

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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NEXT Meeting

Thursday 28th July 2011

at 7.30pm

Catch up with Brian & Marion (they are fresh back from their sojourn in Vienna) about the latest developments in Europe where all the action is.

Venue: St Ninian's Uniting Church, cnr Mouat and Brigalow Sts, Lyneham.

Refreshments will follow

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Editorial – Head in the sand aid review

We associate denial with climate change but it is just as pervasive in drug policy. This is manifested in the recently released report of an Independent Review of Aid Effectiveness (<http://www.aidreview.gov.au/publications/aidreview.pdf>) to which Families and Friends made a submission in February. Organised crime, largely financed by drugs, is undermining Australia's aid objectives. Thanks to this there is a colossal flow from developing countries to the financial markets of the developed world: "Ten corrupt dollars go out for every one dollar of development assistance that goes in", a U.S. based think tank has estimated. Indeed, one of our members, Ralph Secombe wrote 16 years ago that: "Problems have been exported from consuming countries to countries involved in production and transit". There is no reason to think that the flow is any less in Australia's case. The UN office of Drugs and Crime say that the world drug trade was worth \$522bn in 2005. Australia's aid and law enforcement budgets are a pittance compared to even the regional trade of \$US16bn that the Australian market dominates. That trade corrupts the people, businesses, governments and states that it touches. Our submission made the points that (<http://www.aidreview.gov.au/publications/sub-ffdlr.pdf>):

- The drug trade enriches the developed world rather than the developing world where much of the trade takes place;
- Some anti-drug measures forced on developing countries serve as an incentive to drug use or to more dangerous drug use;
- Anti-drug measures have led to the spread of blood borne viruses;
- Suppression of drug production and trafficking is effective overwhelmingly only in displacing and spreading the problem, not in eliminating it;
- The drug trade is undermining Human Rights;
- The drug trade fosters political instability;
- The drug trade supports insurgency and imperils national security;
- The drug trade is undermining good government;
- The drug trade and response leads to environmental degradation.

The Aid review simply ignored these links while paying lip service to the need for improved evaluation of aid performance "to inform decision-making" – a sentiment expressed endlessly in drug research. It acknowledged, in the words of the World Bank that strengthening "institutions and governance to provide citizen security, justice and jobs is crucial to break the cycles of violence that characterise fragile and conflict-affected regions" yet ignored the economic reality that, like the relationship between Mexico and the United States, the Australian market influences bring down the very calamity that our feeble aid program attempts to patch up and, one can add, for which our young soldiers die. As a species we humans seem destined to do anything to avoid facing up to inconvenient truths.

SON'S LIFE LOST:

Parents warn if nothing changes more children will die

By Julieanne Strachan

Publication: The Canberra Times

Sunday 26 June 2011, Focus, Page 27

Parents warn if nothing changes more children will die. Ann and Michael Gardiner want drug laws reformed to allow doctors to prescribe heroin.

He had strong legs and hands, strong enough to throw a javelin so far that it landed in the St Edmund's College records list for well over a decade. Patrick Gardiner succeeded in rugby union, in league, tennis, even at Indian arm wrestling.

He had a lot of things going for him, not least a loving family and clean upbringing. But it was also his love of sports that brought him down. He died 15 years ago of a heroin overdose, having been introduced to drugs at 13 while he was billeted to a family in Sydney as part of a representative football team.

He didn't have to die. His parents, Michael and Ann Gardiner, believe that if drug laws in Australia were reformed to allow doctors to prescribe heroin, similar to laws in some European countries, he would still be here. The drugs cast a shadow over his teenage years and into his adulthood.

In death, the drugs have left a stigma. An extra burden for his family to bear. Sharing their story to coincide with Drug Action Week, Mr and Mrs Gardiner warned that since their son died nothing had changed in Australia to prevent it happening to anybody else's child. "That needs to change," Mr Gardiner said.

Irish "Independent" censured for offensive column likely to stir hatred against drug users:

13 June 2011

Press Ombudsman upholds complaint by coalition of drug services.

The Press Ombudsman made a historic decision yesterday finding in favour of a coalition of national and international drug services against the Irish Independent for a column by Ian O'Doherty which described drug users as "vermin", "feral, worthless scumbags" and proclaimed that "if every junkie in this country were to die tomorrow I would cheer".

The complaint was filed jointly by Harm Reduction International (aka International Harm Reduction Association), the Irish Needle Exchange Forum and the CityWide Drugs Crisis Campaign, and was supported by approximately thirty Irish drugs services and professionals.

The Ombudsman found that the column, titled "Sterilising junkies may seem harsh, but it does make sense" (18 February 2011) "was likely to cause grave offence to or stir up hatred against individuals or groups addicted to drugs on the basis of their illness".

The column was found in violation of the Code of Practice for Newspapers and Magazines, specifically of Principle 8 on Prejudice, which states:

"Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age"

"We are extremely gratified by this decision," said Rick Lines, Executive Director of Harm Reduction International. "We believe this to be the first time that drug users have been identified by a media watchdog as an identifiable group, entitled to protections against hate-type speech in the press. In this sense, we think the decision of the Press Ombudsman has international significance."

"We hope that this decision will put a stop to the current wave of sensationalist journalism. Today's decision should help promote more responsible reporting of drug issues in the Irish media, something we all badly need," said Daithi Doolan, Coordinator of CityWide. "While the language used in the Independent column was particularly offensive, it is very much in keeping with the kind of stigmatising coverage of drugs and drug users seen across much of the mainstream press. Such reporting does nothing to promote sensible debate on drugs, but rather further stigmatises drug users, their families and communities."

"Drug use is ultimately a health issue and needs to be addressed as such," said Tim Bingham, Coordinator of the Irish Needle Exchange Forum. "Sensationalist media reporting undermines discussion of pragmatic policy on dealing with drugs, such as the scaling up of access to harm reduction services, and it makes people less willing to put their head above the parapet and come forward for services. We hope that the decision of the Ombudsman will play a role in reorienting the media discourse away from prejudice and stigma, and therefore promote a discussion based on evidence of effectiveness and on public health."

Copies of the original letter of complaint as well as the Ombudsman's decision are available online at the Harm Reduction International website; [http://click.icptrack.com/icp/relay.php?r=8888270&msgid=143776&act=6UJX&c=737645&destination=http 3A 2F 2Fwww.ihra.net 2Ffiles 2F2011 2F06 2F13 2FLetter_to_the_Office_of_the_Press_Ombudsman_7_March_2011.pdf](http://click.icptrack.com/icp/relay.php?r=8888270&msgid=143776&act=6UJX&c=737645&destination=http%3A2F2Fwww.ihra.net2Ffiles2F20112F062F132FLetter_to_the_Office_of_the_Press_Ombudsman_7_March_2011.pdf).

Appeal from former President Jimmy Carter:

Call Off the Global Drug War

New York Times, June 16, 2011

Atlanta

IN an extraordinary new initiative announced earlier this month, the Global Commission on Drug Policy has made some courageous and profoundly important recommendations in a report on how to bring more effective control over the illicit drug trade. The commission includes the former presidents or prime ministers of five countries, a former secretary general of the United Nations, human rights leaders, and business and government leaders, including Richard Branson, George P. Shultz and Paul A. Volcker.

The report describes the total failure of the present global antidrug effort, and in particular America's "war on drugs", which was declared 40 years ago today. It notes that the global consumption of opiates has increased 34.5 percent, cocaine 27 percent and cannabis 8.5 percent from 1998 to 2008. Its primary recommendations are to substitute treatment for imprisonment for people who use drugs but do no harm to others, and to concentrate more coordinated international effort on combating violent criminal organizations rather than nonviolent, low-level offenders.

These recommendations are compatible with United States drug policy from three decades ago. In a message to Congress in 1977, I said the country should decriminalize the possession of less than an ounce of marijuana, with a full program of treatment for addicts. I also cautioned against filling our prisons with young people who were no threat to society, and summarized by saying: "Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself."

These ideas were widely accepted at the time. But in the 1980s President Ronald Reagan and Congress began to shift from balanced drug policies, including the treatment and rehabilitation of addicts, toward futile efforts to control drug imports from foreign countries.

This approach entailed an enormous expenditure of resources and the dependence on police and military forces to reduce the foreign cultivation of marijuana, coca and opium poppy and the production of cocaine and heroin. One result has been a terrible escalation in drug-related violence, corruption and gross violations of human rights in a growing number of Latin American countries.

The commission's facts and arguments are persuasive. It recommends that governments be encouraged to experiment "with models of legal regulation of drugs ... that are designed to undermine the power of organized crime and safeguard the health and security of their citizens." For effective examples, they can look to policies that have shown promising results in Europe, Australia and other places.

But they probably won't turn to the United States for advice. Drug policies here are more punitive and counterproductive than in other democracies, and have brought about an explosion in prison populations. At the end of 1980, just before I left office, 500,000 people were incarcerated in America; at the end of 2009 the number was nearly 2.3 million. There are 743 people in prison for every 100,000 Americans, a higher portion than in any other country and seven times as great as in Europe. Some 7.2 million people are either in prison or on probation or parole - more than 3 percent of all American adults!

Some of this increase has been caused by mandatory minimum sentencing and "three strikes you're out" laws. But about three-quarters of new admissions to state prisons are for nonviolent crimes. And the single greatest cause of prison population growth has been the war on drugs, with the number of people incarcerated for nonviolent drug offenses increasing more than twelvefold since 1980.

Not only has this excessive punishment destroyed the lives of millions of young people and their families (disproportionately minorities), but it is wreaking havoc on state and local budgets. Former California Gov. Arnold Schwarzenegger pointed out that, in 1980, 10 percent of his state's budget went to higher education and 3 percent to prisons; in 2010, almost 11 percent went to prisons and only 7.5 percent to higher education.

Maybe the increased tax burden on wealthy citizens necessary to pay for the war on drugs will help to bring about a reform of America's drug policies. At least the

recommendations of the Global Commission will give some cover to political leaders who wish to do what is right.

A few years ago I worked side by side for four months with a group of prison inmates, who were learning the building trade, to renovate some public buildings in my hometown of Plains, Ga. They were intelligent and dedicated young men, each preparing for a productive life after the completion of his sentence. More than half of them were in prison for drug-related crimes, and would have been better off in college or trade school.

To help such men remain valuable members of society, and to make drug policies more humane and more effective, the American government should support and enact the reforms laid out by the Global Commission on Drug Policy.

Jimmy Carter, the 39th president, is the founder of the Carter Center and the winner of the 2002 Nobel Peace Prize.

<http://www.nytimes.com/2011/06/17/opinion/17carter.html>

INSTRUMENT OF LATIN JUDGES ON PUBLIC POLICY IN THE AREA OF DRUGS AND HUMAN RIGHTS ROME DECLARATION OF 2011

Three years after the instrument of judges, prosecutors, and defense counsel of Buenos Aires, published by the Latin American Commission on Drugs and Democracy, two years after the Declaration of Latin Judges in Oporto, both in line with the recently published report by the Global Commission on Drug Policy in June 2011 (made up of, among others, Paul Volcker, Ruth Dreifuss, Thorvald Stoltenberg, George P. Shultz, Kofi Annan, Maria Cattaudi, Richard Branson, Carlos Fuentes, George Papandreou, and three former Latin American presidents), we once again insist that the "global war on drugs" has been a failure in view of the very serious consequences it has entailed for individuals and society worldwide.

- We endorse the document of the Global Commission, when it notes that criminal law reforms and the excessive use of emergency legislation have only increased the niches of corruption in the political and judicial realms, and especially in the forces of law order and crime prevention in the last 30 years, to the detriment of social-health policies and the guarantees that every government under the rule of law should uphold, in keeping with the various international commitments to which our countries are signatories in the areas of human, social, and health rights.

- The emergency legislation on drugs, as well as organized crime and money laundering (issues addressed in the 1988 Vienna Convention, respecting the domestic law of each signatory country) has been modified in the last 20 years in conventions and statutes that violate the principle of legality, creating laws of dubious constitutionality that violate the principles of pro homine defense, the principles of detriment, and the proportionality of penalties for the most petty cases, saturating the judicial and prison system with small cases, distorting the function and role of the judiciary

worldwide, and serving the interests of criminal organizations and corruption.

- Laws on drugs, organized crime, and money laundering associated with drugs, insofar as they do not affect clear legal interests, confuse an attempted crime with consummation of the crime, using inadequate legislative techniques with a proliferation of verbiage and concepts. In the last 30 years such laws were created for political reasons in many countries using foreign arguments, without any basis in established legal doctrine, without any empirical confirmation whatsoever, impacting on the health system and on the prison system, causing problems of overcrowding at high rates that countries such as Italy and Spain did not have, and that violate international commitments in this area.

- While we already knew that drug policy is a complex issue due to experiences with psychoactive drugs in the 1970s, that this worsened with cocaine bursting on the scene in the 1980s, and escalated in the 1990s, with lassitude in the controls of complex crimes that entail movements of proceeds from crimes to be transformed into legal money, today these concerns are all the more pertinent. We are facing a social and health emergency.

- The lack of preventive policies on socio-health and cultural issues, together with the lack of oversight of the state agencies involved, the lack of a clear criminal justice policy on the part of the state aimed at complex crime (bribery, corruption of public officials, tax evasion, flight and transfer of foreign exchange, contraband of arms, money laundering, and trafficking, among others), makes it clear that criminal justice reforms have only been and are merely a public relations ploy which in the best of cases not only did not resolve the serious problem of mounting demand but also did not reduce supply, and have become functional to large-scale movements of money worldwide that make it difficult to know precisely how much is generated by the illegal circuit of drug-trafficking or whether more white collar crime or corruption-related crime is being committed.

- There has been confusion in recent years between the role of security and defense and the proper role of police forces in searching for evidence to enable a judge to conduct a fair trial. The use in some countries of the Armed Forces in the Americas to pursue drug crimes opens up room for discretion that makes possible all type of violations of due process, human dignity, and the fundamental rights of persons that cannot be reconciled with the role these should be accorded in a democratic state, and are based on the by-now well-known national security doctrine.

- The lack of clear criminal policies towards trafficking and clear social and health prevention policies has been accompanied by the dissemination of mass media, which in propagandistic fashion clear the way for repression and statutory reforms which, on ending in failure, only serve to deteriorate institutions. Similarly there is abundant publicity encouraging consumption among youth.

- The application of an absolute prohibitionist approach to such a complex phenomenon, and which therefore

should be flexible and open to all kinds of social, educational, health, and labor policies, without discriminating against any possible alternative, and that have yielded such positive results in Canada, Portugal, and Uruguay, should lead the highest-level political authorities to reflect on the seriousness of punishing petty consumption, an approach that only removes abusers or addicts from the health system, and the users of the system, and stigmatizes the first, deteriorating the function and role of the judge or prosecutor, leaving on a secondary plane administrative and family law, which has better tools than the last resort of the law.

- The area of international criminal justice cooperation and the implementation and signing of international conventions appear to ignore the notion that international law is also subject to the application of the guiding principles of human rights instruments such as the International Covenant on Economic, Social and Cultural Rights. There is no international law insulated from the basic axioms of human rights instruments; thus one should recall the relevance of the preamble of the United Nations Charter and all the precedents respectful of the principle of humanity and the role of some United Nations agencies.

- International instruments overlap, confuse drug trafficking with terrorism, are hardly operative when it comes to obtaining swift cooperation in relation to crimes of trafficking, laundering, or complex crimes, fail to include judges and prosecutors in their drafting; other such instruments are openly repudiated, which clearly obstructs the work of the courts and prosecutors in cases involving large-scale transnational and complex crimes not limited to drug trafficking, including corruption.

- The judiciary lacks the technological tools and resources for obtaining, in a timely manner and in proper form, information valuable for taking cognizance of suspicious operations, bribery, flight of foreign exchange, large-scale fraud, trafficking, and offenses that involve the political authorities such as corruption, or evasion of foreign exchange controls, demonstrating that mere legislative change is only a formality, lacking substance.

- Hence the need for legislative reform and harmonization that call for differentiated criminal justice responses based on the nature and seriousness of complex crimes and drug trafficking crimes (adjusted to the Vienna Convention), seeking to have the punishment be proportional to the wrong, and to the personal conditions of the participants, making possible, where called for, release from prison, the implementation of alternative measures, the imposition of conditional sentences, and the use of administrative law and civil code law.

- The strategy of the States should heed and consider the need for comprehensive assistance for drug users, and major non-specific prevention campaigns which address not only illegal substances but legal ones as well, and in particular that put in place policies for genuine inclusion in society and employment.

Rome, June 11, 2001