

Comments on draft National Drug Strategy by Families and Friends for Drug Law Reform

Governance matters

Basis for Australian drug policies

The basis for Australian drug policies and laws flow from the International Treaties to which Australia is a signatory. The NDS makes only passing reference to that fact in the body of the document but it is a matter that should be given more prominence because everything else flows from those treaties.

Governance problems

Governance matters in respect of the National Drug Strategy (NDS) are outlined as flowing from an agreement by COAG to establish a Ministerial Council on Drug Strategy (MCDS) which is supported by the Interdepartmental Council on Drugs (IGCD). The latter being a committee of departmental officers from federal, states and territories while the MCDS comprises members of parliament from federal, state and territory governments.

Such arrangements rarely encourage innovation or actions that might run contrary to current political views or political comfort zones. There is no evidence of frank and fearless advice in this draft of the NDS. It is a document that is bland and offers none or little new challenges but simply relies on an incremental approach to the status quo.

Despite the many references to innovation in the document, they are matters that have been in place for many years or have been thoroughly established overseas and ponderously considered politically safe for adoption in Australia.

A revision of the governance relating to the NDS is required to give it greater autonomy and greater scope for trials and innovation.

Once were leaders

Once Australia was the leader in the field for instance with the adoption of needle and syringe programs and the ground breaking proposal for a trial of prescription heroin for the severely addicted. And it is noted that the latter proposal had received approval by the MCDS in 1997 and to my knowledge remains on the books today as an approved strategy.

But now Australia trails the field having rejected its last innovation of a trial of prescription heroin. Nor has it considered a number of other strategies that have been effective in overseas countries. (It is noted that the implementation of the Kings Cross Medically Supervised Injecting Centre occurred independent of the NDS.)

The NDS ignores the possibility of prescription heroin that has been adopted in many overseas countries and despite overwhelming evidence of its effectiveness in reducing the supply of illicit heroin, improving the health and wellbeing of the user and the significant reduction in crime related to use of illicit heroin.

The NDS needs to have an injection of courage to, at least, suggest new and innovative approaches that could be supported. Provided those approaches are based

on science and evidence and they are supported by strong leadership Australia can again be in the forefront of reducing the harm.

Evaluation and monitoring

It appears from the documents associated with the NDS that it's evaluation comes at the end of its life and because a new NDS needs to be written. It appears also that there is no ongoing and continuous monitoring and evaluation during each term of the strategy's operation.

This weakness is evident throughout the document in such things as performance measures and so called examples of evidence of success. For example performance measure no. 1 (supply disruption) suggests that number and weight of drug detections and seizures are adequate measures of disruption of illegal drug supply. These are more likely to be measures of police activity or a proxy indicator of the quantum of drugs available for consumption rather than measures of disruption. Generally law enforcement seizures only represent somewhere between 5% and 20% of the drugs available. And as any supplier of goods knows: if there is a loss of say 10% in transit, goods will be supplied at a rate of 110% of demand.

A more effective measure would be one that measured the degree of disruption, such as how long the drug was unavailable on the street or what percentage of drugs available on the streets do the seizures represent or by how much has the street price increased or quality reduced.

It is not sufficient to say the performance measures only "provide a broad indication of progress". And to rely on outdated 2007 data for a strategy that commences in 2011 is problematic. Drugs continue to be available and there is an ebb and flow but there has been no cessation. (The term supply disruption is an admission that supply cannot be stopped.) Anecdotal indications are that heroin use is again increasing and new drugs are being marketed. New people take up drugs and many continue to be harmed by either their use or by other factors.

What is required is the establishment of an independent body to examine the performance indicators and advise on more suitable ones and an ongoing evaluation of the effectiveness of the drug strategy during the period the strategy is in force.

Balance

The draft NDS refers often to the balanced approach that it takes. However this is not the case in practice. The practice of implementing the NDS gives most weight to law enforcement. More than 70% of the funding is provided to law enforcement and a very small percentage is provided for harm reduction. Policy and law changes are driven by supply reduction approaches. The thrust is to punish as a way of preventing or stopping drug use – some 81% of drug arrests in most states and territories are of users.

This increases the harms rather than reduces them – further exacerbating the imbalance between the three pillars. A positive result measured under one pillar can easily have negative results under another. Independent oversight is required to overcome such situations and to ensure that policies, laws and practices result in the least possible harm to individuals and society.

Even though the household survey is out of date, the suggestions about how \$100 should be allocated clearly shows that Australians are well aware of the imbalance and would like the balance to be redressed.

Strong efforts need to be made to improve the balance and included in the NDS should be a budget showing allocations between the pillars. Such a budget should not only include federal but state and territory budgets. – it is after all a national drug strategy.

Integration

The draft NDS contains an action to “Recognise the diverse range of factors that influence drug misuse and connect with other national policies to work collaboratively to reduce risk factors and build protective factors”. This is a welcome action and would be enhanced by some expansion that gives some specific targeted policies and factors. These could include mental health, child protection, homelessness, family relationships, poverty, unemployment, cultural matters, incarceration, etc. It is known that drugs are implicated in many of these costly social problems.

The NDS refers to “Encourage family members to access and make use of support services to help improve treatment outcomes for clients”. It is also important that family members or intimate friends are involved in any treatment process so that they are fully informed and in concert with such programs. Treatment programs that involve family and intimate friends can be more effective. The NDS would be improved if it includes a reference to such practices.

Harms caused by policies and laws

The draft NDS acknowledges many of the harms in relation to drugs but identifies the cause as drug misuse. This may well be so but there are also harms caused by the laws and policies.

The heavy handed approach of using the criminal justice system to punish our way out of drug use is just one example. And the evidence is clear that the harshness of the laws do not deter drug use.

There are however serious harms caused by the laws. A person arrested for drug use attracts a criminal record and may be jailed. The consequences are that the person’s life and employment chances are seriously affected. It is noted from research that compared the SA cannabis laws with WA’s, the more severe case of WA laws showed no effective reduction in drug use. But it did however negatively impact socially through family breakups and the like.

The laws (and the campaigns promoting demand reduction) also have a negative impact on societal attitudes that increase the harm. A negative attitude by service providers to persons using drugs works against the NDS’s “no wrong door” approach. If a person perceives such attitudes by service providers he/she is unlikely to use the services thus delaying treatment. And the conflict of comorbidity has not been resolved by the NDS. There still exists the situation where a drug user with comorbid mental health problems is rejected from one service because and until he has the other condition resolved.

The Medically Supervised Injecting Centre in Kings Cross is an example of a welcoming approach that has encouraged drug users to seek assistance. The NDS

makes little of this but should make more of the non-judgemental approach of that service.

The draft NDS is remiss and does not fulfill its mission of minimizing harms because it does not recognise the harms caused by the laws and policies. The draft NDS therefore needs to recognise these harms and propose strategies to overcome them.

Australia needs to remain up to date

Reference in this paper has been made to the leadership role that Australia used to have and while it may not be possible to regain that leadership because of its conservative approach it could at least make attempts to retain a position with the front pack. Attention to overseas research as mentioned elsewhere is one matter. However it should be noted that changes are occurring in the United Nations such as with the Vienna Declaration which calls for a full policy orientation and the report of UN special rapporteur Anand Grover on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. His report states in part:

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

These matters need to be taken into account in the NDS. In respect of the changes occurring in the UN - the source of the treaties on which all our drug policies and laws are based - particular attention to policy development in the NDS is needed.

Evidence based approaches are selective

The draft NDS is strong in its claims to be evidence based, however the evidence used is selective. Much research funded by governments has a narrow focus. Nor is there sufficient credence given to evidence and research undertaken overseas. Reference has already been given to prescription heroin for the severely addicted.

There are however a number of other examples such as the move by many countries to decriminalise personal possession and use of illicit drugs and the use of some currently illicit drugs for medicinal purposes.

The NDS has a “one size fits all” approach and does not take into account the relative harms caused by various drugs. Those that are less harmful could be shifted away from the regime that imposes severe criminal penalties. For example UK’s Professor David Nutt has identified the relative harms by the most common drugs, identifying alcohol, crack cocaine and heroin as the most harmful to society and to individuals but rates others somewhat lower.

The NDS needs to move away from the “one size fits all” approach and it needs to tailor approaches so that they are relevant to the harms that might be caused. A quote from Professor David Nutt clearly puts this in context:

“If someone were to invent a perfectly safe ecstasy pill, what would be done about it?”¹ This then is the dilemma for the NDS.

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¹ “Deadly Cocktail”, Times2, 8/12/2010, P4