

**Submission of
Families and Friends for Drug Law Reform**

to the inquiry of

an independent panel charged with reviewing

the Effectiveness of Australia's Aid Program

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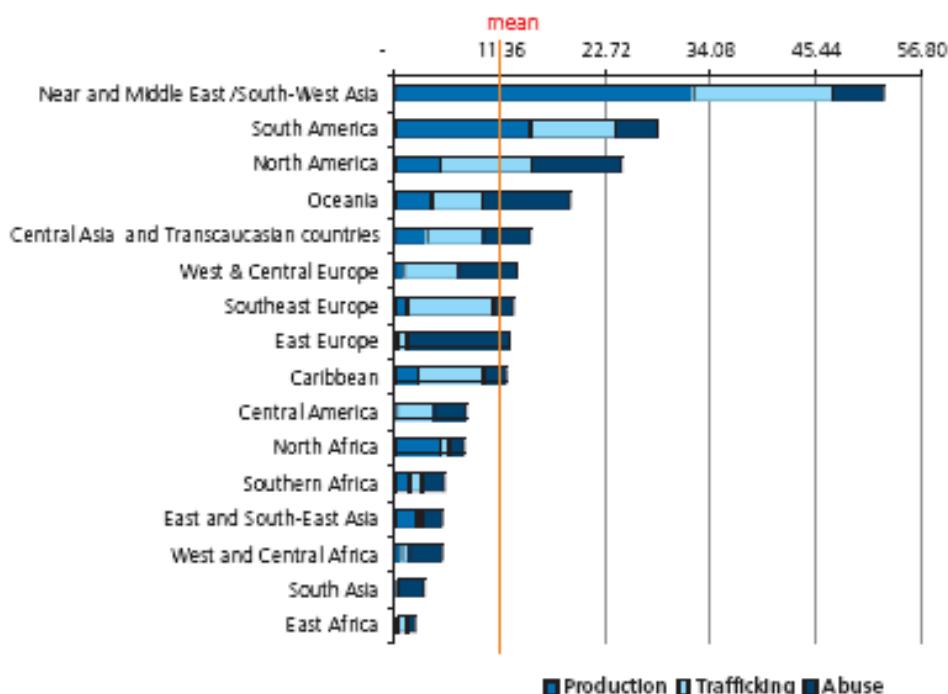
Thrust of submission

1. This submission
 - (a) questions the effectiveness of Australia's overseas aid program in combating organised crime engaged in the drug trade;
 - (b) argues that pursuit of the present program undermines broader and more important national security and social objectives;
 - (c) argues that rigorous economic modelling should be brought to bear on that issue; and
 - (d) asks the Independent review panel to call upon the services of internationally reputed economic modellers with experience in analysis of the impact of organised crime.
2. According to such experts something like 850 billion dollars a year is being taken by corruption, fraud, and the illicit drug trade from the poorer countries and transmitted to richer ones. One such expert is Raymond Baker of the United States who has worked in the Brookings Institution and the Center for International Policy and is now director of the Global Financial Integrity (GFI). He estimates that: "Ten corrupt dollars go out for every one dollar of development assistance that goes in" (Emmons 2001).
3. This enormous flow from developing countries does more than nullify development aid. In Baker's words "the resulting poverty, inequality, and political insecurity are creating a very dangerous situation for the world" (*ibid*).

UNODC's 2005 World Drug Report.

Dr John Walker of Crime Trends Analysis is a local analyst specialising in the economics of organised crime. He devised an economic model of the global illicit drugs trade applied by the United Nations Office on Drugs and Crime in Vienna and helped compile its ground breaking 2005 World Drug Report which estimated the retail value of world drug trade at between US\$321bn and US\$322bn (UNODC 2005 vol. 1, p. 16-17 & 127-28, 130, 143 399) and a wholesale value of \$US94bn. Of this, the Oceania region in which Australia is the dominant influence, the illicit drug market is estimated to be \$US16bn (p. 128). Even if one assumes parity between \$US and \$AU, Australia's current aid budget of \$AU4,349 million (AUSTRALIA, BUDGET (2010) p. iii), is dwarfed by comparison – a mere 27% of the regional drug trade and 29% of the estimate of \$AU15bn that the Attorney-General and Minister for

Home Affairs and Justice announced on 10 December just past as the annual cost of organised crime to Australia (McClelland & O'Conner (2010) & AUSTRALIA, AGs (2010), p. 5). According to these documents organised crime is engaged not just in the drug trade but includes "illegal smuggling of people, and trafficking of drugs and illicit goods" AUSTRALIA, AGs (2010), p. 4). While the illicit drug trade is not the only activity of organised crime, it is its biggest and most reliable milch cow. The world drug trade at \$US322bn is far bigger than the arms trade at \$US57.51bn (SHAH (2010)). At the wholesale level of \$US94, the drug trade towers above all cereals at \$US40.7, meat at \$US52.5 not to mention coffee at \$US5.7bn (UNODC 2005 vol. 1, p. 17)



Illicit Drug Index, per capita, by Sub-region and Component, 2002 (UNODC 2005 vol. 1, p. 173)

Organised crime and Australia

At first glance the level of organised crime in Australia may seem of little relevance to Australia's Aid program except that this crime has a "multijurisdictional and transnational" character. In the words of the Government's organised crime response plan:

- "The geographical influence of organised crime is increasing, due to the globalised nature of trade, travel, financial markets and flows of information.
- "Organised crime transcends territorial borders, including both international borders and borders between Australia's jurisdictions. This has been accentuated by the increasingly globalised nature of trade, travel, financial markets and flows of information.
- "In this way, organised crime does not respect delineations of responsibilities between agencies or levels of governments" (AUSTRALIA, AGs (2010), p.5)

4. Like trade in any other commodity the illicit drugs trade involved production, delivery to the market, marketing and consumption. One of the great innovations of the 2005 World Drug Report was to develop an “illicit drug index” that:

“combines all the main categories of illicit drugs by converting them into a hypothetical reference drug. It also combines the extent of illicit drug production, trafficking and abuse into a single measure of potential harm that moves along the market chain. Drug policy undermines objectives of development assistance, exporting drug problems to developing countries” (UNODC 2005 vol. 1, p. 19).

The drug trade in Australia’s region

5. The Australian Crime Commission’s latest annual *Illicit drug data report picks out* Malaysia, Indonesia, Burma, China and Mexico as countries connected to the illicit drug trade to Australia. Of these Indonesia, Burma and China receive Australian aid. Indeed Indonesia is the second biggest recipient (AUSTRALIA, BUDGET 2010-11 (2010a), p.5, table 2):

“South-East Asia remains a global . . . production and trafficking hub [of ATS - Amphetamine-type stimulants], with South-East Asia significant quantities of ATS and precursors detected throughout the region in 2008–09. Notable detections include the seizure by Malaysian authorities of 978 kilograms of crystal methylamphetamine in May 2009 and the simultaneous detection by Indonesian authorities of 9.8 tonnes of ATS precursor materials at a clandestine laboratory. According to the United States (US) Department of State, Burma remains the largest source for methylamphetamine tablets in Asia.

“Substantial ATS production is also occurring in China. In 2008, Chinese authorities seized approximately 5.5 tonnes of crystal methylamphetamine and also dismantled one of the largest clandestine laboratories ever located in Guangdong, seizing 1.7 tonnes of liquid methylamphetamine. This industrial-scale laboratory contained multiple large-scale reaction vessels, wastewater and emission scrubbers, and significant quantities of precursor chemicals.

“In Mexico, substantial ATS production continues despite government measures to restrict access to precursor chemicals. Syndicates based in Mexico are circumventing a government ban on the importation of ephedrine and pseudoephedrine by smuggling bulk quantities of precursors from a number of Central and South American countries.” (ACC (2010) p. 17)

“On a per capita basis, the Near & Middle East/South-West Asia” which is of such strategic significance to Australia “is the subregion which is most severely affected by the drug problem. It has the highest drug production problem, the largest trafficking problem and suffers from significant levels of drug abuse” (UNODC 2005 vol. 1 p. 171).

6. The latest report of the International Narcotics Control Board mentions other recipients of Australian Aid that are involved in drug trafficking. International Narcotics Control Board INCB (2010) records that:

- Asian organized criminal groups based in New Zealand that use Asian students to receive pseudoephedrine from which amphetamine-type stimulants are manufactured (INCB (2010) §745, p. 115).
- Pseudoephedrine tablets are smuggled into New Zealand from several countries in Oceania, including Fiji, Papua New Guinea and Tonga (*ibid*).
- Countries in the South and West Pacific are believed to be major transit areas for illicit drugs and precursor chemicals destined for New Zealand (INCB (2010) §750 p. 116)
- Cannabis plants are cultivated in Fiji, Papua New Guinea, Samoa and Tonga. (§757 p. 117)
- The INCB noted concern that the development of the “cannabis industry” will facilitate the investment of profits from that industry in the illicit manufacture of other drugs, in particular methamphetamine. (INCB (2010) §757, p. 118).
- “Major sources of the cannabis seized at the Australian border include the Netherlands, Papua New Guinea, Thailand and the United States of America” (INCB (2010) §758, p. 119).

Aid response to regional drug trade

7. The Aid response to date has been to bolster governance in the region by, among other things, developing overseas presence of the Australian Federal Police (AFP) working with overseas law enforcement agencies to prevent drugs or precursors reaching Australia and to enhance the capacity of those law enforcement agencies. The latest annual report of the AFP summarises this work in the following terms:

“The AFP is also committed to working with our overseas law enforcement partners to combat illicit drug trafficking.

“Our Specialist Response Amphetamine Type Stimulants Team has, to date, helped stop the production of illicit drugs worth around \$15 billion. A key operation during the reporting period included working with Cambodian authorities to destroy 15 tonnes of Safrole oil, a chemical used in the production of ecstasy.

“Another key area of cooperation with our overseas counterparts is in relation to combating people smuggling activities. In the 2009-10 Budget the AFP received \$48.4 million to help combat people smuggling activities. This enables us to work more closely with our partner agencies in a number of countries to disrupt maritime people smuggling ventures. Between September 2008 and June 2010, joint operations led to the prosecution of 138 people associated with the smuggling of more than 2000 people by boat to Australia. More than 192 planned people smuggling ventures in Malaysia, Sri Lanka and Indonesia were also disrupted. This stopped more than 5000 people attempting a hazardous sea journey and led to the arrest of 155 people smugglers.

“A proportion of the funding has also been used to enhance law enforcement capabilities across the region through in-country operations support. This includes the establishment of a new AFP liaison post in Sri Lanka and the placement of

dedicated people smuggling liaison and intelligence officers in Indonesia, Thailand, Malaysia, Sri Lanka and Pakistan" (AFP 2010 p. 4).

8. Vanuatu is one of the countries where the AFP seeks to enhance the capacity of the local law enforcement agencies:

"The Vanuatu Police Force Capacity Building Program is an arrangement between the governments of Vanuatu and Australia under which the AFP provides police advisors to build the capacity of Vanuatu Police Force members.

"The program is funded by AusAID and has a budget commitment of \$28.5 million over five years." (AFP 2010 p. 115).

9. The 2010-11 budget of the Australian Federal Police includes provision for expenditure of some \$AU50m in support of such measures:

	Program	2009–10 (\$'000)	2010–11 (\$'000)	2011–12 (\$'000)	2012–13 (\$'000)	2013–14 (\$'000)
EXPENSE MEASURES						
Australia's civilian engagement in Afghanistan—an integrated whole-of-government approach	1.2, 1.4					
Administered expenses		—	2,500	2,034	—	—
Departmental expenses		—	11,276	14,594	—	—
Total		—	13,776	16,628	—	—
National Security—Timor-Leste Police Development program—continuation ⁵	1.2, 1.4					
Administered expenses		—	2,500	2,543	2,588	2,635
Departmental expenses		—	12,752	11,226	16,452	14,903
Total		—	15,252	13,769	19,040	17,538
National Security—United Nations Mission in Timor-Leste—continued contribution ⁶	1.2, 1.4					
Departmental expenses		—	6,227	7,269	(65)	—
Total		—	6,227	7,269	(65)	—
National Security—Pacific Police Development program—inclusion of Tonga and Vanuatu ⁸	1.2, 1.4					
Administered expenses		—	2,841	2,535	—	—
Departmental expenses		—	(112)	(131)	(2)	—
Total		—	2,729	2,404	(2)	—

Summary of selected Australian Federal Police 2010-11 budget measures (AUSTRALIA, BUDGET 2010-11 (2010b), table 1.2, pp. 161-62.

The economic indicators of the drug trade

10. The rationale for funding the overseas activities of the Australian Federal Police is to reduce the supply in Australia of illicit drugs of foreign origin whether directly by increasing the effectiveness of police action in Australia or enhancing the effectiveness of law

enforcement agencies in producer or trafficking countries to do the same. Illicit drugs are a commodity traded in a market. Law enforcement is an influence on that market. Because of its black market status, there are, of course, difficulties in knowing as much about it as about legal commodities. Even so, important aspects of the illicit drug market that would reflect alterations in supply are either measured or measurable.

11. It is well recognised that law enforcement strategies, if effective to reduce supply, would reduce the “availability of the drug. These strategies also aim to disrupt the illicit drug market which can increase drug prices and decrease drug purity” (Spooner *et al.* 2004, 14). Policing of supply reduction is expressed to lead to:

- “↑ Drug prices
- “↓ Drug availability
- “↓ Drug purity
- “↓ Number of drug traffickers” (*ibid.* 25)

12. In addition, a number of indicators of demand reduction may in some circumstances reflect supply as much as demand and thus, with other data, may be taken as additional performance indicators of supply reduction strategies. A decrease in the number of recent users of illicit drugs could well be such an indicator. The study referred to on the role of police in preventing and minimising illicit drug use and its harms lists the following examples of indicators of successful demand reduction measures:

- “↑ Age of initiation of illicit drug use
- “↓ Number of new users
- “↓ Frequency of drug use among users
- “↓ Quantity of drug use per day among users
- “↑ Number of dependent users entering treatment (*ibid.*).

To this list may be added reductions in overdoses whether fatal or otherwise.

13. Apart from the number of drug traffickers, accurate information on all these matters is either currently being gathered or could be.

14. In recommending that market indicators be used in the assessment of the effectiveness of law enforcement supply reduction, we are simply repeating what has been said before. In 1992 the National Police Research Unit commissioned research into supply-reduction strategies. This was in response to a recommendation of the 1989 report, *Drugs, Crime and Society*, by the Parliamentary Joint Committee on the National Crime Authority. The research, carried out by Dr Adam Sutton and Dr Steve James of the Criminology Department of the University of Melbourne, was undertaken with the co-operation of law enforcement agencies around the country and published in 1996 as an *Evaluation of Australian drug anti-trafficking law enforcement*. It criticised reliance on the traditional performance indicators adopted by drug enforcement agencies:

“Our evaluation demonstrates that to date there has been little capacity in the law enforcement sector to reliably and validly relate its activities to changes in drug markets. In part, this is a function of the traditional performance indicators adopted by drug enforcement agencies: the number, volume, and type of illegal drug

seizures, and the number and type of drug-related arrests and convictions. These measures are well recognised as basically flawed indicators of effectiveness. They reflect more upon levels of law enforcement *activity* than they do ratios of interdiction and reduction, and therefore cannot be used as indicators of the effectiveness of agencies in reducing the total supply of illegal drugs. Similarly, asset confiscation is subject to the same problems as an indicator, in that increased asset seizures are likely to be functions of such factors as the usability of the relevant enabling legislation and the resources that law enforcement devotes to pursuing confiscation" (Sutton & James 1996, 107).

15. The most informative report on relevant market indicators are provided by the annual illicit drug reporting system (IDRS) and Ecstasy and related drugs reporting system (EDRS) co-ordinated by the National Drug and Alcohol Research Centre at the University of New South Wales and published in two annual Australian Drug Trends reports. Year after year these report steady or falling prices, ready availability, steady or rising purity and other indicators that strongly suggest that law enforcement effort is ineffective in reducing supply in Australia. Cocaine and heroin are the two drugs of most concern that are exclusively imported. Summarising the situation regarding cannabis, the Australian Crime Commission noted in its latest report that: "Cocaine use increased significantly between 2004 and 2007, and is currently at its highest" (AUSTRALIAN CRIME COMMISSION (ACC) (2010), p. 5). The illicit drug reporting system for 2009 found that: "In 2009, the majority of participants reported that heroin was 'easy' or 'very easy' to obtain, with the exception of TAS and NT where few participants were able to comment" (Stafford & Burns (2010) p. 59). Reflecting such assessments, the 2010 World Drug Report notes that: "In Australia and New Zealand, the annual heroin consumption was estimated at 1.8 mt, sourced from both Afghanistan and Myanmar" (UNODC 2010a p. 42).

16. While many economic indicators are collected and suggest that law enforcement measures are not reducing overseas drug supply to the Australian market, Australian law enforcement agencies do not apply these in a methodical, comprehensive way as the UNODC illustrated in its 2005 World Drug Report in the formulation of its Illicit Drug Index. Rather the AFP uses a crude Drug Harm Index which as the AFP admits in its most recent report "is driven by the total weight of illicit drug seizures" (AFP 2010 p. 16) without factoring in the impact that those seizures may have on the Australian market: As UNODC observes, "a number of law enforcement bodies in several countries have not, as yet, discovered the powerful strategic value of [price and purity] data, once collected in a systematic way, at regular intervals, so that it can be used for statistical analysis, drug market analysis and as an early warning system" (UNODC 2005 vol. 2, p. 383). Indeed, large drug seizures of which law enforcement agencies and politicians are so ready to boast are as much a measure of the vigour of a drug market just as large rabbit or fisheries catches tell a farmer, a fisher or a biologist that there are a lot of rabbits and fish around – bad news indeed for all but the fisher. Families and Friends for Drug Law Reform's submissions to the Parliamentary Joint Committee on the Australian Crime Commission examine in greater detail these matters (FFDLR 2005, FFDLR 2006, Walker (nd) & UNODC 2005 vol. 1, p.125).

Effectiveness of drug law enforcement and the heroin drought

17. The standard objection to the analysis that Families and Friends for Drug Law Reform has put forward is the alleged success of law enforcement with its overseas component in bringing about the so called 2001 heroin drought which saw heroin supply in Australia plummet from around Christmas 2000 while being accompanied by a flood of synthetic drugs from similar areas in South East Asia via similar trafficking routes. The then Government claimed that law enforcement effort was responsible for this development even though the Office of Strategic Crime Assessment had forecast both the heroin shortage and inflow of synthetic drugs (Wardlaw 1999). Mr Keelty, the then AFP Commissioner disclosed in an interview in June 2001 that there had been: “a business decision by Asian organised crime gangs to switch from heroin production as their major source of income to the making of methamphetamine, or speed tablets. . . . Mr Keelty said the Asian drug barons would continue to supply some heroin to the Australian market, but intelligence suggested they were gearing up to aim for a new and much bigger market of people prepared to use methamphetamine pills.” The decision, he stressed, was “a conscious” one “to move the market away from heroin into something that is far easier to put into the marketplace” (Moor 2001).

Warning of the National Crime Authority on the extent of penetration of organised crime in Australia

18. Shortly afterwards, the National Crime Authority with full access to the best criminal intelligence issued a public statement describing in bleak terms the extent to which organised crime is penetrating Australia. It stated that “there is every indication that the reach of organised crime is growing. No field where large sums of money can potentially be made escapes its gaze” (NCA 2001, p. 13). It referred to illicit drugs as “the most lucrative commodities for organised crime in Australia” The trade “centred on heroin, cocaine, cannabis and amphetamine-type substances, including MDMA (ecstasy).” The commentary outlined the suffering and other costs to the community associated with the trade and pointed to evidence, including the greater affordability of narcotics over the years that indicated that the problem was growing. It concluded “that the illicit drug trade continues to flourish in our country”. Using heroin as an example, the authority estimated that law enforcement was seizing only about 12% that was being imported. There was, it added, “an observable trend towards increased involvement in drug trafficking and an ongoing preparedness of criminals to meet market demand for different illicit substances” (*ibid.*, pp. 19-22).

19. That Authority had been saying to anyone who would listen that penetration of organised crime in Australia was serious and getting worse and that “Arrangements are therefore needed to achieve a whole-of-government and multi-sector response to the threats posed by organised crime” (NCA 2001, p. 47 and similarly pp. 9, 10 & 48) or, in other words, a “co-ordinated and holistic approach” (*ibid.*, p. 23 and, similarly, pp. 3, 10 & 48). The Commission called for governments to consider the “supply of addictive drugs to [users] as a medical and treatment matter subject to supervision of a treating doctor and supplied from a repository that is government controlled” (NCA 2001, p.32).

20. In the face of this advice and assessment the then Government held to the position that law enforcement efforts were responsible for the heroin shortage (though not the

accompanying flood of methamphetamine). Although denied by the Prime Minister, it was widely considered at the time that the bold declaration by the National Crime Authority and its Chair led the Government to eliminate the NCA and replace it with the Australian Crime Commission: the replacement of what was established as a narrowly controlled standing Royal Commission with legislatively guaranteed independence and strong investigative power with an organisation run by a large board made up of representatives of law enforcement agencies it may be called on to investigate and vulnerable to political influence (see FFDLR 2002).

Officially funded study at odds with assessment of National Crime Commission.

21. A study was commissioned to investigate the heroin drought (though not in conjunction with the flow of methamphetamines). The opinion of key informants engaged in law enforcement was an important element of the officially funded study (DEGENHARDT, DAY & HALL 2004 pp. 4-5 & 102). This introduced a problem of bias which with the abolition of the NCA and dismissal of its chair formed a strong incentive to toe the party line.

22. Even so, the officially funded study in its conclusion on the causes of the heroin shortage used qualified language that fell far short of being an unambiguous confirmation that law enforcement was the cause, as the Government claimed:

“The causes of the shortage were most likely manifold, and interrelated. Gradual declines in heroin production in SE Asia, a number of high level arrests and significant seizures of heroin within a short period of time, and the performance of drug law enforcement was improved through relative increases in funding and cooperation across countries and within law enforcement agencies within Australia. These changes may have deterred some high level suppliers to Australia from importing heroin using the previous large scale methods, changing instead to more sporadic, smaller importations” (DEGENHARDT, DAY & HALL 2004 p. 105)

23. Even though the conclusion of the officially funded study may have been timid, it has since attracted robust criticism that has countered much of the ground for speculation that led to that decision. Notable has been a series of articles in the *International Journal of Drug Policy* of August 2008 namely:

Kora DeBeck, Evan Wood, Law enforcement and Australia’s 2001 heroin shortage:
Evaluating the evidence

John Jiggins, Australian heroin seizures and the causes of the 2001 heroin shortage

Alex Wodak, What caused the recent reduction in heroin supply in Australia?

Will Small, Evan Wood, Chris Buchner, Benjamin Fair, Thomas Kerr, Decline in needle exchange use in Vancouver, Canada coincides with the Australian heroin shortage

Continuing relevance of the cause of the heroin “drought”

24. This now rather dated debate is relevant to the present independent inquiry into aid because:

- (a) the 2001 heroin drought is one of the very, very few asserted examples in the world of law enforcement successfully reducing drug supply and therefore is the justification for a large slice of Australia's overseas aid budget.
- (b) The size of the illicit drug trade gives organised crime the capacity to undermine developmental and security concerns.
- (c) As Raymond Baker has shown organised crime principally financed by the drug trade siphons wealth from the developing world to the developed world at the rate of \$10 for every one dollar of aid (Emmons 2001).
- (d)

Developing countries are the big losers of the drug trade

25. It is not particularly clear who gains most from any particular trade but, contrary to a common impression it is not the grower or producer often located in developing countries but those who control more of later sections of the supply chain. Thus, the UNODC notes that “despite seizures and losses, the value of the drugs increase substantially as they move from producer to consumer”:

“the value of the global illicit drug market for the year 2003 was estimated at US\$13 bn at the production level, at \$94 bn at the wholesale level (taking seizures into account), and at US\$322bn based on retail prices and taking seizures and other losses into account” (UNODC 2005, vol. 1, p. 127).

26. Baker shows in a United States' context that the developed world gains from the illegal trade even when the entrepreneur resides in a developing country. This happens because the fruits of the illegal trade are laundered through the financial system of the developed world - a practice that Austrac seeks to prevent but which, if experience in the United States is anything to go by, is circumvented in a big way. Baker gave evidence to Congress:

“Wire fraud, particularly emanating from ostensibly respectable but criminally compliant banks, has become a major aspect of the problem, inundating western financial institutions with the proceeds of ill-gotten gains.

....

The passage of corrupt money from developing and transitional economies into the United States and Europe is estimated at a minimum of \$20 billion per year and perhaps as high as \$40 billion per year. Mispiced international trade generates a flood of money from developing and transitional economies into the United States and Europe of at least \$80 billion per year. The total of these two components of illegal flight capital is therefore at least \$100 billion per year coursing into western economies. It is estimated that no less than half is immediately or eventually transferred to the United States—\$50 billion a year, a half trillion dollars in this decade” (Raymond BAKER 1999)

27. It is all the more important that the panel should draw upon economic modelling by the likes of Dr Walker to give an estimate of the imbalances of money flows in the Australian context. He wrote some six years ago that that trade in six key illicit drug types:

“. . . puts a total of \$300 billion [it turned out to be \$US322bn for all illicits] in the pockets of producers, wholesalers and retailers around the world. This is equivalent to the Gross Domestic Product of Switzerland – the 6th largest economy in the world - and gives them immense economic power, which they can use to promote their businesses, and which permit them to cause immeasurable harm to societies all around the world by bribing or eliminating potential opponents” (WALKER (nd)).

Harms bearing heavily on developing countries and which are liable to flow from drug law enforcement to suppress the drug trade

28. As commodities, illicit drugs are produced and trafficked to meet a demand. Traditionally the demand for them has been in the developed world where they can command the highest price. This has led to the view that developed countries have suffered most from illicit drugs in terms of drug overdose deaths and drug related crime. The UNODC expresses this position when it states that:

The drug trade is pernicious and large . . . It impacts almost every level of human security from individual health, to safety and social welfare. Its consequences are especially devastating for countries with limited resources available to fight against it” UNODC 2005 vol. 2 p. final summary page)

29. The rest of this submission will argue that much of this devastation flows from the response to illicit drugs that the developed world through its aid programs insists the developing world take. The image of a developed world bearing the brunt of a drug trade from which a criminal elite of producers and traffickers in the developing world enrich themselves, is a myth. Indeed commentators go so far as to argue that “Problems have been exported from consuming countries to countries involved in production and transit” (Seccombe 1995 p.314). Countries like Mexico have railed against the United States and Western Europe which have led the campaign against illicit drugs for not doing enough to suppress demand. This is not an altogether fair criticism when one considers that the United States imprisons a much higher proportion of its citizens than any other country, that in Australia the 1990s the heroin overdose death rate rivalled the road death toll as the main cause of death of young Australians, we continue to arrest thousands of drug consumers annually (47,804 for cannabis in 2008-09 (AUSTRALIAN CRIME COMMISSION (ACC) (2010)), table 24, p. 117) and our imprisonment rate has risen remorselessly in recent decades.

30. Economics are the key to understanding the drug trade and it is imperative that the economic principles are respected when devising responses to it. Drug production and trafficking is a response to demand:

“It is scarcely surprising that demand for drug, especially (but not only) in rich countries, is met through the cultivation of illicit crops in remote, impoverished areas in countries with weak administration and widespread corruption often such areas are in border regions marked by violent ethnic or political conflict. Under such circumstances, poor farmers find the rewards of breaking the law irresistible. The prospect is that these factors will continue to operate in future (Seccombe 1995 p. 313).

The drug trade enriches the developed world rather than the developing world where much of the trade takes place.

31. The first part of this submission has put the position that overwhelmingly the profits from the drug trade flow to the developed world at the rate of \$10 of profits for every \$1 of aid thus nullifying developmental objectives and wasting resources.

Some anti-drug measures forced on developing countries serve as an incentive to drug use or to more dangerous drug use

32. There have been a number of examples when suppression of one less harmful form of drug use has stimulated a serious and more dangerous problems in developing countries . This has happened in Pakistan, Hong Kong, Thailand and Laos when the suppression of opium smoking let to the rapid development of a heroin problem. In the case of Pakistan, legislation in 1979 banned opium smoking directly affecting 80,000 severely dependent users. Although heroin addiction was virtually unknown before 1980. In the words of a study of the precursor of the UNODC: “The Prohibition Order of 1979 stimulated heroin conversion by the free availability of opium heretofore vended through licensed shops. Once in transit and traffic, heroin finds its own market or creates one and this is what precisely happened in 1980. The early 1980s saw a rapid escalation of heroin misuse and creation of a serious problem” (Seccombe 1995 p. 313 quoting Khan (1990) p. 10). The same source reported that by 1988 the 80,000 dependent opium smokers had become 2.2 million of whom an estimated 1.08 million were heroin users” (*ibid*). “. . . Within months of the introduction of the anti-opium laws in Hong Kong, Thailand and Laos, heroin use suddenly appeared and within a decade surpassed opium use” (Seccombe 1995 p. 314 quoting Westermeyer 1976 p. 10). In the process of swapping drugs, users often took up administering the drug to themselves with a syringe thus exposing them to added very serious health problems.

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Anti-drug measures have led to the spread of blood borne viruses

33. Heroin, which is used by most of the 15 million in the world who use illicit opiates, “is the drug most associated with injection, which brings about a host of acute and chronic health problems, including the transmission of blood-borne diseases such as HIV/AIDS and Hepatitis C. In Central Asia, Ukraine and the Russian Federation, injecting opiates is linked to nearly 60-70% of all HIV infections” (UNODC 2010a, p. 37). There is even a drug dimension to sexual contact, the other main pathways of HIV infection. This comes about because many sex workers are injecting drug users:

“The dual transmission risk in the case of sex workers who also inject drugs leads to epidemics that expand quickly and act as a bridge to the rest of the population. Third, non-injecting use of drugs such as cocaine and amphetamine-type stimulants leads to high risk sexual behaviour. And finally, HIV can be transmitted from an infected mother to her child” (UNODC) 2005, vol. 1, p. 18).

34. There is an epidemic of AIDS in Australia’s immediate region : a prevalence of 92.3% among injecting drug users in South and South East Asia and up to 84% in East Asia and Pacific (UNODC 2005, vol. 1, p. 18).

35. The 2010 World Drug Report ominously notes that: Africa which is “an emerging destination for Afghan heroin, a rise in injecting drug use could worsen an already severe HIV/AIDS epidemic” (UNODC 2010a,p. 48) that arose from sexual transmission.

Suppression of drug production and trafficking is effective overwhelmingly only in displacing and spreading the problem, not in eliminating it.

36. Mr Ralph Seccombe, a former Australian diplomat who served with the United Nations International Drug Control Program in Pakistan witnessed the displacement that suppression of poppy production in Pakistan caused. He wrote that the effect is as of squeezing a balloon:

“poppy cultivation responded like a balloon: being squeezed at one point, it bulged out elsewhere. Restricted in the east [of Pakistan], poppy cultivation was shifted westward to areas closer to the border with Afghanistan, notably Bajaur Agency . . . with total production actually increasing over the last decade [the 1980s] . . . As an attempt at both supply reduction and harm reduction, the policy has been a signal failure”(SECCOMBE 1995 p. 312)

37. This is a familiar story repeated time and again: suppression of production in one part of the world or of a particular trafficking route is simply displaced to another part of the world or to another route. Suppression of poppy production in Pakistan led to burgeoning production not just across the border in Afghanistan but further afield in Latin American (SECCOMBE 1995 p. 312 citing a UNDCP report). The Australian Crime Commission makes a similar point in its latest report. Referring to amphetamine type substances, it notes:

“ATS continues to be one of the greatest challenges to law enforcement drug interdiction efforts worldwide. Supply and trafficking routes, manufacturing techniques and locations rarely remain static as criminal groups seek to profit from the highly lucrative ATS trade. Although overall reported rates of ATS manufacture and consumption have stabilised globally, the United Nations Office on Drugs and Crime (UNODC) has noted divergent trends” (ACC) (2010), p. 16).

38. The story of attempted suppression of coca cultivation in South America in the past decade is a classic illustration of squeezing the balloon: “between 2000 and 2009, the area under coca cultivation in Colombia decreased by 58%, mainly due to eradication. At the same time, coca cultivation increased by 38% in Peru and more than doubled in the Plurinational State of Bolivia (up 112%), while traffickers in both countries increased their own capacity to produce cocaine” (UNODC 2010a, p. 16).

The drug trade and undermining Human rights

39. “Human rights are often a casualty in the war on drugs. Many of those engaged in the illicit drug industry are poor, including farmers who may have good reason to regard a crop like coca as their best option” (SECCOMBE 1997). The murderous anarchy that presently characterises parts of Mexico between rival drug gangs jostling for dominance to supply the United States with drugs or between them and security forces provides the most topical example of the break down of human rights flowing from the drug trade. It is far from the only one. Brutal civil wars have been launched and supported in countries like Colombia in efforts to suppress the drug trade. In Australia’s region, Thailand undertook

extrajudicial killings of suspected drug dealers in the early 2000s. A Reuters Report of February 2005 recorded that:

"The U.N. special rapporteur on extrajudicial, summary or arbitrary executions, Asma Jahingir, issued a statement calling on the Thai government to investigate alleged abuses and ensure security officials acted in "strict compliance with national and international human rights standards:

"Complaints from local and international human rights groups have mounted with the rising death toll in the three month anti-drugs crusade, launched by Thaksin on February 1 and dubbed "an-eye-for-an-eye" by him.

"Vicious people mingle with vicious people so their lives will end viciously," Thaksin said.

"The bloody crackdown has resulted in 484 deaths and 21,000 arrests so far, police data show. Police say they have killed 22 people, all in self-defence, attributing the other deaths to drug gangs eliminating potential informants" (Reuters, Bangkok, Wednesday February 26, 05:24 PM).

40. The recently retired director of UNODC has called for "human rights [to be moved] into the mainstream of drug control."

"Around the world," he added, "millions of people (including children) caught taking drugs are sent to jail, not to treatment. In some countries, what is supposed to be drug treatment amounts to cruel, inhuman or degrading punishment – the equivalent of torture. In several Member States, people are executed for drug-related offences. In others, drug traffickers are gunned down by extra-judicial hit squads. As human beings, we have a shared responsibility to ensure that this comes to an end. Just because people take drugs, or are behind bars, this doesn't abolish their right to be a person protected by the law – domestic and international" (UNODC 2010a, p.5).

Political instability and the drug trade

41. That the wealth in criminal hands provided by the drug trade has the capacity to corrupt government has long been recognised (SECCOMBE 1997). "[t]he illicit trade in narcotics is not new, but the global reach of today's drug-traffickers and their accumulation of enormous wealth sets them apart from their predecessors" (Dupont 2001 p. 194). The preamble to the 1988 United Nations convention against illicit traffic in narcotic drugs and psychotropic substances recites that: "illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels."

UNODC's World Drug Report explains that the instability brought about by the drug trade can be of different intensities:

There are two ways that drug trafficking can pose a threat to political stability. The first involves countries where insurgents and illegal armed groups draw funds from taxing, or even managing, drug production and trafficking. The second concerns countries that do not face such a situation, but where the drug traffickers become

powerful enough to take on the state through violent confrontation or high-level corruption. This chapter [of the latest UNODC report] focuses on the second category, and discusses the impact of cocaine trafficking on transit countries" (UNODC 2010a p. 26).

42. Another distinction is drawn between "political" and "administrative" corruption, the former involving "high-ranking politicians and decision-makers, while the latter concerns offences committed by lower-end public officials" (UNODC 2010b p. 16).

The Drug trade supports insurgency and imperils national security

43. Strategic analyst Alan Dupont has observed that:

"Increasingly , drug-traffickers are allying themselves with separatist and terrorist groups, serving as 'cash cows' in return for protection and access to paramilitary resources. In some cases, the drug-traffickers and insurgents are one and the same; in others, the state is complicit or sponsors drug-trafficking to the detriment of its own people and those of other states" (Dupont 2001 p. 194)

44. Many have observed that a deregulated, globalised world is an ideal one for organised crime to flourish in:

"The end of Soviet communism and the growth of globalisation created an environment in which the proliferation of nuclear, chemical and biological weapons could flourish. WMD precursors, many of which are dual-use, are available on the world market, as is technical expertise. The increased flow of goods and information around the world, one of the results of globalisation, has made it easier to match WMD demand with potential suppliers. Biological and some chemical weapons can be manufactured largely with dual-use equipment and materials." (Department of Defence 2003, p. 15)

45. Afghanistan is the obvious and most urgent example of the drug trade posing a risk to our national security because at this very moment it is costing Australian lives. Alfred McCoy has meticulously documented a story of United States tolerance of the drug trade in countries like Afghanistan. His account of tolerance of the trade for broader strategic ends during the cold war may have been challenged but has never been discredited. He has written:

"For forty years, the CIA fought a succession of covert wars around these two points at the antipodes of the Asian massif – in Burma in the 1950s, Laos in the 1960s, and Afghanistan in the 1980s. As the CIA mobilized tribal armies in these rugged highlands, their warlords used the agency's arms and protection to become major drug lords. From a narrow cold war perspective, tolerance of drug dealing often amplified the agency's effectiveness. Viewed from the mission-oriented perspective of a CIA operative, the opium trade relieved the agency from the prohibitive cost of welfare for tribes with thousands of dependents. Of equal import, control over this critical cash crop allowed the CIA's chosen warlord to command tribes, clans, and villages in bloody wars that ground on for years with heavy causalities. Since ruthless drug lords made effective anti-Communist allies and opium amplified their power, CIA agents, operating alone half a world away from home, tolerated the illicit traffic" (McCoy 2003 p. 15).

46. What is sauce for the goose, of course, may as easily be sauce for the gander with the result that illicit income is fueling a conflict in which young Australians are laying down their lives.

Drug trade undermining good government

47. Afghanistan also serves as a vivid example of how drug supported corruption at administrative levels which undermine good government and democracy in so many countries to which Australia delivers aid merges into higher level security threats. The UNODC sees corruption at the “heart of Afghanistan's current challenges and instability”:

“The lack of confidence in Government actors that results from both experiences and perceptions of corruption threatens the very stability of Afghanistan. If ordinary Afghans are, because of corruption, unable to obtain services and protection from the Government – or able to do so only through bribery – the Government of Afghanistan will not have the support it desperately needs from every community across the country if it is to win its battle against the Taliban insurgency. For this reason, corruption is not an issue that can be deferred for after pressing matters of security, health, nutrition and education have been addressed. Corruption is at the heart of all of the difficulties that Afghan people are encountering today, it is at the heart of Afghanistan's current challenges and instability, and it must be at the heart of all peace building efforts in Afghanistan. ((UNODC 2010b p. 17).

48. A decade and a half ago, Seccombe wrote with prescience:

“Given the absence of an effective central administration in Afghanistan and that country's history of weak central control over the provinces, it is inconceivable that any government will be willing and able to enforce counter-drugs measures for many years to come.” (SECCOMBE 1995 p. 313).

49. Similar corruption is infecting the heart of governments closer to home. Dupont notes that “In Indonesia a police captain admitted to being part of a local drug syndicate after having been found with hundreds of ecstasy tablets in his possession, while some two dozen Manila policemen were placed under surveillance in 1997 because of their close association with known drug-dealers” (DUPONT (2001), p. 201). The Far Eastern Economic Review in 2002 reported fighting between Indonesian police and the army over a drug crop:

“The problem hit the headlines in late September when a drug-trade dispute between military and police units in North Sumatra led to a gun battle that killed eight people. Several days later, on the anniversary of the foundation of the armed forces, President Megawati Sukarnoputri publicly deplored the funding squeeze, but offered little in the way of a solution.

“Former Defence Minister Juwono Sudarsono, a civilian, contends that the military gets most of its budgetary short-fall in payoffs from provincial governments and from its deepening involvement in drug smuggling, protection rackets, illegal mining and logging, fuel smuggling, gambling and prostitution” (FEER, 7 November 2002, pp. 20-21 at p. 20).

The drug trade and response leads to environmental degradation

50. Apart from the general incapacitation of governments to attend to their responsibilities that the drug trade brings out, there are examples of it or counter measures causing environmental degradation. Seccombe explains the process that is often at work:

“A vicious cycle operates whereby the corruption promoted by the drugs industry makes it harder to counter drug production, trafficking and abuse. The environmental consequences of present activities are also often overlooked. Current policy directed towards the elimination of illicit crops has not succeeded, but simply driven them into less accessible areas where they are cultivated at the cost of deforestation and soil erosion” (SECCOMBE 1995, p. 313).

51. Large-scale aerial spraying in vain efforts to eradicate coca crops in Colombia has led to much environmental damage there.

A concluding note on the advantages and limitations of harm minimisation in the aid program

52. Australia is effectively addressing some of these harms associated with drug trade in promoting harm minimisation measures such as the provision of sterile syringes. This is a measure which is credited as principally responsible for the very low HIV infection rate of 1.2% among injecting drug users in Australia compared to other countries in the region (see §35 above). This and other measures of proven efficacy need to be promoted. At the same time the limitations of what such measures can achieve must be recognised. No amount of conventional harm minimisation will eliminate the obscene profits that flows to organised crime from the drug trade. Measures to keep drug users healthy cannot eliminate the corruption and other baleful influences that organised crime brings to bear on Australia’s aid partners and broader security interests. To tackle that, Australia has a lever which it has been reluctant to make use of – take effective measures to reduce demand for illicit drugs in Australia itself. Governments have been reluctant to take such a step. Their response is typified by that of the previous Commonwealth Government, which on being told the plain facts by a brave chairman of the National Crime Authority, promptly abolished his organization under his feet. Doing what he advocated may still be a step too far but there is no excuse for failure to conduct a hard nosed economic analysis of the drug trade. Australia’s security deserves no less. The Independent panel cannot avoid such an analysis so far as its remit extends to examine the effectiveness of the Australian Aid program.

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