LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE DRUGS OF DEPENDENCE (PERSONAL USE) AMENDMENT BILL 2021
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Submission Cover Sheet

Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021

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Terms of Reference:

a) ***best practice policy approaches and responses undertaken in other jurisdictions, including internationally, to reduce harm and societal impacts from drugs***

There is a growing recognition in many countries that the approach taken to currently illicit drugs around the world for at least the last half century has failed abjectly. This approach has relied heavily on law enforcement measures including customs, police, courts and prisons (supply reduction) with minor roles given to drug education and drug treatment (demand reduction) and to direct measures to reduce harm from drugs and drug policy (harm reduction).

The failure of this approach can be seen in the drug market where there has been an inexorable growth in the size of the drug market, an increase in the number of different types of drugs available and an increase in the hazardousness of recently identified drugs. Even more important than these changes in the drug market has been the worsening of important outcomes of drug policy. While there is no consensus on what constitutes the most critical outcomes of drug policy, deaths, disease, property crime, violence and corruption would all be accepted as among the most critical parameters. Some of these parameters, especially corruption, are impossible to measure. But there would be strong support among experts for the view that deaths, disease, property crime, violence and corruption have all increased in many countries with punitive drug policy.

No country can yet be identified as a paragon of drug law enforcement. Instead, different countries have adopted different types of drug law reform and many of these reforms have produced better outcomes.

In the 1970s, the Netherlands was the first country to begin to move away from the international drug control system after conducting two major inquiries https://pure.uva.nl/ws/files/971668/2218_cohen.case.html. Greater emphasis was then placed on health and social measures and less emphasis on the criminal justice system. After the Netherlands was subjected to relentless negative pressure from neighbouring France and Germany and also from the U.S., further reforms were abandoned. The drug policy reforms of the 1970s were and still are regarded as a success. HIV among and from people who injected drugs came under control. Crime rates dropped. Drug use did not increase. The assassination of Pym Fortuyn, a charismatic but controversial homosexual politician by a homophobic Moslem immigrant and the murder of a controversial film maker have had far reaching effects including the abandonment of serious drug law reform. However, there is now considerable discussion about extending reform of cannabis policy so that cannabis supply as well as consumption is no longer illegal. Separating the market for cannabis from the market for more risky drugs was important. So too was the greater emphasis on health and social support for people with drug problems.

In the 1990s, drug problems spiralled out of control in many cities in Switzerland with soaring rates of crime, drug use in public, HIV among and from people who inject drugs and drug overdose deaths. The surge in drug problems was attributed to criminal networks from the former Soviet Union and the former Federation of Yugoslavia moving to Switzerland to seek better opportunities. Swiss authorities were advised to increase the emphasis on drug law enforcement and accordingly increasing resources were provided and the severity of criminal

sanctions was increased. However, the drug problems in Switzerland continued to get worse. Eventually, Swiss political leaders sought advice from harm reduction experts who recommended increasing the capacity and improving the quality of drug treatment while increasing the emphasis on harm reduction. The first official drug consumption room in the world had already been established in Berne in 1986 and was regarded as a success. Switzerland commenced heroin prescription treatment partly based on information from the ANU trial which was terminated in 1997 following a decision by the Howard government.

The drug problems which had previously plagued Switzerland began to diminish after the adoption of these new policies with declining rates of crime, drug use in public, HIV and drug overdose deaths. The Swiss President at the time, Madam Ruth Dreifuss, was greatly impressed by this experience. In her retirement Madam Dreifuss has been very active in the Global Commission on Drug Policy, an important international drug law reform organisation comprising former Presidents, Prime Ministers and senior Ministers.

Portugal, the poorest country in Western Europe, also experienced very severe drug problems in the 1990s with high and increasing rates of crime, HIV and drug overdose deaths. A number of well publicised cases involved children of senior politicians. A vigorous debate about drug policy began in the community and the national parliament. The government commissioned a report from a committee chaired by Dr João Augusto Castel-Branco Goulão, a well-known and highly respected drug treatment expert. The report recommended a new approach with far more emphasis on health and social measures. Personal possession of small quantities of specified drugs should not attract penalties. People struggling with drug problems should be assessed to establish whether or not they were functioning as responsible citizens. If not they would be provided with effective and attractive health and social assistance. The committee wisely recommended that the government adopt all of the recommendations or none of them. The government adopted all recommendations. These reforms were implemented beginning on 1 July 2001. Portugal then experienced a decline in crime, HIV, drug overdose deaths and the proportion of prison inmates with problematic drug use. Drug consumption appears to have declined overall but may have increased slightly in some older groups.

In the last twenty years, Portugal has changed governments several times after democratic elections and had a very difficult time during and after the Global Financial Crisis. Yet the 2001 drug policy reforms have remained much as they were. They were and still are very popular.

No discussion of drug policy is ever complete without including consideration of the situation in the U.S. This is always complicated by the size, complexity, deep polarisation of the country, the pervasive effect of severe racism and the huge and growing economic and social inequality. No other country has been as influential in the international adoption, implementation, intensification and maintenance of global drug prohibition as the U.S. In his long political career the current President, Joe Biden, is considered to have written more War on Drugs legislation than any other member of Congress when he was in the Senate. The Vice President, Kamala Harris, was a vigorous prosecutor of drug crimes in California before entering politics. Both spoke of the need for drug law reform during the Presidential campaign, albeit in guarded terms. Nevertheless, both have strongly supported harm reduction and some degree of drug law reform after gaining office. A new and important policy was released on 1 April 2021 'The Biden-Harris Administration's Statement of Drug Policy Priorities for Year One' https://www.whitehouse.gov/wp-content/uploads/2021/03/BidenHarris-Statement-of-Drug-Policy-Priorities-April-1.pdf Unfortunately, the Biden

Administration may also be moving away from harm reduction in relation to tobacco and vaping.

It is now just over 50 years since President Nixon declared a war on drugs on 17 June 1971. Apart from the undoubted political success of this approach, it has been an abysmal failure as a drug policy.

A recent editorial in The Lancet, a highly respected medical journal is well worth reading:

> The time to end the war on drugs is long overdue
>
> It is 50 years since the June 18, 1971 address by US President Richard Nixon that publicised the US administration's war on drugs. Nixon declared that drug abuse was "America's public enemy number one". Despite Nixon mentioning "rehabilitation, research, and education" in his speech, the war on drugs has been an offensive, with military interventions, soaring arrest rates, and aggressive sentencing. The USA has borne a huge cost, both financially and socially, with those most marginalised and vulnerable shouldering the largest burden. Five decades in, and despite multiple administration changes, no sign of victory can be seen. Drug use flourishes, with 13·0% (35·8 million) of Americans aged 12 years or older in 2019 reporting they had used an illicit drug in the preceding month, as revealed by the National Survey on Drug Use and Health. The same year saw 70 630 deaths due to drug overdose, with 49 860 involving opioids (of which 14 139 were due to prescription opioids).
> Although HIV was unknown at the time of Nixon's speech, the fate of the war on drugs and the HIV epidemic are intertwined. 186 500 of the 1·2 million people with HIV in the USA are believed to have acquired the virus through injection drug use. Despite the USA seeing an overall fall in HIV diagnoses over the past 5 years, infections due to injection drug use are on the rise. If the ambitious target of ending HIV in the USA by 2030 is to be reached the needs of injection drug users will be a key part of the strategy.
> The effects of the war on drugs are not confined to the USA, and injection drug users face stigma and criminalisation worldwide. Globally, around one in eight people who inject drugs are living with HIV, and injection drug users are 29 times more likely than non-users to acquire HIV. In 2019, as shown in the new UNAIDS report *Global Commitments, Local Action*, 10% of new infections worldwide were in those who inject drugs. Many of these infections could have been prevented if the war on drugs had not contributed to an environment hostile (both politically and socially) to injection drug users. Some regions are hit harder than others: in eastern and central Asia 48% of new HIV infections are linked to injection drug use. A Feature in this issue of *The Lancet HIV* from Ed Holt explores the role softening drug laws in this region could have on HIV. A linked Profile highlights the work of Positive Movement, a Belarusian organisation, in providing advocacy, support, and treatment to people living with HIV who inject drugs in Belarus.
> The tools to prevent harms, including HIV acquisition, in people who inject drugs are backed by a wealth of evidence. A refusal to implement evidence-based strategies is not only morally wrong but an economically poor decision—in the USA every dollar spent on syringe services programmes is estimated to save US$6·38–7·58. However, *The Global State of Harm Reduction*2020 report by Harm Reduction International paints a picture of worsening implementation of harm reduction measures.

> The number of countries with needle and syringe programmes remains stable, and the number in which medications for opioid use disorder are available has decreased.
> With the new administration of President Joe Biden, there is a chance for a fresh approach to the war on drugs. However, Biden's record on these issues is not encouraging and the initial signs are mixed. The priorities of the drug control policy for the new administration's first year encouragingly include expanding access to evidence-based treatment, enhancing harm-reduction efforts, and expanding access to recovery support services. However, local policies as well as federal will have to change. News of the recent vote by government officials in Scott County, IN, USA, to close their syringe exchange despite support from law enforcement, health workers, and community members is dispiriting. If the value of a service, vital in helping to contain an HIV outbreak in 2014–15 that led to over 200 HIV infections, is not recognised then the scale of the problem is clear. Work by Gregg Gonsalves and Forrest Crawford, published in *The Lancet HIV* in 2018, indicated that if the region had had services such as a syringe exchange in 2011 the number of HIV infections would have been reduced to ten or fewer.
> The war on drugs must end. Our previous Editorial on the topic highlighted Portugal as an example that other countries should follow.
> Decriminalisation of personal drug use, coupled with increased resources for treatment and harm reduction, alongside wider initiatives to reduce poverty, and improve access to health care, could transform the lives of those affected. This transformation might finally be something worth fighting for.
> https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018(21)00130-2/fulltext?dgcid=raven_jbs_etoc_email

Few regions of the world in the last half-century have been as enthusiastic about drug prohibition as Scandinavia. Yet one by one, the Scandinavian countries have peeled off this approach apart from Sweden. Harsh drug policies brought dreadful outcomes at great cost. Now even Sweden is abandoning its long held support for an approach reliant on severe punishment. While figures on self-reported drug use among Swedish youth were low, deaths from drug use were high and rising.

Norway has carefully investigated the Portuguese reforms but has not yet adopted them. There seems to be some jockeying among the political parties. In Denmark, the nine political parties agreed to adopt a reform program and jointly present this to the community.

Strong support for punitive approaches to drug policy has not disappeared from the planet. Russia, Saudi Arabia, Singapore and Japan and some other countries still favour this approach. But the number of these countries is steadily diminishing. Support for harm reduction and drug law reform is now growing in Asia, admittedly from a low baseline. Malaysia began adopting harm reduction in 2005 following an intervention by then Deputy Prime Minister Najib Razak designed to control HIV among and from people who inject drugs. In Thailand, the sister of the current King has supported a drug law reform group which includes leading judges and law enforcement figures.

b) the health, criminal justice and social impacts of current policy and legislation approaches to drug use in the ACT (including the ACT government's *ACT Drug Strategy Action Plan 2018-2021*)

i. The ACT should be congratulated for the emphasis on First Nations people, the joint consideration of legal and currently illegal drugs, the willingness to break new ground, and the relative emphasis on harm reduction. Supply reduction, demand reduction and harm reduction all have a role to play for legal and currently illegal drugs. But identifying benefits from supply reduction for currently illegal drugs is a major challenge while identifying serious adverse effects is all too easy. Drug prohibition has turned out to be an expensive way of making a difficult problem much worse. In contrast, the experience of harm reduction has been that it is generally very effective, rarely accompanied by significant adverse effects and generally also very cost effective. The paramount focus should always be on reducing harm rather than obsessing about drug consumption. The reduction of supply is only one way to reduce harm.

ii. The ACT was the last Australian jurisdiction to adopt Roadside Drug Testing. These laws are extremely problematic. They not based on sound science. Innocent drivers can all too easily be severely punished while drug impaired drivers are not charged. These laws should be reviewed.

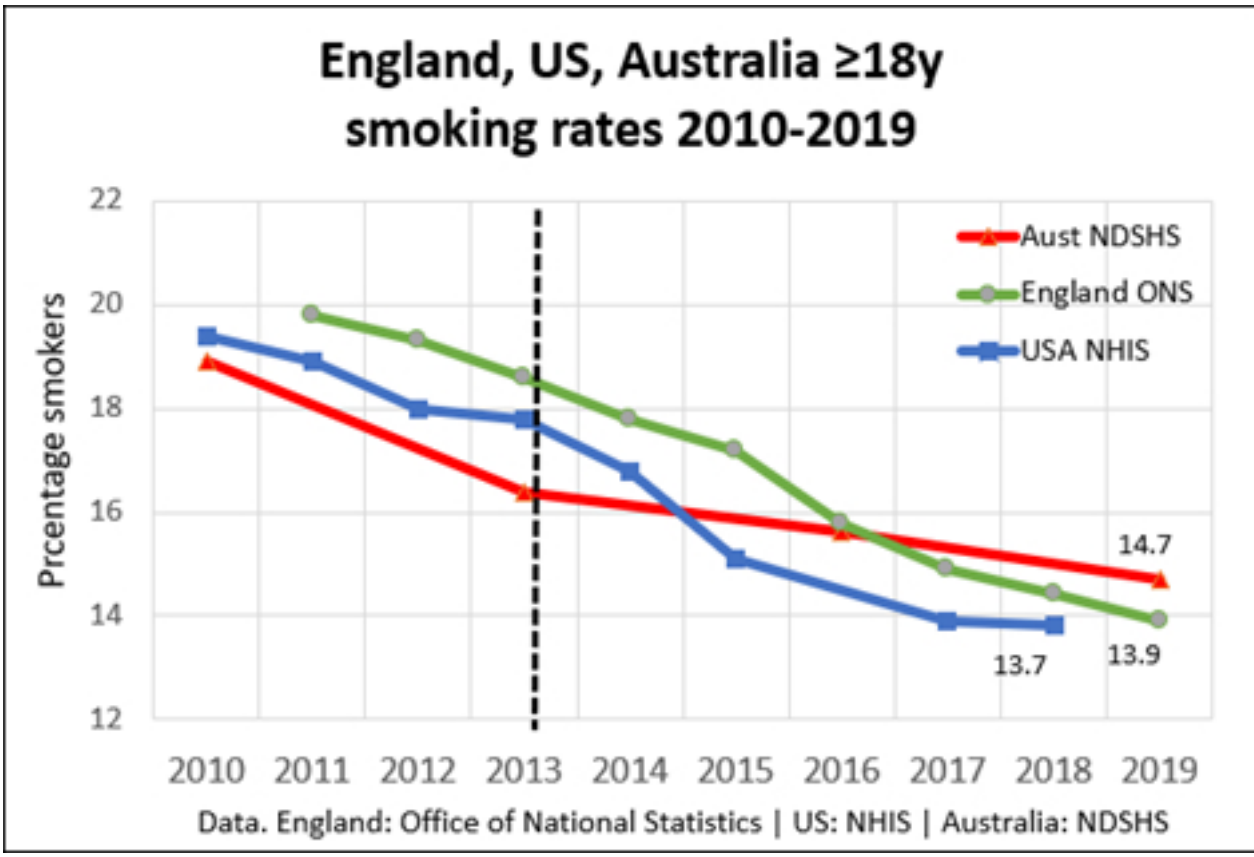
iii. The ACT is justified to be proud of its low smoking rates. As the jurisdiction with the highest per capita income in Australia, it is not surprising that smoking rates are so low. Smoking is not only a serious health problem but it is also a major cost to low income and other disadvantaged populations such as indigenous people, and people with alcohol and drug dependence, mental illness and the homeless. Australian cigarettes are now the most expensive in the world. Wage growth has been very sluggish in Australia for almost a decade. An Australian smoking 20 cigarettes/day spends $12,500/year while most vapers spend $1,000-$2,000. The 21,000 smoking related deaths in Australia every year exceed the combined total of deaths from alcohol plus prescription drugs plus illicit drugs plus suicide plus HIV plus road crashes. The approach taken to smoking in Australia is antithetical to harm reduction.

iv. It is hard to understand how the ACT can be proud of its support for drug harm reduction but yet oppose tobacco harm reduction. The UK Royal College of Physicians (and many others) estimate that vaping is at least 95% less risky than smoking. Yet cigarettes are readily available from many outlets while the availability of a much safer option is more restricted. The Swedish oral tobacco product, *snus* provides proof of the concept of tobacco harm reduction. *Snus* has been in existence for many decades, possibly two centuries. It is popular among Swedish men but banned in all other EU countries. Compared to all other EU men, Swedish men have the lowest rates of smoking, smoking-related diseases and smoking-related deaths. In countries where tobacco harm reduction options (eg vaping, Heated Tobacco Products, snus and nicotine pouches) are readily available, the decline in smoking rates or cigarette sales have accelerated. After HTPs went on the Japanese market in April 2016, cigarette sales fell by more than 43%. The decline in smoking rates accelerated in the UK and US after 2012 when vaping started becoming popular. In contrast smoking rates in Australia since 2013 have only fallen by 0.3%/year. This would not be possible if vaping was a gateway drug. An estimated 68 million people around the world now vape compared to 1.1 billion who smoke. There have been no deaths reported from vaping but each year 21,000 Australians and 8 million worldwide die from smoking. The Cochrane Collaboration estimates that vaping is 70% more effective as a quitting tool than nicotine replacement. Vaping in Australia

and worldwide is now the most popular form of quitting smoking. Smoking related deaths are common in people with severe alcohol and drug problems. Australia including the ACT should move to regard vaping as a consumer product rather than a therapeutic intervention and also moderate policies on Heated Tobacco Products, snus and nicotine pouches. The aim should be to make it easy for smokers to switch from deadly cigarettes to one of the growing range of low risk nicotine options. The statement on the 2019 US epidemic of lung injuries wrongly attributing this to nicotine vaping was already known to be wrong in September 2019. The (maximum) penalty for possession of nicotine for vaping in the ACT is imprisonment for up to 2 years!

v.

vi.



(Dr Colin Mendelsohn)

vii. There is much to admire in the discussion about measures to reduce HIV and hepatitis C among people who inject drugs.

viii. Evidence to support the effectiveness of Real time prescription monitoring is unimpressive while there are some concerns about important unintended negative effects. The national drug overdose death rate is very concerning. Prescribing of opioids does need to be more discriminating with prescribing slowly discontinued if worthwhile improvements in function have not been achieved within an agreed timeframe.

ix. It is very encouraging that the ACT is expanding the availability of long acting buprenorphine in the community and in the correctional system.

x. The ACT deserves great praise for its support for pill testing. This is a reform that should have been adopted long ago without the intense resistance other jurisdictions have provided.

xi. The ACT also deserves great praise for further considering a Medically Supervised Injecting facility. What is needed is a service that provides great benefit at affordable cost given the limitations imposed by the population scale of the ACT. In Europe, recognising the inherently risky nature of drug injecting, many new such facilities are designed to also enable self-administration of drugs by inhalation. This has major OH&S implications but these concerns can be accommodated relatively easily.

xii. I understand that the Commonwealth can still over ride laws in the ACT and NT. This further complicates the reform process the ACT can undertake.

xiii. Cannabis decriminalisation in the ACT in 2019 was a worthwhile advance but ultimately cannabis supply should and will be regulated and taxed like other commodities.

c) the adequacy and implementation of the ACT government's current funding commitments to support drug control and harm reduction

I am unable to comment

d) opportunities and challenges for community-based and community-controlled organisations, programs and initiatives to reduce harm from drugs (for example a clinically supervised drug consumption site in the ACT)

i. The experience with vaping in Australia has demonstrated yet again the importance of including people who use drugs in policy discussions.

ii. In Iran I have seen people who have used drugs included in drug treatment settings where they might help induct new entrants to methadone or buprenorphine treatment.

e) issues specific to the drug rehabilitation and service sector (covering alcohol and other drug services) including the following:

i) identifying current strengths and weaknesses in the sector

The international and national experience is distressingly consistent. Drug treatment is grossly underfunded and people struggling with severe alcohol and drug problems all too often have major problems finding attractive and effective assistance. Also drug treatment is often provided through a law enforcement lens. The aim should be for drug treatment to be as available and of the same high quality as any other treatment provided in the health system. The stigma of drug use, an inevitable result of drugs being defined as primarily a criminal justice problem, also gets attached to people who provide health or social assistance to people who use drugs.

In some states in the US where cannabis is now regulated and taxed, some of this revenue is allocated to the prevention and treatment of people with drug problems.

There is a strong case for making quality drug testing readily available including domestic drug testing. This need has always existed but is even more pressing because of the advent of fentanyl and carfentanil.

There is also an overwhelmingly strong case to introduce Heroin Assisted Treatment. The decision in 1997 to terminate the Australian heroin trial was mistaken. The evidence has increased that this is a very helpful intervention for people struggling with severe heroin problems who have not benefitted from a wide range of treatment options. Although this is a small population, perhaps 5% of all heroin users, these 'super-consumers' account for a disproportionately large share of the heroin market, perhaps 30%. Opinion is divided as to whether a trial is needed to introduce prescribed diacetylmorphine (heroin) as a therapeutic intervention supported by intense psychosocial interventions.

ii) assessing current and future demands

After several decades where opioids and other sedatives have dominated the needs of people seeking help, demand from people struggling with stimulants is increasing. This is likely to continue for some time. Development of effective agonist treatment has been neglected.

Australia is exposed to the great risk of increasing contamination of illicit drug supplies with fentanyl and other powerful drugs. This has been a major problem in North America and some other parts of the world. In the short term, Australia should encourage greater availability of drug testing.

iii) recommending services, referral pathways and funding models that will better meet people's needs

f) the availability, access and implementation of best practice drug education material to enable and support prevention, early intervention, and community safety.

My background:

I am a physician. I was the Director of the Alcohol and Drug Service, St Vincent's Hospital, Darlinghurst (Sydney) from 1982 until I retired in 2012. With colleagues I helped establish Australia's first needle syringe program (1986) and Australia's first Medically Supervised Injecting Centre (1999) when both were pre-legal. I also helped establish the National Drug and Alcohol Research Centre (1987), Australian Society HIV Medicine (1989) and NSW Users AIDS Association (1989). I was for many years President of the Australian Drug Law Reform Foundation. I have worked in many Low and Middle Income Countries as a Short Term Consultant on HIV control, drug treatment and drug policy.

Yours sincerely

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