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Requirements of the International Drug Control Conventions,

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International Drug Control Conventions

**Single Convention on
Narcotic Drugs**
(61 Convention)

**Convention on
Psychotropic
Substances**
(71 Convention)

**United Nations Convention
against Illicit
Traffic in Narcotic Drugs
and Psychotropic Substances**
(88 Convention)



- ✿ **1961**: Single Convention on Narcotic Drugs as amended by the 1972 Protocol; In force since 1964, Replaced pre-WWII Opiate, Cannabis and Cocaine Treaties. Introduces International Control Mechanisms, 1972 Protocol - treatment / rehabilitation of drug users;
- ✿ **1971**: Convention on Psychotropic Substances: In force since 1976; Established a Control System for Psychotropic Substances
- ✿ **1988** : United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances: In force since 1990, Establishes a control system for precursors, Promotes and establishes mechanisms for international cooperation; widens scope of drug related offences and sanctions to include trafficking, money-laundering.
- ✿ Myanmar is a Party to all three Conventions



UN Drug Control Conventions: Purpose

- ✿ Ensuring the availability of useful drugs for medical purpose
- ✿ Preventing drug abuse and diversion by Limiting supply and use of drugs exclusively to medical and scientific needs



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Common goal of all three conventions

To protect public health

Law enforcement and criminal justice are amongst the *means* to achieve that goal



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Main Mandatory Requirements

- ✿ Institutional Infrastructure for Domestic and International Drug Control
- ✿ Regulation of Trade
- ✿ Demand Reduction
- ✿ Drug-Related Criminal Justice
- ✿ International Justice Sector Cooperation



Main Mandatory Requirements (1)

Institutional Infrastructure

- Establish and maintain a special licit drug regulatory administration (1961, 1971 C'n)
- Establish and maintain central offices for international cooperation
 - precursor control (1988 C'n)
 - mutual legal assistance (1988 C'n)



Main Mandatory Requirements (2)

Regulation of Trade in Controlled Drugs for Licit Use and in Controlled Chemicals

- Limit the use of controlled drugs to and ensure their availability for medical and scientific purposes (1961, 1971, 1988 C'n)
- Classify each controlled drug and chemical under domestic law to ensure the minimum control measures apply (1961, 1971, 1988 C'n)



Main Mandatory Requirements (3)

Regulation of Trade in Controlled Drugs for Licit Use and in Controlled Chemicals

- Establish and maintain a national (registration) licensing and permit systems of controlled drugs and chemicals:
 - cultivation (1961 C'n)
 - manufacture/ distribution (1961, 1971, 1988 C'n)
 - import and export (1961, 1971, 1988 C'n)
 - supply by health care professionals (1961, 1971 C'n)



Main Mandatory Requirements (5)

Demand Reduction

- Prevent drug abuse, early identification, treatment and rehabilitation measures available (1961, 1971, 1988 C'n)
- Art. 36, § 1(b) and Art. 38, 1961 Convention
- Art. 20 and Art. 22, § 1(b), 1971 Convention
- Art. 3, §4, 1988 Convention



Relevant treaty provisions

- Article 38 of the 1961 Convention requires State Parties to give special attention and take practicable measures to prevent the abuse of drugs and for early identification, treatment, after-care, rehabilitation and social reintegration of persons involved
- Drug control treaties require State Parties to put in place separate regimes for drug trafficking related activities and for drug consumption related activities, especially where it involves drug dependence.



Main Mandatory Requirements (6)

Drug-related Criminal Justice

- Establish and adequately punish drug trafficking and related conduct, including money-laundering, as serious crimes, coordinate law enforcement action and cooperate in law enforcement training, intelligence exchange and operations (1961, 1971, 1988 C'n)
- Establish measures to enable the tracing, freezing, seizure and ultimate confiscation of the proceeds of drug-related crime (1988 C'n)
- Subject to constitutional principles and basic concepts of legal system, establish possession, purchase or cultivation of drugs for illicit personal consumption as a criminal offence, for which treatment, rehabilitation may be provided as alternatives or in addition to conviction and punishment (1961, 1971, 1988 C'n)



Main Mandatory Requirements (6)

- Requirement to criminalize possession, purchase or cultivation of drugs for illicit personal consumption is subject to each State Party's constitutional principles and basic concepts of legal system.
- Safeguard clause has led to varying legislation to control possession of drugs for personal consumption in various jurisdictions.



A – Legislative provisions of States deeming possession of drugs as a criminal offence irrespective of whether it is for personal consumption or for commercial purposes

A1 – Specific threshold quantities of drugs

Botswana

Philippines

Zambia

□

□

□

□

A2 – Judicial assessment

Cuba

Ecuador

France*

India

Indonesia

Sierra Leone

□

B – Legislative provisions of States establishing possession for personal consumption as a criminal offence distinct from possession for commercial purposes

B1 – Specific threshold quantities of drugs

Afghanistan

Austria*

Canada*

China

Dominican Republic

Netherlands*

New Zealand

Nicaragua

United Kingdom*

□

□

B2 – Judicial assessment

Algeria

Brazil

Germany*

Ireland

Kenya

Mauritius

Panama

Senegal

Switzerland*

United States of America*

□

C – Legislative provisions of States establishing possession of drugs for personal consumption as an administrative offence (at least up to a certain amount)

C1 – Specific threshold quantities of drugs

Czech Republic

Italy

Lithuania

□

□

□

□

□

C2 – Judicial assessment

Azerbaijan

Bolivia

Spain

Venezuela

□

C3 – Non-judicial assessment

Portugal

□

D – Legislative provisions of States not deeming possession of drugs for personal consumption as an offence, or exempting it from criminal punishment under certain circumstances, even if by judicial construction

D1 – Specific threshold quantities of drugs

Argentina

Colombia

Mexico

Paraguay

Peru

D2 – Judicial assessment

Chile

Uruguay

□

□

□



Main Mandatory Requirements (6)

- Under the threshold system (as adopted here), national legislation may classify the quantities of drugs concerned as “small” or “large” quantities as defined in national legislation, while in other cases specific thresholds are put in place for each drug.
- The international drug control conventions do not define what would be considered acceptable thresholds for for possession for personal consumption.



Main Mandatory Requirements (6)

- Examples of thresholds-based on info provided by State Parties
- **Malaysia:** possession of 200g of cannabis, 15 grams of heroin or morphine, 1 kg of prepared or raw opium is considered drug trafficking;
- **China:** possession of more than 10g of heroin or morphine, 200g of opium, cultivation of more than 500 plants is considered drug trafficking.
- **Czech Republic** Government decree (467/2009), that would be considered to be greater than small. For example 1.5 grams of heroin (of which at least 0.2 grams of 3, 6-diacetylmorphine), 1 gram of cocaine (of which at least 0.54 grams of methyl ester benzoylecgonine), 15 grams of dry cannabis (of which at least 1.5 grams of delta-9-tetrahydrocannabinol).
- **Mexico**, Article 478 of the General Law on Health: possession for personal consumption must not exceed two grams of opium, fifty milligrams of heroin, five grams of cannabis and five hundred milligrams of cocaine.
- **Italy:** Decree of the Ministry of Health of 11 April 2006 contains the maximum quantitative limits of the active principles per average single doses, such as, for example, 0,15 grams of cocaine (and maximum threshold of 0,75 grams), 0,025 grams of Delta-9-THC (and maximum threshold of 0,5 grams), and 0,025 grams of morphine (and maximum threshold of 0,25).



Main Mandatory Requirements (6)

- Penalties:
- Parameters set by the Conventions
- 1. Proportionality of penalties: Art. 3(4) (a)-(d), 1988 Conv i.e penalties should be commensurate to the gravity of each offence
 - That persons who commit serious offences (drug trafficking) be liable to adequate punishment particularly by imprisonment, deprivation of liberty or pecuniary sanctions.



Main Mandatory Requirements

- 2. Alternatives to imprisonment
- 1961 and 1971 Conventions require States Parties to provide that abusers of drugs who have committed relevant offences undergo measures of treatment, education, aftercare, rehabilitation and social reintegration, either as an alternative to conviction or punishment or in addition to punishment.
- 1988 Convention article 3, paragraph 4, subparagraphs (c) and (d), provides the basis for States Parties to provide alternatives to conviction or punishment in appropriate cases of a minor nature or in cases of personal consumption offences, as opposed to cases of more serious drug trafficking offences.



Main Mandatory Requirements

- Advantages of alternatives measures to imprisonment include reducing overcrowding in prisons and consequently Government expenses on building and administering prisons, control on unintended or inconsequential costs of imprisonment, imprisonment of minor offences has been found be counterproductive especially for vulnerable populations-See *UNODC Handbook of basic principles and promising practices on Alternatives to Imprisonment*
- Examples include: verbal sanctions, conditional discharge, suspended or deferred sentence, fines – *See United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders*



Main Mandatory Requirements

- *2013 UNODC Report on East Asia-Pacific Regional Meeting on Implementation of the Bangkok Rules* shows that a number of countries in the East Asia and Pacific region are considering adopting and implementing alternatives measures to imprisonment in their national legislation.
- Such measures should take into account rehabilitative needs of the drug user; For example they should not create barriers to accessing medical services or other health related services



Main Mandatory Requirements (6)

- 3. Penalties:
- Death Penalty
- The United Nations does not support the use of the death penalty,
- The United Nations General Assembly has repeatedly called on countries that still maintain capital punishment to establish a moratorium on its implementation with a view to abolishing it, UN General Assembly Resolutions 69/186, 67/176, 65/206, 63/168, 62/149.
- Countries that still maintain the death penalty are required to adhere to United Nations Safeguards guaranteeing the protection of rights of persons facing the death penalty.
- The International Narcotics Control Board, which is an independent- treaty body established to monitor the implementation of the three international drug control conventions has encouraged States to consider the abolition of the death penalty for drug- related offences.



Main Mandatory Requirements (6)

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Main Mandatory Requirements (7)

International Justice Sector Cooperation

- Provide international legal cooperation to other Parties in their serious drug-related casework:
 - extradition (1961, 1971, 1988 C'n)
 - mutual legal assistance (1988 C'n)
 - controlled delivery (1988 C'n)
 - law enforcement cooperation (1988 C'n)
 - maritime coop. against trafficking on the high seas (1988 C'n)
 - use of mail services (1988 C'n)
 - commercial carriers (1988 C'n)





Tools are available on UNODC website

- Legal library;
- Case law databases;
- Competent National Authorities Directory;
- Component on treaties and agreements and policy documents.

Suggestions from discussion Papers


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Reducing the adverse health and social consequences of drug abuse: a comprehensive approach

Discussion paper


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From coercion to cohesion
Treating drug dependence through health care, not punishment

DISCUSSION PAPER

 UNITED NATIONS
Office on Drugs and Crime

 World Health Organization

Principles of Drug Dependence Treatment

Discussion Paper

March 2008



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