



Making medicine; producing pleasure: A critical examination of medicinal cannabis policy and law in Victoria, Australia



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ABSTRACT

Several jurisdictions around the world have introduced policies and laws allowing for the legal use of cannabis for therapeutic purposes. However, there has been little critical discussion of how the object of 'medicinal cannabis' is enacted in policy and practice. Informed by Carol Bacchi's poststructuralist approach to policy analysis and the work of science and technology studies scholars, this paper seeks to problematise the object of 'medicinal cannabis' and examine how it is constituted through governing practices. In particular, we consider how the making of the object of 'medicinal cannabis' might constrain or enact discourses of pleasure. As a case example, we take the Victorian Law Reform Commission's review of law reform options to allow people in the Australian state of Victoria to be treated with medicinal cannabis. Through analysis of this case example, we find that although 'medicinal cannabis' is constituted as a thoroughly medical object, it is also constituted as unique. We argue that medicinal cannabis is enacted in part through the production of another object (so-called 'recreational cannabis') and the social and political meanings attached to both. Although both 'substances' are constituted as distinct, 'medicinal cannabis' relies on the 'absent presence' of 'recreational cannabis' to define and shape what it is. However, we find that contained within this rendering of 'medicinal cannabis' are complex enactments of health and wellbeing, which open up discourses of pleasure. 'Medicinal cannabis' appears to challenge the idea that the effects of 'medicine' cannot be understood in terms of pleasure. As such, the making of 'medicinal cannabis' as a medical object, and its invocation of broad notions of health and wellbeing, expand the ways in which drug effects can be acknowledged, including pleasurable and desirable effects, helping us to think differently about both medicine and other forms of drug use.

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Introduction

Over the last twenty years, several jurisdictions around the world have introduced policies and legislative provisions allowing for the use of cannabis for therapeutic purposes. Since the 1990s, medicinal cannabis (or medical marijuana) programs have been introduced in countries including Canada (Fischer, Kuganesan, & Room, 2015), the Netherlands (Hazekamp & Heerdink, 2013; Hazekamp, Sijrier, & Verpoorte, 2006) and Israel (Mechoulam, 2016; Sznitman & Lewis, 2015), as well as in 28 US states, the District of Columbia, Guam and Puerto Rico (National Conference of State Legislatures, 2017; Room, Fischer, Hall, Lenton, & Reuter,

2010). Internationally there is substantial variation in the ways in which medicinal cannabis is regulated and can be accessed, ranging from the removal of criminal penalties for patients in cases where a medical doctor has recommended the therapeutic use of cannabis, to state-level provisions of medicinal-grade herbal cannabis or pharmaceutical preparations obtained by the patient from a pharmacy with a doctor's prescription (Belackova et al., 2015).

Thus, in the last two decades 'medicinal cannabis' has emerged as an object to be debated, regulated and evaluated. Yet, with the exception of Cameron Duff's (2017) recent work, there has been little critical discussion of what this means for how we might think about the ontology of the 'drug' we call 'cannabis' or indeed of how this thing we now routinely call 'medicinal cannabis' is enacted. It is our contention that policy debates about medicinal cannabis regulation eschew a range of prior ontological questions by assuming the "taken-for-granted facticity or entitative status" (Bacchi & Goodwin, 2016, p.84) of 'medicinal cannabis' and the

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fixed subjectivities of the people who use it. Asking *how* objects have been “practiced into existence and with what effects” (Bacchi & Goodwin, 2016, p.94) is an important question if we are to create space to critically reflect upon their limitations and frameworks of meaning. Such scrutiny is important while policy debates continue, not only once policies are well-established (Lancaster, Duke, & Ritter, 2015). While we welcome and observe with interest the developments in medicinal cannabis policies around the world, we suggest that it is important to consider how access to medicinal cannabis has been made possible, what concepts and problematisations it relies on (and thus instantiates) and how this has potential implications for other areas of drug policy, including, in particular, the limitations in existing cannabis policy and law. Considering the issue of medicinal cannabis policy through a poststructuralist lens opens up these questions, making it possible to think differently. From a poststructuralist perspective, the object of ‘medicinal cannabis’ can be seen as *made in governing practices* and policy development (Bacchi & Goodwin, 2016). Here, the object status of ‘medicinal cannabis’ can be analysed not as fixed and given but rather as a *constructed* and hence *contestable* reality. The questions then become: “what goes into its making? Which practices require repetition on a regular basis for it to be produced? And, what effects accompany its production and use?” (Bacchi & Goodwin, 2016, p.85). Moreover, if the object of ‘medicinal cannabis’ is understood as being constituted in policy and practice, then it is possible to consider the ways in which it might be *made otherwise* (Law & Singleton, 2000; Mol, 1999). Such analysis has the potential to shift the terms of the debate and open up hitherto silenced discourses (Bacchi, 2009).

We suggest that one discourse that is potentially silenced in current debates about medicinal cannabis is *pleasure*. Silence around pleasure in drug policy is not a neutral absence but rather political in its effects, profoundly shaping how drugs (and the people who use them) might be thought about (Bacchi, 2009). As we shall explain, such silence is constitutive and *produces* drugs, their effects, and the people who use them in particular ways. It is therefore deserving of critical attention. The marginality of accounts of pleasure in discussions of drug use and drug policy has been raised by critical scholars (e.g. Duff, 2008; Holt & Treloar, 2008; Moore, 2008; O’Malley & Valverde, 2004; Race, 2008, 2009; Ritter, 2014; Schnuer, 2013; valentine & Fraser, 2008). Somewhat paradoxically, it has been noted that while pleasure might be “one of the most obvious explanations” for drug use, attempts to understand it sit “at the margins” of drug policy discussions (Duff, 2008, p.384). Holt and Treloar (2008) describe the two broad approaches which have historically been used to conceptualise drugs and pleasure: one approach understands pleasure as a sensation of body and mind pharmacologically produced by drugs. The other is a more classically sociological approach, and sees pleasure as less an effect of the drugs ‘themselves’ and instead shaped by the social contexts within which those drugs are consumed. In this paper, we do not seek to apply an a priori definition of ‘pleasure’ or see this as a “hard-edged” category (Bacchi & Goodwin, 2016, p.84). Rather, ‘pleasure’ is another ‘thing’ conceived to be in ongoing formation, thus turning our attention to the relations involved in its production (Bacchi & Goodwin, 2016).

Given our interest here in ‘medicinal cannabis’ more specifically, research which has considered the complex relations between drugs, pleasure, culture, consumption and medicine is also relevant (e.g. Keane, 2008, 2013; Race, 2009). Race (2009, p.2) notes the ‘banishment’ of pleasure from the clinic, observing that “to acknowledge pleasure here would seem to betray the self that medicine must contain in its effort to produce a properly objective body.” The silencing of discourses of pleasure in medicine produces a range of effects, including the demarcation of

‘treatment’ from ‘enhancement’, and limiting the role of medicine to addressing pathologies and restoring ‘normality’ (Race, 2009). Discursive and practical management is required to keep medicalised psychoactive substances within the realm of ‘proper medical use’ (Keane, 2008). In the context of medicine, it would seem to be essential that “the corporeal, artificial and excessive pleasures of drug use do not contaminate the therapeutic project” (Keane, 2008, p.405). But what does this mean for the enactment of ‘medicinal cannabis’, an object which is made as medicine and yet (as we will examine below) is also inextricably intertwined with another version of cannabis sometimes referred to as ‘recreational cannabis’ and its attendant network of relations and meanings? Could the making of ‘medicinal cannabis’ as a different kind of medical object open up and reshape what it is that medicine can ‘do’? What kind of effects might that have for how patients are produced as political subjects or for how ‘medicinal cannabis’ is evidenced and understood to be ‘effective’ as a medicine? Moreover, what effects might this have for what we can think and say about drug use (including ‘recreational cannabis’ use) and pleasure more broadly? To our knowledge there has been no analysis of these questions or of the productive capacity and constitutive effects of medicinal cannabis policy. Given the contemporary focus of drug policy scholarship on medicinal cannabis and the continued marginality of discourses of pleasure in discussions of both drug use and medicine, we suggest that this area of drug policy is a fruitful site for critical analysis of the making of drug realities and their political effects.

Informed by Bacchi’s (2009, 2016) poststructuralist approach to policy analysis and the work of science and technology studies (STS) scholars (Law & Singleton, 2000, 2005; Mol, 1999, 2002), in this paper we seek to problematise the assumed object of ‘medicinal cannabis’ and examine how this object is constituted through governing practices. In doing so, we consider how rethinking ‘objects’ as the products of practices might “open up space to cultivate alternative problematisations” (Bacchi & Goodwin, 2016, p.83). Thus, through this critical analysis, we consider an aspect of the medicinal cannabis policy debate which has been underexplored: how the making of the object of ‘medicinal cannabis’ might constrain or enact discourses of *pleasure*. As a specific case example, we take the Victorian Law Reform Commission’s review of law reform options to allow people in the Australian state of Victoria to be treated with medicinal cannabis. Through analysis of this case example, we argue that although ‘medicinal cannabis’ is constituted as a thoroughly medical object, it is also constituted as unique and fundamentally different from another form of cannabis (‘recreational cannabis’). The social and political meanings attached to ‘recreational cannabis’ (and the network of relations that object entails) cannot be easily separated from ‘medicinal cannabis’. Although both ‘substances’ are constituted as distinct they are made and sustained by a set of overlapping practices and discourses that cannot be easily disentangled. We suggest that ‘medicinal cannabis’ relies on the ‘absent presence’ (Law & Singleton, 2005) of ‘recreational cannabis’ to define and shape what it is, and what it is not. However, we argue that contained within this particular rendering of ‘medicinal cannabis’ is a more complex enactment of *health* and *wellbeing* that in turn opens up discourses of pleasure which have hitherto been silenced. ‘Medicinal cannabis’ appears to challenge the idea that the effects of ‘medicine’ cannot be understood (or indeed desired) in terms of pleasure. As such, the making of ‘medicinal cannabis’ as medicine, and its invocation of broad notions of health and wellbeing, expand the ways in which drug effects can be acknowledged, including pleasurable and desirable effects, helping us to think differently about both medicine and other forms of drug use.

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