

Families and Friends for Drug Law Reform

committed to preventing tragedy that arises from illicit drug use

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NEWSLETTER

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No Meeting in June

Please note that there will be no meeting this month of June.

Take the opportunity to attend the Drug Action Week events.

See later article for DAW launch details and websites where events are listed.

Editorial

New report and old ways

In the last week the Global Commission on Drug Policy launched their report on the international stage saying:

“The global war on drugs has failed, with devastating consequences for individuals and societies around the world.”

The Global Commission on Drugs is a 19 person panel comprising many former presidents and high officials of a wide variety of countries and who have a great deal of experience of the consequences of their countries' experience of drug policies. It is a body that should be listened to.

Even the UN recognised back as far as 1988 that their 1961 Single Convention on Drugs had made the situation worse, not better. Compare these two preambles. First the preamble to the 1961 convention where it said that the parties to the convention were “concerned with the health and welfare of mankind” and that they recognised “that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind”.

And then in 1988 it said that they were deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, and the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States.

After just 27 years the UN said that it had problems. Problems that were introduced by the 1961 convention but instead of rethinking its approach it persevered with its failed law enforcement approach.

The Global Commission has now driven that message home in a very blunt fashion. It has not stopped at sending the message, it has proposed solutions as well, one of which is to:

End the criminalization, marginalization and stigmatization of people who use drugs but who do no harm to others.

At least one Australian newspaper, the Canberra Times has picked up this theme in its editorial (see: <http://www.canbertratimes.com.au/news/opinion/editorial/general/global-war-on-drugs-a-failure/2186090.aspx>) that concluded:

Facing the facts on drugs by no means involves shifting to approval of the use of drugs. Instead it involves turning to strategies - particularly harm reduction ones - which have been shown to work. Meanwhile, law enforcement strategies have been convincingly shown, over a long period and almost everywhere in the world (including Australia), to fail. The occasional police public relation triumph - a major seizure or the arrest of some ring makes almost no impact on supply, or on demand. Law enforcement failure does not mean only failure to deter or help with those using and abusing such drugs, it spreads quickly into wasted and diverted resources, lost confidence in wider law enforcement and in the law itself, and widespread corruption.

Australia, as it happens, is among those countries regarded by the commission as being rather more enlightened on drug policy. That's not only because it has some pioneering harm reduction programs, but because some programs have focused on the demand as much as the supply side, and because some jurisdictions, including the ACT, have reduced the focus on attacking simple and small use and possession. For all that, however, Australian policy and resources are still far too much focused at the law enforcement end to little obvious avail.

The White House dismissed the report out of hand without giving it full consideration. But it would do that wouldn't it, because the USA was largely behind the push for the 1961 Convention.

When it comes to drugs the old ways of using harsh penalties are, unfortunately, deeply entrenched. Recently the Yarra Council voted in favour of a supervised injecting centre, along the lines of the Kings Cross centre which had successfully passed every test thrown at it. Ted Baillieu, the Victorian Premier, rejected it outright saying: “Well, we won't be supporting injecting rooms. We haven't and won't and it won't proceed.” He went on to say: “We've got to get the message through to young people that dabbling in drugs is dangerous and can and does ruin lives, and we're not going to give up.”

The Victorian Premier did not consider that the present policies were causing much of the harm and would rather expose users to the dangers of serious health consequences or even death from drugs of unknown strength and unknown purity. Even injecting practices like hurried injection up a back alley with blood spilling everywhere add to the danger. He would also rather expose the people of the Richmond area to the continual dangers of discarded syringes which for the Kings Cross

residents is now a distant memory because of their injecting centre.

These old attitudes prevail in other ways also. Anyone who has followed the history of prohibition will recognise the pattern of banning a substance only to see a stronger or slightly different chemical substance appear on the scene. Opium was banned at the turn of the last century and now we have heroin. Amphetamines were banned and speed emerged. Cocaine was banned and crack emerged. Cannabis has been banned and now “Kronic” has emerged.

We have an alphabet soup of banned substances and no doubt there are many more on the way.

The illegal drug industry has more than sufficient funds to employ the best chemists who, with a slight tweak of the chemistry, make a new substance much like the old one and perhaps stronger but certainly one which can be sold without penalty because the law has not yet caught up.

But the law will never catch up unless we do something differently with our drug laws and policies. It will take some painstaking work with our politicians and lawmakers to get them to pay heed to the advice and recommendations that are contained in the Global Commission’s report.

Global Commission on Drugs

Executive summary

The global war on drugs has failed, with devastating consequences for individuals and societies around the world. Fifty years after the initiation of the UN Single Convention on Narcotic Drugs, and 40 years after President Nixon launched the US government’s war on drugs, fundamental reforms in national and global drug control policies are urgently needed.

Vast expenditures on criminalization and repressive measures directed at producers, traffickers and consumers of illegal drugs have clearly failed to effectively curtail supply or consumption. Apparent victories in eliminating one source or trafficking organization are negated almost instantly by the emergence of other sources and traffickers. Repressive efforts directed at consumers impede public health measures to reduce HIV/AIDS, overdose fatalities and other harmful consequences of drug use. Government expenditures on futile supply reduction strategies and incarceration displace more cost-effective and evidence-based investments in demand and harm reduction.

Our principles and recommendations can be summarized as follows:

End the criminalization, marginalization and stigmatization of people who use drugs but who do no harm to others. Challenge rather than reinforce common misconceptions about drug markets, drug use and drug dependence.

Encourage experimentation by governments with models of legal regulation of drugs to undermine the power of organized crime and safeguard the health and security of their citizens. This recommendation applies especially to cannabis, but we also encourage other experiments in decriminalization and legal regulation that can

accomplish these objectives and provide models for others.

Offer health and treatment services to those in need. Ensure that a variety of treatment modalities are available, including not just methadone and buprenorphine treatment but also the heroin-assisted treatment programs that have proven successful in many European countries and Canada. Implement syringe access and other harm reduction measures that have proven effective in reducing transmission of HIV and other blood-borne infections as well as fatal overdoses. Respect the human rights of people who use drugs.

Abolish abusive practices carried out in the name of treatment – such as forced detention, forced labor, and physical or psychological abuse – that contravene human rights standards and norms or that remove the right to self-determination.

Apply much the same principles and policies stated above to people involved in the lower ends of illegal drug markets, such as farmers, couriers and petty sellers. Many are themselves victims of violence and intimidation or are drug dependent.

Arresting and incarcerating tens of millions of these people in recent decades has filled prisons and destroyed lives and families without reducing the availability of illicit drugs or the power of criminal organizations.

There appears to be almost no limit to the number of people willing to engage in such activities to better their lives, provide for their families, or otherwise escape poverty. Drug control resources are better directed elsewhere.

Invest in activities that can both prevent young people from taking drugs in the first place and also prevent those who do use drugs from developing more serious problems. Eschew simplistic ‘just say no’ messages and ‘zero tolerance’ policies in favour of educational efforts grounded in credible information and prevention programs that focus on social skills and peer influences. The most successful prevention efforts may be those targeted at specific at-risk groups.

Focus repressive actions on violent criminal organizations, but do so in ways that undermine their power and reach while prioritizing the reduction of violence and intimidation. Law enforcement efforts should focus not on reducing drug markets per se but rather on reducing their harms to individuals, communities and national security.

Begin the transformation of the global drug prohibition regime. Replace drug policies and strategies driven by ideology and political convenience with fiscally responsible policies and strategies grounded in science, health, security and human rights – and adopt appropriate criteria for their evaluation. Review the scheduling of drugs that has resulted in obvious anomalies like the flawed categorization of cannabis, coca leaf and MDMA. Ensure that the international conventions are interpreted and/or revised to accommodate robust experimentation with harm reduction, decriminalization and legal regulatory policies.

Break the taboo on debate and reform. The time for action is now.

The full report of the Global Commission can be found at: <http://globalcommissionondrugs.org/>

Loathing of heroin users behind approach

Chris Middendorp, The National Times, May 23, 2011

We treat people on drugs as criminals first and people second.

Heroin's most notable effect on the long-term user is not insanity, disease or moral turpitude - it's constipation. Regular users of opiates find it difficult to go to the toilet. This restricted state is an apposite metaphor for drug policy in Australia.

We remain stuck in antiquated law-and-order responses, when drug taking is actually a health issue. Police can do nothing to remedy addiction, all they can do is treat drug users as criminals first and people second. Nowhere is this more apparent than in their dealings with heroin use, the drug most feared by the community.

Let's get one thing over with right away. When we say that a heroin addiction is bad, what we should really mean is that the bad things associated with heroin come about because the drug is illegal.

The fact that some heroin users turn to burglary or prostitution to finance their habit is a consequence of the legal system rather than the drug itself.

The purveyors of heroin operate outside the law. This makes the drug expensive and widely varying in quality. People overdose because they don't know how potent their supply is going to be. Users become sick and sometimes homeless because all their money and resources are directed towards the ceaseless maintenance of this costly addiction.

I've heard drug educators explain that a kilogram of heroin is no more expensive to produce than a kilogram of household sugar. Yet a heroin addict may need to spend hundreds, even thousands, of dollars a week on a substance that's worth no more than a few bucks. Most of the crime associated with heroin is the unfortunate byproduct of its high price.

Dr Alex Wodak, director of the drug and alcohol service at Sydney's St Vincent's Hospital, maintains that heroin-related crime is perpetrated by only about 5 per cent of heroin users, who have a serious dependency. Many heroin users have jobs and function responsibly in the community. Wodak's proposed solution for severe addiction is to allow the user to obtain heroin safely and cheaply by medical prescription. It's the kind of response that has been recommended by many doctors and social commentators for decades. It's also a response that never fails to ignite a controversy. We're not ready for tolerance. The real question is, why?

It is impossible to have a polite debate about heroin. Right now there's a clamorous argument in Melbourne about whether we might save the lives of heroin users and benefit the community by introducing a safe injecting facility in Richmond. The debate has exposed the extent of the community's ignorance about drugs and revealed an ugly but widely held loathing of heroin

users. If we continue to depict users as depraved souls, we'll never be able to solve this social problem.

Heroin use in the City of Yarra is so prominent that councillors have voted six-to-one in favour of trialling a safe, medically supervised injecting room. Their goals are to stop users from dying in public toilets and lanes and take drug use (and discarded syringes) off the streets. These were the same good reasons why the Wayside Chapel established an injecting room in Sydney's Kings Cross so successfully a decade ago.

Talkback radio can be a shrill arena, but it can also be a good place to find out how the community responds to putative social change. In Melbourne the inevitable question was put to listeners by several broadcasters: "Are you for or against safe injecting rooms?"

Mary, a caller to 774 last Wednesday, articulately summed up the case against tolerance. She was adamant: heroin users are "very frightening people" who "don't have normal empathy of people in the community". There were more callers quick to support Mary's view by evoking the classic epithet "junkie". Junkies were "horrible", "antisocial", "angry", "abusive".

Ted Baillieu, a generally fair-minded and progressive Liberal, has spoken out against Yarra Council's advocacy of safe injecting rooms in terms that amplify and reflect the trepidations that were broadcast on talkback.

"We don't support the normalisation of this kind of behaviour," the Premier said. In other words, a safe injecting room was tantamount to moral failure and only encouraging people to use narcotics.

Police Minister Peter Ryan thought he had the solution to this moral panic. More police. The constipated law and order approach.

The Americans are hopelessly addicted to their war on drugs - a war they've never won. This wretched conflict is also being fought in Australia. A more enlightened approach is blocked by our tendency to see heroin users as the enemy, to demonise and describe them as the embodiment of all social ills.

The more aberrant heroin users seem, the easier it is to ignore their rights and accept their deaths and their violated lives as somehow unavoidable.

There's a bigoted and vindictive flavour to Melbourne's debate about injecting rooms. It's not really a discussion about whether we can save lives by building responsive support services. It's a debate about whether heroin users should be counted as human beings.

Chris Middendorp is a Melbourne community worker.

US Supreme Court Upholds Order to Reduce California Prison Overcrowding

[ADAM LIPTAK](#), NY Times, May 23, 2011

WASHINGTON — Conditions in California's overcrowded prisons are so bad that they violate the Eighth Amendment's ban on cruel and unusual punishment, the [Supreme Court ruled](#) on Monday,

ordering the state to reduce its prison population by more than 30,000 inmates.

Justice Anthony M. Kennedy, writing for the majority in a 5-to-4 decision that broke along ideological lines, described a prison system that failed to deliver minimal care to prisoners with serious medical and mental health problems and produced “needless suffering and death.”

Justices Antonin Scalia and Samuel A. Alito Jr. filed vigorous dissents. Justice Scalia called the order affirmed by the majority “perhaps the most radical injunction issued by a court in our nation’s history.” Justice Alito said “the majority is gambling with the safety of the people of California.”

The majority opinion included [photographs](#) of inmates crowded into open gymnasium-style rooms and what Justice Kennedy described as “telephone-booth-sized cages without toilets” used to house suicidal inmates. Suicide rates in the state’s prisons, Justice Kennedy wrote, have been 80 percent higher than the average for inmates nationwide. A lower court in the case said it was “an uncontested fact” that “an inmate in one of California’s prisons needlessly dies every six or seven days due to constitutional deficiencies.”

Monday’s ruling in the case, *Brown v. Plata*, No. 09-1233, affirmed an order by a special three-judge federal court requiring state officials to reduce the prison population to 110,000, which is 137.5 percent of the system’s capacity. There have been more than 160,000 inmates in the system in recent years, and there are now more than 140,000.

Prison release orders are rare and hard to obtain, and even advocates for prisoners’ rights said Monday’s decision was unlikely to have a significant impact around the nation.

“California is an extreme case by any measure,” said David C. Fathi, director of the American Civil Liberties Union’s National Prison Project, which submitted a [brief](#) urging the justices to uphold the lower court’s order. “This case involves ongoing, undisputed and lethal constitutional violations. We’re not going to see a lot of copycat litigation.”

State officials in California will have two years to comply with the order, and they may ask for more time. Justice Kennedy emphasized that the reduction in population need not be achieved solely by releasing prisoners early. Among the other possibilities, he said, are new construction, transfers out of state and using county facilities.

At the same time, Justice Kennedy, citing the lower court decision, said there was “no realistic possibility that California would be able to build itself out of this crisis,” in light of the state’s financial problems.

The court’s more liberal members — Justices Ruth Bader Ginsburg, Stephen G. Breyer, Sonia Sotomayor and Elena Kagan — joined Justice Kennedy’s opinion.

The special court’s [decision](#), issued in 2009, addressed two consolidated class-action suits, one filed in 1990, the other in 2001. In 2006, Arnold Schwarzenegger, then governor, said conditions in the state’s prisons amounted to a state of emergency.

The majority seemed persuaded that the passage of time required the courts to act.

Justice Scalia summarized his dissent, which was pungent and combative, from the bench. Oral dissents are rare; this was the second of the term. Justice Kennedy looked straight ahead as his colleague spoke, his face frozen in a grim expression.

The decision was the fourth 5-to-4 decision of the term so far. All four of them have found the court’s more liberal members on one side and its more conservative members on the other, with Justice Kennedy’s swing vote the conclusive one. In the first three cases, Justice Kennedy sided with the conservatives.

On Monday, he went the other way. This was in some ways unsurprising: in his opinions and in speeches, Justice Kennedy has long been critical of what he views as excessively long and harsh sentences.

“A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society,” Justice Kennedy wrote on Monday.

Drug Action Week

Drug Action Week will be held during the week Saturday 18 June 2011 to Friday 24 June 2011.

The national launch will be held in the week before, on Tuesday 14 June, at the Mural Hall in Parliament House Canberra from 9:15am to 10:15 am.

The launch of the ACT component of Drug Action Week, organised by ATODA, will be held on Friday 17 June, at the Reception Room, ACT Legislative Assembly (Civic Square, London Circuit, Canberra City) from 10:30am to 12pm.

Full details of all events can be found on the following websites or by telephoning the number that follow the website.

National list of events: http://www.drugactionweek.org.au/events_calendar.php

Telephone: (02) 6215 9802

ACT events: http://www2.atoda.org.au/wp-content/uploads/DAW_11_Calendar-of-Events.pdf

Telephone: (02) 6255 4070