and to act on this important issue.

2. The risk of long-term opioid use and the consumption of opioid analgesics

259. Based on its mandate, the Board has been drawing the attention of States parties to the importance of ensuring the availability of internationally controlled drugs for medical purposes, and has highlighted the great disparity in that availability around the world. The Board has encouraged countries to ensure adequate access to opioid analgesics in countries with low levels of consumption. The Board has continued to emphasize the importance of ensuring the rational medical use of opioid analgesics. However, despite the emphasis on the need for the adequate availability of controlled drugs for medical and scientific purposes, it remains of great importance for States parties to ensure rational prescribing and implement measures to prevent the diversion and the risk of abuse of these drugs.

260. Global consumption of opioid analgesics has been increasing in recent decades. In particular, the consumption of fentanyl increased considerably from 2000 to 2010. Since then it has fluctuated at relatively high levels. The largest consumer, the United States, has seen a decrease in consumption since 2013 due to the introduction of stricter