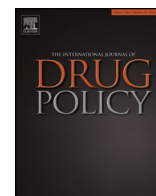




ELSEVIER

Contents lists available at ScienceDirect

International Journal of Drug Policy

journal homepage: www.elsevier.com/locate/drugpo

Research paper

Laws prohibiting peer distribution of injecting equipment in Australia: A critical analysis of their effects

Kari Lancaster^{a,*}, Kate Seear^b, Carla Treloar^c^a Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW, Australia^b Faculty of Law, Monash University, Australia^c Centre for Social Research in Health, UNSW, Australia

ARTICLE INFO

Article history:

Received 31 March 2015

Received in revised form 11 May 2015

Accepted 28 May 2015

Keywords:

Peer distribution

Needle and syringe program

Law

Australia

Problematisation

Carol Bacchi

ABSTRACT

The law is a key site for the production of meanings around the 'problem' of drugs in public discourse. In this article, we critically consider the material-discursive 'effects' of laws prohibiting peer distribution of needles and syringes in Australia. Taking the laws and regulations governing possession and distribution of injecting equipment in one jurisdiction (New South Wales, Australia) as a case study, we use Carol Bacchi's poststructuralist approach to policy analysis to critically consider the assumptions and presuppositions underpinning this legislative and regulatory framework, with a particular focus on examining the *discursive*, *subjectification* and *lived effects* of these laws. We argue that legislative prohibitions on the distribution of injecting equipment except by 'authorised persons' within 'approved programs' constitute people who inject drugs as irresponsible, irrational, and untrustworthy and reinscribe a familiar stereotype of the drug 'addict'. These constructions of people who inject drugs fundamentally constrain how the provision of injecting equipment may be thought about in policy and practice. We suggest that prohibitions on the distribution of injecting equipment among peers may also have other, material, effects and may be counterproductive to various public health aims and objectives. However, the actions undertaken by some people who inject drugs to distribute equipment to their peers may disrupt and challenge these constructions, through a counter-discourse in which people who inject drugs are constituted as active agents with a vital role to play in blood-borne virus prevention in the community. Such activity continues to bring with it the risk of criminal prosecution, and so it remains a vexed issue. These insights have implications of relevance beyond Australia, particularly for other countries around the world that prohibit peer distribution, but also for other legislative practices with material-discursive effects in association with injecting drug use.

© 2015 Elsevier B.V. All rights reserved.

Introduction

The burden of disease associated with blood borne viruses (BBVs) such as hepatitis B (HBV), hepatitis C (HCV) and HIV is substantial. In Australia alone, HCV costs the Australian health care system \$156 million annually (based on 2004–5 data), with those costs predicted to reach more than \$476 million per year over the next 30 years (National Centre in HIV Epidemiology and Clinical Research, 2010b). The economic burden of HBV is also expected to rise over the next two decades (Butler, Korda, Watson, & Watson, 2009). As a result, the prevention of new BBV infections

is a major public health priority in Australia. Public health and BBV prevention education campaigns designed to reduce new BBV infections have a number of different components, many of which are designed to encourage safer injecting practices among people who inject drugs. The reason for this is that a large number of new BBV infections are attributable to unsafe injecting practices, particularly reuse and sharing of needles, syringes and ancillary injecting equipment (Razali et al., 2007).

Public access to sterile needles and injecting equipment has been identified as central to the public health objective of reducing rates of new BBV transmissions (World Health Organization, 2004, 2012). To this end, Australia has a formal policy of harm minimisation and a national network of needle and syringe programs (NSP) (van Beek, 2013). Sterile injecting equipment is distributed for free through these publically funded, fixed and mobile NSP sites, as well as through emergency departments,

* Corresponding author at: Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW, Sydney, NSW 2052, Australia.
Tel.: +61 02 9385 0476; fax: +61 293850222.

E-mail address: k.lancaster@unsw.edu.au (K. Lancaster).

automated dispensing machines (which sometimes require payment by consumers), community health programs, and community-based pharmacies (Australian Government, 2010). It is ordinarily unlawful to distribute sterile needles and syringes in Australia, but NSPs are able to operate through special exemption laws enacted in all states and territories (van Beek, 2013). These exemptions authorise specific categories of people (such as NSP workers and pharmacists) to distribute sterile needles and syringes without risk of criminal conviction (van Beek, 2013). While needle and syringe distribution efforts have been shown to effectively control rates of HIV transmission among people who inject drugs in Australia, this coverage was found to be inadequate for controlling HCV infections (Kwon, Iversen, Maher, Law, & Wilson, 2009). Kwon et al. (2009, p. 467) have argued that distribution of sterile injecting equipment 'is limited by supply rather than demand and that increased coverage is possible'. They estimate that needle and syringe distribution needs to double in order to reduce annual incidence of HCV infections by 50% (Kwon et al., 2009). Australian governments have recently committed to increasing access to sterile injecting equipment (Australian Government, 2010; NSW Ministry of Health, 2012), but questions remain as to how this can best be achieved.

Peer distribution of injecting equipment (also called 'secondary supply', 'extended distribution', 'satellite exchange' or 'secondary exchange') is tacitly acknowledged as an 'unofficial adjunct' to NSPs (Bryant & Hopwood, 2009, p. 324). Peer distribution is defined as 'the giving or receiving of new sterile needles and syringes to/from another individual that were originally obtained from formal or "safe" sources' and may include 'trading, purchasing or selling of needles and syringes for money, drugs or other commodities or services; or it can simply involve the giving or receiving outright of needles and syringes' (Bryant & Hopwood, 2009, p. 324; see also Lenton, Bevan, & Lamond, 2006; Tyndall et al., 2002; Valente, Foreman, Junge, & Vlahov, 1998). A national survey of NSP clients in Australia found that over one third (37%) of participants admitted distribution (onward supply) of needles and syringes (National Centre in HIV Epidemiology and Clinical Research, 2010a). Peer distribution is regarded by some as an important low cost strategy for preventing BBV transmission, with potential for a wider geographic reach than is achieved through existing services (Anderson, Clancy, Flynn, Kral, & Bluthenthal, 2003). Crucially, even though it is recognised as both a common and important harm reduction practice in Australia (Bryant & Hopwood, 2009; Fisher, Wilson, & Bryant, 2013; NSW Users and AIDS Association, 2009), peer distribution is illegal. This is because distribution is only permitted, as noted earlier, where one of the statutory exemptions for authorised persons applies (Legal and Discrimination Working Party of MACBBVS, 2013).

In recent years, this situation has been the subject of analysis and critique by several expert drug policy advisory and advocacy groups (AIVL, 2010; ANCD, 2013; Legal and Discrimination Working Party of MACBBVS, 2013; NSW Users and AIDS Association, 2009). These policy experts and advocates have raised concerns about the public health implications of laws prohibiting peer distribution, suggesting that they may undermine Australia's capacity to reduce new BBV infections. In this article, we extend this analysis further through a consideration of some of the other unexamined material-discursive 'effects' of laws prohibiting peer distribution of needles and syringes in Australia. We argue that laws and regulations governing the distribution of needles and ancillary injecting equipment are a key site for the production of meanings around the 'problem' of drug use in public discourse (see Seear & Fraser, 2014), and that these laws demand critical interrogation as a result. We suggest that the ongoing legislative prohibition of peer distribution simultaneously produces and reproduces problematic constructions of injecting drug use (IDU)

and people who inject drugs (PWID). In this respect, these laws compromise both the stated aims of NSPs as well as the harm minimisation framework of Australia's *National Drug Strategy 2010–2015* (Ministerial Council on Drug Strategy, 2011), the National Strategies on HIV, HCV and HBV (Australian Government, 2014a, 2014b, 2014c) and a range of other campaigns and practices designed to improve the lives of people who inject drugs and reduce the stigmatisation and marginalisation associated with IDU. We develop this argument using Carol Bacchi's (2009) poststructuralist approach to policy analysis. Taking the laws and regulations governing possession and distribution of injecting equipment in one Australian jurisdiction (New South Wales) as a case study, we critically consider the assumptions and presuppositions underpinning this legislative and regulatory framework, with a particular focus on examining the *discursive, subjectification and lived effects* of these policies. By critically interrogating the conceptual logics underpinning laws prohibiting peer distribution, we suggest that there is a need for timely policy and legislative reform in New South Wales and other Australian jurisdictions that prohibit peer distribution. These insights have implications of relevance beyond Australia, particularly for other countries around the world that prohibit peer distribution, but also for other legislative practices with material-discursive effects in association with IDU.

Approach

Carol Bacchi is an Australian poststructuralist theorist and policy analyst. Her innovative approach to policy analysis draws upon Michel Foucault's (1977) work on 'problematization' and 'thinking problematically'. According to Foucault (1988, p. 257), problematization:

doesn't mean the representation of a pre-existing object, nor the creation through discourse of an object that doesn't exist. It is a set of discursive and non-discursive practices that makes something enter into the play of the true and the false and constitutes it as an object for thought (whether under the form of moral reflection, scientific knowledge, political analysis, etc.).

Extending this idea to policy analysis, Bacchi argues that policies 'give shape to "problems"; they do not address them' (Bacchi, 2009, p. x, emphasis original). From this perspective, policy 'problems' are not fixed or stable phenomena that exist 'out there' waiting to be 'solved'. Rather, 'problems' are *constituted* and *given meaning* through the implicit representations contained within public policy. The goal of this mode of critical analysis is to interrogate the problem representations which lodge within policies and, in doing so, open up and critically consider the presuppositions and conceptual logics which underpin governing practices. Bacchi (2009) argues that the ways in which conditions are constituted as 'problems' in policy shape the way we live in a range of specific ways. The way problems are constituted has important effects for 'what can be seen as problematic, for what is silenced, and for how people think about these issues and their place in the world' (Bacchi & Eveline, 2010). Here, the term 'effects' does not refer to 'evaluation' or measurement of 'outcomes' (Bacchi, 2009, p. 15). Rather, for Bacchi, assessing 'effects' means being attuned to the repercussions of particular problem representations for power relations.

Thus, the proposition that policy is *productive* directs our attention towards those effects that flow from particular problem representations. Bacchi identifies three main 'effects' of problem representation: discursive, subjectification and lived effects. These are, respectively: the ways in which problem representations delimit what can be thought or said; the ways in which particular

Download English Version:

<https://daneshyari.com/en/article/1075052>

Download Persian Version:

<https://daneshyari.com/article/1075052>

[Daneshyari.com](https://daneshyari.com)