



# Families and Friends for Drug Law Reform

*committed to preventing tragedy that arises from illicit drug use*

PO Box 4736, HIGGINS ACT 2615, Telephone (02) 6254 2961

Email [mcconnell@ffdlr.org.au](mailto:mcconnell@ffdlr.org.au)

Web <http://ffdlr.org.au>

## NEWSLETTER

## November 2010

ISSN 1444-200

### Annual General Meeting

Thursday 25 November 2010 at the McConnell's home

Our last meeting for 2010 will be an **end of year BBQ followed by our Annual General Meeting** including election of office bearers and presentation of the President's and Treasurer's annual report.

This will take place on Thursday 25<sup>th</sup> November at 6:30pm for the BBQ and 8:00pm for the AGM at Marion and Brian's home.

Marion and Brian will supply meat and salads etc but **could members please bring a sweet or drink.**

Members and their family are most welcome.

**For catering purposes please let Marion know if you are coming**

**RSVP  
6254 2961**

If you don't know our address we will give it to you when you contact us.

Looking forward to a pleasant evening together.

## Editorial

### Science Vs politics

Professor David Nutt of the University of Bristol in England and head of that university's psychopharmacology unit recently ran afoul of the British government.

Nutt was chairman of the government's Advisory Council on the Misuse of Drugs (ACMD) and clashed with government ministers over issues of the harm caused by drugs and their respective classifications. The ACMD is a statutory body whose role is to keep under review drugs which are likely to be misused and are capable of constituting a social problem, and consequently advise the minister on courses of action. As a means to determine harm for each drug a risk assessment matrix was developed which measured physical harm, dependence, and social harms.

He published a paper in January 2009 in which he compared the risks of serious adverse events

between taking ecstasy and horse riding (1:10,000 for ecstasy Vs 1:350 for horse riding), which did not please the then Home Secretary.

In essence Nutt was pointing out that the lawmakers' classification and penalties for recreational drugs did not match scientific measures of their harmfulness and that they should be classified according to the actual evidence. The issue came to a head in October 2009 when he argued against the reclassification of cannabis from a class C drug back to class B. Nutt had been asked by the then Home Secretary to review the status of cannabis in 2007. Because the evidence indicated that cannabis posed only a relatively small risk he maintained that it should remain as class C. He explained this as follows:

*...there is a likelihood that taking cannabis, particularly if you use a lot of it, will make you more prone to having psychotic experiences. That includes schizophrenia, but schizophrenia is a relatively rare condition so it's very hard to be sure about its causation. The analysis we came up with was that smokers of cannabis are about 2.6 times more likely to have a psychotic-like experience than non-smokers. To put that figure in proportion, you are 20 times more likely to get lung cancer if you smoke tobacco than if you don't. That's the sort of scaling of harms that I want people to understand. There is a relatively small risk for smoking cannabis and psychotic illness compared with quite a substantial risk for smoking tobacco and lung cancer.*

*The other paradox is that schizophrenia seems to be disappearing (from the general population) even though cannabis use has increased markedly in the last 30 years.*

The former Home Secretary decided cannabis should be returned to a class B drug because of:

*'...public perception and the needs and consequences for policing priorities. There is a compelling case for us to act now rather than risk the future health of young people. Where there is a clear and serious problem, but doubt about the potential harm that will be caused, we must err on the side of caution and protect the public.'*

In other words public perceptions and policing priorities carried more weight than the scientific evidence.

On the basis of a pamphlet ([David Nutt's pamphlet 'Estimating drug harms: a risky business?'](#)) the Home Secretary Alan Johnson sacked him from the ACMD because, he said, Nutt could not be an adviser and a campaigner against government policy. Nutt responded that his sacking was a conflict between government and science.

Nutt was undaunted and gained financial backing to establish a new body called "the Independent Council on Drug Harm". A number of other eminent scientists resigned from the ACMD in protest against Nutt's sacking and joined him in this new body.

Nutt and colleagues under the banner of this new body, had published in the Lancet, a paper "Drug harms in the UK: a multicriteria decision analysis". It followed the ACMD criteria of harms to users, subdivided into physical, psychological and social, and then on harms to others, subdivided into psychological and physical and social. It produced an overall harm criteria ranking the results of which are summarised in the table below. The scoring scale was from zero being least harmful to 100 being most harmful

Harms to users	Harms to others	
	High <i>(Drugs scoring from 20 to 100)</i>	Low <i>(Drugs scoring less than 20)</i>
High <i>(Drugs scoring from 30 to 100)</i>	Highest Alcohol, Crack Cocaine, Heroin	Methamphetamine, GHB, Tobacco, Amphetamine, Cocaine
Low <i>(Drugs scoring less than 30)</i>		Lowest LSD, Khat, Ecstasy, Cannabis, Ketamine, Benzodiazapine, Methadone, Buprenorphine

Essentially the paper says that on an overall ranking alcohol then heroin then crack cocaine respectively are most harmful. On a harm to others only, the ranking is the same. On a harm to users basis, the most harmful is crack cocaine, then heroin, methamphetamines and alcohol respectively. All others rank low on both scales.

Given the collective expertise of the authors of the paper, and although there are some acknowledged limitations in the method, it would be hard to disagree with the overall result. It would be hard to disagree with the conclusion that there is a mismatch between the harms of drugs and their

relative legislative classification and the related penalties.

If the purpose of the legislative classification was to protect others from the harms of the drugs then there are few drugs to be considered. If on the other hand the purpose is to protect users (from themselves) then a different and health oriented approach would be needed.

However despite the view of Families and Friends for Drug Law Reform that evidence and logic should win the day, irrational thinking, prejudice, superstition, denial and even stupidity can win out. Sometimes governments take the easy decisions, throwing aside very strong evidence. Why they do this is often a mystery.

Prof David Nutt is to be congratulated for his efforts and persistence. But for the UK government and the people whom it represents one must feel a little pity because they have been, and will continue to be, the losers.

*Acknowledgements and thanks to Wikipedia for background information – a starting point for more information can be found here [http://en.wikipedia.org/wiki/David\\_Nutt](http://en.wikipedia.org/wiki/David_Nutt) and here <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2810%2961462-6/abstract>.*

## Death and the state

*David Marr, The Age, October 23, 2010*

ONE straw to clutch as three Australians wait in Bali to know if they will live or die is a new mood of decency sweeping the Indonesian judiciary. The Constitutional Court of Indonesia has suggested all death sentences might be commuted in future.

But the prosecutor of Bali nine member Scott Rush made it clear during the young man's appeal that the people of Indonesia don't share the vision of those senior judges. He declared: "We believe that the Indonesian people would consider the death penalty appropriate in this case."

And so do many Australians. Executing drug smugglers is not just an enthusiasm of puritan regimes to our north. Singapore, Indonesia, Malaysia and Vietnam are keen proponents of killing them for their crimes. But it's popular in Australia too. Only a year ago, a Morgan poll found 50 per cent of us wanted Indonesia to execute Rush, Andrew Chan and Myuran Sukumaran, who were found guilty of trying to smuggle more than eight kilograms of heroin from Bali into Australia.

That same poll showed support for executing murderers in Australia had fallen to 23 per cent. It's a record low. That twice as many of us, meanwhile, want to see drug smugglers topped is nothing new. In the 1980s, when 44 per cent of us still wanted murderers executed in Australia, 80 per cent backed Malaysia hanging heroin traffickers Kevin

Barlow and Brian Chambers. Twenty years later, 61 per cent of us approved of the hanging of 24-year-old Australian Nguyen Tuong Van, caught with 400 grams of heroin in Singapore.

Those who believe capital punishment is over and done with should pay attention to the way Australia's surviving enthusiasm for the death penalty is inextricably linked to the war on drugs. Nor do the polls of the past 60 years prove the trends have been inexorably towards abolition. In response to death, threats of death, terrorist slaughter and the drug trade, the national mood is volatile.

At first glance, the last of those calling for the return of the noose were routed early this year when not a voice was raised in Parliament against a bill extending the old Commonwealth ban on capital punishment to all the states. The Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Bill passed on the voices. At least while the Commonwealth holds its nerve, there will never be another hanging in Australia.

But the silence of the proponents was not the silence of defeat. They are keeping their heads down. The National Party, which opposed the old 1973 legislation almost to a man - along with Billy Wentworth and Malcolm Fraser - kept silent in 2010. Tony Abbott didn't have the courage to speak in Parliament but as the debate was about to begin in Canberra, he made it clear he does not support a policy of absolute and permanent renunciation of capital punishment.

Abbott told the *Herald Sun* he sometimes finds himself thinking there are crimes so horrific that capital punishment may be "the only way to adequately convey the horror of what's been done". What punishment, he wondered, would fit the crime of the cold-blooded murder of hundreds or thousands of innocent people? "I mean, you've got to ask yourself, what punishment would fit that crime? That's when you do start to think that maybe the only appropriate punishment is death."

Tony Windsor also kept his own counsel as the bill was going through Parliament. But his position on capital punishment hasn't changed since the mid-1990s when he brought a 400,000-signature petition to the NSW Parliament calling for the restoration of the death penalty for murder. He says now he was responding to a strong push in his electorate of Tamworth following several terrible murders, including that of nine-year-old Ebony Simpson.

Then and now, Windsor says executions should be carried out only when there is no doubt of guilt - not guilty beyond reasonable

doubt, but a new category not known to the law of guilty beyond any doubt whatsoever. Capital punishment is not on his agenda now, but he says: "Under certain circumstances, I wouldn't lose a lot of sleep if someone didn't wake up again."

So those who think this fight is done would be well to remember that the Opposition Leader, an unknown number of conservative politicians, the kingmaker of the national government and something like a quarter of the nation do not back the official stance of absolute abolition.

Australians have softened towards Scott Rush and his companions in the past year. Credit for that must go to his parents Lee and Christine. Their indefatigable campaigning for his life has been backed by a phalanx of worthy organisations: Australian Lawyers for Human Rights, Amnesty International and Aussies Against Capital Punishment. Even so, when Nielsen polls took soundings in August as Rush's appeal began, 28 per cent of Australians polled still wanted to see him and his companions shot.

Queenslanders (33 per cent) and West Australians (38 per cent) are keener than the rest of us to bring back the noose. Men (36 per cent) are keener than women (21 per cent) to see this happen. However, the difference between the city and the bush is negligible.

And it is a lazy assumption that execution is an enthusiasm of the old. Australians aged between 25 and 54 are actually more enthusiastic (about 32 per cent) than those older and younger (24 per cent) about the death penalty for drug smugglers.

Supporters of capital punishment turn out to be as likely to vote Labor as Coalition: 28 per cent of Labor and 30 per cent of Coalition voters want the Bali three to die. Go further out on the political fringe and support for execution climbs steeply: 38 per cent of Family First and 41 per cent of those who Nielsen clumps together as "independents" want them to face the firing squad.

So in 2010 the Identikit supporter of executing drug smugglers is a Family First voter of about 50 living somewhere like Geraldton, WA. But he is far from alone. Nielsen's polling suggests that after all the campaigning of the past four years, about 4 million Australian voters still want the Indonesians to carry out the death sentence on Rush, Chan and Sukumaran.

The prospect of those three executions compelled the Australian government to clarify - or appear to clarify - the rules of engagement governing the Australian Federal Police. Rush and his companions are only on death

It is very easy to get research money to show that drugs are harmful but it's very hard to get research funds to show that they may not be so. Nutt, David, Estimating drug harms: a risky business? October 2009

row because in 2005 the AFP shopped them to Indonesian authorities.

Last December, the government issued guidelines supposed to clarify the terms on which our police will continue to lend a hand in countries where the death penalty applies. For about five minutes, the guidelines seemed a big step forward, until a spokesman for Attorney-General Robert McClelland declined to confirm the new rules would have led to a different outcome for the Bali nine. "That is hypothetical," he said.

AFP co-operation with the executing regimes to our north now depends on "the seriousness of the crime" involved. So here's the question: does the Australian government really believe drug running is a crime so serious it merits exposing Australians to execution?

Brendan O'Connor, the minister responsible for the AFP, won't say no. "The Australian government does not condone criminal activity and continues to warn Australians who may be involved in criminal activity overseas that they may be subject to the death penalty."

That's a brutal verdict: the Australian government will plead with Indonesia, Singapore, Malaysia and Vietnam not to execute our nationals caught with heroin strapped to their bodies, but there will be no bar to AFP operations that help put those foolish Australians on death row.

Taking drug-running off the AFP's list would infuriate the Indonesians. Their most senior judges are having second thoughts about capital punishment, but Indonesians see drug crime as one of the most serious offences, on a par with murder. A high source in government explained that if we want to maintain co-operation with Indonesia on terrorism and people smuggling, we have to see eye-to-eye with them on drugs.

Removing drug-running from the AFP list would also anger a big Australian constituency. It would be read as caving in to the drugs war, as Australia being unwilling to use whatever means we have to stop heroin and cocaine reaching this hungry market. The diplomatic risks would be high, but so would the domestic political risks run by an Australian government brave enough to say the obvious to the countries to our north: we don't share your panic about drugs.

Let's celebrate how far we have come in the long campaign against capital punishment without being blind to the fragility of the consensus confirmed in Canberra this year that Australia should never again employ a hangman. Let's also face the obvious: on death row in countries all around us are men and women whose crime was to be caught up in the drug trade.

Three of our own are already among them. Michael Sacatides may well join their number after being caught in late September with 1.7 kilograms of methamphetamine in the lining of a suitcase he claims belongs to an Indian tea-seller in Bangkok.

The next step in fighting capital punishment in our country, our region and the world is to recognise how intimately the drug trade and the death penalty are entwined. Bringing sanity to both will save lives.

## **UN expert calls for a fundamental shift in global drug control policy**

At a press conference in New York on Tuesday 26 October, at the 65th session of the United Nations General Assembly, one of the UN's key human rights experts will call for a fundamental rethink of international drug policy.

Anand Grover, from India, is the UN Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health, whose mandate is derived from the UN Human Rights Council. Mr Grover's annual thematic report, to be presented on October 25/26, sets out the range of human rights abuses that have resulted from international drug control efforts, and calls on Governments to:

- Ensure that all harm-reduction measures (as itemized by UNAIDS) and drug-dependence treatment services, particularly opioid substitution therapy, are available to people who use drugs, in particular those among incarcerated populations.
- Decriminalize or de-penalize possession and use of drugs.
- Repeal or substantially reform laws and policies inhibiting the delivery of essential health services to drug users, and review law enforcement initiatives around drug control to ensure compliance with human rights obligations.
- Amend laws, regulations and policies to increase access to controlled essential medicines

To the UN drug control agencies, Mr Grover recommends the creation of an alternative drug regulatory framework based on a model such as the Framework Convention on Tobacco Control.

The report is the clearest statement to date from within the UN system about the harms that drug policies have caused and the need for a fundamental shift in drug policy.

The report has been welcomed by the European Union in the EU statement on crime and drugs to the UN General Assembly.

### **Summary of rapporteur's report**

Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

UN Doc No A/65/255

[http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=17520](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=17520)

The current international system of drug control has focused on creating a drug free world, almost exclusively through use of law enforcement policies and criminal sanctions. Mounting evidence, however, suggests this approach has failed, primarily because it does not acknowledge the realities of drug use and dependence. While drugs may have a pernicious effect on individual lives and society, this excessively punitive regime has not achieved its stated public health goals, and has resulted in countless human rights violations.

People who use drugs may be deterred from accessing services owing to the threat of criminal punishment, or may be denied access to health care altogether. Criminalization and excessive law enforcement practices also undermine health promotion initiatives, perpetuate stigma and increase health risks to which entire populations - not only those who use drugs - may be exposed. Certain countries incarcerate people who use drugs, impose compulsory treatment upon them, or both. The current international drug control regime also unnecessarily limits access to essential medications, which violates the enjoyment of the right to health.

The primary goal of the international drug control regime, as set forth in the preamble of the Single Convention on Narcotic Drugs (1961), is the "health and welfare of mankind", but the current approach to controlling drug use and possession works against that aim. Widespread implementation of interventions that reduce harms associated with drug use - harm-reduction initiatives - and of decriminalization of certain laws governing drug control would improve the health and welfare of people who use drugs and the general population demonstrably. Moreover, the United Nations entities and Member States should adopt a right to health approach to drug control, encourage system-wide coherence and communication, incorporate the use of indicators and guidelines, and consider developing a new legal framework concerning certain illicit drugs, in order to ensure that the rights of people who use drugs are respected, protected and fulfilled.

### **Recommendations**

Member States should:

- Ensure that all harm-reduction measures (as itemized by UNAIDS) and drug-dependence treatment services, particularly opioid substitution therapy, are available to people who use drugs, in particular those among incarcerated populations.
- Decriminalize or de-penalize possession and use of drugs.
- Repeal or substantially reform laws and policies inhibiting the delivery of essential health services to drug users, and review law enforcement initiatives around drug control to ensure compliance with human rights obligations.
- Amend laws, regulations and policies to increase access to controlled essential medicines.

The United Nations drug control bodies should:

- Integrate human rights into the response to drug control in laws, policies and programmes.
- Encourage greater communication and dialogue between United Nations entities with an interest in the impact of drug use and markets, and drug control policies and programmes.
- Consider creation of a permanent mechanism, such as an independent commission, through which international human rights actors can contribute to the creation of international drug policy, and monitor national implementation, with the need to protect the health and human rights of drug users and the communities they live in as its primary objective.
- Formulate guidelines that provide direction to relevant actors on taking a human rights-based approach to drug control, and devise and promulgate rights-based indicators concerning drug control and the right to health.
- Consider creation of an alternative drug regulatory framework in the long term, based on a model such as the Framework Convention on Tobacco Control.



## Ethan Nadleman Downunder

Ethan Nadelmann, Executive Director of the Drug Policy Alliance - the USA's leading drug policy reform organisation will be visiting Australia on a speaking tour from 21 November – 3 December 2010.

He is speaking at the National Press Club in Canberra on 23<sup>rd</sup> November and it is expected that he will appear on ABC Lateline that evening.

Educated at Harvard and the London School of Economics, Ethan Nadelmann has often written about drug law reform in the US media as well as many influential academic publications. He will be travelling across Australia to warn about the risks of continuing with a failed policy. He argues the war on drugs is no answer at all, that criminalisation is not a way forward and the challenge is to reduce the harms and have an alternative approach based on science, public health and human rights.

Ethan Nadelmann argues that the political elite in most countries of the world clearly understand global prohibition has not worked and can never be effective.

### Locations and dates

Sydney 21 Nov – 25 Nov, 2 Dec – 3 Dec

Canberra 23 Nov, 28 Nov – 1 Dec

Melbourne 26 – 27 Nov

Brisbane 1 Dec – 2 Dec

Keep a watch out for his other speaking engagements - he is certain to be on TV and radio.

For more information about his itinerary contact Ruth on 0459306933



*Photos from our Remembrance Ceremony*

**We are now on [facebook](#)** -  
check out our Cause.

**We are also on [GetUp!](#)**

Check out our [GetUp!](#) campaign  
idea and **vote** for it

*We wish you all a happy  
Christmas and New Year  
and we thank you for all  
your support.*

We hope to see you again next year.  
Our first meeting for 2011 will be on  
24 February 2011

