

Legal & Social Issues Committee.

A CONTRIBUTION TO THE INQUIRY INTO THE DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT (PILOT MEDICALLY SUPERVISED INJECTING CENTRE) BILL 2017

Deadline: 17 March 2017

Submit to: injectingcentrebill@parliament.vic.gov.au

Terms of Reference:

(1) The effectiveness of laws, procedures and regulations relating to illicit and synthetic drugs and the misuse of prescription medication in minimising drug related health, social and economic harm; and

(2) The practice of other Australian states and territories and overseas jurisdictions and their approach to drug law reform and how other positive reforms could be adopted into Victorian law.

Analysis:

1. As is now widely acknowledged by many community leaders in Australia, our current national approach to illicit drugs has clearly failed to achieve its objectives while also resulting in severe unintended negative consequences. In responding to illicit drugs, Australian governments allocate (<https://ndarc.med.unsw.edu.au/resource/24> government drug policy expenditure australia 200910) substantial resources to law enforcement (66%), with smaller amounts directed to treatment (21%), prevention (9%) and harm reduction (2%).
2. Identifying benefits from law enforcement measures to reduce the supply of drugs is challenging while severe unintended negative consequences of these measures are self evident. The converse is true for demand reduction and harm reduction measures.
3. Some communities in Victoria bear a much greater burden from illicit drugs than other areas. The suburb of Richmond, in the Yarra Local Government Area, has been under great strain for many years because of a large and growing drug problem. A Coronial Inquest held on December 14th 2016 by Coroner Jacqui Hawkins into the death of Ms. A, who overdosed in a Hungry Jack's toilet in north Richmond on May 29th of May 2016, whose findings are

available to the committee highlighted the nature and extent of the problem and recommended that positive consideration be given to establishing a Medically Supervised Injecting Centre. A Medically Supervised Injecting Centre has been operating in Kings Cross, Sydney since 2001. It is accepted that this Centre has saved many lives by preventing drug overdose deaths, averted a substantial number of non fatal drug overdoses, prevented a large number of HIV and hepatitis C infections, improved the amenity of the neighborhood for local residents and business operators while also accounting for greater financial savings than costs.

4. There are now more than 90 such centres around the world in about ten countries. In the last few years, authorities in a number of countries have announced a commitment to establish additional supervised injecting centres. We may well see another 15 20 such centres opened in the next five years.
5. Some opponents of Medically Supervised Injecting Centres claim that these centres breach the international drug treaties (1961, 1971, 1988). This is not the case. It is inconceivable that 90 centres would exist in 10 countries, including Australia, who subscribe to the treaties if these centres were considered as breaching the international drug treaties.
6. At the 60th meeting of the UN Commission on Narcotic Drugs in Vienna (13 17 March), the International Narcotics Control Board (INCB) noted that 'supervised drug consumption facilities are allowed under [the] treaties if they serve wider health goals'.
7. The International Narcotics Control Board commissioned a report from the UNODC Legal Affairs Section of UNOD, completed in 2002, to determine whether harm reduction measures breached the international drug treaties. The Trans National Institute commented as follows:

Flexibility of treaty provisions

As Regards Harm Reduction Approaches

UNODC Legal Affairs Section

E/INCB/2002/W.13/SS.5

30 September 2002

In a confidential and authoritative memorandum to the INCB, UNODC legal experts argue that most harm reduction measures are in fact acceptable under the conventions. According to the Legal Affairs Section "it could easily be argued that the Guiding Principles of Drug Demand Reduction provide a clear mandate for the institution of harm reduction policies that, respecting cultural and gender differences, provide for a more supportive environment for drug users."

 **Download the document**

About **drug-injection rooms**, the legal advice given is that "even supplying a drug addict with the drug he depends on could be seen as a sort of rehabilitation and social reintegration, assuming that once his drug requirements are taken care of, he will not need to involve himself in criminal activities to finance his dependence" and that it "would be difficult to assert that, in establishing drug injection rooms, it is the intent of Parties to actually incite to or induce the illicit use of drugs, or even more so, to associate with, aid, abet or facilitate the possession of drugs. [...] On the contrary, it seems clear that in such cases the intention of governments is to provide healthier conditions for IV drug abusers, thereby reducing their risk of infection with grave transmittable diseases and, at least in some cases, reaching out to them with counselling and other therapeutic options. Albeit how insufficient this may look from a demand reduction point of view, it would still fall far from the intent of committing an offence as foreseen in the 1988 Convention."

Finally, addressing the remaining doubts about a potential tense legal footing of some treaty articles with harm reduction, the document states, referring to the HIV/AIDS crisis: "It could even be argued that the drug control treaties, as they stand, have been rendered out of synch with reality, since at the time they came into force they could not have possibly foreseen these new threats."

http://www.undrugcontrol.info/en/issues/harm_reduction/item/372_flexibility_of_treaty_provisions

Conclusions and Recommendations:

1. This submission unequivocally supports a proposal to establish a MSIC in Richmond.
2. We recommend that additional such centres should be established in other parts of Victoria with similar conditions to Richmond, that is: (i) a large and growing number of drug overdose deaths and non fatal overdoses; (ii) exasperation of local residents and local business operators with neighbourhood amenity; (iii) support of the local community and local police for the establishment of a similar centre.
3. The legality of these centres and their consistency with the international drug treaties should now be regarded as beyond question.
4. There is a strong case now for establishing centres which can also accommodate people who inhale drugs as well as people who inject drugs. This would make these centres more attractive to some people with severe problems resulting from their use of ice.

5. Many people attending MSIC type centres are severely disadvantaged. Many have severe physical and/or mental health problems, are homeless, isolated, or social facility.

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