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Comparative Drug Treatment Policies and Legislation

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Drug and alcohol dependence is a worldwide public health problem, associated with harmful consequences for individuals, families, and communities. Treatment is an effective resource available to policy-makers and health care professionals. Crafting of policy strategies and legislation to deliver treatment services and reach public health objectives is fundamental in public international health law and practice.

A Special Committee of the American Bar Association (ABA) agrees. In its 1994 report,[1] the ABA Special Committee on the Drug Crisis urged[2] that substance abuse be recognized as a public health problem that can be prevented and treated,

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1. SPECIAL COMMITTEE ON THE DRUG CRISIS, AMERICAN BAR ASSOCIATION, NEW DIRECTIONS FOR NATIONAL SUBSTANCE ABUSE POLICY (1994).

2. *Id.* at 10-11.

and that national substance abuse policies and strategies should be focused on reducing the demand for alcohol, tobacco, and other drugs.[3]

There are three international drug control conventions and United Nations' specialized agency support. International drug control conventions obligate parties to enact national policies and legislation on prevention, treatment, aftercare, and resocialization.[4] The World Health Organization Programme on Substance Abuse,[5] headquartered in Geneva, provides international organization leadership[6] in the health aspects of drug, alcohol, and tobacco use.[7] There are no international conventions controlling the use of alcohol.

Drug control is an integral part of U.S. domestic policy,[8] and of U.S. foreign policy, administered by the State Department's Bureau of International Narcotics Matters.[9] One implementation is action under the Anti-Drug Abuse Act of 1988,[10] which requires federal government production of a comprehensive national drug control strategy, with measurable goals (including those of an international dimension) and the details of resources necessary to reach them.

Activities designed to reduce the demand for illicit drugs are being given increased attention and support. The 1994 U.S. Government National Drug Con-

3. Other recommendations of the ABA Special Committee on the Drug Crisis are: (a) that treatment capacity should be expanded to make a wide range of appropriate and effective treatment options available for those who need treatment; (b) that treatment should be included as part of any comprehensive health care delivery system; and (c) that treatment services should be coordinated with other health and social service agencies to adequately meet the needs of individuals with multiple problems and to provide the greatest opportunity for success in treatment.

4. The three conventions are: (1) Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol; (2) Convention on Psychotropic Substances; (3) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. *See infra* notes 22, 23, 24.

5. The purpose of the Programme on Substance Abuse is: (1) to reduce the demand for psychoactive substances and also reduce the impact that existing substance abuse has on the health and welfare of people everywhere; and (2) to prevent new substance abuse in all its forms.

6. The purposes of the Programme on Substance Abuse are: (1) to reduce the demand for psychoactive substances and the impact that existing substance abuse has on the health and welfare of people everywhere; and (2) to prevent new substance abuse in all its forms. The three organizational units of the Programme on Substance Abuse are: prevention, advocacy, and promotion; treatment and care; and regulatory control.

7. Tobacco was added as a responsibility in 1994.

8. THE WHITE HOUSE NATIONAL DRUG CONTROL STRATEGY, RECLAIMING OUR COMMUNITIES FROM DRUGS AND VIOLENCE (Feb. 1994) [hereinafter 1994 NATIONAL DRUG CONTROL STRATEGY]. THE WHITE HOUSE NATIONAL DRUG CONTROL STRATEGY, STRENGTHENING COMMUNITIES' RESPONSE TO DRUGS AND CRIME (Feb. 1995) [hereinafter 1995 NATIONAL DRUG CONTROL STRATEGY].

9. International narcotics matters (INM) is one of four global affairs activity units at the State Department. The other three are: democracy, human rights, and labor (DRL); population, refugees, and migration (PRM); and oceans, environment, and science (OES).

Priority concerns of INM include: seeking to stop drugs at the source; developing and carrying out an initiative on heroin; broadening international cooperation efforts; and assisting legal and law enforcement institutions and the judiciary abroad, in cooperation with the Department of Justice, Drug Enforcement Agency, Federal Bureau of Investigation, and other agencies. NGO Forum, U.S. Dep't of State, Washington, D.C., June 23, 1994.

10. 21 U.S.C. § 1504.

trol Strategy[11] notes that the administration's 1995 budget request included an increase of $72 million for the Department of State and Agency for International Development to support source country efforts to reduce the availability of illicit drugs.[12]

The purpose of this article is to describe briefly some different policy and legislative approaches that other governments have undertaken to deliver treatment services to drug-dependent persons. Comparing alternative approaches can aid decision-makers in assessing and revising policies and laws to meet this public health challenge.

I. The Public Health Problem

While this article is limited primarily to drug dependence, harmful health and social consequences are associated with the use of other substances, including alcohol, tobacco, sedatives, and volatile solvents.

In its Twenty-Eighth Report, the World Health Organization's Expert Committee on Drug Dependence (Expert Committee)[13] defined the term "drug dependence,"[14] noting that while the existence of a state of dependence is not necessarily harmful in itself, it may lead to physical or behavioral changes resulting in public health and social problems.[15] The Expert Committee also noted a growth in licit pharmaceuticals, used for medical purposes, and a vast increase in the world supply of illicit drugs in both developing and developed countries.[16] Changes in the way drugs are administered into the body have implications for public health, such as increased risk of infection, including the human immunodeficiency virus (HIV) leading to AIDS, linked to drug use by injection. Moreover, the extent and quality of care available to drug users are often inadequate and fail to serve family members effectively.[17]

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11. 1994 NATIONAL DRUG CONTROL STRATEGY, *supra* note 8, at 5.

12. Reducing the availability of illicit drugs is accomplished through activities such as the training of law enforcement personnel, judicial reform, crop control, sustainable development, interdiction, and demand reduction efforts.

13. EXPERT COMMITTEE ON DRUG DEPENDENCE, WORLD HEALTH ORGANIZATION, TWENTY-EIGHTH REPORT (World Health Organization Technical Report Series No. 836, 1993) [hereinafter EXPERT COMMITTEE].

14. The Expert Committee's definition of the term "drug dependence" is:

> A cluster of physiological, behavioural and cognitive phenomena of variable intensity, in which the use of a psychoactive drug (or drugs) takes on a high priority. The necessary descriptive characteristics are preoccupation with a desire to obtain and take the drug and persistent drug-seeking behaviour. Determinants and the problematic consequences of drug dependence may be biological, psychological or social, and usually interact.

Id. at 5.

15. *Id.* at 6.

16. *Id.* at 9.

17. Family members of the drug user often experience adverse social, economic, or health consequences of drug use.

Such problems for illicit drug users include physical health consequences, such as drug overdose or drunk driving fatalities, and social consequences such as arrest and family or work problems. A single drug injecting event leading to HIV infection, or a sustained alcohol use pattern resulting in liver cirrhosis, may be associated with drug or alcohol dependence.[18]

The Expert Committee urged increased attention to treatment of drug- and alcohol-dependent persons and strengthening the delivery of treatment service in response to that need.[19] Higher costs to both health services and to the community result when adequate treatment services are not provided.[20] Treatment services for drug and alcohol dependence should be designed in a flexible, individual, and family-oriented manner.[21] Services should be integrated into primary health care services of general practitioners and through community services. Caregivers who come into initial contact with drug-dependent persons should be enabled to detect dependence and then manage the dependent person into appropriate treatment services.[22]

International conventions provide the structure for fashioning policies and legislation to deliver needed treatment services.

II. International Conventions

There are three international drug control conventions: the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol;[23] the Convention on Psychotropic Substances;[24] and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.[25]

The three conventions establish a framework for the regulation of narcotics, psychoactive substances, and control of illicit drug traffic.[26] Controls are established in these conventions for production, manufacture, trade, and distribution

18. *See* EXPERT COMMITTEE, *supra* note 13, at 14-16.

19. *Id.* at 24.

20. *Id.* at 24: "For example, those engaged in the harmful use of drugs will, if untreated, continue to cause costs to health and social services of every kind, put strains on prisons through their inappropriate diversion to the penal services, and cause indirect social costs through loss of productivity."

21. *Id.* at 25. "The treatment offered to the individual drug or alcohol user should accurately match that individual's needs, rather than the needs of any one perceived stereotype."

22. *Id.*

23. Single Convention on Narcotic Drugs, Mar. 30, 1961, 18 U.S.T. 1407; Protocol Amending the Single Convention on Narcotic Drugs, Mar. 25, 1972, 25 U.S.T. 1439, *reprinted in* 11 I.L.M. 804 (1972).

24. Convention on Psychotropic Substances, Feb. 21, 1971, 32 U.S.T. 543, *reprinted in* 10 I.L.M. 261 (1971) [hereinafter Psychotropic Convention].

25. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances with Annex and Final Act, Dec. 20, 1988, U.N. Doc. E/CONF.82/15 (Dec. 19, 1988), S. Treaty Doc. No. 101.4 (1989), *reprinted in* 28 I.L.M. 493 (1989).

26. For a useful text on this subject, see BROR REXED ET AL., GUIDELINES FOR THE CONTROL OF NARCOTIC AND PSYCHOTROPIC SUBSTANCES IN THE CONTEXT OF THE INTERNATIONAL TREATIES (World Health Organization, 1984).

for the ultimate purpose of limiting beneficial use solely to scientific and medical purposes.[27] State parties are obligated to adopt legislation, consistent with constitutional limitations, and establish administrative measures to implement and carry out convention provisions.[28]

A. Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol

International drug control conventions have a significant impact on the establishment of national drug control strategies, policies, and laws. The Single Convention on Narcotic Drugs 1961 (Single Convention)[29] came into force in December 1964 and brought all narcotic substances under control.[30] Parties are obliged to place strict limits on the production, manufacture, export, import, distribution of and trade in, and use and possession of drugs.[31] The Single Convention was amended in 1972 to add and strengthen provisions on drug abuse prevention; education; and for treatment, rehabilitation, and social integration of drug abusers.[32]

The general obligations article (article 4) of the Single Convention requires parties to enact legislative and administrative measures limiting possession of drugs exclusively for medical and scientific purposes.[33] Article 33 permits the possession of drugs only under lawful authority.[34]

Article 36 of the Single Convention, as amended in 1972, brought more activities under drug control proscription,[35] while adding requirements that treatment, rehabilitation, and after-care be made alternatives to conviction or punishment

27. *Id.* at 9. The United Nations' role in fulfilling treaty functions is facilitated by actions of the U.N. Economic and Social Council, the Commission on Narcotic Drugs, the U.N. Division of Narcotic Drugs, the International Narcotic Control Board, and the World Health Organization. *Id.* at 15-29.

28. *Id.*

29. The Single Convention revised and modernized the international drug control system by collecting and codifying existing international treaties. Rexed et al., *supra* note 25, at 16.

30. *See also* Lane Porter et al., The Law and the Treatment of Drug- and Alcohol-Dependent Persons (World Heath Organization, 1986).

31. Single Convention on Narcotic Drugs, *supra* note 23, art. 4.

32. *See supra* note 23. Two official commentaries on the Single Convention have been published. They contain discussions interpreting the application of these treaty obligations to state parties. United Nations, Commentary on the Single Convention on Narcotic Drugs, 1961 (1973), U.N. Sales No. E.73.XI.1 [hereinafter U.N. Commentary]; United Nations, Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961 (1976), U.N. DOC E/CN.7/788, U.N. Sales No. E.76.XI.6 [hereinafter U.N. Protocol Commentary].

33. Single Convention on Narcotic Drugs, *supra* note 23, art. 4, para. (c).

34. *Id.* art. 33.

35. U.N. Commentary, *supra* note 32, at 427 (i.e., "any other action which in the opinion of a Party may be contrary to the provisions"). The official commentary emphasizes that each country may determine what action not specifically mentioned is contrary to the provisions of the Single Convention. *Id.*

in national laws.[36] Under article 36, parties may substitute measures of treatment, including education, after-care, rehabilitation and social integration, for conviction or punishment of all abusers of narcotic drugs who have intentionally committed an offense covered under article 36, including narcotics manufacture or possession,[37] no matter how serious that offense may be.[38]

B. Convention on Psychotropic Substances

The Convention on Psychotropic Substances, adopted in 1971, (Psychotropic Convention) covers new types of psychoactive substances, including central nervous system stimulants (such as amphetamines) and hallucinogens (such as LSD). Trade, manufacture, distribution, and use are placed under control, while special provisions concern treatment, rehabilitation, and social integration of abusers.[39]

C. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

The purpose of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (1988 Convention) is cooperation among parties to deal more effectively with the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension. Subject to its constitutional principles and the basic concepts of its legal system, each party is to adopt measures as criminal offenses under domestic law. Also, parties to the 1988 Convention may provide as alternatives or in addition to conviction or punishment measures such as treatment, after-care, rehabilitation, and social integration.

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36. Single Convention on Narcotic Drugs, *supra* note 23, art. 36, as amended:
—Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.
—Notwithstanding the preceding sub-paragraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38.

37. *Id.* art. 36, para. 1.

38. *See* U.N. Protocol Commentary, *supra* note 32, at 76. It may, however, be expected that, in accordance with the purpose of article 36, parties will normally substitute measures of treatment for conviction or punishment only in cases of relatively minor offenses such as the illicit sale of comparatively small quantities of narcotic drugs for the purpose of obtaining the financial means required to support the seller's drug dependence. *Id.* at 77.

39. *See* Psychotropic Convention, *supra* note 24.

With United Nations' guidance, parties have adopted different approaches to the implementation of the international drug control conventions.

III. International Coordination

The United Nations has moved to coordinate international action on drug abuse control and reduction in demand for drugs. The U.N. General Assembly adopted a Political Declaration and Global Programme of Action[40] for international cooperation in the control of drug abuse and illicit trafficking in narcotic drugs and psychotropic substances. The main provisions are as follows.

States and the United Nations are to provide coordinated advice and legal technical assistance to enable states, at their request, to adapt national legislation implementing international conventions dealing with drug abuse and illicit trafficking.[41]

National strategies in the health, social, legal, and criminal fields are to include programs for the social reintegration, rehabilitation, and treatment of drug abusers and drug-addicted offenders.[42] Moreover, training programs relating to the latest developments and techniques in the field of treatment of drug addiction, and rehabilitation, and reintegration of former addicts are to be conducted more regularly at the national, regional, and international levels.[43]

Finally, the United Nations is to act as a clearinghouse for information on effective policies and techniques, program modalities, and resource materials for the treatment, rehabilitation, and occupational reintegration of former drug addicts. Two U.N. specialized agencies, the World Health Organization and the International Labor Organization, in collaboration with other organizations of the United Nations system and nongovernmental organizations, are urged to contribute to this end.[44] The World Health Organization, in particular, is encouraged to work also with governments with a view to facilitating access to drug treatment programs and to strengthen the capacity of primary health care programs to respond to drug-related health problems.[45]

To implement the General Assembly Declaration and in keeping with the World Health Organization's mandate within the U.N. system, the goal of the Program on Substance Abuse, a special program established in 1990, is to provide worldwide leadership on the health aspects of drug and alcohol abuse, and to focus attention on the need for a more effective approach to the problem of substance abuse in general.[46] In particular, the Programme on Substance Abuse seeks to

40. G.A. Res. S-17/2, U.N GAOR 17th Spec. Sess. (1990).
41. *Id.* para. 75.
42. *Id.* para. 30.
43. *Id.* para. 33.
44. *Id.* para. 31.
45. *Id.* para. 34.
46. PROGRAMME ON SUBSTANCE ABUSE, WORLD HEALTH ORGANIZATION, REPORT ON THE 1993 PROGRAMME ACTIVITIES (WHO/PSA/94.1, 1994).

highlight demand reduction, including prevention, treatment and care, as a fundamental component of the global strategy in addressing drug and alcohol abuse.[47]

Some countries have made treatment an essential part of their national drug control strategy, including substitution of treatment in lieu of narcotic offense punishment.[48]

IV. National Drug Strategies

In some countries legal systems are undergoing profound change, particularly in the development of commercial and economic areas, where the goals are to enable countries to develop and sustain market economies, and to compete and trade internationally. Comprehensive legal codes, environmental laws, some relating specifically to chemicals used in drug processing,[49] and public health provisions are in various stages of development.

National drug strategies typically address four areas: law enforcement; prevention; treatment; and international cooperation. Each country places significantly different emphasis on each of these areas, as is illustrated in the following brief policy and legislative descriptions for nine countries and one territory: Australia, China, Germany, Hong Kong, the Netherlands, Pakistan, Poland, the Russian Federation, Sweden, and the United States. Each country and territory has adopted different approaches to drug control and to demand reduction programs, including treatment services for drug- and alcohol-dependent persons.

Many governments are working to meet obligations of the international drug conventions and to enact new policies and legislation that changed circumstances require and the public demand. Comprehensive and appropriate legislation is needed. However, in some countries many requirements and responsibilities concerning substance abuse treatment and rehabilitation are not included in public health laws or in specialized legislation and regulations on drug abuse.

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47. The specific Program on Substance Abuse objectives are to reduce the demand for addictive substances; to reduce the impact of substance abuse on the health and welfare of individuals and families; to develop effective approaches to the treatment of substance dependence and associated diseases; to collaborate in controlling the supply and use of licit psychoactive substances; and to integrate relevant health components into all development programs designed to reduce the supply of illicit narcotic drugs.

48. For a discussion of treatment associated with the criminal justice system, see PORTER ET AL., *supra* note 29, at 56.

49. Provisions proscribing the production, importation, and trade or use of illicit drugs are sometimes found in legislation not related directly to supply control or demand reduction of drugs. For example, the Congo Law of 23 April 1991 on the protection of the environment, prohibits the production, importation, use of, and trade in narcotics, except with the express authorization of the minister responsible for the environment. The objective of this law is threefold: to reinforce existing legislation dealing with the protection and preservation of wild fauna, marine and river resources, the operation of dangerous, unhealthy, or unwholesome installations, and town and country planning; to manage, maintain, restore, and protect or preserve natural resources and the cultural, national, and historical heritage; and to prevent and combat threats to the environment and to human health or property.

A. AUSTRALIA

Australia has a federal system of government with six states and two territories.[50] The National Drug Strategic Plan 1993-97[51] is the federal government's five-year plan for national actions on drugs, based on a harm minimization concept.[52] The goal of harm minimization is to reduce the adverse health, social, and economic consequences of alcohol and other drugs, by limiting to both the individual user and the community the hazards associated with drug use.

Australia is a party to the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol, and to the Convention on Psychotropic Substances.

B. CHINA

No legislative or regulatory provisions pertain specifically to drug or alcohol dependence treatment or rehabilitation in China. However, legislation and regulations for control of narcotic and psychotropic substances, and pharmaceutical administration are enacted.[53] Current legislation and regulations in China emphasize that drug abuse is illegal, but do not deal with other aspects that might contribute to the onset and development of drug abuse.

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50. The six states are: New South Wales; Queensland; South Australia; Western Australia; Tasmania; and Western Australia. The two territories are: Australian Capital Territory; and the Northern Territory.

51. COMMONWEALTH OF AUSTRALIA, NATIONAL DRUG STRATEGIC PLAN, 1993-97 (1993).

52. The principle of harm minimisation recognizes that there is a broad spectrum of levels of drug use, acute and chronic, and of associated risks of physical and social harm. It includes preventing anticipated harm and reducing actual harm. Harm minimisation demands realistic strategies focused on preventing and reducing harm to individual drug users, their families, workplaces and the wider community. It accepts that interventions that reduce risks of harm connected with drug use, without necessarily eliminating use, can also have important benefits for both the individual user and the wider community. Harm minimisation is consistent with a comprehensive approach to drug-related problems using a balance of supply control, demand reduction and problem prevention. A comprehensive approach must take into account three interacting components: the people involved, their social, physical and economic environment, and the drug itself. Harm minimisation involves a range of approaches to prevent and reduce drug-related harm, including prevention, early intervention, specialist treatment, supply control, safer drug use and abstinence.

Id. at 4.

53. Legislation and administrative regulations concerning control of narcotic and psychotropic drugs are as follows:

(1) Pharmaceutical Administration Law of the People's Republic of China (adopted at the Seventh Meeting of the Standing Committee of the Sixth National People's Congress, promulgated by Order No. 18 of the President of the People's Republic of China on Sept. 20, 1984, and effective as of July 1, 1985);

(2) Measures for the Implementation of the Pharmaceutical Administration Law of the People's Republic of China (approved by the State Council on Jan. 7, 1989, and promulgated by the Ministry of Public Health by Decree No. 1 on Feb. 27, 1989);

(3) Measures for the Control of Narcotic Drugs (promulgated by the State Council of the People's Republic of China on Nov. 28, 1987);

C. GERMANY

Germany is a federal republic. Under the German Constitution, the states (Länder), together with counties and communities, are responsible for health care delivery. The policy emphasis is on total abstinence from illegal drugs; self-controlled moderate use of licit addictive substances, alcohol, and tobacco; and use of medication strictly according to prescription.

The National Programme on Drug Abuse Control was adopted in 1990, in cooperation with the governments of the Länder.[54] The program's goals[55] include reducing both supply and demand for illicit drugs. Effective counseling and treatment programs with sufficient capacity must be widely available and easily accessible. Alternative counseling and treatment programs must also be available in order to take into account the specific situations and needs of addicts.[56]

Because the German strategy emphasizes counseling and treatment,[57] the country has developed several different modalities: social work for long-term addicts; in-patient crisis intervention; and care and consultation for HIV-infected drug addicts in drug counseling centers.[58] Moreover, one of the basic operating principles in the drug policy is therapy rather than punishment. Also, the federal narcotics law permits discretion not to prosecute when treatment will be provided and rehabilitation is to be expected.[59]

Germany is a party to the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol; the Convention on Psychotropic Substances;

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(4) Measures for the Control of Psychotropic Drugs (approved by the 25th Executive Meeting of the State Council on Nov. 15, 1988, and promulgated by Decree No. 24 of the State Council of the People's Republic of China on Dec. 27, 1988, and effective as of the date of promulgation).

For commentary on drug- and alcohol substance abuse control in the People's Republic of China, see Chen Yinqing, *Enforcement of the Administration of Narcotics in China Under Present Situation*, CHINESE BULL. ON DRUG DEPENDENCE, vol. 1, no. 1, 1992 [in Chinese]; Liu Yude & Song Shuyuan, *The Development of Alcohol Abuse and Development Problems*, CHINESE BULL. ON DRUG DEPENDENCE, vol. 1, no. 2, 1992 [in Chinese].

54. FEDERAL GERMAN MINISTRY FOR YOUTH, FAMILY AFFAIRS, WOMEN AND HEALTH, THE FEDERAL MINISTRY OF THE INTERIOR, NATIONAL PROGRAMME ON DRUG ABUSE CONTROL, MEASURES FOR DRUG ABUSE CONTROL AND HELP FOR ADDICTS AND PERSONS AT RISK (1990).

55. *Id.* § 2, at 22 ("Counselling, Treatment, Care, Rehabilitation, Professional and Social Integration").

56. Treatment has received major political support from Chancellor Helmut Kohl, who made a statement at the beginning of the June 13, 1990, National Conference on Drugs, Bonn, which included the adoption of the National Programme on Drug Abuse Control. The Chancellor stated that drug addicts are sick; that they have a right to assistance, medical treatment, and rehabilitation. Also, the Chancellor said they have a right to human solidarity. In contrast to the resigned attitude taken in the past, he observed that experience in recent years has shown that drug addicts can be successfully treated and rehabilitated. He said "we need to promote constant improvement and expansion of treatment programs if we are to be able to cope with the challenges facing us." Statement by the Chancellor, *in* NATIONAL PROGRAMME ON DRUG ABUSE CONTROL, THE FEDERAL MINISTRY FOR HEALTH, THE FEDERAL MINISTRY OF INTERIOR (1990).

57. *Id.* at 22.

58. *Id.* at 25.

59. *See* Law Concerning the Trade in Narcotic Drugs of 28 July 1981, § 17.

and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

D. HONG KONG

The Hong Kong Government's overall strategy to counter drug trafficking and abuse has four main elements: law enforcement; treatment and rehabilitation; preventive education and publicity; and international cooperation.[60] These interrelated efforts are coordinated by the Narcotics Division of the Government Secretariat, headed by the Commissioner for Narcotics, acting on the advice of the Action Committee Against Narcotics.[61]

Hong Kong uses different methods of treatment and rehabilitation for drug-dependent persons. Drug dependence is managed as a medical problem in Hong Kong and takes into account physiological and psychological aspects. Drug-dependent persons undergoing detoxification and after-care are managed as patients in need of treatment. The overall treatment strategy is to encourage voluntary admission to appropriate treatment facilities, except where the drug-dependent person is convicted of an offense punishable by imprisonment and is ordered by the court to be detained in a drug addiction treatment center of the Correctional Service Department. Presently, the Drug Addicts Treatment and Rehabilitation Ordinance[62] applies to drug treatment on a voluntary basis. Treatment associated with the criminal justice system is administered in Hong Kong under provisions of the Drug Addiction Treatment Centres Ordinance,[63] for treatment associated with the criminal justice system. The Hong Kong Bill of Rights Ordinance incorporates into the law of Hong Kong the provisions of the International Covenant on Civil and Political Rights.[64]

The Joint Declaration of the Government of the United Kingdom of Great Britain and Ireland and the Government of the People's Republic of China on the Question of Hong Kong, dated December 19, 1984,[65] provides that the U.K. Government will restore Hong Kong to the People's Republic of China, effective

60. Letter from Mrs. Sarah Kwok, Commissioner for Narcotics, to Lane Porter (July 8, 1994) (discussing Hong Kong strategy against drug abuse).

61. For full Hong Kong government reports, including descriptions of treatment and rehabilitation goals, see HONG KONG ACTION COMMITTEE AGAINST NARCOTICS, HONG KONG NARCOTICS REPORT (1993); HONG KONG ACTION COMMITTEE AGAINST NARCOTICS, HONG KONG NARCOTICS REPORT (1992).

62. Drug Addicts Treatment and Rehabilitation Ordinance, ch. 326, Laws of Hong Kong.

63. Drug Addiction Treatment Centres Ordinance, ch. 244, Laws of Hong Kong.

64. Hong Kong Bill of Rights Ordinance, ch. 383, Laws of Hong Kong.

65. Joint Declaration Of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, *in* A DRAFT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON THE FUTURE OF HONG KONG (Hong Kong Gov't Printer, Sept. 26, 1984).

July 1, 1997. Annex I to the Joint Declaration[66] contains an elaboration of Chinese policies for the Hong Kong Special Administrative Region and deals in detail with the way Hong Kong will function after July 1, 1997. It also describes the extent of the autonomy and continuity that will then prevail.[67]

On July 1, 1997, the Basic Law of the Hong Kong Special Administrative Region of The People's Republic of China (Basic Law), dated April 1990,[68] will come into effect. The Basic Law prescribes the systems to be practiced in the Hong Kong Special Administrative Region, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong.[69]

One of the general principles of the Basic Law[70] is that the laws previously in force in Hong Kong, including the common law, rules of equity, ordinances, subordinate legislation, and customary law must be maintained, except for any that contravene the Basic Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.

Presently no legislative or regulatory provisions pertain specifically to drug dependence treatment or rehabilitation in China. Reconciliation of Hong Kong drug treatment legislation and the drug control legislation of China lies ahead.

E. THE NETHERLANDS

The main goal of drug policy in the Netherlands is the safeguarding of health. The policy objective is to minimize risks associated with drug abuse to drug users, their immediate environment, and society.[71] The government's drug policy seeks: enforcement of the Opium Act;[72] prevention; and treatment. The drug policy is crafted in practical terms. The idea is that only balanced and multidisciplinary measures can control drug dependence.[73]

The Netherlands' policy emphasizes accessibility and use of primary care facilities providing health, social, and housing services. Drug-dependent persons are encouraged to use public facilities and socially integrate into the community.

66. *Id.* The Joint Declaration include three annexes: Annex I. Elaboration by the Government of the People's Republic of China of its Basic Policies regarding Hong Kong; Annex II. Sino-British Joint Liaison Group; Annex III. Land Leases.

67. Annex I provides that the laws of the Hong Kong Special Administrative Region shall be the Basic Law, the laws previously in force in Hong Kong, and laws enacted by the Hong Kong Special Administrative Region legislature.

68. The Consultative Committee for the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, The Basic Law of the Hong Kong Special Administrative Region of The People's Republic of China (adopted on Apr. 4, 1990, by the Seventh National People's Congress of the People's Republic of China at its Third Session).

69. *Id.* (Preamble).

70. Id. ch I, art. 8.

71. MINISTRY OF HEALTH, ALCOHOL, DRUGS AND TOBACCO POLICY DIVISION, RIJSWIJK, DUTCH DRUG POLICY: SOME FACTS AND FIGURES (1993 version) [hereinafter DUTCH DRUG POLICY].

72. Act of 12 May 1928 (Bulletin of Acts, Orders and Decrees) No. 167, establishing provisions governing opium and other narcotic substances, as amended.

73. DUTCH DRUG POLICY, *supra* note 71, at 8.

The focus of demand reduction activities is integration into the country's social security system, which guarantees accessible general health care services. Moreover, greater use of primary care facilities and general health care services are to be utilized, primarily in providing treatment for drug-dependent persons. Services specifically for drug-dependent persons are to be limited to those that are absolutely essential.[74]

The Opium Act as revised in 1976[75] reduced penalties regarding so-called soft drugs such as cannabis. Nevertheless, activities linked to trafficking remain punishable offenses.

F. PAKISTAN

The ideological and cultural significance of Islamic beliefs in Pakistan plays a major role in Pakistan's drug control policy. The government position is that in the Islamic State of Pakistan the abuse of narcotic drugs has negative social consequences and thus cannot be permitted. The Pakistan Narcotics Control Board coordinates programs in four areas: eradication of narcotics production and processing; control of narcotics trafficking; treatment and rehabilitation of addicts; and generation of awareness and preventive education.[76] Education concerning drugs is considered a high prevention priority. Moreover treatment and rehabilitation services have been established in twenty-six centers to reduce drug demand, particularly for heroin.

Pakistan has enacted two major drug control laws: the Dangerous Drugs Act 1930[77] and the Prohibition (Enforcement of Hadd) Order, 1979.[78] Both were amended in 1983 to increase penalties for trafficking in drugs.[79]

Amendment to the Dangerous Drugs Act added new provisions that make it unlawful for anyone to "possess heroin or cocaine in excess of ten grams or raw opium or coca leaf in excess of one kilogram" or traffic in heroin or cocaine.[80]

The President of Pakistan ordered the Prohibition (Enforcement of Hadd) Order, 1979 as "necessary to modify the existing law relating to prohibition of intoxicants so as to bring it in conformity with the Injunctions of Islam as set

74. *Id.* Specialized services designed solely for drug addicts are avoided on the theory that this approach stigmatizes drug users.

75. *See supra* note 72; *see also* DUTCH PENAL LAW AND POLICY, NOTES ON CRIMINOLOGICAL RESEARCH FROM THE RESEARCH AND DOCUMENTATION CENTRE (Ministry of Justice, Bulletin 11, 1991).

76. DIRECTORATE OF FILMS AND PUBLICATIONS, GOVERNMENT OF PAKISTAN, MINISTRY OF INFORMATION AND BROADCASTING, PAKISTAN FIGHTS NARCOTICS MENACE (May 1989).

77. Dangerous Drugs Act, 1930 (II of 1930).

78. President's Order No. 4 of 1979, Prohibition (Enforcement of Hadd) Order, 1979, Gazette of Pakistan, Extraordinary, Part I, Feb. 9, 1979.

79. Ordinance No. XXXIII of 1983 further to amend the Dangerous Drugs Act, 1930, U.N. Doc. Series E/NL.1984/12; Prohibition (Enforcement of Hadd) (Amendment) Order, 1983, U.N. Doc. Series E/NL.1984/13.

80. Dangerous Drugs Act, 1930, as amended, *supra* note 79, § 10.

out in the Holy Quran and Sunnah."[81] The word "hadd" is defined in the order as "punishment ordained by the Holy Quran or Sunnah."[82]

G. POLAND

The 1985 Law on the Prevention of Drug Abuse[83] is the legislative basis for the national drug control strategy, regulating all issues concerning prevention of drug addiction in Poland. It was the first comprehensive regulation of all issues concerning drug abuse in Poland.[84] Article 2 provides that drug dependence prevention is to be carried out in three areas: educational and preventive activities; control of agents that may lead to drug dependence; and treatment, rehabilitation, and resocialization of dependent persons. The Minister of Health has promulgated a series of regulations relating to treatment and rehabilitation.[85] Poland is a party to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances. In February 1993 the Ministry of Health applied to the Foreign Office to ratify the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.[86] At the same time, the need for treatment of alcohol-dependent persons and their families is growing.

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81. President's Order No. 4 of 1979.

82. *Id.*

83. Law No. 15 of Jan. 31, 1985, on Prevention of Drug Abuse. U.N. Doc. Series E/NL.1985/1, Mar. 14, 1988.

84. *Id.*

85. Letter from Dr. Jacek Morawski, Institute of Psychiatry and Neurology and Alcohol and Drug Information Centre, Warsaw, to Mottans Emblad, World Health Organization, Jan. 7, 1994. The regulations are as follows:

(a) Ordinance of the Minister of Health and Social Welfare of Aug. 3, 1985, on the organization and principles of functioning of treatment, rehabilitation, and readaptation institutions for drug-dependent persons (OFFICIAL GAZETTE No. 45, item 226);

(b) Ordinance of the Minister of Education of Mar. 29, 1986, on special forms of preventive and educational activities for youth exposed to addiction (OFFICIAL GAZETTE No. 19, item 110);

(c) Ordinance of the Minister of Health and Social Welfare of Aug. 31, 1985, concerning detailed conditions for the issuance of permits for the conduct of rehabilitation and resocialization of drug-dependent persons by voluntary organizations, churches, and other religious institutions as well as persons (OFFICIAL GAZETTE No. 46, item 233);

(d) Ordinance of the Minister of Justice of July 12, 1985 on detailed rules and procedures with respect to the treatment, rehabilitation, and resocialization of minors dependent on narcotic drugs or psychotropic substances placed in correctional institutions (OFFICIAL GAZETTE No. 39, item 186);

(e) Ordinance of the Minister of Justice of July 12, 1985, on detailed rules and procedures with regard to treatment, rehabilitation, and resocialization of persons addicted to narcotic drugs and psychotropic substances placed in penal institutions, under investigative arrest, or in special readaptation centres (OFFICIAL GAZETTE No. 39, item 187);

(f) Ordinance of the Minister of Health and Social Welfare of Aug. 3, 1985, on detailed rules and procedures with respect to treatment of dependent persons sentenced for offenses related to narcotic or psychotropic substances (OFFICIAL GAZETTE No. 45, item 227).

86. BUREAU FOR DRUG PREVENTION, MINISTRY OF HEALTH AND SOCIAL WELFARE, NATIONAL PROGRAMME FOR PREVENTION OF DRUG ADDICTION IN 1993 (1993).

H. Russian Federation

In the Russian Federation, the Resolution of the Soviet Supreme, dated July 22, 1993, sets out principles of State policy in regard to narcotics control in the Russian Federation.[87] The purpose of the Resolution is to establish a conceptual basis for state policy on narcotics control, particularly in its administrative and legislative aspects, leading to development of a single coordinated interagency program. The Resolution recounts that over the last few decades narcotics abuse and trafficking have reached global proportions, with a deleterious effect on the economy, politics, and civil order. Under this Resolution, state policy must provide a balanced set of measures to prevent and stop the illicit trade in narcotics and reduce demand for narcotics. The following principles are to be followed: improvement of the procedures for regulating the legal distribution of narcotics; control of illicit trade; prevention of illicit use of narcotics; and treatment and social rehabilitation for drug-dependent persons. The Resolution declares that a system for treatment and rehabilitation of drug addicts and drug abusers is an important, independent part of state policy, which seeks the following: an improved strategy for the organization and development of the narcotics service for new conditions, taking account of drug addiction as a socially dangerous disease; improvement of the organization and equipment of drug treatment services in prisons; and allocation by the government of the Russian Federation and local authorities of finance and equipment for a network of addiction treatment centres to provide the appropriate standards of quality on the basis of scientific analysis of the effectiveness of existing approaches to treatment and rehabilitation. Moreover, state policy calls for a thorough reform of compulsory treatment and social rehabilitation of drug-dependent persons, which must be provided through legislation.[88]

I. Sweden

The goal of Swedish drug policy is a drug-free society.[89] This goal reflects a unanimous position of the Swedish Parliament as "an emphatic rejection of all nonmedical use of drugs."[90] Moreover, the policy is aimed at a society in which drug abuse remains a socially unaccepted form of behavior, with no acceptance of narcotic drugs.

87. Resolution of July 22, 1993, of the Soviet Supreme of the Russian Federation on the Principles of State Policy in regard to Narcotics Control in the Russian Federation.

88. *Id.*

89. Ministry of Health and Social Affairs, Swedish Drug Policy, Guiding Principles (1993) [hereinafter Swedish Drug Policy]. For a recent comprehensive analysis of the Swedish Drug Policy, Including Treatment, see also Swedish National Institute of Public Health, A Restrictive Drug Policy, The Swedish Experience (1993).

90. Swedish Drug Policy, *supra* note 89, at 1.

Consequently, instead of trying to induce drug abusers to use drugs more safely, for example, Sweden has expanded its drug rehabilitation services to reach all drug abusers with care, treatment, and counseling.

Drug policy is a part of Swedish social policy and its security system of general benefits. The Social Services Act of 1982 provides for several residential treatment centers with a combined admission capacity of more than one thousand persons, primarily adult drug-dependent persons. Admission is voluntary. Other residential treatment centers admit both drug- and alcohol-dependent persons.

Under provisions of the Drug Offenses Act, the consumption of drugs is a punishable offense, as are drug trafficking actions such as processing and transportation. The Social Services Act of 1982 provides for a series of community-based measures designed to give alcoholics and drug addicts access to treatment and other assistance. In addition, companion legislation, the 1982 Compulsory Care of Alcohol and Drug Abusers Act, as revised in 1989, enables involuntary civil commitment for treatment of drug addicts and alcoholics. It expands the facilities for compulsory care of alcoholics, drug addicts, and abusers of volatile substances; permits intervention at an earlier stage of abuse than under the 1982 provisions; and extends to six months as (compared to four months) the maximum permitted duration of compulsory care.[91]

The Compulsory Care of Alcohol and Drug Abusers Act, as revised, applies when (as a result of ongoing narcotics use) a person is seriously endangering his or her physical or mental health; runs an obvious risk of ruining his or her life; or is liable to inflict serious injury on himself or herself or on some closely related person.[92]

Sweden has acceded to the Single Convention on Narcotic Drugs 1961 and as amended by the 1972 Protocol, and the Convention on Psychotropic Substances.[93]

J. THE UNITED STATES

The 1994 United States Government National Drug Control Strategy recognizes that drug dependence is a chronic, relapse disorder, and that drug users stand

91. *See* INTERNATIONAL SECRETARIAT, MINISTRY OF HEALTH AND SOCIAL AFFAIRS, THE CARE OF ALCOHOLICS, DRUG ABUSERS, AND ABUSERS OF VOLATILE SOLVENTS (SPECIAL PROVISIONS) ACT (Oct. 1989).

The Social Services Act of January 1982 replaced four previous acts including the Temperance Act, which governed treatment for alcoholism. The Social Services Act stress community participation. Local authority welfare committees are required to take steps to prevent and counteract the misuse of alcohol by supplying information on drug and alcohol misuse and arrange for necessary voluntary help and treatment for alcoholics and drug addicts.

92. The Care of Alcoholics, Drug Abusers And Abusers of Volatile Solvents (Special Provisions) Act, LVM 1989, SFS 1988:870. Compulsory care occurs only in exceptional cases and most treatment programs are voluntary.

93. *See* NATIONAL COUNCIL FOR CRIME PREVENTION, MINISTRY OF JUSTICE, CURRENT SWEDISH LEGISLATION ON NARCOTICS AND PSYCHOTROPIC SUBSTANCES, REPORT NO. 11 (1990).

little chance of overcoming their problems without appropriate prevention and treatment.[94] The United States' 1995 Strategy states that when drug-dependent individuals receive appropriate treatment, they decrease their drug use, decrease their criminal activity, increase their employment, improve their social and interpersonal functioning, and improve their physical heath.[95]

The current administration is placing more importance than ever before, both programmatically and financially, on demand reduction efforts, including treatment. The 1995 administration budget brought supply and demand reduction into balance by favoring reduction in demand. In addition, the administration's health care reform initiative included treatment for substance abuse as a mandatory component.[96]

A special effort is being taken to bring hard-core drug-dependent persons into treatment and rehabilitation. The 1994 Strategy's goal of expanding treatment adopts a comprehensive approach based on a public health model that considers drug use, violence, infectious disease, and mental illness as linked or closely related problems calling for a continuum of prevention, treatment, and other interventions.[97] The spread of AIDS in the population of injecting drug users, and the risk this spread poses to the general population, adds impetus to insuring that drug treatment is integrated into primary health care.[98] One of the main goals in the 1995 National Strategy is to target intensive treatment services for hardcore drug-using populations, including adults and adolescents in custody or under the supervision of the criminal justice system, pregnant women, and women with dependent children.[99]

IV. Conclusion

The national drug control policies and legislative provisions outlined in this article provide a useful sketch of different approaches in implementing international conventions. Treatment services are typically an important component in policy formulation and in health and social service delivery. Legislation may include entry into treatment under voluntary provisions, mental health laws, specialized compulsory civil commitment, or criminal diversion laws.

The interest given in the United States by the American Bar Association Special Committee on the Drug Crisis[100] focuses needed attention on substance

94. 1994 NATIONAL DRUG CONTROL STRATEGY, *supra* note 8, at 23.

95. 1995 NATIONAL DRUG CONTROL STRATEGY, *supra* note 8, at 37.

96. *Id.* at 25. The substance abuse benefit under the Proposed Health Security Act was designed to encourage the most effective treatment in the least restrictive environment (e.g., community-based care rather than inpatient hospital care). To reach this goal, states were to make full coordinated use of all available treatment resources.

97. *Id.* at 26.

98. *Id.*

99. 1995 NATIONAL DRUG CONTROL STRATEGY, *supra* note 8, at 15.

100. SPECIAL COMMITTEE ON THE DRUG CRISIS, *supra* note 1, passim.

abuse, including drug and alcohol, tobacco, and other drugs of dependence, as a public service issue for the legal community, as well as a serious public health problem. New directions suggested in the ABA Committee's report are encouraging and worthy of further investigation and analysis. Information and insights gained from the approaches taken in other countries may be of advantage in this process.