

AN OVERVIEW OF DRUG USE AND DRUG POLICY IN AUSTRALIA

Use of substances that alter mood goes back thousands of years in various sections of human society, whether we are talking of alcohol, opium, marijuana, the coco leaf or tobacco. We have to learn how to handle them. There is no quick and easy solution.

In 1983 and '84, Australia faced the AIDS epidemic. Initially there was fear of a new '*black death*' sweeping the globe, and calls for sanctions against male homosexuals. As a nation, we worked through the problem, analysing what needed to be done on the basis of facts rather than emotion. We ended up controlling spread of AIDS better than almost any other country, and deal with those infected with skill and compassion. We need the same rational approach to the problem of drugs. Policies need to be grounded in evidence.

Development of policies on illicit drugs, both nationally and internationally, is discussed in the paper that has been circulated. Those who fail to study history are destined to repeat the mistakes of the past. I urge you to consider it at your leisure.

The story of growth in use of illicit drugs in Australia

There was little use of illicit drugs in Australia prior to 1960. Substantial growth in use of cannabis and heroin occurred during the 1960s, when large numbers of United States soldiers came on rest and recreational leave during the Vietnam War.

Cannabis arrests in New South Wales, alone, rose almost 1,000 percent between 1966 and 1969.ⁱ Drug use extended from NSW into other Australian jurisdictions by the early 1970s at a time of social protest against the Vietnam War and rebellion against authority on university campuses across the country. Use of marijuana came to be closely associated, in the public mind, with the culture of protest and rejection of civil authority.

A strong conservative consensus developed within the Australian community against any relaxation of prohibition provisions in respect of marijuana.

Political responses

Bipartisan federal Senate inquiries reported in 1971 and 1977. The 1977 Senate Report recommended that personal use of marijuana should "*not be defined in law as a crime ... the penalty be solely pecuniary*

... with no record of conviction ... used in subsequent proceedings”.ⁱⁱ Government ignored the recommendations.

Royal Commissions, established between 1977 and 1980, either recommended no change or elaborated strategies for enhanced law enforcement thought likely to reduce importation.

The Sackville Report of 1979,ⁱⁱⁱ in South Australia, however, questioned the whole basis of the drug laws. It recommended, in respect of cannabis, that “*cultivation for personal use, use in private and small scale gratuitous distribution in private to adults would not be a criminal offence*”. But public opinion was firmly on the side of law enforcement, preferring to see drug use as a criminal activity and no action was taken at that time.

In 1984, South Australian legislation provided for persons charged with possession of a drug of dependence to be referred to an assessment panel, with the option of treatment and rehabilitation as an alternative to prosecution. The Act provided for payment of a fine for *expiation* of a charge of possession or use of cannabis.

In 1992, the Australian Capital Territory became the second jurisdiction in Australia to decriminalise possession and cultivation of a small quantity of cannabis, the police being given discretion as to circumstances under which an ‘*expiation*’ fine should be imposed. The Northern Territory moved similarly in 1997.

Growth in use of heroin

Heroin use has risen greatly since the 1960s. The most reliable indicator in respect of heroin, is that of deaths due to opioids in the 15 –44year age group.^{iv} Deaths increased 46-fold between 1964 and 1996. The deaths continue to climb and reflect a progressively earlier age of initiation to heroin use. Opioid overdose now accounts for almost 10 percent of deaths among young Australians aged between 25 and 34 years^v and are fast overtaking deaths from road traffic accidents.

Growth in use of cannabis

Increased use of cannabis is less easy to document precisely, as deaths consequent on cannabis are not recorded. Few arrests occurred related to cannabis prior to 1960 and growth in consumption probably was mostly in the 60s and early 70s. Surveys from 1985 onwards reveal that about one-third of adults admit to having tried cannabis at some stage. Use is highest amongst those aged 20-24 years.^{vi} There has been a modest increase since 1985.

A recent national survey in schools showed that by the age of 17, 55% of young people have experimented with marijuana. To suggest that the legal status of the drug acts as an effective

barrier to use is simply ignoring reality for the majority of young people.^{vii} 2.7 million Australians used marijuana in the past 12 months. These include one third of all people between 14 and 29 years.^{viii}

There is no significant difference in use between those jurisdictions in which possession and use has been decriminalised (South Australia, ACT and Northern Territory) and the States in which use inevitably attracts criminal sanctions.^{ix}

Cannabis is the largest component of the illicit drug trade in Australia. In many states, charges relating to possession or use of small quantities of cannabis are the bulk of activity in courts in relation to illicit drugs, with all the associated costs.

A Change in Direction in Drug Policy

A major change occurred following the 1984 Federal Election, when Prime Minister Bob Hawke had cried on national television when asked about the heroin addiction of his daughter. A special Premiers' Conference was held, from which emerged the National Campaign Against Drug Abuse.

Health and law enforcement authorities of the States and Commonwealth were committed to policies seeking to minimise the harm caused by both licit and illicit drugs, in respect of individuals and also to society at large.

The Parliamentary Joint Committee on the National Crime Authority^x in 1988 was highly critical of harsh penalties to suppress illicit drugs. It emphasised the cost of prohibition to users, to the court system and to society.

It concluded: *"All the evidence shows... not only that our law enforcement agencies have not prevented the supply of illicit drugs to Australian markets, but that it is unreasonable to expect them to do so. If the present policy of prohibition is not working then it is time to give serious*

consideration to the alternatives, however radical they may seem.” Unfortunately, no action followed.

The Victorian Premier’s Drug Advisory Council

The inquiry was established in December 1995, to review escalating deaths from heroin and open trafficking of drugs on the streets. We were to look at all the issues relevant to illicit drugs, including the legislation, law enforcement, public health, treatment facilities and education.

The Council comprised eight people of very varied views and backgrounds. We consulted widely and received over 300 public submissions. Public hearings were conducted in the city and the country. Drug users, drug traffickers, people with intense feelings against illicit drugs or against the current arrangements argued with passion before us. Parents of people with drug dependency and others whose children had died gave harrowing accounts of their experiences and their frustrations. We consulted with police, with judges and magistrates.

We made a commitment not to reach conclusions until we had looked at all the evidence. The whole process took little more than ten weeks from start to finish. Only after some seven weeks we began to think through what recommendations should be made. Several Council members said, in retrospect, they started from a very different point to where they ended up!

The evidence led us to only one set of conclusions. We made over 70 recommendations;¹¹ every single one was unanimous. We resolved to make positive proposals in relation to each of our terms of reference - to do otherwise in the face of the mounting death toll and active recruitment of young Victorians into highly unsafe use of heroin would have been a serious neglect of our responsibilities.

The recommendations^{xi} covered a wide range of issues, including education for primary prevention, provision of improved counselling, treatment and rehabilitation services (particularly for young people), and improved processes for handling drug dependent persons in police custody and prisons. We recommended trials of new drugs to assist in withdrawal and rehabilitation from heroin dependency. We commended the proposed ACT heroin trial.

The Council recommended decriminalisation of possession and use of moderate quantities of marijuana or the growing of a small number of plants, in order to take this trade out of the hands of criminal traffickers. Domestic production would also undermine the more potent and dangerous hydroponic forms and cannabis resin, largely imported. Undermining traffickers was important to reduce growing recruitment of school-aged children into heroin use. It was also to be linked with a strong health-based campaign against marijuana abuse. Trafficking in cannabis and sale to minors was to remain illegal.

The government did not accept the recommendations in respect of decriminalisation of marijuana, following intense lobbying of Parliamentarians by persons expressing moral concerns and vigorous opposition from the Victorian Police Association. However, almost all the other recommendations of the Council were adopted and implemented by the Victorian Government.

What has happened in the past three years?

Attitudes of the Police Association, and also of many in the community in Victoria, have changed considerably. Following a six-month trial of a formal cautioning program in one police district for possession and use of marijuana, initiated by Victoria Police, this policy has now been adopted statewide, greatly reducing the court load. A similar trial is in progress in respect of other illicit drugs. Tasmania has adopted a similar program in respect of marijuana.

The Wood Royal Commission (1997)^{xii} pointed to the inevitability of police corruption with prohibition and explored regulated provision of currently illicit drugs. Whilst Police Commissioners, nationally, have not embraced this position, their public statements about dealing with drugs show a major shift over the past three years.^{xiii}

The Capital City Lord Mayors of Australia have unanimously supported fresh approaches. This was not because of any desire to ‘go soft’ on drugs, but rather from realisation that prohibition is no more effective against the illicit drugs than it was against alcohol in the US from 1919 to 1933.^{xiv} New approaches are needed.

What of the Commonwealth Government initiative of 1998?

The Tough on Drugs strategy gave additional resources to Federal Police, National Crime Authority and Customs, funding for anti-drug education and support for welfare institutions, particularly those committed to rehabilitation based on abstinence. A trial of prescribed heroin was ruled out by the Prime Minister.

Prohibition is a simple, populist answer to a complex problem and for this reason, holds political attraction. Clothing it in a moral dimension places it beyond rational argument and analysis. However, in the situation in which Australia now finds itself, such a program cannot succeed and alternatives will have to be explored. Change can only come, however, step by step when such market power has developed in the hands of the illicit drug industry.

Let us look at the current situation.

Enhanced support for Federal Police has led to a number of large drug seizures, which is welcomed. However, these have not been associated with evidence of shortage of heroin on the streets.

The International Narcotics Control Board assesses production of opium and cocaine as being at an all time high, worldwide.^{xv} Opium production in SouthEast Asia expanded greatly during the Vietnam War and now extends across South Asia. There is a glut of Asian opium seeking markets, as shown by falling price and rising purity. Australian GDP is greater than that of the whole of SE Asia put together and is the nearest wealthy market to be exploited. We will continue to be flooded with cheap heroin for years to come.

Access Economics estimated the scale of illicit drug turnover in Australia in 1996, at around \$A7 billion.^{xvi} Deaths from drug overdose continue to grow. The street price of heroin has fallen and the recent increase in drug purity has been maintained.¹²

Can prohibition succeed?

Tens of thousands of sealed containers, containing food, engineering or medical supplies, enter the country daily. Some will contain drugs. We have a wide, open coastline. Money moves more freely around the world than ever before and the huge illicit trade has the 'where with all' to buy

protection. Under these circumstances, strategies aimed at reducing demand are critical, as Australia is, in many ways, at greater risk than other countries.

George Schultz, former Secretary of State to Ronald Reagan, and Economics Nobel Laureate Milton Friedman, leading a recent conference at Stanford University, pointed out that market forces inevitably overcome attempts at prohibition of substances for which there is a plentiful supply and a willing market.^{xvii}

Friedman has stated *“Can any policy, however high minded, be moral if it leads to corruption, imprisons so many, has so racist effect that it destroys our inner cities, wreaks havoc on misguided and vulnerable individuals and brings death and destruction to foreign countries”*.¹⁷

What are the imperatives for Australia?

There is common ground in Australian society that drugs are causing great problems. Amongst parents of teenage children there is almost universal concern or fear of the consequences of the ready availability of drugs. There are reasons for governments to act.

The reality is of ready availability to young people of marijuana, of ecstasy and of increasing availability of the far more addictive drugs: heroin, amphetamines and more recently, of cocaine. When young people know that tobacco and alcohol cause far more disease and more deaths than marijuana, moral arguments in support of the *status quo* are hard to sustain. There is an ever-present danger that experimentation will extend to heroin and other highly addictive drugs, being offered at cheaper prices.

Diversion of state resources from education or health to building and maintaining further prisons is no solution. Some 70% of those in prison are there for crimes connected with drug dependency. I commend the Drug Court initiative, and the less costly and larger scale program for diversion from corrections to treatment in Victoria.

For many heavily opiate dependent persons, release from prison is rapidly followed by re-accessing opiates and recurrence of crime to pay for drugs. This makes no sense economically or socially. Drug rehabilitation leading to long-term supervision with methadone support is the

only effective alternative for many. Treatment should commence while in prison. This would be cost-effective.

Methadone treatment is known to be associated with a significant reduction in crime and drug overdose deaths.^{xviii,xix} It is, itself, highly addictive and users face difficulty in withdrawal. The newer drug *buprenorphine*^{xx} appears to be more acceptable to some and offers benefits in methadone withdrawal. This needs further evaluation.

Withdrawal programs based solely on abstinence have had a long period of trial, both in this country and in the US. Results can be impressive for the small group who successfully complete them. However, it is estimated that of those in withdrawal programs, only 20% have chosen the abstinence option and only some 10% of those complete the programs.^{xxi}

The heroin trial option is for those heavily drug dependent people not willing, at this stage, to enter withdrawal therapy. Most of these are committed to crime, prostitution or to trafficking to support their dependency, a major problem for society. The cost of such a trial is estimated at \$10-12,000pa per person, far below the cost these people represent to society in finding some \$50,000 pa from crime, prostitution or trafficking to pay for their drug, let alone the 'cost' to society of corruption.¹²

Naltrexone, represented by some as a cure for heroin addiction, is a useful support drug in the management of heroin withdrawal²⁴, and has a role in support of people committed to long term abstinence. However, the drug is no substitute for intensive social support.

Primary prevention is critically important and needs to involve families. There are many differing reasons why young people experiment with drugs. Some overlap the causes for our internationally high rate of youth suicide. Simply giving information about how to use drugs safely is no answer. New approaches to drug education are urgently needed and I strongly agree with the emphasis on families in the Premier's Seven Point Plan.

Where to go from here?

Australia is singularly vulnerable to trafficking arising in SouthEast and South Asia when there is prolonged glut of opium and Australia is the nearest wealthy market to exploit.¹⁶ None of the options before you are easy or without the likelihood of controversy. With a continuing rise in the death toll and drug related crime, something will have to be done. The time is fast approaching when the community will demand a new approach, even if this appears to put us, for a time, in conflict with the international consensus.

The 1988 Convention provides, in Article 2(5)(b), that possession, use and supply of the drugs should be prohibited only if the prevailing conditions in the country “*render it the most appropriate means of protecting the public health and welfare*”. It also provides for the conduct of trials for “*medical and scientific purposes*”, so that new initiatives would not necessarily be conflict with the Convention.

Provision of ‘*safe injecting rooms*’ is more difficult legally than a heroin trial. They will be needed to curb the rising death toll and spread of hepatitis C. It is a natural evolution from the needle exchange programs that played such an important role in protecting the Australian community from spread of AIDS, since 1987.

There is a need for expansion of a range of withdrawal and rehabilitation programs, as documented by the Salvation Army^{xxii} not only those based in abstinence. Local government and community service clubs have roles to play, to get people back into employment.

It will require both civil and political courage to examine and rethink conventional approaches. Unless we are willing to ‘think outside the square’, as some other countries are now doing, things will get progressively worse. Unless we change, international traffickers will continue to prosper, with penalties for society through the ‘collateral’ effects of crime, corruption and spread of disease, and for drug users and their families.

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- ⁱ Ibid p144.
ⁱⁱ Ibid p170.
ⁱⁱⁱ Ibid pp171-173.
^{iv} Hall, W., Degenhardt, L., and Lynskey, M., *Cohort Trends in Opioid Overdose mortality in Australia 1964-1996* National Drug and Alcohol Research Centre UNSW, Sydney 1999.
^v Lindskey, M., and Hall, W., *Age of initiation to Heroin Use: Cohort Trends and Consequences of Early Initiation for Subsequent Adjustment* ANZ Journal of Public Health (in press).
^{vi} National Task Force on Cannabis (1994) AGPS Canberra p30.
^{vii} Letcher T. & White, V., (1999). *Australian secondary students' use of over-the-counter and illicit substances in 1996*. National Drug Strategy Monograph Series No 33. Dept of Health and Aged Care, Canberra.
^{viii} National Drug Strategy Household Survey, 1998, Australian Institute of Health and Welfare, Canberra.
^{ix} Donnelly, N., Hall, W. & Christie, P. *Effects of Cannabis Expiation Noyce System on levels and patterns of cannabis use in South Australia: evidence from the National Drug Strategy Household Surveys 1985-1995*. Canberra: Department of Health and Aged Care, 1999.
^x Parliamentary Joint Committee on the National Crime Authority "Drugs, Crime and Society" Commonwealth of Australia 1988.
^{xi} Victorian Premier's drug Advisory Council *Drugs and our Community* Victorian Government 1996.
^{xii} Royal Commission into The NSW Police Service *Final Report Final Reports Vols 1 & 2 Corruption and Vol.3 Appendices*. 1997.
^{xiii} Australian Bureau of Criminal Intelligence *Australian Illicit Drug Reports 1996/97, 1997/98*
^{xiv} Australian Capital City Lord Mayors, *Declaration Relating to Illicit Drugs in Australia* 1998.
^{xv} International Narcotics Control Board *World Drug Report(1997)* United Nations Oxford University Press.
^{xvi} Access Economics, *Economic Monitor* October 1997, (Ed Shann, E.) *Illegal Drugs* pp14-18
^{xvii} Knightly, P., *War on drugs lost to market forces*. The Australian March 6-7, 1999, pp.1 and 6.
^{xviii} Hall, W., (1996) *Methadone maintenance therapy as a crime control measure* Crime and Justice Bulletin 29:1-12
^{xix} Capelhorn, JRM, Dalton, SYN, Cluff, MC, et al (1994) *Retention in methadone maintenance and heroin addict's risk of death* Addiction 89: 203-207.
^{xx} Ward J., Mattick R.P., Hall, W., *Methadone maintenance treatment and other opioid replacement therapies* Harwood Academic Publishers, Amsterdam, 1998. Pp133-145.
^{xxi} Report of the Capital City Lord Mayors Drug Advisory Committee (1998) p7.
^{xxii} Brunt, D., (1999) *A response to drug and alcohol problems in Australia*. Salvation Army