

# Families and Friends for Drug Law Reform (ACT) Inc.

*committed to preventing tragedy that arises from illicit drug use*

PO Box 4736, HIGGINS ACT 2615, Telephone (02) 6254 2961

Email [mcconnell@ffdlr.org.au](mailto:mcconnell@ffdlr.org.au) Web <http://ffdlr.org.au>

**NEWSLETTER**

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## **NEXT Meeting**

**Thursday 25 March 2010**

**at 7.30pm**

**Special General Meeting  
to amend the FFDLR Constitution**

**A normal meeting will follow**

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

**Refreshments will follow**

## **Editorial**

### ***INCB and the fight for good and evil: but which is which?***

The release recently of the International Narcotics Control Board's (INCB) 2009 annual report shows what little progress has been made in the fight against illicit drugs. Why the INCB treats this fight as a crusade can be seen in the roots of its creation.

The INCB roots are imbedded in the conventions that have introduced prohibition of certain drugs. The 1961 Single Convention on Narcotic Drugs created the INCB and although recognising the need for narcotic drugs for medical use and pain relief it imbedded a belief that addiction was an evil.

The preamble to the convention in part states:

*Recognizing that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind...*

*Conscious of their duty to prevent and combat this evil...*

And so the stage was set. The battle against this moral evil rose from a human physiological matter to a higher plane.

By 1988 the battle was still being fought. The 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is a startling admission of failure, stating in its preamble that it is:

*Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances ...*

*Deeply concerned ... by the fact that children are used in many parts of the world as ... illicit drug consumers ... and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances...*

*Aware 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...*

Scattered throughout the report are indications of reductions of use or supply of some drugs but always those reductions are offset by rises in use or supply of other drugs.

And so having failed to eliminate the supply of illicit drugs the INCB has turned its focus on "activities aimed at reducing demand for drugs".

The annual report lectures on causes of drug abuse and on ways and means of overcoming it. The term "drug abuse" is used throughout the document as a reinforcement of the evil of drugs and is taken to mean that any use of an illicit drug is "abuse". It is unrelenting and does not recognise that a one time or infrequent use, not associated with an addiction is use, not abuse.

The INCB reports on its several missions to countries each year. In the year being reported on, one such mission was to Australia. And while it had praise for some of Australia's practices, it did request that Australia close down the one medically supervised injecting centre in Kings Cross. An earlier report made a similar request to Luxemburg which, this report noted, Luxemburg refused.

There was no recognition that the Centre is performing a vital medical service, saving lives, teaching healthy practices within the limits of ongoing drug use, and providing a pathway to treatment services. Nor is there any recognition that such a facility contributes to the reduction of demand for drugs – the INCB's current focus.

The INCB's major concern is that such a centre encourages drug use. But a little thought would show the faulty logic. Clients of the MSIG would use the drugs even if the centre was not available. It is interesting that the INCB now says nothing about the needle and syringe program. Equally it could have said NSPs encourage drug use but it has not.

Elsewhere in the report the INCB rails against the removal of criminal sanctions for personal use of drugs in a number of countries. For Mexico, which has recently removed criminal sanctions for personal use, the report says this:

*The Board is concerned that this legal act may give the wrong signal. The Board would like to remind the Government that article 3, paragraph 2, of the 1988 Convention requires each party to that Convention to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended by the 1972 Protocol or the 1971 Convention.*

In Argentina, Brazil, and Columbia there are movements to decriminalise personal use and they are given the

same instruction. However Portugal which decriminalised in 2001 did not received such criticism in this report.

The INCB has not taken due cognisance of responsibility to put health first.

Is not a supervised injecting room that saves lives and helps people to a healthier life a health solution? Is not a law that means a person is not sent to jail for personal use making a positive contribution to the mental health and future wellbeing of the individual? And is not prescription heroin making a positive contribution to the health and wellbeing of those persons?

In these respects the INCB has lost its way.

**ABC's 4 Corners will report on Mexico's drug problem on Monday 22 March**

## **UNODC Warns of Drug "Health Disaster" in the Developing World**

VIENNA, 8 March (UN Information Service) –

[Readers may recall that Antonio Maria Costa claimed that the world could be drug-free by 2008, and may also note the inconsistencies in his statement below. It is however useful to note, by way of this article, that this arm of the UN drug control area is changing. Ed]

In his address to the 53rd session of the Commission on Narcotic Drugs (CND), which takes place this week in Vienna, the Executive Director of the United Nations Office on Drugs and Crime, Antonio Maria Costa, warned that failure to control drugs will unleash a health disaster in the developing world.

"The developing world lacks the treatment facilities and law enforcement to control drugs," said the head of UNODC. "This seems to have been forgotten by people in rich countries calling for loosening of drug controls. Why condemn the Third World, already ravaged by so many tragedies, to the neo-colonialism of drug dependence?" said the head of UNODC. He identified a number of warning signs: increasing use of heroin in East Africa, cocaine in West Africa, and synthetic drugs in the Middle East and South East Asia.

Referring to health as "the first principle of drug control", Mr. Costa said that drug addiction is a treatable condition, but warned that inequality within and between states marginalizes poor people who lack access to treatment. "While rich addicts go to posh clinics, poor addicts are being pushed into the gutters or to jail," he said. UNODC is working with the World Health Organization to achieve universal access to drug treatment, and with UNAIDS to prevent the spread of HIV among injecting addicts.

The UN's drug control chief said: "We must not only stop the harm caused by drugs: let's unleash the capacity of drugs to do good." He reminded the Commission that this seemingly radical idea goes back to the roots of drug control: the preamble of the Single Convention (1961) recognizes that "the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering". He appealed to Member States to overcome cultural and socio-economic factors "that deny a

Nigerian suffering from AIDS or a Mexican cancer patient the morphine offered to Italian or American counterparts".

He also appealed for greater respect for human rights. "Around the world, millions of people (including children) caught taking drugs are sent to jail, not to treatment. In some countries, drug treatment amounts to cruel, degrading punishment - the equivalent of torture. People are sentenced to death for drug-related offences, or gunned down by extra-judicial squads," said Mr. Costa. "As human beings, as well as members of the community of civilized nations, we have a shared responsibility to put an end to this. People who use drugs, or are behind bars, have not lost their humanity or their human rights."

The head of UNODC warned of the growing security threat posed by drugs. "The stakes are high: few issues have received as much attention as drug trafficking in the Security Council over the past few months," said Mr. Costa. "Unless Member States deal effectively with the menace posed by organized crime, their security - even their sovereignty - will be under threat, and there will be renewed calls to dump the UN drug conventions that critics claim are the cause of the crime problem," he said. He stressed the need for greater attention to security, justice and development in vulnerable regions - a process which UNODC is supporting in the Balkans, Central and West Asia, Mesoamerica, and East and West Africa.

In this, his eighth and final Session of the CND, Mr. Costa spoke with pride about how UNODC "has assisted Member States to make drug policy more responsive to the needs of those most seriously affected, along the whole chain of the drug industry: from poor farmers that cultivate it, to desperate addicts who consume it, as well as those caught in the cross-fire." He said: "In the process, we have helped make the debate less dogmatic, gathered evidence to enrich policy, and provided assistance to reduce vulnerability. We have persistently struggled to quash the sterile debate between those who dream of a world free of drugs, and those who aspire to a world of free drugs."

However, he warned about complacency, and lack of resources, both for drug control and for UNODC. He described the Office's current funding level as "untenable".

For more information on the CND and the complete text of Mr. Costa's speech, visit the UNODC website at [www.unodc.org](http://www.unodc.org).

## **Free Seminar Melbourne**

### **There's a RIOTT going on**

**54-62 GERTRUDE STREET, FITZROY (TURNING POINT MAIN BUILDING)**

A/Prof Nick Lintzeris will be presenter for Talking Point's March seminar.

Nick's presentation is titled: *There's a RIOTT going on: Findings of the British heroin trial and future options for Australian opioid pharmacotherapy.*

Various countries have embarked upon heroin prescription programs as a means of addressing the

needs of those individuals who do not 'do well' in conventional treatment programs. In 2004, Nick Lintzeris was involved in establishing a randomised controlled trial of injectable heroin and injectable methadone treatment based at the National Addiction Centre in London, with 130 patients followed up over 6-months. The presentation will provide an overview of the study methods and key findings, and examine implications for alternative pharmacotherapies in the Australian context, with particular focus upon the recent marked increase in prescription opioid use in this country, and its implications for treatment services.

A/Prof Lintzeris has recently commenced as Director Drug and Alcohol Services at South East Sydney Area Health Service, based at the Langton Centre. He previously worked at Sydney South West (Liverpool and RPAH), National Addiction Centre in London, Drug Services Victoria, and from 1994-2002 as Senior Medical Officer at Turning Point Alcohol and Drug Centre.

Please join us for this free seminar at Turning Point on:  
Friday 26<sup>th</sup> March, 1-2 pm, 54 Gertrude St, Fitzroy  
All welcome, bookings essential due to limited seating.  
Please ring 8413 8413 or email  
[info@turningpoint.org.au](mailto:info@turningpoint.org.au) to register your interest.

## TNI/WOLA Drug Law Reform Project

UN's International Narcotics Control Board's Annual Report Oversteps Mandate and Interferes with Countries' Sovereignty

The UN's International Narcotics Control Board (INCB) annual report released today pointedly criticizes Argentina, Brazil and Mexico for moving to decriminalize the possession of drugs for personal consumption, cautioning that such moves may "send the wrong message."

The INCB report expresses concern over "the growing movement to decriminalize the possession of controlled drugs" and calls for this movement to be "resolutely countered" by the governments of Argentina, Brazil, Mexico and the United States.

According to the Transnational Institute (TNI) and the Washington Office on Latin America (WOLA), the criticisms levelled today clearly overstep the INCB's mandate and constitute unwarranted intrusions into these countries' sovereign decision-making. TNI and WOLA are non-governmental organizations with expertise in both the UN drug control system and Latin American drug policy developments.

In August 2009, Argentina's Supreme Court of Justice declared unconstitutional the punishment of possession of cannabis for personal use. Last year, Mexico, through legislation, decriminalized the possession of drugs for personal consumption. In 2006, Brazil moved to partial decriminalization, replacing prison sentences with treatment and educational measures.

"There are too many consumers and small-time drug offenders overcrowding Latin American jails. This is

not only inhumane, it also means justice systems are diverting their scarce resources and attention away from big traffickers," said Pien Metaal, TNI Drugs and Democracy Program Researcher. "Part of the overcrowding problem stems from disproportionate prison sentences for non-violent offenders."

Experiences so far with decriminalization of possession of drugs for personal use have not led to significant increases in drug use. In 2001, Portugal decriminalized the possession of all drugs for personal use, and has since seen a decrease in heroin use and in related adverse consequences, such as the spread of HIV/AIDS.

Created in 1968, the INCB monitors implementation of the UN's 1961 and 1971 international drug control conventions, and of the precursor control system established under the 1988 convention. According to TNI and WOLA, the INCB is clearly acting beyond its mandate by criticizing countries' jurisprudence and policies regarding decriminalization.

"In the case of the Argentine Supreme Court ruling, it is arrogant interference by the INCB to question the judgment of the highest judicial authority of a sovereign State. The INCB has neither the mandate nor the expertise to challenge such a decision," said Martin Jelsma, TNI Drugs and Democracy Program Coordinator.

The INCB justifies its call to 'resolutely counter' the decriminalization trend by 'reminding' governments of provisions in the 1988 Convention. "But apparently it's the INCB that needs reminding, both about the limits of its own role and about what the treaties actually require," said John Walsh, WOLA Senior Associate. "Not only does the INCB lack the mandate to raise such issues, the INCB misreads the 1988 Convention itself, asserting an absolute obligation to criminalize drug possession when

the Convention explicitly affords some flexibility on this matter."

Specifically, the INCB report states that the 1988 Convention requires each party to "establish as a criminal

offence [...] the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption..." However, the INCB report neglects to mention a phrase that is crucial to interpreting the Convention. Article 3, paragraph 2 explicitly states that measures to criminalize possession for personal consumption are subject to each country's "constitutional principles and the basic concepts of its legal system."

Therefore, subscribing to the 1988 Convention only obligates a country to criminalize possession for personal consumption when that does not present a conflict with a nation's constitutional and legal principles, leaving governments with a certain latitude within the Conventions to reform their laws accordingly.

Like last year, the INCB uses its annual report to reprimand Bolivia for the continuation of coca chewing and other traditional uses of coca. In 2008, Bolivia enshrined in its Constitution the coca leaf as a cultural heritage. "The INCB again shows itself to be out of touch with reality by demanding that Bolivia stamp out coca use, also wrongfully prohibited in the Conventions," said TNI's Pien Metaal. "The

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controversies around Article 3 of the 1988 Convention and the erroneous treatment of the coca leaf in the 1961 Convention are two examples of why the drug control treaty system, including the role played by the INCB, needs to be revised."

For more information on Latin America's trend toward decriminalization, click here

[http://www.wola.org/images/stories/Drug%20Policy/country%20overview%20drug%20laws%20\\_2\\_.pdf](http://www.wola.org/images/stories/Drug%20Policy/country%20overview%20drug%20laws%20_2_.pdf).

## First free heroin clinic opens in Denmark

COPENHAGEN, AFP

After years of contention, Denmark on Monday opened its first clinic equipped to distribute free heroin under medical supervision to people heavily addicted to the drug.

The Scandinavian country joins a number of countries like Switzerland, the Netherlands and Germany to allow prescriptions for medicinal heroin, or diamorphine, to be written out to a small group of addicts so hooked on the substance that more traditional substitutes like methadone have no effect.

The clinic is set to serve only 120 of some 300 hard-core heroin addicts, or only about one percent of all drug addicts in the country.

"Our objective is not to cure heroin addicts, but to help those who are not satisfied by methadone by providing them with clean heroin, allowing them to avoid disease and the temptation of criminal acts to obtain the drug," a doctor and head of the clinic Inger Nielsen told AFP.

Only addicts who have been referred from a methadone centre for treatment and who voluntarily request to enter the clinic will be permitted to participate in the programme, Nielsen said.

They will be treated with methadone for the first 14 days "so we can determine how much heroin to prescribe," she added.

The Danish parliament passed a law legalising the distribution of medicinal heroin in 2008, but the opening of the clinic was delayed until the city of Copenhagen agreed to house the programme.

The User Association, a group representing drug addicts, remains critical, blasting that patients are required to go to the clinic twice a day, seven days a week, to receive their doses.

"This means living like a zombie, without being able to hold down a job or study or have hobbies," head of the association Joergen Kjaer told reporters.

## No needle exchange in jail 'risks staff safety'

By Markus Mannheim, Public Service Reporter

The lack of a needle exchange in Canberra's jail is threatening its staffs' safety, new research says.

The *Journal of Health, Safety and Environment* will publish a paper today that says bans in Australian prisons have failed to stop inmates from smuggling in drugs and syringes.

It urges jail officers to recognise that the risk of needle injuries has remained despite the prohibition on drugs, and to follow the lead of police forces, which began supporting safe needle exchanges "ahead of public opinion".

Lead author John Ryan said yesterday it was common for prisoners to share injecting needles with at least five other inmates, increasingly their chances of contracting blood-borne diseases like HIV and hepatitis C.

Mr Ryan, who is chief executive of the Association for Prevention and Harm Minimisation Programs Australia, said staff at Canberra's Alexander Maconochie Centre had no reason to fear a syringe exchange program.

"Prisoners are not using needles as weapons where prison-based exchanges are accepted and effective," he said.

His paper says jails in seven countries have been providing clean syringes to detainees for up to 10 years, and the introduction of these exchanges "has not resulted in instances of syringes being used as weapons".

But the study acknowledges resistance among Australian prison officers, with one quoted as saying, "No f---ing way. No. If they introduced anything like that then we are out on strike. I don't care about f---ing Spain."

Community and Public Sector Union ACT organiser Vince McDevitt said yesterday staff at the ACT jail remained unconvinced.

"Any push to implement a needle exchange, in any form, even if it was a pilot, is premature."

He said staff remembered well the case of a young Goulburn jail officer, Geoffrey Pearce, who was stabbed with an HIV-infected needle in 1990 and died eight years later. "That's the first thing" that pops up into their minds," Mr McDevitt said.

The ACT Government said last year it would review the prison's operation over 18 months before deciding whether to adopt a needle exchange program.

Its report on the issue is expected in December this year.

Health Minister Katy Gallagher said yesterday, "This is not a simple decision. From a health point of view, it may seem so, but there are industrial issues that need to be considered as well, such as ensuring staff feel safe in the workplace.

"No other jail in Australia has a needle and syringe program so the ACT would be leading the way and, given the prison is new to the ACT, we need the 18 months of data to demonstrate the need for such a program."

The latest available report on Canberra inmates' blood-borne infections, from tests carried out in September last year, said more than half had hepatitis C.

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