



Policy Analysis

The structured ambivalence of cannabis control in England & Wales

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ABSTRACT

The two reclassifications of cannabis in England & Wales in 2004 and 2009 have been subjected to a series of academic analyses which have largely been centred on either the relationship to evidence, or in terms of the implications and realities of policing and health under the changes. However, despite the wealth of attention on this area, there have been relatively few attempts to understand these policy movements through broader criminological theoretical frameworks. One recent exception is Shiner's (2015) utilisation of Garland's (2001) concept of 'structured ambivalence'. This paper seeks to test this application through drawing upon an alternative source of evidence, namely, a series of 'elite' qualitative interviews, and using Kingdon's (1995) Multiple Streams model to make sense of the policy processes. In doing so, it largely corroborates Shiner's conclusions whilst also further illuminating particular agentic aspects and their intertwining with other structural and cultural forces which led to the reclassifications. These findings demonstrate the value of triangulating evidential sources and advances knowledge about the role of individuals in pursuing policy agendas within a broader shifting political climate. This provides greater scope to further test and understand how structured ambivalence manifests itself in other cultural contexts and policy domains.

Introduction

In England & Wales, developments in cannabis control during the 2000s underwent a frenetic and contentious period of policy activity. Illicit drugs control in the UK is predominantly based on the Misuse of Drugs Act (MDA) 1971¹ which primarily falls under the remit of the Home Office. The MDA classifies prohibited substances into three categories of A–C on the basis of their purported dangerousness and harm, with Class A considered the most dangerous, and Class C the least. These classifications provide an important legal function in determining the type of criminal justice sanctions that are possible for different offences covered under the Act. Having initially been classified as a Class B drug, cannabis was reclassified twice within a space of 5 years, moving downwards to Class C in 2004, and then reversing back to Class B in 2009.

This rather strange period in drugs policy fuelled a raft of wide-ranging criminological analyses. These largely centred on either the relationship to evidence (Monaghan, 2008, 2011, 2014), or in terms of the implications and realities of policing and health under the changes (Hamilton, Lloyd, Hewitt, & Godfrey, 2014; May, Warburton, Turnbull, & Hough, 2002; May, Duffy, Warburton, & Hough, 2007; Turnbull, 2009; Warburton, May, & Hough, 2005). In spite of what might appear to be a well-worn ground, there have been fairly limited attempts to

evaluate how these developments in cannabis control can be assessed in relation to broader patterns in the contemporary nexus of control culture. Theoretical work on control, particularly those which identify the 'master patterns' of control culture, offer a set of useful tools in which to locate and explain the unfolding of events within a wider social and historical lens.

A recent example of this can be found in the work of Shiner (2015), who utilised Garland's (2001) concept of 'structured ambivalence' to account for the '...messy and apparently irrational series of events' which characterised this period of policy activity. In short, it is asserted that developments in cannabis policy were initially indicative of attempts to push through an adaptive reform, but this was subsequently met with a set of political pressures which led to the invoking of a sovereign state strategy. This leads to the conclusion that '...the [2004] reclassification of cannabis and its failure to deliver a more progressive approach reflect broader tensions and contradictions in the politics of crime control' (Shiner, 2015:696).

The application of structured ambivalence represents a useful contribution to the field. However, given that this analysis is predicated upon existing literature, documents and official statistics, there is still a need to corroborate or refute these assertions. Moreover, there is also a need to explore what other forms of data offer to understanding the particular conditions and motivations which facilitated the

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¹ Although note the introduction of the Psychoactive Substances Act 2016 which introduced a blanket ban on all psychoactive substances not covered under the MDA and which are not subject to exemption.

manifestation and reproduction of structured ambivalence in political decision-making.

This paper draws upon qualitative evidence from a series of ‘elite’ interviews with informed policy actors which explored the experiences and dynamics surrounding the policy-making processes of the cannabis reclassifications. An in-depth examination of the role of social agency, from the perspectives of policy actors, provides an alternative vantage point from which to view the performance and workings of structured ambivalence in cannabis control, thereby allowing for a testing and corroboration of Shiner’s (2015) analysis. In particular, it highlights the role of key individuals in advancing policy agendas within a broader shifting political climate.

The paper is organised as follows: first, a mapping of Garland’s (2001) culture of control thesis followed by a critical summary of Shiner’s (2015) application of structured ambivalence to cannabis control; then, an overview of the methodological approach used; and finally, the analysis and discussion of structured ambivalence within cannabis control.

Structured ambivalence and the culture of control

Garland’s (2001) *The Culture of Control* is arguably one of the most influential contemporary criminological grand narratives, postulating that a transition to late-modernity – and its associated raft of social, economic and political shifts (see Garland, 2001:75–89) – has fundamentally reshaped the field of crime and its control. For Garland, previously dominant ‘penal-welfare’ systems have been eclipsed by competing and ambivalent strategies of control which were catalysed by the presence of a ‘policy predicament’ in which state responses have become conditioned by structured ambivalence.

On the one hand, the state’s withdrawal of being the sole legitimate provider of security from perceived threats is a necessary condition of reacting to the ‘normality of high crime rates’. But on the other hand, the political ramifications of such admissions bring into focus the limitations of modern criminal justice institutions, thereby producing a deficit in political legitimacy. As such, there are attempts to both ‘adapt’ to increasing administrative burdens – through strategies such as the professionalisation and bureaucratisation of law enforcement, defining deviance down, and changes in practice towards managerialist goals – whilst simultaneously reaffirming the ‘myth’ of state sovereignty in the provision of law and order through ‘denial’ and ‘acting out’, which involves the expressive use of political rhetoric and recourse to punitive sanctions (Garland, 1996, 2001).

The result, it is argued, is an ambivalent set of responses which have penetrated all aspects of the criminal justice system from political rhetoric to practitioner actions. Moreover, Garland indicates that the uptake and delivery of these strategies does not exist uniformly across all policy modalities. Drawing upon Goffman’s (1959) conceptualisation of the ‘frontstage’ and ‘backstage’ of interaction, Garland suggests that structured ambivalence manifests itself between the different working environments of the frontstage of the politician and the backstage of the administrator. It is argued that such differences embed structured ambivalence into the performance of policy because they involve a plethora of actors who are attuned to differing and sometimes competing audiences and working mandates.

However, despite its clear insight into the trajectories of crime control, an inevitability of its ‘birds-eye’ perspective and an overt brushing aside of the ‘empirical particulars’ (Garland, 2001:vii) is that this smoothens over, and becomes too abstracted from, concrete exemplars of social agency in decision-making. Moreover, there have been assertions that *The Culture of Control* is a ‘grimly pessimistic’ and ‘determinedly dystopic’ ‘criminology of catastrophe’ (O’Malley, 2000; Zedner, 2002). However, these critiques have arguably been exaggerated. As Garland (2004:170) reaffirmed in a rebuttal, such perspectives ought to ‘...reflect on the non-punitive modes of managing crime that these deep transformations make possible’, thereby

indicating the utility of structured ambivalence in illuminating the potential of social agency to resist, negotiate and advance a range of competing agendas.

Nevertheless, applications of *The Culture of Control* to drugs policy have predominantly stressed the increasing criminalising apparatus of drugs control, usually focussing, in the jurisdictional context of England & Wales, on ‘problematic drug users’ and the drug-crime connection that became particularly prominent during the New Labour administrations of 1997–2010 (see Duke, 2006; Seddon, 2008). The place of other substances, and particularly that of the most used illicit drug, cannabis, has either been largely neglected or naively assumed to follow a model of punitivism. In this sense, there is a dual benefit to Shiner’s (2015) recent analysis of cannabis control; providing both an opportunity to theoretically refresh a well-trodden area through its connecting to broader patterns and trends in illicit drugs and crime control, as well as opening a space in which to explore the complex interweaving of both non-adaptive and adaptive responses. In doing so, this enables a more accurate representation of social agency within the bounded structural parameters that actors inhabit, which is able to capture the ‘counter-doxic struggles’ and ‘delicately balanced forces and power ratios whose equilibria are subject to change’ (Garland, 2004:167–168).

Applying structured ambivalence to cannabis control

Given that the legislative and policy arrangements of cannabis control during the 2000s have been well noted in detail in several previous analyses, the purpose here is to sketch out the main themes and state Shiner’s central arguments rather than provide a comprehensive summary of the changes. As a reference point, a summary of the changes, along with key politicians who were in office at the time of the events, can be found below in Table 1.

Shiner (2015) asserts that the 2004 reclassification from Class B to Class C was broadly indicative of an adaptive strategy in response to a series of coalescing factors. First, that there was increased attention paid to, and evidence of, the administrative burdens of enforcing the law against users and possession offences. This was most notably put forward by the Independent Inquiry into the Misuse of Drugs Act, which was led by Viscount Runciman and organised by the Police Foundation think-tank. Prior to reclassification, the possession of Class C drugs was not an arrestable offence. A key recommendation of the Inquiry was to move cannabis to Class C, thereby removing the necessity to arrest individuals and save resources. Secondly, a shifting political and media environment became supportive of reclassification and generated the sense that the New Labour Government had been caught out of touch with the electorate and were unduly dismissive of the Inquiry’s recommendations.² Set within the context of having been ‘...insulated by a massive parliamentary majority’ (Shiner, 2015:698) following the 2001 election, this provided some political security to advance reform in a notoriously perilous political domain.

The decision to reclassify was perhaps surprising given the broader political climate that New Labour occupied at the time. In 1997 the Labour Party came to power after almost two decades on the opposition benches. During this period of Conservative Party dominance, the issue of crime and disorder had become increasingly polarised and politicised, and Labour’s ‘soft on crime’ image and approach had become a considerable ‘electoral liability’ and ‘skeleton in the cupboard’ which had contributed towards four successive election defeats (Downes & Morgan, 2002; Newburn & Reiner, 2007). Under the renewed modernisation project led by Tony Blair, a dual-facing ‘tough on crime, tough on the causes of crime’ approach came to symbolise a ‘third-way’ in which the Party could reposition itself and appeal to both its traditional

² Although see Monaghan (2011) for an excellent discussion of how this could be interpreted from varying perspectives.

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