

ALTERNATIVES TO PROHIBITION

**ILLICIT DRUGS: HOW WE CAN STOP
KILLING AND CRIMINALISING
YOUNG AUSTRALIANS**



Report of the second Australia21 Roundtable on Illicit Drugs
held at The University of Melbourne on 6 July 2012.
Authors Bob Douglas, Alex Wodak and David McDonald

"As people with families we do not condone, promote or advocate drug use."

Tony Trimmingham
Founder, Family Drug Support

Short title for media purposes:
Alternatives to Prohibition

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Cover design: The earlier Australia21 report "Prohibition of illicit drugs is killing and criminalising our children and we are all letting it happen", displayed on its front cover images of two worried parents, anxious at what illicit drugs could be doing to their children. The cover of this report features two vulnerable teenage children to highlight the fact that they are the big stakeholders in this policy debate and should be actively involved in helping to shape national policy on this issue.

TWO FOREWORDS



Australia21 is pleased to present this report of its second roundtable on illicit drugs held in July 2012. We are a small nonprofit body, which specialises in bringing networks of thinkers, researchers and stakeholders together to develop new frameworks for understanding recalcitrant policy issues which are important to the future of Australian society.

Our first drug report in April 2012 highlighted the inadequacy of current Australian policy in this difficult area. It argued that the current global approach that is dominated by prohibition and criminalisation of drug possession and use has failed, and causes immense harm, and that Australian policymakers now need to reconsider the issue in the light of the emerging international evidence from alternative approaches.

For our second drug meeting in July 2012, we brought together a group of experts and young people to concentrate on experience in four European countries, which have taken innovative approaches to the illicit drug problem in recent years, and for which there is now good evaluative data. Our meeting agreed on the need for a National Summit on the topic and a referral of this issue to the Australian Productivity Commission. A number of specific options for change were discussed, which we think should now be considered broadly by the Australian community.

We recognise that progress in this difficult area will only come slowly, through incremental steps and careful evaluation of the experience gained along the way. We believe, however, that it is time for Australia, with its fine health and welfare systems and its powerful capacity to evaluate the steps we take, to identify our first small steps and move to implement them.

Paul Barratt AO
Chair of Australia21 and
Former Commonwealth Secretary of Defence



The highest rates of drug use and related persecution in any age bracket in Australia are in our youth. They are tracked down when they go out to clubs, have sniffer dogs follow them along the roads at night, and even at the train station on their way to university or back home from work. Drugs are criminalising today's youth.

While billions of dollars are spent every year putting our youth behind bars, illicit drugs are still easily purchased and heavily promoted, despite the efforts of drug law enforcement agencies. The higher the efforts of policing, the more drug dealers can get away with, selling impure substances with unknown ingredients and quality, increasing their profit margin, and putting young experimenters in a serious public health predicament. This is a public health issue, not a law enforcement issue.

The criminalisation of recreational drug use is a youth issue. It is youth health that is being compromised and our future that is being sabotaged. It is vital that young people are actively engaged to consider the solutions to this problem. Every young person put in jail for drug use, will become one less person who can contribute his or her full potential to the future of Australia.

I am sure Australia can do better. The debate that has commenced in recent months around alternative positions to prohibition needs to be led by those who are most affected. We must take into consideration a range of alternative approaches to drug laws and make life safer for young people. I encourage all young people and advocates for youth to take this problem seriously and focus on considering alternative solutions proposed in this report.

Vivienne Moxham-Hall
Honorary Youth Advisor to the Board of Australia21 and
Student Representative Councillor at the University of Sydney

EXECUTIVE SUMMARY

This report follows from a Roundtable discussion held in July 2012 to consider new approaches to public policy about illicit drugs in Australia.

An earlier Australia21 report launched in April 2012 had concluded that attempts to control drug use through the criminal justice system have clearly failed. They have also caused the needless and damaging criminalisation of too many young people, often with adverse life-changing consequences, including premature death from overdose.

Australia's illicit drug markets continue to thrive. Young people are being encouraged to experiment because huge profits are made from drug markets controlled by powerful criminal networks. Australia's reported rates of cannabis and ecstasy (MDMA) use are among the highest in the world. Every year, new drug types appear in Australia. But the criminal justice system is unable to stamp out psychoactive drug use. People accused of drug related crimes fill our courts and those convicted fill our prisons.

The collateral damage from efforts to suppress the drug trade continues to disrupt civil society and destroy young lives. About 400 Australians die each year through heroin overdose alone. By international standards our rates of drug-related deaths are extremely high.

The July 2012 Roundtable included a group of 22 high level experts and young people, who examined changes in policy in four European countries and considered future options for Australia. These discussions identified a range of ways in which Australian policy could be reset. Some are modest and incremental reforms, while others are more ambitious and will require wide community consideration.

The Roundtable called for a National Summit in 2013, to examine the specific proposals for reform canvassed in this report, including an important proposal developed by Professor David Penington AC, for a radically new approach to the regulation of cannabis and ecstasy (MDMA).

The Netherlands, Switzerland and Portugal demonstrate that it is possible to adopt more effective policies consistent with the international drug treaties and with demonstrable community benefits. The stage is now set for a mature debate that should see this issue transcend political boundaries and focus on what is best for Australia's young people. Australia's response to HIV in the 1980s showed that our politicians from all parties are able to work together in the national interest and flexibly adopt bold and effective approaches. But this will not happen without a vigorous national debate.

If we are to reduce the pernicious effects of black market drugs on the Australian community, control of the drug supply system must ultimately be diverted from criminal to civil and government authorities. We must evolve a new approach that acknowledges the powerful economic forces of the drug market, but which is acceptable to the community, and is achievable politically.

Lawmakers require accurate data about the return on investment when allocating funding to various drug-related initiatives. Some large government expenditures are currently propping up a failed policy. There is a strong case for providing a reference to the Australian Productivity Commission for an enquiry into the cost-effectiveness of the current allocation of resources. Further, we are convinced that a more effective allocation of public resources to the illicit drug issue is achievable with much better value for taxpayers.

TERMS USED

Communication on the status of illicit drugs is often confused by loose use of one or more of the following terms. For that reason, we present below a glossary of terms that we will use in this discussion.

| This term | means |
|-------------------|---|
| Prohibition | all behaviours related to drugs, including use, possession, cultivation/manufacture and supply are deemed to be criminal offences |
| Decriminalisation | specified proscribed behaviour is removed from the criminal law and is dealt with under the civil law |
| Depenalisation | reducing the severity of penalties |
| Legalisation | the specified forms of behaviour are no longer offences dealt with by the law |
| Regulation | establishing a strictly controlled legal market for drugs as is the case with pharmaceutical drugs and tobacco products. |

BACKGROUND TO ROUNDTABLE DISCUSSIONS

EXPERT WITNESS

In April 2012, Australia21 published the report of a roundtable discussion that had taken place between former senior politicians, law enforcement, public health and drug policy experts and young people in January 2012.¹

This report was entitled, *The prohibition of illicit drugs is killing and criminalising our children and we are all letting it happen*. It echoed the conclusions of the Global Commission on Drug Policy (2011), which declared the long-standing 'war on drugs' a failure, and recommended that all countries should reconsider their drug policy.²

Since the release of the first Australia21 report in April, the current approach to drugs has been vigorously debated in the media. There have been few defenders of existing policy.

In July 2012, a second roundtable of experts met to discuss what Australia could learn from the different approaches being taken to drugs in Europe, especially by the authorities in Portugal, Switzerland, the Netherlands and Sweden. These different approaches have been operating long enough for their impacts to be evaluated.

A DISCUSSION PAPER IS COMMISSIONED

To lay the groundwork for the July 2012 meeting, Australia21 commissioned Drs Caitlin Hughes and Alex Wodak to prepare a Discussion Paper.³

Dr Hughes is a drug policy researcher at the University of New South Wales with a particular interest in the study of innovations in Portugal. Dr Wodak is a clinician with a long-standing involvement in national and international policy on illicit drugs. The 20-page paper traced policies in the above-mentioned countries as well as providing comparative data to evaluate their impacts on drug use and drug harm.

DISCUSSION PAPER CONCLUSIONS

Hughes and Wodak demonstrated that a broad range of evidence to assess policy and consider law reform is now available compared to what was the case some years earlier. It used to be said that whilst the focus on reducing drug supply was not very effective, there were no other models to consider. Nowadays, however, a number of alternative models have been documented.⁴ Furthermore, there is now a growing body of evaluative data about the pros and cons of alternative ways of dealing with the problems resulting from psychoactive drugs and drug dependence.

Significantly, the approaches in the Netherlands, Switzerland and Portugal, more reliant on health and social measures than on the criminal justice system, are associated with a reduction in drug overdose deaths, HIV infection and crime. Conversely, Sweden's more punitive approach has been accompanied high drug related deaths in comparison to other European countries and an apparent increase in problematic drug use. Meanwhile, over the past 15 years successive Australian governments have relied increasingly on efforts to cut supplies of illicit drugs, with little evidence of success.

Wodak and Hughes conclude that more punitive approaches to drug use do not inevitably result in reduced consumption, and that more liberal approaches do not necessarily lead to increased consumption.

OBTAINING RELIABLE DATA

Due to the stigma and illegality of drug use it is difficult to obtain reliable data on drug consumption and its impact. The Discussion Paper used statistics that have been broadly validated for use in tracking progress in national and international drug policy and for making comparisons across international borders. These data are of varying quality but they are the best we have. Comparison over time within one nation that uses good and consistent data systems, combined with rigorous trial methodology, is the best way to evaluate innovations. This is because there are always difficulties with international comparisons and huge variability in the quality of drug data collections across nations. Australian data on these matters is of generally high quality.

One of the difficulties in this field is the extent to which arguments about policy are built on moral or ideological grounds, rather than on statistical evidence. Advocates often 'cherry-pick' from available variable quality statistical evidence to support their particular view. This occurs on both sides of the debate. Australian research capacity in the illicit drug field is now very substantial. Once there is bipartisan agreement about the specific aims of Australia's future illicit drug approach it will be possible to build a dynamic database that can measure progress in future policy development on this topic. Indeed, doing so was recommended as long ago as 1989 when a Commonwealth parliamentary committee published its opinion that a National Drug Information Centre should be established to track the impacts of drug policy. It recommended that, if drug availability and drug-related harms did not fall, governments should adopt different policies, ones that were likely to be more effective.⁵

We must evolve a new approach that acknowledges the powerful economic forces of the drug market, but which is acceptable to the community, and is achievable politically.

ROUNDTABLE PROCESS

Prior to the Roundtable, the Discussion Paper was circulated to participants. They were asked to provide a series of dot-points indicating how they considered Australia should adjust its policies. At the opening session of the Roundtable an analysis of these dot points was presented. This analysis formed the starting point for the Roundtable discussion.

The Roundtable later discussed lessons for Australia from the experience of the Netherlands, Switzerland, Portugal and Sweden. Later in the day a teleconference was held with experts in Sweden, Portugal and Switzerland who had been actively engaged in implementing and evaluating drug policies in their own countries. In the final session of the day, participants summed up how they thought Australia²¹ should proceed.

THE MARKET FOR DRUGS

As a starting point participants accepted the harsh reality that drugs are a market with suppliers and consumers. As long as the demand is there, suppliers will emerge. If drugs cannot be obtained by legal means, then illegal sources will emerge.

Seen in this light, it can be argued that the 'drug problem' is, in reality, an assemblage of problems resulting from drug markets that are directly influenced by drug prohibition. For example, heroin could be obtained by prescription in Australia before 1953, and problems associated with the drug were minimal. Australia's problems with heroin began after, and not before, the drug was prohibited in 1953.

At the international level, when prescription heroin has been provided medically as a form of drug treatment, drug users, their families and communities have benefitted substantially. Unfortunately, when the same drug users consumed street heroin before or after entering these trials, there were considerable health, social and economic costs for drug users, their families and communities. The use of prescription heroin is not generally associated with such problems. The problem is not primarily the drug but the drug distribution system.

CROSS-SECTION OF PARTICIPANT VIEWS

| | |
|---|--|
| Failure of law enforcement based approach | Australia needs a system which has as its main objective the management of drug use primarily as a social and health issue. The law enforcement based approach to illicit drugs has failed with harm greatly exceeding benefits. |
| Transfer resources | Roundtable participants do not condone drug use, but they are in favour of transferring resources from strategies, which cause harms to strategies, which prevent or minimise them. |
| Goals of national drug policies | <ul style="list-style-type: none"> • increase knowledge and understanding of drug use and problems in the community; • minimise deaths, disease, crime and corruption arising from drug use and drug policy; • increase the likelihood that people who currently use or have used drugs can lead a normal and useful life as full members of the community; • ensure that a range of attractive, easy to use, safe and affordable health and social interventions are available for those concerned by their drug use, including evidence-based drug treatment which are properly resourced and are of the same high quality as other parts of the health care system. |
| Drug-free society unachievable | A drug-free society is unachievable but reducing harm from drugs and drug policies is feasible: more effective and humane approaches than relying on drug law enforcement are available. |
| Removal of criminal penalties | The international evidence indicates that drug use does not inevitably increase when drug use and possession no longer attract criminal penalties. |
| Improving community understanding | The language used to discuss drugs often demonises drug use and drug users: discussion should improve our understanding of Australian citizens who use drugs and encourage their integration in the community. |
| Impact of criminal justice interventions | As harm is greatest in socially disadvantaged groups, criminal justice interventions inadvertently risk making things worse for disadvantaged people: policy should focus on strengthening these high-risk populations and reducing inequality. |
| Role for Australian Productivity Commission | The cost effectiveness of current Australian drug policy and its heavy reliance on law enforcement should be reviewed by the Australian Productivity Commission. |
| Gradual approach to change | Drug law reform should be incremental, carefully evaluated and based on evidence. |
| Treatment programs | Given the huge health, social and economic benefits of harm reduction in controlling HIV among Australians who inject drugs, greater use should be made of this approach including establishing more injecting rooms, expanding needle exchange and substitution treatment programs. |
| Community understanding | As is often the case with policies which have been implemented for decades, the community finds it hard to believe that there are realistic alternatives to existing policy. Also, it is easy to increase fears and anxiety about alternative approaches. Change will require careful attention to ample discussion and communication. |
| Protecting human rights | Over the years drug policies and patterns of drug law enforcement have eroded the basic human rights of many drug users, such as the right to life and to receive health care of a standard as high as that received by other people. |
| Re-orienting the criminal justice system | The criminal justice system plays an important role in minimising the harms associated with drugs and drug use. It could be made more effective by strengthening its focus on referring drug-involved offenders to assessment and treatments, rather than to criminal justice sanctions. High quality harm reduction and treatment services in prisons are also essential. |

PROHIBITION: THE CASE FOR AND AGAINST

The prohibition of alcohol in the USA (1920-1933) is a very useful model, helping us to understand the severe problems which develop when demand for a drug remains strong after the supply has been cut.⁶

The prohibition of alcohol applied to production and distribution but was not applied to possession and use. Although there has been some variation in the extent to which possession and use of different illicit drugs are treated as criminal acts in Australia, possession and use remain illegal in most Australian jurisdictions.

Between 1919 and 1933 the manufacture and sale of alcohol was outlawed in the USA under the Volstead Act, which became law in October 1919 (and went into effect in January 1920). There were exceptions for medicinal and religious purposes; drinking itself was never declared illegal.

The period of so-called Prohibition lasted only 13 years, but the damage it caused took years to repair. Almost from the outset there was a proliferation of backyard stills, home-brew and problems associated with the use of unclean cooking vessels. Organised crime quickly moved to capitalise on new and lucrative entrepreneurial opportunities, albeit illegal. Its presence became firmly embedded in American society so that despite the best efforts of the newly-formed FBI, criminal networks and influence continued to spread.

One of the first acts of the new Democrat president in 1933 was to repeal prohibition. The United States was able to draw upon its own previous experience with alcohol regulation and that of many other countries. We have much less experience with cannabis regulation. It is likely that authorities learning from scratch how to regulate cannabis will take some time before the most effective form of regulation is identified. We may have to learn from some mistakes just as we have with tobacco regulation.

INTERNATIONAL TREATIES ON NARCOTIC DRUGS

Drug policy across the world over the past 50 years has been transformed by a series of international drug treaties (1961, 1971, 1988).

This system has been promoted and overseen with substantial input from the United States, which remains strongly committed to prohibition and opposed to harm reduction. The international prohibition of certain types of drugs has been in force for more than half a century, and has been strongly maintained through a network of UN agencies. The International Narcotics Control Board continues to monitor national compliance. But attitudes on illicit drug policy are beginning to change rapidly, even in the USA. Many countries have recently begun to mount a vigorous challenge to the international treaties that have constrained rational action for decades.

THE FAILED 'WAR ON DRUGS'

In its most recent report published in 2011 the Global Commission on Drug Policy declared that the long-standing 'War on Drugs' had failed and that all countries should reconsider their drug policy. The political exploitation of a harsh approach to drugs had been initiated in 1971 by US President Richard Nixon when he declared a 'War on Drugs'.

During 2012, a number of Latin American nations whose economies have been disrupted and social systems threatened by drug-associated violence, began speaking out about the need for a new global approach to drugs. They took strong exception to the terrible impact that the war on drugs has had on their people. The President of the United States was forced to accept the legitimacy of a debate about the legalisation of drugs.

EXAMINING THE ARGUMENTS

Many Australians believe that the prohibition of illicit drugs should be maintained and that anything less 'sends the wrong message to young people'. Australia21 went to considerable lengths to attract proponents of this view to participate in both Roundtables about drugs. We were pleased to be able to involve a prominent spokesperson for this view to the second Roundtable. The points presented on page 12 were generally not supported by other participants, but need to be seriously considered as part of the national debate. Ultimately it will be the evidence that decides which view prevails.

There is some common ground between those who support prohibition and supporters of drug law reform. Both want to see that young people especially are protected from harm. Both want parents and the community to have greater control over potential dangers and greater emphasis on prevention and rehabilitation. All participants in the debate have the best interests of our young people at heart. But there are different views on the best ways of protecting our youth from harm. Neither side of this debate wants to see 1kg blocks of 100% pure heroin or cocaine sold at a supermarket checkout counter! For some it seems intuitively sensible to continue prohibition.

But most participants in the Roundtable discussion considered that many parents would have a different view if they had better access to the growing evidence of the failure of prohibition and the benefits of reform around the world. This also includes evidence of what works and what does not work.

In the interests of promoting this debate, Australia21 has included some of the views of a participant who favours intensifying prohibition.

A CASE FOR PROHIBITION (THE VIEW OF ONE ROUNDTABLE PARTICIPANT)

HARM REDUCTION IS PART OF THE PROBLEM

Australia has never conducted a 'War on Drugs'. Rather, over the last 27 years, we have adopted a policy of 'harm minimisation' (otherwise known as 'harm reduction') without effective primary prevention and demand reduction. *De facto* decriminalisation now exists in most states with lenient laws and a lack of clear penalties. Enforcement of laws creates risks that discourage drug use and give clear boundaries.

The legacy of this policy has placed Australia in the position it now holds – one of the highest per capita in illicit drug use in the world.⁷ One of the linchpins of harm minimisation is that of 'decriminalisation'. In effect this is a form of legalisation and is not a workable solution. 'Decriminalisation' sends the dangerous message of approval that drug use is acceptable and cannot be very harmful. Permissibility, availability and accessibility of dangerous drugs will result in increased consumption by many who otherwise would not consider using drugs.

Australia has inadequate rehabilitation services with long queues of people waiting for treatment. There is a specific obligation to protect children from the harm of drugs, via the ratification by the majority of United Nations Member States of the UN Convention of the Rights of the Child (CRC).

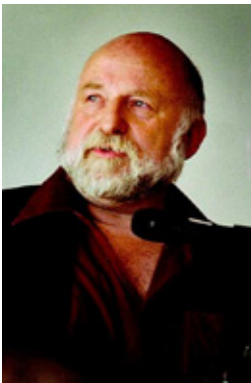
Australia should:

- **reject** the superficial position proposed by the Global Commission on Drug Policy in their 2011 report and adopt more workable improvements in Australia's drug policy;
- **move** in the direction of Sweden and more recently, the United Kingdom – and give priority to 'harm prevention' and children's rights;
- **join** other countries to oppose a more permissive drug policy, and in so doing, hold our commitment to the United Nations Drug Conventions;
- **communicate** with politicians and leaders in other major countries and, rather than further liberalising our drug laws, take a stronger stance against this global oppression.⁸

We cannot be a 'lone voice' in what is essentially a global problem. The UN Drug Conventions were adopted because of the recognition by the international community that drugs are a serious social and health problem whose trade adversely affects the global economy. In 2012, UN Controls are working as a deterrent. They have helped keep use rates low, with only 6.1 % of people globally (between the ages of 15 and 64) using illicit drugs. International cooperation is imperative if we are to continue to succeed.

THE CASE AGAINST PROHIBITION

1. THE TOP PRIORITY FOR ILLICIT DRUG POLICY SHOULD BE TO REDUCE HARM



Tony Trimingham founded Family Drug Support after his 23 year old son Damien died from a heroin overdose in 1997. FDS supports families via a National telephone network, written resources, support groups and courses.

The sole aim of drug law reform should be to reduce the number of deaths from drug and alcohol use and the damage caused by disease, crime and other drug harm. Reducing the number of people using drugs is just one of the many effective strategies for reducing drug-related harm.

Through support and health and social interventions we've seen many people overcome their dependency, reduce drug intake, control drug use and quit harmful substances. We've also witnessed them leading full and effective lives in stable relationships, in good health and in employment.

A drug user's journey is usually long and complicated. This is made more difficult by the consequences of prohibitionist and punitive drug policies. Negative attitudes and the stigma attached to drug use is rife among politicians and some religious groups. Sensational journalism among some media commentators does nothing but further entrench ill-informed views among our community. More often than not, the views of prohibition advocates are based on a particular 'moral' or religious premise rather than evidence-based research and practice that demonstrate positive health and social outcomes.

Progress on drug law reform in Australia has been painfully slow. Despite some steps in the right direction, such as the COAG Illicit Drugs Diversion Initiative, without doubt it has cost lives, which reflects poorly on such an enlightened and developed nation. At a time when other countries have proved the efficiency of such strategies, Australia has just one supervised injection facility. Indeed, there is no evidence that more progressive policies lead to an increase in harm. On the contrary, most report better health, childcare, housing, and crime and wellbeing outcomes.

Were Australia to decriminalise drug use, then advocates of decriminalisation must speak loudly and clearly about the negative aspects of drug taking.

2. PROHIBITION DOES NOT PREVENT ACCESS TO DRUGS IN AUSTRALIA



Michael (Mick) Palmer is a 33 year career police officer with extensive experience in police leadership and reform in community, national and international policing. He served as Commissioner of the Australian Federal Police (AFP), from 1994 until March 2001. He was previously the Deputy Chair of the Australian National Council on Drugs and was until recently a member of the Board of the Alcohol and other Drugs Council of Australia. He has recently become a Director of Australia21.

My starting point is that my experience as a career police officer has convinced me, albeit slowly and over a period of many years, that the current prohibitionist based drug policy has failed miserably and must be re-considered. I have arrived at this conclusion irrespective of the evidence now available from other countries and the numerous commissions of enquiry and reviews, which have been conducted in recent years. However, I find that my opinion is strongly corroborated by these enquiries and reviews and that the evidence in support of consideration of change is overwhelming.

In regard to the use and possession of currently illicit drugs, Australia's policy should be primarily aimed at minimising the harm caused by drug use, and actively protecting the health and wellbeing of drug users and victims. Whilst controlling and reducing drug related criminal trafficking and related offences must remain an important part of any strategy, it should be complementary to the primary aim of providing health and social care and support for drug addicts and users. This should not be construed, however, as suggesting that any message that is given is not strongly negative to drug use.

Contrary to popular opinion and frequent political assertion, law enforcement of illicit drug trafficking, use and possession has had little positive impact on the illegal Australian – or international - drug marketplace. Australian police are now better trained, generally better equipped and resourced and more operationally effective than at any time in our history but, on any objective assessment, policing of the illicit drug market has had only marginal impact on the profitability of the drug trade or the availability of illicit drugs. At the local level young Australians can and do purchase illicit drugs with ease and generally with impunity.

3. WE NEED TO REFORM THE LAW AND EXPAND HARM REDUCTION MEASURES



Lisa Pryor is a journalist, writer and medical student. She is the author of two non-fiction books, most recently "A Small Book About Drugs: the debate we need to have about recreational drugs". She was previously the opinion page editor of The Sydney Morning Herald, where she also wrote a weekly opinion column. She has a law degree, with first class honours, and an arts degree, from the University of Sydney. She returned to the university in 2011 to study medicine. She is the mother of a toddler and a baby.

Personally I would like to see incremental and evidence-based drug law reform in Australia consisting of:

- further rolling out existing policies which are already working, for example, replicating the Medically Supervised Injecting Centre in Kings Cross in other areas, and expanding needle exchange programs to prisons;
- decriminalising possession of small quantities of all illicit drugs following the Portugal model;
- debating the merits of legalisation of marijuana and ecstasy;
- debating the merits of legalisation of heroin in a carefully controlled therapeutic setting for addicts who are not responsive to abstinence-based treatments or methadone.
- emphasising that decriminalisation empowers families. Some parents are fearful that decriminalisation will mean a free-for-all in which they will lose the power to stop their kids getting into trouble with drugs. It is important to explain that the opposite is the case.

In the current policy environment, it is difficult for parents to seek help from the authorities, particularly police, without making things worse. If a teenager is going off the rails, a criminal record will only make study and work more difficult. As a parent, one of the things I like about the Portuguese system is that I would feel more confident dobbing drug addicted kids into the police, confident that the outcome would be help rather than jail.

Challenge the language around 'tough on drugs'. It is galling that governments are described as 'tough on drugs' when they increase sentences for drug possession, as has occurred recently in Western Australia. Far from being tough, increasing sentences is just about the weakest, laziest, easiest and least effective thing a government can do. It is also extremely expensive. Perhaps supporters of change need to use better slogans like "Forget tough on drugs, we want smart on drugs" or "The government wants to spend more taxpayer money jailing drug takers".

SHIFTING INTERNATIONAL ATTITUDES

Following the report of the Global Commission on Drug Policy in 2011, international attitudes to prohibition underwent a rapid change.

NORTH AND SOUTH AMERICA

During 2012, a number of Latin American nations, whose economies have been disrupted and social systems threatened by drug-associated violence, spoke out about the need for a new global approach to drugs. At the Summit of the Americas in Cartagena, Colombia, 14-15 April, 2012, they demanded a debate on drug legalisation.⁹

In particular they took strong exception to the terrible impact that the failed war on drugs has had on their people. The President of the United States was forced to accept the legitimacy of a debate about the legalisation of drugs. Drug law reform is never an easy topic in the United States but especially not in a Presidential election year. President Obama was forced to acknowledge that drug legalisation was a legitimate issue for discussion while emphasizing that the United States could not accept such an approach. The failure of the current approach should hardly be a surprise given the experience of alcohol prohibition in the United States and many other countries. Some argue that a 'prisons-industrial complex' in the United States has been allowed to become unduly influential.

Mr Steven Harper, the Prime Minister of Canada, admitted publicly during the meeting that the War on Drugs approach had failed. Pressure on conventional drug policy is now coming from several fronts. In Latin America, soaring levels of violence are forcing governments to review their commitment to efforts to cut drug supplies. In many other parts of the world, an entrenched commitment to drug prohibition has been allowed to obstruct the implementation of effective measures to control the spread of HIV among and from people who inject drugs. The serious breaches of the human rights of people who use drugs and the poor returns from government spending on drug law enforcement at a time of serious sovereign debt are other grounds for concern.

AUSTRALIA

As a strong ally of the United States, Australia has largely complied with the international approach.

Most of the reforms in drug policy implemented recently in Europe were tolerated grudgingly by the International Narcotics Control Board (INCB) who sometimes conceded that they did not abrogate the treaties. A growing coalition of countries, driven by the negative public health impacts of prohibition and the empowerment that it gives to criminal suppliers, is advocating for a review and possible modification of the treaties. Australia should now consider joining such a coalition. This should be a topic for discussion at the National Drug Summit proposed later in this report.

EUROPE

Despite the existence of these treaties, the Netherlands, Switzerland and Portugal have implemented reforms which reduced drug overdose deaths and HIV infections and have made communities safer.

Despite the fact that the Netherlands, Switzerland and Portugal were, like most other countries, bound by the international drug treaties (1961, 1971, 1988), these countries were able to implement substantial reforms. The crucial step was redefining drugs as primarily a health and social issue. Sweden, now one of the few countries in Western Europe to continue to implement a predominantly criminal justice approach, reports that levels of drug use are low. But Swedish levels of problematic use seem about average for Europe while drug-related deaths are the eighth highest in the European Union and rising. Drug-related deaths in Australia may be even higher than Sweden (but direct comparisons are never straightforward).

Although Australian media have published little information about recent international drug law reform, a number of European countries have made substantial changes apart from the few well-known examples. The experience of the Czech Republic is particularly important as the changes were carefully evaluated.¹⁰ Following the overthrow of communism, drug use increased in Czechoslovakia in the 1990s. Czech politicians felt a pressure to respond. The Czech Republic was also under international pressure to maintain a strong emphasis on drug law enforcement with severe penalties for even minor drug offences. In 1998, the Czech government abandoned its liberal drug policy and introduced a new law specifying that possession of quantities of illicit drugs exceeding a threshold would result in criminal sanctions. A scientific evaluation of the new law found that criminalising drug possession neither deterred use nor benefitted health and was also expensive. The results of this study are well known in the Czech Republic and led to the removal (again) of criminal sanctions for the possession of small quantities of drugs.

In 2000, (then) President Aleksander Kwaśniewski of Poland introduced harsh criminal penalties for persons found in possession of illicit drugs, regardless of quantity. The expectation was that this would 'solve the drug problem'. While few drug dealers were arrested, the number of young people charged with drug possession increased more than ten-fold in the next eight years. Enforcement of this law was estimated to cost Polish taxpayers over \$US 25 million annually. President Kwaśniewski ended up scrapping a law that he had introduced and in 2012 joined the Global Commission on Drug Policy so that he could support international drug law reform.¹¹

DISTINGUISHED CITIZENS SPEAK OUT

Another indication of growing disillusion with prohibition was the publication of an open letter in two leading UK newspapers, *The Times* and *The Guardian*, on 19 November 2011. The letter was signed by a group of more than 60 distinguished 'international citizens' who called for a review of the 1961 UN Single Convention on Narcotic Drugs. The letter attests to the remarkable recent change in international attitudes to global drug prohibition. See Appendix 1.

PROSPECTS FOR CHANGE IN THE INTERNATIONAL TREATIES



Professor Robin Room¹³ is a sociologist who has directed alcohol and drug research centres in the United States, Canada and Sweden, and now in Australia, his native country. He is a Professor at the School of Population Health of the University of Melbourne and the Director of the Centre for Alcohol Policy Research at Turning Point Alcohol and Drug Centre, in Fitzroy, Victoria. Since 2006, he has been President of the Alcohol and Other Drugs Council of Australia. He has been an advisor for the World Health Organisation since 1975, and is Editor-in-Chief of *Drug and Alcohol Review*.

The treaties of 1961, 1971 and 1988 have cemented in place a global prohibition system that is not responsive to current circumstances. Alcohol is excluded, though it is the drug with the greatest potential for harm when harm to others is taken into account. For drugs that are covered, nonmedical use is prohibited, so that experimentation with properly regulated markets is forbidden.

It is increasingly difficult to find experts, other than those who staff it, who regard the current system as fit for purpose. Increasingly, ex-presidents and other retired political figures have been willing to speak out against it. Recently, particularly in Latin America, current presidents and politicians have also been willing to address the issue.

Change is most likely to come from two directions. One is Latin America, where countries increasingly see the heavy burden of violence and social disruption from the “war on drugs” as untenable and unrewarding for their national interest. There are signs that the ferment and initiatives in a number of Latin American countries will develop into a regional approach. The second is within the U.S., where one or another state is likely to move toward a regulated cannabis market, setting off a major internal confrontation with the defenders of the prohibition system at the national level. Because of the key role of the U.S. in maintaining the prohibition system, what happens within the U.S. will be particularly crucial.

The system will not be easy to change. Amendment of the treaties is too difficult, so that the most likely paths are for individual countries to drop out of the treaties and come back in with reservations allowing for domestic experiments, or for groups of countries to join in new treaties intended to supersede the current ones. Only if serious efforts are started down such paths is the system likely to try to move to compromise.

Among the most draconian national laws enforcing the prohibition system are those in near neighbours of Australia, and Australia might do more to encourage reform of these laws. Australia’s position on drug control would be more defensible if it moved away from supporting alcohol industry interests seeking to use trade treaties to weaken regulation of alcohol in our general region. It is in Australia’s national interest, in terms of our ability to manage autonomously our domestic problems, regulations and laws, to support amendment of the treaties to allow experiments in regulated domestic markets for other drugs – for instance, the Penington proposal. (see below).

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EUROPEAN INITIATIVES

Summary of the drug policy approaches in four European countries.

| Nation | Goal | Legal approach | Main policy options |
|-------------|--|--|---|
| Portugal | Reduce the use of drugs among the population and their negative social and health consequences | De jure decriminalisation of personal use, acquisition and possession – of all drugs Retain criminalisation of trafficking | <ul style="list-style-type: none"> • Prevention • Treatment • Harm reduction • Supply reduction • Social reintegration |
| Switzerland | Reduce drug-related harm | Criminalisation of use, possession and trafficking Punishment is often waived for user offences | <ul style="list-style-type: none"> • Harm reduction • Prevention • Treatment • Law enforcement |
| Netherlands | Separation of cannabis and other illicit markets Re-integration of drug users back into the community | <i>De facto</i> decriminalisation of cannabis and coffee shop system Criminalisation of possession of other illicit drugs (not use) and trafficking | <ul style="list-style-type: none"> • Harm reduction • Prevention • Treatment • Law enforcement |
| Sweden | Drug-free society Re-integration of drug users back into the community | Criminalisation of use, possession and trafficking | <ul style="list-style-type: none"> • Health promotion • Prevention • Treatment • Law enforcement |

Source: Hughes, C & Wodak, A 2012, *A background paper for an Australia21 Roundtable, Melbourne, Friday 6th July 2012, addressing the question: 'What can Australia learn from different approaches to drugs in Europe including especially Portugal, Switzerland, the Netherlands and Sweden?'*, Australia21, Canberra.

THE ROLE OF POLICING AND LAW ENFORCEMENT

Our review of the European evidence has highlighted the vital constructive role which the police can play in education, support and prevention of harm from drug use.

Both in Portugal, where criminal penalties no longer apply to possession and use (if consistent with personal consumption) and in Sweden where drug possession and use can attract quite severe criminal penalties, it was noted that police in contact with drug use play a particularly important and compassionate role. Although they have the capacity to impose serious penalties in Sweden, the point was made that very often they act in a compassionate and supportive role, without necessarily invoking criminal sanctions. In Portugal, when contacting drug users and those in possession of small amounts of drugs, they also play a key role in referring people with complex drug use for advice, support and treatment.

Clearly, there may be room for corruption and discrimination in any setting where police are allowed considerable discretion. But that is also true of most police actions. The Roundtable participants agreed that, however Australia responds in the next phase of its illicit drug policy, there needs to be active involvement with police. This must occur both at the senior and union levels. Police and law enforcement will have to be consulted and actively engaged in the discussions that lead to a resetting of policy.

SWEDEN¹²

The stated goal of Swedish drug policy is to achieve a drug free nation. Most drug treatment emphasizes abstinence.

Sweden's most recent national drug strategy specifies as its long-term objectives the need to: reduce the supply of drugs; protect young people from the harmful effect of drugs; reduce the recruitment of new drug abusers and the development of high-risk drug use behaviours; increase access to high quality health care and social support services; reduce direct and indirect harmful health consequences of drug use and to promote the Swedish drug policy internationally.

A notable difference in the approaches used in the four European countries considered in this report is that the Netherlands, Portugal and Switzerland explicitly support harm reduction and give much more emphasis to harm reduction interventions. Sweden explicitly rejects harm reduction and condemns heroin-assisted treatment, supervised injection facilities and low threshold substitution treatment programs. Sweden only has two needle syringe programs in the country. Both were established in the south of the country more than 25 years ago and are still operating. Although some barriers to establishing new programs have been reduced no additional needle syringe programs have been established since 1987. In many respects, Sweden is slowly becoming less hardline and more like the rest of Europe in its drug policy.

The national drug policy emphasises the need for strong social solidarity and reintegration with treatment provided more in the welfare than the health system. All drug use is regarded as inherently problematic as it is believed that drug experimentation can lead to dependence and/or promote use by others. It was argued in the 1970s that if drug users could be prevented from taking drugs the phenomenon of drug taking might eventually disappear.¹³ There is a stronger emphasis in Sweden on the importance of abstinence as the primary goal of treatment. In many other countries in Europe, the primary objective is trying to keep drug users alive while also trying to reduce the health, social and economic costs of drug use in the hope that many will be willing and able to become abstinent in the future.

Supporters of Swedish drug policy argue that the prevalence of drug use among young people now seems lower than in the 1970s. Collection of general population data started to become available before 2004 while collection of school survey data commenced in the 1970s. The level of problematic drug use has increased. Drug-induced deaths in Sweden have increased significantly in recent years. Although international comparisons are never straight forward, using the same methods and definitions, the drug-related death rate in Sweden is higher than the average for the European Union. 87% of those arrested recently on a drug charge faced only charges of drug possession. The number of offenders convicted for drug offenses more than doubled from 2000 to 2009 while imprisonment for use of drugs, though infrequent, has also increased.

There is considerable debate about the Swedish approach. Lifetime prevalence and regular self-reported drug use among students and among the general population is claimed to be lower than in the rest of Europe. But bucking the general trend in Europe, problematic drug use has increased in Sweden and is of growing concern. There was a short-lived recent outbreak of HIV among young people who inject drugs. Drug related deaths increased in recent years. Crime may also be increasing in Sweden although there is always debate about the extent to which this is attributable to drugs. Though still not explicitly acknowledged officially, change in Swedish policy and practice started early this century, seemingly without a clear response to any debate. General practitioners were allowed to prescribe buprenorphine, thereby breaking the high-threshold system of methadone maintenance. Some of the more extreme exponents of the Swedish approach melted away a few years ago. This means that Sweden's approach is becoming more like the rest of Europe than it used to be.



Dr Börje Olsson is the Director of The Center for Social Research on Drugs and Alcohol at Stockholm University

Dr Olsson indicated in his teleconference with the Roundtable that the background discussion paper gave a generally fair reflection of the situation in Sweden but had mistakenly implied that users and traffickers were treated with equal severity under the law. He said that in practice there are very different criminal penalties for users and traffickers.

He also made it clear that from the very beginning, Swedish drug policy has been linked to the welfare state and the need to support marginalised groups.

He stated that the country is in a transitional period from attempts to reach a drug-free society and is moving towards a situation where there is an increased focus on evidence-based policy and harm reduction.

Welfare policies are crucial in Sweden. It seems to many that the growing economic inequality being observed is linked in some way to the growing numbers of problematic drug users.

PORTUGAL¹⁴

In the late 1990s, Portugal was in crisis with rising drug use, increasing drug overdose deaths, increasing new HIV infections among people who inject drugs and growing crime. After extensive consultation in the community, Portugal embarked on a new drug policy in July 2001. All criminal penalties for use and possession of personal quantities of illicit drugs were abolished. Criminal penalties remain for drug trafficking and the possession of trafficable amounts of drugs.

Today, personal drug use and possession continues to be recognised as a breach requiring administrative procedures. In certain circumstances drug users can be required to attend a 'dissuasion tribunal' where their drug use and functional status is considered. If required, treatment is offered and made readily available. This system has now been operating for 11 years and has been the subject of substantial evaluation. The goal of the new approach was to reduce use of drugs and negative drug-related social and health consequences.

In addition to the decriminalisation of acquisition, possession and use of all drugs, Portugal invested extensively in prevention, treatment, harm reduction, supply reduction and social reintegration. In particular, drug treatment was improved considerably. Following this multi-pronged intervention, decreases were seen in problematic drug use, drug-induced overdoses, drug-related transmission of HIV, drug related crime and the number of drug offences. Data on the effect on youth drug use is equivocal but problematic drug use has decreased. The probability is that cannabis use increased in the early stages of the program but has since stabilised. It seems clear that the reforms contributed to largely positive outcomes. What is less clear is the extent to which the positive trends over time were attributable to the decriminalisation, the broader drug strategy, the combination, or possibly other factors. Comparison of drug consumption trends in Portugal and some neighbouring countries supports the view that the changes introduced in 2001 did not result in increased drug use.



Dr João Goulão is the President of the Portuguese Drug Institute and Chairman of the Management Board of the European Monitoring Centre for Drugs and Drug Addiction and was deeply involved in the development of the change that took place in Portugal at the turn of the century.

Dr Goulão said in his teleconference that he believed the presentation of the Portuguese situation in the discussion paper was accurate.

He highlighted the fact that changes made in Portugal had come from the bottom up with extensive discussions in the community before changes were made. Dr Goulão also underlined the importance of linking the adoption of decriminalisation to a changed environment involving improved treatment and rehabilitation. He said that public opinion about Portugal's current drug policy remains positive with about 70% of the population supporting the current national approach.

The International Narcotics Control Board, a quasi UN body which monitors national compliance with international drug treaty commitments, considers that the reforms introduced in Portugal have not breached the international drug treaties. But these reforms have not altered the fact that drug supplies in Portugal are still under the control of criminal elements. It was pointed out that in the lead up to the political changes which enabled these developments to occur, there had been very wide discussion and debate in the community about various proposals for change. A concern expressed about the current scheme was that because of decriminalisation there is little anxiety about the public sale of small quantities of drugs since most police consider that law enforcement action is not worthwhile. Because possession of small amounts of drugs is no longer considered a criminal offense, small amounts of drugs are commonly seen to be offered for sale in Portuguese cities.

THE NETHERLANDS¹⁵

The *de facto* decriminalisation policy and the establishment of a Coffee shop cannabis distribution system in the Netherlands are well known. In 1976 the decision was made that it is inexpedient to enforce the laws criminalising cannabis possession and so such offenses still rarely result in prosecution. In 1984, municipalities were allowed to license Coffee shops to sell small amounts of cannabis subject to conditions that were laid down in the national guidelines of the Public Prosecutor. In 1995, increased controls were introduced over coffee shops with increased monitoring of compliance and expanded administrative measures. In 2012, access to cannabis Coffee shops has been restricted in four southern provinces to private clubs accessible only to residents of the Netherlands aged over 18 years, upon display of a valid membership card, because of concerns about cannabis tourism.

Coupled with this controlled decriminalisation and coffee shop approach, the Dutch drug policy prioritises the protection of public health through a combination of prevention, treatment, harm reduction and law enforcement policies. The Dutch were the leaders in needle syringe programs, as well as other harm reduction policies such as 'heroin-assisted treatment' (where in selected cases prescription heroin is self administered under supervision together with intensive psycho-social assistance). Dutch drug policy has also recently included an intensified focus on public nuisance and organised crime, which has increased the role of law enforcement to reduce the influence of the criminal market.

One of the aims of policy concerning cannabis was to separate the market for this substance from other more damaging substances (such as heroin or cocaine). Cannabis use is considered a deviant but not unacceptable behaviour. The decision to provide licensed venues for purchase and consumption of cannabis was a pragmatic approach, aided by Dutch preference for decision-making through consultation and compromise. The progressive tightening of controls of the Coffee shop system has come about in response to growing concerns about cannabis tourism and the need to prevent underage drug use.

From the mid-1980s, the Netherlands has reported declines in the number of drug-related problems including dependent opiate use, injection drug user-related HIV infections and drug-induced deaths. For all drugs with the exception of ecstasy, reported use by Netherlands youth is below the European average.

SWITZERLAND¹⁶

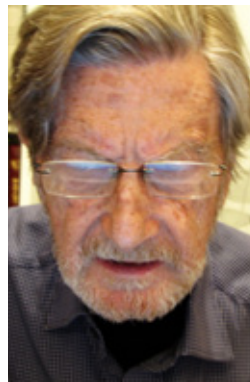
The central objective of Swiss drug policy is the reduction of drug-related problems. In the most recent Swiss drug strategy, it was noted that 'to a certain extent drug use constitutes an undeniable reality.

It should occur in such a way that users expose themselves to the least possible risk and their quality of life be affected as little as possible'. One aspect of that is that they should remain integrated in society. Swiss drug policy is built around four pillars: prevention, treatment, law-enforcement and harm reduction. The country has been a leader in the trialing and expanding of harm reduction services. Switzerland was the first nation to trial heroin assisted treatment (1994–1996) and to enact an ordinance governing the medical prescription of heroin (1999). Switzerland also strongly emphasises the provision of needle syringe programs and supervised injecting facilities.

Drug use, possession for personal use, trafficking and cultivation remain criminal offenses. However, for petty offenses the appropriate authority may stay the proceedings that lead to punishment and only issue a reprimand. In June 2012, the Swiss parliament agreed in principle to impose a fine on persons found with a small quantity of cannabis rather than continuing to define this as a criminal offense requiring more severe sanctions.

Switzerland embarked on its innovative approach following national concern about the widespread growth in injecting drug use and HIV transmission in the 1980s. A number of initiatives were trialed in the 1990s with demonstrable improvement in health outcomes. In 1997 and 1998 respectively, initiatives aimed at zero tolerance and legalisation were voted on nationally and both were rejected (by 71% and 73% of voters). Through the ballot box, voters were endorsing indirectly a four-pillar model that includes harm reduction as a pragmatic, middle way to manage drugs.

Since the introduction of its strong harm reduction approach, deaths from drugs have declined significantly. There has been some increase in the prevalence of cannabis use, particularly among young populations, and an increase in arrests for drug offenses. Five percent of those arrested receive prison sentences per year. About 80% of drug arrests are for drug possession.



Dr Ambros Uchtenhagen is Professor Emeritus of Social Psychiatry at Zurich University and President of the Addiction Research Institute at Zurich University. He is a member of the WHO Expert Panel on Drugs. He helped to shape Switzerland's pragmatic drugs policy after a problematic open drug scene in Zurich spiraled out of control in the 1980s.

In his teleconference with the Roundtable, Dr Uchtenhagen stated that the background discussion paper had given a brief but accurate view of the Swiss situation.

He said that experience in Switzerland failed to give an unequivocal answer to the relationship between criminal sanctions and drug use. At present official figures show that daily cannabis smoking is increasing in Switzerland and there is no clear explanation for it.

The reduction in harm that has been seen in Switzerland with respect to narcotic use is considered to be directly related to the policy of introducing heroin-assisted treatment into the treatment armamentarium.

Dr Uchtenhagen said that expansion of harm reduction services with substitution therapy and heroin-assisted treatment have contributed a great deal to changing the public awareness of what is important. Switzerland is moving away from reliance on criminal sanctions, which is no longer the main pillar for restricting use and harm. He also referred to the importance in the Swiss scene of local experimentation with careful evaluation.

REFLECTIONS ON ROUNDTABLE DISCUSSIONS

THE NETHERLANDS EXPERIENCE

In the Roundtable discussion of the Netherlands experience, participants noted that very substantial changes have been managed within the constraints of the international conventions and have been maintained (with minor changes) for almost four decades. The policies were a pragmatic response to a social problem and were adjusted as benefits and disadvantages were recognised. It was a *de facto* form of decriminalisation as cannabis use and possession is still technically illegal. The laws have been kept but are not applied for behaviour accepted within the Coffee shops. Throughout the past forty years, the Netherlands has been willing to experiment with its drug policy in a pragmatic way. The government has been quick to counter problems and to dispel myths as they emerged.

A concern about the Dutch approach to cannabis is often referred to as 'the back door problem'. This means that while Coffee shops are able to sell cannabis legally through their 'front door', authorities have to turn a blind eye to the production and purchase by the Coffee shops of their cannabis supplies (the 'back door') because production and distribution of supplies are still deemed illegal.

A great deal depends on police discretion in the application of the law. This degree of discretion could open the way to discriminatory application of the law against disadvantaged minorities. Some consider the 'back door problem' a serious disadvantage of the Dutch approach. Others dismiss it as a minor negative in a policy that works well overall. Despite the fact that cannabis use in the Netherlands is higher than in some other European states, it is considerably lower than in the United States. A comparison of cannabis users in (more liberal) Amsterdam and (more restrictive) San Francisco found that not only was use of all illicit drugs (including cannabis) more common in San Francisco, but more people (51%) purchasing cannabis in San Francisco were also offered other illicit drugs (such as heroin and cocaine) than in Amsterdam (15%).¹⁷ The separation of markets achieved in the Netherlands appears to reduce the likelihood of cannabis being a 'gateway drug' to more serious drug use.

Another concern expressed was that the Netherlands approach to cannabis use prevents the state regulating the types of cannabis available to users. This may be important as different forms of cannabis with different proportions of active ingredients may have a different impact on mental health problems.

THE SWISS EXPERIENCE

In discussion of the relevance of the Swiss experience to Australia, participants recognised that heroin assisted treatment for dependent heroin users has been a very important addition to the harm reduction armamentarium. The Swiss experience has now been replicated in six other countries and has been shown to have benefits not only for the involved patients but also for society at large.¹⁸ Heroin assisted treatment is reserved for the most treatment refractory and severely dependent patients. It imposes considerable constraints on patients because they can only have access to heroin under close medical supervision. Only 5 percent of heroin dependent patients in treatment are enrolled in this therapy. But the availability of this treatment has enabled up to 14 % of dependent patients who had heroin assisted treatment to become abstinent. It is also thought to have contributed to the reduction of drug-associated crime, deaths and HIV infections. Further, and perhaps significantly, since its introduction, recruitment to heroin use in Switzerland has diminished.

Roundtable participants noted that a trial of heroin-assisted therapy had been planned for Australia in 1997 but that the trial did not progress because of a shift in national policy to zero tolerance. It was said that a trial of this treatment 'sent the wrong message' to the community. The European and Canadian experience now establishes that this approach should be available to assist in the treatment of Australian heroin dependent patients with severe problems and who have not benefitted from previous multiple other forms of treatment. But it was also recognised that in order for it to become available in Australia there must be an agreement between federal and state governments to enable the prescription heroin to legally cross state borders. Participants agreed that this matter should be considered at a National Drugs Summit.

A strength of the Swiss approach to illicit drugs has been the strong commitment to experimentation with new approaches accompanied by rigorous evaluation. While still maintaining criminal sanctions for possession and use of illicit drugs, the Swiss are now debating the wisdom and utility of drug prohibition.

THE PORTUGUESE EXPERIENCE

The evaluation reports of the Portuguese experience have varied in quality.

The general view of those who have examined all of the available data critically and dispassionately is that there have been very substantial net benefits from this program even though it does not attempt to deal with the problems of the black market. Overall, drug use has not substantially increased while problematic drug use and mortality from drug use has fallen substantially.

Another key lesson emerging from Portugal's experience is the humanisation of drug policy. Not only have criminal sanctions been removed but very substantial efforts are now made to support drug users and help them to overcome their drug dependence.

THE SWEDISH EXPERIENCE

In the Roundtable discussion it was pointed out that Sweden took drugs on as a national project in the 1970s.

Recent Swedish policy documents still identify the achievement of a drug-free society as the national objective. Experimentation with some illicit drugs in Sweden is unquestionably low by European standards but alcohol consumption is a concern and problematic illicit drug use is increasing. The idea of a drug-free society is increasingly regarded as just a form of political rhetoric. When Sweden began its hard line stance on drugs, other Scandinavian countries also adopted this approach. Now Sweden is unlike other countries in the region. All of the other Scandinavian countries have now moved to a greater health and social emphasis in their approach to illicit drugs.

There is very strong commitment in Sweden to the social welfare net and to support for marginalised groups. This is a key strength of the Swedish system. Another key advantage in the Swedish system is that while the police have strong coercive powers and while strong criminal sanctions are available, many police officers operate more like social welfare workers with a deep commitment to prevention and support for young people considered at risk of engaging in drugs. Sweden has a compulsory rehabilitation system. Young people who have been affected by drugs are helped to rejoin their communities and are offered vocational skills training as part of their rehabilitation.

Another impressive aspect of the Swedish approach is the careful monitoring of national progress and the willingness to respond to adverse trends in the evaluative data with increased resources.

WHAT CAN WE LEARN FROM THE DIFFERENT APPROACHES IN THESE EUROPEAN JURISDICTIONS



Stephen Parnis is the President of the Australian Medical Association (Victoria) and is a consultant emergency physician in inner Melbourne. He has experience treating drug-affected patients in an emergency setting as well as dealing with policy issues ranging from violence in hospitals to drug and alcohol issues.

What can we learn from the different approaches in these European jurisdictions? The answer will probably be – some things, but not everything. These different policy approaches and their outcomes are instructive, and we need to pay close attention to them. But there are also cultural, historical, socio-economic, demographic, and political differences between Australia and Europe that may lead to different population behaviours and outcomes. As the discussion paper concedes, there is an unresolved question as to whether the outcomes in these overseas jurisdictions are due to changes in the law or social/health policy initiatives or both, and to what relative extent.

Australia needs to clarify what the fundamental objectives and priorities are that should guide its own approach to drug policy, so it can rationally evaluate the lessons from Europe for its own context. From the point of view of a medical practitioner and leader within the AMA, the primary and overarching goal of illicit drug policy must be to reduce drug-related harm. Seeking to reduce drug use and demand can be one way of reducing harm, but it is not the only way, nor is it always an effective way.

Criminalisation can act against achieving the right policy goals. Criminalisation of drug use and trafficking is often defended as a powerful deterrent to initiation or continued use. For some, it probably is. But for some others, the deterrent effect will be weak and ineffective. And for those people who do initiate or continue their drug use, criminalisation will also add significantly to the potential health and other risks that drug users are exposed to. For example, exposure to drugs of variable and unknown quality (with a risk of overdose or poisoning), barriers to accessing health supports, equipments and facilities that can minimise the risks of drug use, exposure to a criminal underworld and those who market harder drugs, etc.

While the down-side of criminal prohibition is clearly significant, decriminalisation isn't a panacea. The huge social and personal harm from the abuse of a legal substance – alcohol – are manifest and persistent in Australia. Whether Australia decriminalises or not, there is a continuing need for more effective and well-resourced health and education responses to potentially harmful drug use.

THE AUSTRALIAN EXPERIENCE

GOVERNMENT POLICY

Since 1985, Australian illicit drug policy has rested on three unequal pillars referred to collectively as 'harm minimisation'.¹⁹ The main pillar, receiving about three quarters of the financial commitment of governments, has been an attempt through law enforcement to reduce the supply of these drugs. This has failed dismally. The second pillar has been an attempt to reduce demand for the drugs through education and the treatment and rehabilitation of people who use drugs and seek help. There is clear evidence that investment in this pillar has substantial benefits. But demand reduction is seriously underfunded.

The third pillar is harm reduction. This is a strategy aimed at making life safer for those who use drugs and, for now, are unable to stop or cut down. It includes a range of interventions including needle exchange programs, supervised injecting facilities, substitution treatment (eg. methadone and buprenorphine) and support services. Australia was a world leader in harm reduction 25 years ago. That helped us avoid an HIV epidemic. But the emphasis in national policy changed about a decade and a half ago after Federal Cabinet stopped a trial of heroin-assisted treatment. For the last 15 years, Australia has relied too heavily on expensive and relatively ineffective punitive approaches to prevent drug use and not enough on approaches to minimise the harm that drugs and drug policies cause to drug users, their families and the community.

Other countries are now more successful at rehabilitating and reintegrating drug dependent people back into the community. Although a more punitive approach began in 1997, many positive developments also began about this time. These included critical support to reduce HIV infection among people who inject drugs, major expansion of diversion from the criminal justice system and the first federal funding for state and territory needle syringe programs.

MOVING TOWARDS POLICIES BASED ON EVIDENCE

The challenge for Australia is to switch to policies based on sound evidence rather than approaches based only on intuition or sometimes just on prejudice.

We should incrementally adopt strategies that have been demonstrated to produce better outcomes in a number of other countries. But we have to recognise that there is no perfect drug policy. There are upsides and downsides to all policies. Drug policy is partly a matter of deciding which negatives we can learn to live with. Participants generally agreed that future generations of Australians will be ill served by governments continuing the current approach. A common view at the meeting was:

As much as we may deplore it, we must learn to live in a world where some young people use drugs. All drug use is not inherently evil. We would be better off keeping the focus on reducing the harm caused by drugs and drug policy. People who use drugs sometimes break into our homes and steal our property. But people who use drugs are also always somebody's son or daughter, sister or brother or parent. And they are always Australian citizens with rights and responsibilities. Drug users, their families and communities would be better off with policies that had been shown to be effective rather than policies based on demonisation of a vulnerable minority.

EXPANDING THE RANGE OF HARM REDUCTION SERVICES IN OUR PRISONS

When countries rely heavily on drug law enforcement to control drugs, large numbers of people who use drugs inevitably end up in prison either because they are apprehended for cultivating or manufacturing, selling, possessing and/or using drugs, or (far more frequently) for crimes committed under the influence of drugs, or because of their efforts to obtain money to purchase drugs at high prices.

With the distribution of illicit drugs exclusively in the hands of criminals, it is neither surprising that drugs are still relatively freely available and widely used in prisons, nor that corruption of prison officers can be a major problem. Without a comprehensive range of harm reduction services available to prisoners, as there is now in the community, there is an unacceptably high risk of transmission of dangerous infections through unsafe injecting practices to other inmates and subsequently to members of the community.²⁰

As indicated in the review of the European experience, harm reduction services including needle syringe exchange and substitution therapy have proven to be effective in reducing transmission of infections between inmates who inject drugs. Although supplies of bleach are available in prisons in Australia, needle exchanges are still prevented largely because of strong opposition from unions representing prison officers, and the explicit refusal of governments to act on the overseas evidence. There has been vigorous debate in the ACT recently about this dilemma. The ACT government has sought to curtail the transmission of HIV and hepatitis C in its newly established prison. In August, the ACT announced that it will establish a one-for-one needle exchange system in its prison.²¹ When implemented in 2013 this will be the first prison needle exchange in the English-speaking world.

While limited substitution therapy is available in our prisons, the European experience points to the need for a full gamut of treatment and rehabilitation services to be made available to all prisoners who use drugs to reduce transmission of HIV and hepatitis C among inmates (and later to the general community).

A recent UN document describes the range of interventions required to protect the health of inmates and the community.²²

SUBSTITUTION THERAPY: THE BENEFITS OF ADDING HEROIN ASSISTED TREATMENT

Addiction to opioids, whether to heroin or to prescribed legal opioids, is often a deeply disabling and disruptive problem.

It can also be difficult to treat and to be treated. Some dependent users do become abstinent after a while. Abstinence is by no means rare. The satisfaction of craving for opioids in an era of prohibition is usually met by illegal efforts to obtain and pay for black market drugs. A number of approaches to enable dependent users to live a more normal and useful life have proved successful. Methadone and buprenorphine are forms of substitution therapy and are used by almost 50,000 drug users in Australia. Many are then able to improve their lives.²³ While the best outcome for a drug dependent user may be to stop completely and immediately, most need to work on their problems over some time. Dexamphetamine maintenance is another form of harm reduction treatment of street amphetamine use that has been used internationally, but it has not been evaluated as extensively as methadone.²⁴ Substitution treatments can be supervised by pharmacies, clinics and doctors in Australia. However there are often long waiting lists for access to these services and patients have to often pay a far too high proportion of their low income. It is important that a range of non-medical treatments is also available for those drug users who are not attracted or benefitted by pharmaceutical approaches. Naltrexone implants are advocated by some as a method of helping opioid users but they have not yet been shown to be safe or effective. Also, the implants have not yet been fully approved for this use by regulatory authorities in Australia or other countries (apart from the United States).²⁵

Heroin assisted treatment has had consistently impressive results in 7 trials in 6 countries.²⁶ Although only suitable for a small minority of heroin users seeking treatment, perhaps about 5% of this group, this minority accounts for a disproportionate share of the problems attributed to heroin in a community. Patients are only accepted if they have severe dependence and have not responded to multiple previous treatments of diverse kinds. Benefits include improved physical and mental health, less crime and improved social functioning (such as increased employment, less homelessness). Some are assisted to become drug free. This treatment is more expensive than methadone or buprenorphine but still saves about \$2 for every \$1 that the treatment costs. Methadone is more cost effective (but for a somewhat different population).

Heroin assisted treatment can only happen in Australia if this is supported by the federal government and at least one state or territory government. In view of the outstanding results reported from a number of European countries (Switzerland, the Netherlands, Spain, Germany, the United Kingdom and Canada), the Roundtable agreed strongly that this intervention should be implemented in Australia without the need for additional research.

ENGAGING WITH AUSTRALIA'S YOUTH

The national debate on resetting illicit drug policy must engage the younger generation.

Both Australia21 Roundtables have included thoughtful and well-informed young adults. They have argued that their generation is as well, if not better, equipped to discuss a new Australian policy than those who have been long engaged in the debate about drug reform. As Australia shifts the emphasis from criminal justice interventions to more health and social interventions, we need to be able to draw on a large wellspring of understanding and enthusiasm for the challenges and ensure that young Australians are fully involved in guiding the transition.

We need to discover better ways to outsmart the criminal interests, who are constantly working to promote the drug culture. Accordingly, in planning for a national drug summit on these matters Roundtable participants agreed that the summit should include a vigorous youth stream of young people from the ages of 16 to 30 years.

Drugs are a difficult subject for politicians and the community. It is always hard to change a policy that has been entrenched for decades and seems to have been associated with political success. But attitudes to drug prohibition are changing rapidly around the world. European countries that have adopted more effective approaches have generally had substantial community discussion. Young people have more at stake than others and should therefore be well represented.

DO AUSTRALIAN GOVERNMENTS GET VALUE FROM THEIR EXPENDITURE ON DRUGS?

A central concern referred to frequently in the Roundtable discussion was the present inefficient use of scarce resources.

Estimating the allocation of government resources in response to illicit drugs is difficult. Only one study of this kind has ever been published in Australia.²⁷ This study concluded that almost 75% of the \$3.2 billion expended in 2002/03 by Commonwealth, State and Territory governments in response to illicit drugs was allocated to drug law enforcement. Clearly, there is now and always will be a vital role for law enforcement to confront the criminal networks which currently control the supply, production and distribution of illicit drugs.

But critical questions remain. How can this level of government expenditure on illicit drug interdiction and law enforcement be continued when there is now so much pressure on government spending, so little evidence of benefit and such strong evidence of serious collateral damage?

Equally clearly, criminal control of the problem will inevitably continue as long as governments make no attempt to regulate the supply of drugs that are currently available only on the black market. There is now a large body of evidence, which a careful analysis by the Productivity Commission should consider, to underpin decision-making about the most effective allocation by government of resources to reduce the supply, demand and harm from illicit drugs. Governments are fond of recommending to service providers a more business-like approach that maximises the return on investment. Perhaps this is an occasion where governments could improve their return on investment of the not inconsiderable funds currently allocated in response to illicit drugs?

Roundtable participants strongly supported the proposal by Families and Friends for Drug Law Reform and now by the Australian Parliamentary Group for Drug Law Reform for the Productivity Commission to review government spending in response to illicit drugs.

A CALL FOR A NATIONAL DRUG SUMMIT

Australia, once among the leaders in a constructive approach to illicit drug policy, is now lagging behind.

Our drug-related death rates, our criminalisation of users, the overcrowding of our prisons, the increasing need for more prisons and the level of drug-related household and gang crime are eloquent testimony to the fact that a 'tough on drugs' approach, without proper attention to the social and health centrality of illicit drugs, is not working and must now be rectified.

Simplistic approaches to this issue such as the rhetoric of a 'war on drugs' have conditioned Australians to respond to simplistic slogans such as 'tough' or 'soft' on drugs. The evidence indicates that countries like Portugal, Switzerland and the Netherlands, which have come to grips with the social and health complexity of drug use and have adjusted pragmatically to the notion that a drug free environment is a utopian unlikelihood, have been able, following extensive community discussion, to find better ways of managing this problem than by simply leaving drug distribution to criminals.

Without such a debate among people of all ages, but especially young people, drug researchers, lawyers, doctors, pharmacists, church leaders, journalists and federal, state and local administrators, the situation will continue to be dominated by adversarial trivialisation that is managed by simplistic political sound bites.

The Roundtable agreed that it is time for a National Drug Summit that can set the scene for a new form of engagement with politicians from all sides of the political spectrum on this topic. While participants in the Roundtable recognised the political difficulties of introducing change, they also believed that the urgent need for national review would now be best served by a summit that brings together a large group of diverse stakeholders to consider publicly some of the options discussed in this report for dealing with this ever volatile and ever-changing health and social challenge. The task of the summit will be to establish the goals of a refurbished national policy. Australia21 is now seeking partnership with a range of public health, legal, medical, religious and drug specialist bodies to develop plans for a summit during 2013.

GOALS FOR AUSTRALIA'S FUTURE DRUG POLICY

Most of the participants in the roundtable discussion rejected the view that Australia can be made drug-free.

The language of 'zero tolerance' and 'tough on drugs' perpetuates the view that we are engaged in an all-out war against drug users and against drugs themselves. This leads to a system that trivialises the problem and lies at the heart of the failing national approach. In devising a new approach there was firm agreement on the need to adopt a set of explicit aims for Australian policy with firm support for:

- Enhancing the community's understanding of the risks and harm arising from use of psychoactive drugs;
- Aiming to minimise deaths, disease, crime and corruption arising from drug use and drug policy;
- Increasing the likelihood that people who use, or have used drugs can lead a normal and useful life as full and active members of the community;
- Ensuring that drug policies and their implementation should not create more harm than they seek to prevent or resolve;
- Finally, the policy should ensure that a range of attractive, easy-to-use, safe and affordable health and social interventions are available for those concerned by their drug use including evidence-based drug treatment which should be of the same high quality as that employed in other parts of the healthcare system.

These aims should be debated at the National Drug Summit.

PREVENTING DRUG USE AMONG YOUNG AUSTRALIANS

There was unanimity among Roundtable participants about the importance of prevention among young people and about the need for the national health and education systems to ensure that young people recognise from an early age the harm that can follow from experimentation with psychoactive drugs.

Those who favour maintaining criminal sanctions for use and possession of illicit drugs, also tend to take the view that relaxation of these sanctions will send a message to young people that these substances are harmless. On the other hand, those who believe that prohibition is a serious part of the problem point out that most stupid and senseless behaviour does not result in criminalisation. There are much better ways than the criminal justice system to reach young people with the message that drug use can be dangerous.

Education about the harm associated with alcohol and other drugs rightly forms part of the commitment of schools and organisations providing services to young people. The expectations of drug education must be realistic. School based and mass drug education only slightly reduce drug use but are somewhat more effective at reducing drug-related harm. These modest benefits are also often delayed.

These conclusions are based on many studies of the effectiveness of drug education.²⁸

Simplistic approaches to this issue such as the rhetoric of a 'war on drugs' have conditioned Australians to respond to simplistic slogans such as 'tough' or 'soft' on drugs.

Countries like Portugal, Switzerland and the Netherlands, have come to grips with the social and health complexity of drug use and have adjusted pragmatically to the notion that a drug free environment is a Utopian unlikelihood.

Following extensive community discussion they have been able to find better ways of managing this problem than by simply leaving drug distribution to criminals.

RECOMMENDATIONS FOR ACTION

TO THE BOARD OF AUSTRALIA21

1. This report should be widely distributed to influential networks, parliamentarians, church leaders, young people, businessmen and women, leaders of civil society, parents with young children and people who use drugs.
2. Australia21 should consult with a range of national peak bodies to develop plans for a National Summit on these issues to be held in 2013.
3. Australia21 should work closely with the Australian Parliamentary Group on Drug Law Reform to further promote bipartisan consideration of issues canvassed in this report.
4. Australia21 should meet with the chair and executive officer of the Australian National Council on Drugs to discuss the recommendations of this report

TO THE BROADER AUSTRALIAN COMMUNITY

To assist opinion leaders, governments, police and the general community, including especially young people, to consider a range of realistic policy options, the Roundtable participants proposed the following:

- An Australian Drug Summit to be held in 2013.
- A COAG Committee to consider a range of possible options for drug policy.
- A meeting between Australia21 and the Australia and New Zealand Policing Advisory Agency (ANZPAA).
- A meeting between Australia21 and the Australian Parliamentary Group on Drug Law Reform. This might include discussion of the desirability of a Senate Committee Inquiry into Australian drug law.
- Active engagement with the Police Commissioners' Conference members and with police unions about models of police activity in other countries to clarify which drug enforcement interventions are most effective in reducing drug-related harm and which are accompanied by minimal unintended negative consequences.
- Development of a network of concerned and informed church leaders, and another network of business leaders.
- Community discussion about modifying current international drug treaties.
- A meeting of experts in international law to determine the extent of flexibility available within Australia's legal obligations under the current drug treaties.

- Discussions with community stakeholders and leaders of the medical and pharmaceutical professions regarding Professor David Penington's proposal (below) to regulate cannabis and ecstasy (MDMA) in Australia.
- Discussion with peak civil society and organisations involved in alcohol and other drugs and those representing people who use drugs about future ways of reducing drug use and drug harm to young people.
- Recommending to the Commonwealth Government that it responds positively to calls for the Productivity Commission to investigate and report upon the cost-effectiveness of illicit drug law enforcement in Australia.
- A respected academically-oriented body such as the Drug Policy Modelling Program at the University of NSW be invited to convene a meeting or meetings between leading drug policy researchers (including those from the disciplines of epidemiology and criminology) and the members of the IGCD Standing Committee on Illicit Drugs and the IGCD Research and Data Working Group. The aim would be to ascertain the degree to which Australia's drug information systems provide the information needed to evaluate drug policy now, and to monitor and evaluate the outcomes of any future policy changes.

The drug law reforms that now need to be considered by all Australian Governments should have as their goals:

- reducing deaths, disease, crime and corruption
- improving the protection of human rights of all Australian citizens (including especially young people), and
- reducing the burden on the criminal justice system, taxpayers and families.

A RANGE OF DRUG POLICY OPTIONS

Participants in the Roundtable agreed that there is no single magic bullet or 'solution' for the management of this complex problem.

Each of the four countries discussed has taken a different path. In the case of the Netherlands, Switzerland and Portugal, significantly better outcomes seem to have been achieved than those currently observed in Australia. Relaxation of elements of the international approach has enabled the Netherlands, Switzerland and Portugal to derive positive benefits. Sweden remains one of the few European countries continuing to believe strongly in benefits to the community from strictly enforcing a prohibition of drug possession and use. But Sweden is now experiencing high rates of drug deaths and problematic drug use despite its strong commitment to the welfare state and support for marginalised populations.

The Australian response needs to be crafted in accord with Australian experience and culture. On the basis of international experience, we can choose from a wide range of interventions for which there is now good evidence. Some of the interventions listed below will be easier to implement than others while others may require legislative change and agreement across all of Australia's government jurisdictions.

A key message emerging from our discussions of the European experience was the importance of political bipartisanship. The starting point for an Australian new deal on drugs should be cross-party discussion and agreement that there is a problem and that its solution should transcend political point scoring.

The recent coming together of parliamentarians across party lines to support a reference to the Australian Productivity Commission is an excellent beginning and it is to be hoped that this will carry forward into discussions at a National Summit of the following list of options for improvement in Australia's drug policies.

As with our earlier roundtable on this topic, we believe that Australia21's role should be to act as an honest broker to promote a continuation of the national debate and to bring together diverse stakeholders with differing perceptions and strengths.

SPECIFIC REFORM OPTIONS

The specific reform options could include:

- **Reducing demand for drugs:**
 - > Ensure that the content and manner of education to prevent drug use is consistent with research findings
 - > Divert a proportion of resources currently committed to detection, prosecution and incarceration of drug users to systematic, objective and effective efforts to improve knowledge and understanding about drug use and problems in the community
- **Strengthening support for high-risk populations**
eg. indigenous groups, the homeless, the mentally ill
- **Criminal justice system:**
 - > Remove sanctions for personal use and possession of drugs and drug-using paraphernalia
 - > Increase the use of non-custodial sentences for drug offences
 - > Expand the use of diversion from the criminal justice system to treatment and education, and reduce or eliminate current perverse effects
 - > Explore alternatives to the criminal justice system to signify the community's disapproval of drug use without further damaging some vulnerable young people
- **Funding:**
 - > Increase funding for health and social interventions towards current levels of funding for drug law enforcement
- **Drug treatment:**
 - > Increase capacity to meet demand
 - > Improve attractiveness and reduce costs to consumers
 - > Broaden the range of treatment options for dependent users
 - > Ensure quality of treatment matches quality elsewhere in healthcare
 - > Establish Heroin Assisted Treatment for people with severe heroin dependence who have not benefitted from multiple previous treatments
 - > Ensure that drug treatment and the prevention of drug complications for prison inmates is of at least the same high standard as that in the community
- **Cannabis:**
 - > Control through taxation and regulation
 - > Establish hard-to-get but easy-to-lose licenses for cultivation, wholesale and retail supply
 - > Packets required to be plain and have warning labels, help-seeking information and consumer information
 - > Proof of age for purchase (equivalent to alcohol)
 - > Ban advertising and donations to political parties from companies and individuals engaged in the cannabis trade
 - > Hypothecate part of cannabis tax revenue to fund alcohol and drug prevention and treatment
 - > Establish and evaluate limited and regulated medicinal cannabis system
 - > Adopt national guidelines on less harmful consumption (modeled on NHMRC alcohol guidelines)
- **Injecting:**
 - > Establish supervised injection facilities within major drug markets starting in major cities
 - > Increase the availability of sterile injecting equipment
 - > Deregulate injecting equipment sales
 - > Ensure that prison inmates have the same protection from infections as do people living in the community
- **Re-integration:**
 - > Encourage major employers to hire more people attempting to overcome alcohol and other drug dependence
- **Research and evaluation:**
 - > Accept commitment to rigorously evaluate reforms especially to estimate the nature and extent of benefits and harm (including unintended adverse consequences) of the new policy while attempting to maximise benefits and minimise costs

THE PENINGTON PROPOSAL

The proposal below by Professor David Penington to deal with the cannabis and ecstasy issue in Australia is one that deserves widespread discussion and would have additional benefits for the rigorous clinical evaluation and distribution of medicinal use of cannabis extracts. Participants in the Roundtable saw considerable merit in the approach advocated here, but some wondered about its ability to compete with the current illicit market in cannabis and ecstasy. Many agreed that the proposal deserved consideration by stakeholders and consideration at a National Drug Summit. By the time authorities in Australia might consider different models, cannabis regulation might be operating in several of the jurisdictions where this is being considered in late 2012 (Uruguay, US states of Washington, Colorado, Oregon)'.



Emeritus Professor David Penington AC is a former Professor and Dean of Medicine, then Vice Chancellor, University of Melbourne. Head of AIDS Task Force 1983-87. David chaired the Victorian Premier's Drug Advisory Council 1995-6, Capital City Lord Mayors Drug Advisory Committee 1997-1999, Victorian Drug Expert Committee 2000; gave invited keynote addresses to the Australian Conference on Drug Strategy convened by Federal and State police April 1999 and the NSW Parliamentary Summit May 1999. Patron ANEX and Turning Point; currently chairing Bionic Vision Australia.

I propose decriminalisation for possession and use of cannabis and ecstasy for people aged 16 and over who are willing to be recorded on a national confidential user's Register, who will then have access and permission to purchase them from an approved government supplier (probably a pharmacist) in regulated quantities with careful record keeping.

There would be full cost recovery of production and distribution, including a dispensing fee, in the price to clients.

Use of cannabis for medical purposes would also be covered by the system. Pharmacists would give advice and be able to refer clients to counselling or treatment.

Current harm reduction programs would continue. Counselling and treatment should be available to any dependent users as a health service, akin to that provided by society to other individuals with serious afflictions.

COMMUNITY ATTITUDES

Community attitudes are critical.

If community support for drug law reform is weak, politicians will avoid the topic. But if politicians see that support for punitive approaches are eroding, some politicians will be willing to start supporting change. More research is now becoming available about community attitudes.²⁹ In annual Gallup polls in the United States, opposition to cannabis legalisation dropped from 84% in 1969 to 46% in 2011 while support grew from 12% in 1969 to 50% in 2011.³⁰

A MEDICAL PROBLEM

Many participants in both Australia21 Roundtables expressed strong support for a long-term policy of treating these currently illicit substances in the same way as we currently treat other pharmaceutically active agents.

This involves mechanisms of regulated production, distribution, marketing and taxation but with different approaches used for different drugs. Under the international treaties, as they are currently interpreted, such a course of action may not be presently practicable, but it is likely to become so in the future.

If a more effective drug policy is to be adopted in Australia, the aims of that policy will need to be more clearly identified and a bipartisanship established that currently applies to other drugs and pharmaceutical agents. We note that the illicit drugs are illicit, not because they have fundamentally different biological actions on humans than other drugs, or that they are more harmful than other drugs, but because somewhat arbitrary decisions were taken many decades ago to ban them.

ACCESS TO MEDICAL CANNABIS

Cannabis was listed in the American pharmacopeia until 1942. As well as its psychoactive properties, it has been claimed to be helpful in the symptomatic management of terminal cancer and AIDS, glaucoma and some neurological disorders. Although its illegality makes rigorous assessment of its pharmaceutical benefits difficult, cannabis is being used for these purposes illegally in Australia. The quality of the materials used is haphazard and unregulated. There is growing evidence that specific derivatives of the cannabis plant can be most effectively administered through a spray formulation of specific cannabinoids, and this is currently being researched at the National Cannabis Prevention and Information Centre at the University of NSW.

In 17 of the American states (plus Washington DC), the use of medicinal cannabis is no longer illegal. Preparations are made available on medical prescription through pharmacies or special outlets. This has led to inconsistencies and other problems. Currently, Australia is not considering this issue at all even though community opinion strongly supports medicinal cannabis.³¹ At present some patients with terminal cancer or AIDS obtain cannabis illegally and smoke these preparations at further risk to their respiratory health. There is a powerful argument at the very least for legalising access to carefully formulated and produced cannabis extracts for medicinal use and evaluation of its clinical impact.

A VIEW FROM THE AUSTRALIAN INJECTING AND ILLICIT DRUG USERS LEAGUE (AIVL)



Annie Madden is the Executive Officer of the Australian Injecting & Illicit Drug Users League (AIVL). She is currently a member of the Australian National Council on Drugs (ANCD). She has a degree in Social Sciences and is undertaking a Juris Doctor at ANU with a particular interest in human rights law and international law. She has been an injecting drug user and is currently on methadone maintenance treatment.

There is an urgent need to review our current drug laws and the unacceptable negative impacts they are having on drug users, their families and the community as a whole. In order to reform our current approach to illicit drugs and harmonise this approach with public health outcomes, we need to continue to expand the use of diversionary schemes, implement decriminalisation while progressively building the evidence base and support to ultimately move to a legal regulatory framework.

Generally these strategies are presented as separate and distinct options – almost as ‘alternative’ approaches. Rather than choosing one approach over another, AIVL believes it is far more useful to think about how diversion, decriminalisation and regulatory frameworks can work together across time as a progressive model of reform.

Australia should immediately commence the process of decriminalisation (on a similar but not the same basis as Portugal) as a strategy to reduce stigma, discrimination and criminalisation and to gradually build community support for more substantial and systemic reforms.

Available evidence in the Australian context highlights that polydrug use (using multiple drugs simultaneously and/or over the course of time) is in fact the ‘norm’. For this reason, AIVL believes it is important not to make arbitrary distinctions between illicit substances on the basis that some drugs are perceived as being more suitable as the ‘starting point’ for reform than others. To make such distinctions between different illicit drugs and how and why they are used could not only undermine any process of reform, but of even greater concern would be the potential for unintended negative consequences of a ‘piecemeal’ approach.

Ultimately, we advocate that an entirely new system of regulation or controlled distribution for all substances that are currently classified as illicit should be introduced to replace the current prohibitionist approach.

CONCLUSIONS

PROHIBITION HAS FAILED

- Arbitrary decisions taken decades ago have established for the world a program of prohibition of an arbitrary group of pharmaceutical agents that have psychoactive properties. But the benefits of this approach are hard to identify while the costs are often all too obvious.
- The effort to eradicate use of these psychoactive substances through international treaties has failed comprehensively. Criminalisation of their use has produced profound social and health harm.
- Australia²¹ concluded that drug prohibition is relatively ineffective, often counter-productive and expensive. Australia²¹ was prompted to become involved in drug policy by similar conclusions from the Global Commission on Drug Policy. Why has drug prohibition been retained for so long if benefits are hard to identify and serious adverse effects are all too obvious? There are several reasons. Politicians have often found that support for punitive policies is an effective political strategy while support for drug law reform can be politically risky. However, this now seems to be changing. Also, increased funding has been allocated to customs, police and corrections. This has allowed these departments to employ additional staff and purchase better equipment. It is only natural that some law enforcement officials and departments will be opposed to drug law reform because of the fear of a reduction in their budget.
- Mexico and other Latin American countries have been devastated by rapidly increasing violence and destabilisation of their political systems resulting from efforts to stop the trafficking in drugs from the producer countries in the south towards the world's largest drug consumer market in the United States. Retired and now also serving Presidents in Latin America have been calling for drug legalisation as the United States continues to apply pressure on these countries to interrupt the transport of drugs. Many leaders around the world have been shocked by these developments.
- Addiction to psychoactive substances is influenced both by the substance used and the psychological makeup of the user. The outcomes of that addiction can be extremely disruptive of families and neighborhoods.
- Prohibition leaves the production, distribution and marketing of illicit drugs in the hands of criminal elements of society and denies the possibility of basic quality control, reasonable pricing and market regulation by governments.
- The failure of prohibition to suppress the black market and its marginalisation of users from civil society is now widely accepted at an international level. Many countries are now engaging in a debate about more effective ways of managing the demand for illicit drugs. Support for drug law reform is no longer politically suicidal while support for drug prohibition no longer guarantees electoral success.

A MIX OF ALTERNATIVE STRATEGIES IS WORKING IN OTHER PLACES

- In a number of countries in Europe, experimentation within the constraints of the international treaties and conventions have identified important new approaches that are minimising the societal harm and health consequences of illicit drug use.
- The long-term demonisation and prohibition of these substances makes communities wary of anything that would change their illicit status.
- Nevertheless, a bold experiment in Portugal has shown that the decriminalisation of use and possession of all illicit drugs, when coupled with strong prevention, treatment and harm reduction measures, has resulted in marked improvements in health and social outcomes.
- Switzerland has shown that even while maintaining prohibition, experimentation with harm reduction measures and especially with heroin assisted treatment as a supplementation for the management of recalcitrant heroin dependent patients has resulted in major benefits to Swiss society and to health outcomes.
- The separation of the market for cannabis from the market for other drugs on the prohibited list in the Netherlands has also been shown convincingly to result in health and social benefits.
- Sweden, one of the few European countries to maintain criminalisation of all illicit drug use, and which still aspires to a drug-free society, has been able to maintain a relatively low rate of reported drug use but is nevertheless experiencing growing rates of drug-related harm and deaths. Sweden's strong social networks and humanitarian approach to marginalised groups is an approach that should also underpin Australian thinking on drug matters.

DEBATE IS BUILDING IN AUSTRALIA

- Australian rates of cannabis and ecstasy use are amongst the highest in the world while our drug-related death rates compare very unfavorably with those in all of the four European countries mentioned.
- Since the release of Australia21's first drug report in April 2012, a healthy debate has commenced in Australia about alternatives to the path on which Australian drug policy has been committed since 1997.
- This report provides a range of options, which need now to be considered by stakeholders in Australia including especially young people, parliamentarians, church and civil society leaders, the business community and those charged with managing Australia's drug and alcohol services.
- The next stage should be a formal referral by both sides of federal parliament to the Australian Productivity Commission for a critical review of the effectiveness of Australian governments' current expenditures in response to illicit drugs.
- A National Drug Summit is proposed for 2013 that should engage a strong stream of young people and a broad group of stakeholders, including parliamentarians from all sides of the political spectrum.
- Academic elder statesman, Professor David Penington proposed to the Roundtable a model for a regulated legal market on cannabis and ecstasy. Roundtable participants discussed this and agreed that it deserves very serious consideration as a practical way forwards, particularly for medical cannabis and as a means of separating the illegal cannabis and ecstasy markets from the markets for other drugs.
- The specific goals of Australia's health system with respect to currently illicit drugs need to be agreed to by the community and enacted by Parliament. The goals of Australia's drug policy have never been explicitly stated.
- Australia should now join the international community in a critical review of the international treaties. These treaties seem to have outlived their usefulness.

APPENDIX 1: LETTER FROM DISTINGUISHED GLOBAL CITIZENS

On 19 November 2011, the following open letter was published in the United Kingdom in *The Times* and *The Guardian* newspapers by a group of more than 60 distinguished global citizens calling for a review of the 1961 UN Single Convention on Narcotic Drugs. This letter testifies to the remarkable recent change in international attitudes to global drug prohibition.

The letter reads:

We the undersigned call on members of the public and of parliament to recognise that:

50 years after the 1961 UN single convention on narcotic drugs was launched, the global war on drugs has failed, and has had many unintended and devastating consequences worldwide. Use of the major controlled drugs has risen, and supply is cheaper, purer and more available than ever before. The UN conservatively estimates that there are now 250 million drug users worldwide. Illicit drugs are now the third most valuable industry in the world, after food and oil, estimated to be worth \$450 billion a year, all in the control of criminals.

Fighting the war on drugs costs the world's taxpayers incalculable billions each year. Millions of people are in prison worldwide for drug-related offences, mostly "little fish" – personal users and small-time dealers. Corruption amongst law-enforcers and politicians, especially in producer and transit countries, has spread as never before, endangering democracy and civil society. Stability, security and development are threatened by the fallout from the war on drugs, as are human rights. Tens of thousands of people die in the drug war each year.

The drug-free world so confidently predicted by supporters of the war on drugs is further than ever from attainment. The policies of prohibition create more harm than they prevent. We must seriously consider shifting resources away from criminalising tens of millions of otherwise law abiding citizens, and move towards an approach based on health, harm-reduction, cost-effectiveness and respect for human rights. Evidence consistently shows that these health-based approaches deliver better results than criminalisation.

Improving our drug policies is one of the key policy challenges of our time.

It is time for world leaders to fundamentally review their strategies in response to the drug phenomenon. That is what the Global Commission on Drug Policy, led by four former Presidents, by Kofi Annan and by other world leaders, has bravely done with its ground-breaking Report, first presented in New York in June, and now at the House of Lords on 17 November.

At the root of current policies lies the 1961 UN Single Convention on Narcotic Drugs. It is time to re-examine this treaty. A document entitled 'Rewriting the UN Drug Conventions' has recently been commissioned in order to show how amendments to the conventions could be made which would allow individual countries the freedom to explore drug policies that best suit their domestic needs, rather than seeking to impose the current "one-size-fits-all" solution.

As we cannot eradicate the production, demand or use of drugs, we must find new ways to minimise harm. We should give support to our Governments to explore new policies based on scientific evidence.

Yours faithfully,

Signatories to Public Letter

President Jimmy Carter, former President of the United States, Nobel Prize winner

President Fernando H. Cardoso, former President of Brazil

President César Gaviria, former President of Colombia

President Vicente Fox, former President of Mexico

President Ruth Dreifuss, former President of Switzerland

President Lech Wałęsa, former President of Poland, Nobel Prize winner

President Aleksander Kwaśniewski, former President of Poland

George P. Schultz, former US Secretary of State

Jaswant Singh, former Minister of Defence, of Finance, and for External Affairs, India

Professor Lord Piot, former UN Under Secretary-General

Louise Arbour, CC, GOQ, former UN High-Commissioner for Human Rights

Carel Edwards, former Head of the EU Commission's Drug Policy Unit

Javier Solana, KOGF, KCMG, former EU High Representative for the Common Foreign and Security Policy

Thorvald Stoltenberg, former Minister of Foreign Affairs (Norway) and UN High Commissioner for Refugees

Gary Johnson, Republican US Presidential Candidate

Professor Sir Harold Kroto, Chemist, Nobel Prize winner

Dr Kary Mullis, Chemist, Nobel Prize winner

Professor John Polanyi, Chemist, Nobel Prize winner

Professor Kenneth Arrow, Economist, Nobel Prize winner

Professor Thomas C. Schelling, Economist, Nobel Prize winner

Professor Sir Peter Mansfield, Economist, Nobel Prize winner

Professor Sir Anthony Leggett, Physicist, Nobel Prize winner

Professor Martin L. Perl, Physicist, Nobel Prize winner

Mario Vargas Llosa, Writer, Nobel Prize winner

Wisława Szymborska, Poet, Nobel Prize winner

Professor Sir Ian Gilmore, former President of the Royal College of Physicians

Professor Robert Lechler, Dean of School of Medicine, KCL

Professor A. C. Grayling, Master of the New College of the Humanities

Professor Sir Partha Dasgupta, Professor of Economics at Cambridge

Asma Jahangir, Former UN Special Rapporteur on Arbitrary, Extrajudicial and Summary Execution

Dr Muhammed Abdul Bari, MBE, Former Secretary General of the Muslim Council of Britain

Professor Noam Chomsky, Professor of Linguistics and Philosophy at MIT

Carlos Fuentes, Novelist and essayist

Sir Richard Branson, Entrepreneur and Founder of the Virgin Group

Sean Parker, Founding President of Facebook, Director of Spotify

John Whitehead, Chair of the WTC Memorial Foundation

Maria Cattai, former Secretary-General of the International Chamber of Commerce

Nicholas Green, QC, former Chairman of the Bar Council

Professor David Nutt, former Chair of the Advisory Council for the Misuse of Drugs

Professor Trevor Robbins, Professor of Neuroscience at Cambridge

Professor Niall Ferguson, Professor of History at Harvard University

Professor Peter Singer, Professor of Bioethics at Princeton University

Professor Jonathan Wolff, Professor of Philosophy at UCL

Professor Robin Room, School of Population Health, University of Melbourne

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The Australian response needs to be crafted in accord with Australian experience and culture. On the basis of international experience, we can choose from a wide range of interventions for which there is now good evidence. Some of the interventions will be easier to implement while others may require legislative change and agreement across all of Australia's government jurisdictions.

A key message emerging from our discussions of the European experience was the importance of political bipartisanship. The starting point for an Australian new deal on drugs should be cross-party discussion and agreement that there is a problem and that its solution should transcend political point scoring.

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The back cover shows some mothers and their children demonstrating against alcohol prohibition in the USA in 1932. Judging by the slogans on the car, these mothers had come to believe that their children would be safer if alcohol prohibition was repealed. A year later, prohibition was repealed.

For more information, please visit:
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