International Journal of Drug Policy xxx (2014) xxx–xxx

Contents lists available at ScienceDirect

International Journal of Drug Policy

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

Policy analysis

Drug Policy Governance in the UK: Lessons from changes to and debates concerning the classification of cannabis under the 1971 Misuse of Drugs Act

Mark Monaghan*

University of Leeds, Sociology and Social Policy, Woodhouse Lane, Leeds LS2 9JT, United Kingdom

ARTICLE INFO

Article history:
Received 23 September 2013
Received in revised form 27 January 2014
Accepted 4 February 2014

Keywords:
Policy
Governance
Misuse of Drugs Act
Evidence-based policy

ABSTRACT

Background: Drugs policy is made in a politically charged atmosphere. This is often not seen to be conducive to the ideals of evidence-based policymaking. In the UK over recent years the efficacy of the 1971 Misuse of Drugs Act (MDA) has been one of the most widely discussed and debated areas of UK drug policy. Since inception, the MDA 1971 has remained relatively stable with very few drugs moving up or down the scale and until recently, and with very few exceptions, there has been little public debate on the nature of the system. This changed in the run up to the cannabis reclassification in 2004 from class B to class C, through the reverse of this decision in 2009 and the fallout between the Government of the time and leading members of the Advisory Council on the Misuse of Drugs.
Methods: Based on wide-ranging survey of the literature and secondary analysis of various official publications and academic commentaries, this paper considers what the cannabis episode can tell us about the current state of UK drug policy governance.
Results: Previous research on drug policy governance has suggested that policy goals should be clearly articulated so as to avoid confusion over what constitutes evidence, decision-makers should be 'evidence-imbued' and there should be widespread consultation with, and transparency of, stakeholder engagement. The interpretation here is that recent changes to cannabis legislation reveal that these aspects of good governance were called into question although there were fleeting moments of good practice.
Conclusion: The use of evidence in drug policy formulation continues to be bedevilled by political stalemate and reluctance to countenance radical reform. Where evidence does play a role it tends to be at the margins. There are, however, potential lessons to be learned from other policy areas but this requires a more pragmatic attitude on behalf of decision-makers.

Introduction

> *"Science can, indeed, I would argue must, be the prime mediator of policy if we are to minimise the harms of drugs, both medical and social, but science cannot deliver policy because that is the realm of politics"* (Nutt, 2010, p. 1154).

In the UK (and elsewhere) drug policy is made in a politically charged atmosphere. Nowhere is this more apparent than in debates over the legal classification of substances. In the UK the legal classification of drugs is covered by the 1971 Misuse of Drugs Act (MDA). Since inception, the MDA has remained relatively stable with very few drugs moving up or down the scale. This changed in the run up to the cannabis reclassification from class B to class C in 2004 through the reverse of this decision in 2009 and with the subsequent fallout between the Government of the time and leading members of the Advisory Council on the Misuse of Drugs (ACMD), against whose advice the latter decision was taken.

The efficacy of the 1971 MDA has come to be one of the most widely discussed and debated areas of UK drug policy. Here a clash between science and politics is highly visible and debates are highly politicised. The media reporting of these debates has tended not to focus on the complex scientific deliberation and the evidence-base underpinning classification proposals, but on the political sensibilities of politicians who are labelled as liberal or illiberal on drug policy depending on attitudes towards classification and thus the extent that they are willing to be guided by evidence. Here the UK

* Tel.: +44 0113 343 4413.
E-mail address: m.p.monaghan@leeds.ac.uk

http://dx.doi.org/10.1016/j.drugpo.2014.02.001
0955-3959/

is not alone and nor is this a new development. Tieberghien and Decorte (2013) note similar themes in their discussion of recent changes in Belgian drugs policy. MacGregor (2013, p. 227), meanwhile, demonstrates that the 'tension between evidence and values' has been a 'consistent theme' in drug policy formulation for some time.

In recent years, many governments and agencies have committed themselves to the process of designing, developing, implementing and evaluating policies with a strong research base. In essence, they have signed up to a programme of evidence-based policy making (EBPM). Although the research and policy connection has a long history, in the UK EBPM was closely associated with the election of the New Labour government in 1997. From the outset, the ideal of EBPM outlined by the New Labour government was beset with problems (see Head, 2010). Primary amongst these was the suggestion that policy-makers and politicians are influenced by factors other than the findings of research. Since the passing of the 1971 MDA, in public debate and discourse, drugs have taken on especial negative connotations being associated with incivility and vice. Consequently, drugs have been linked to the 'other' and have aroused passionate, value-driven debates over their perceived harms and dangers. As this is so, they are 'unlikely to be dealt with simply as matter of technocratic, evidence-based, scientific discourse' (MacGregor, 2013, p. 226).

Oakley (2012) provides some evidence for this comparing and contrasting the fluctuating fortunes of two major reports published in the 1960s, both authored by Baroness Wootton. The first Wootton Report on cannabis legislation (Advisory Committee on Drug Dependence, 1968) was disowned by the government that had sponsored it, whereas the second report on alternatives to prison (Advisory Council on the Penal System, 1970), 'led directly to legislation establishing community service as an alternative to imprisonment, a sentence that is still part of penal policy today' (Oakley, 2012, p. 268). Unlike Wootton Prisons report, Oakley suggests that the cannabis report dealt with a specific highly contentious issue that led to sensationalist reportage by the media of the day. In addition, the Cannabis report's findings took the form of a nuanced message that cannabis should not be legalised, but that it should be made distinct in law from other prohibited substances. This message was inconsistent with the ideological stance of key decision-makers at the time, especially Home Secretary James Callaghan. Similar themes, as we shall see, can be witnessed over four decades later.

The issue of cannabis classification gained prominence because it was linked to an increasing preoccupation amongst academics, policy makers and the public over the way that evidence is used, misused or unused in policy making. Policy-making that draws on and uses a broad evidence-base is seen to be a key component of good governance as outlined in a recent report by the UKDPC (Hamilton et al., 2012) however, the primacy status of evidence in policy is questioned by the way that it cannot or should not interfere with the principles of democratic decision-making (HM Government, 2011). In short, the reversal of the decision to classify cannabis as a Class C substance provides a critical case study in looking at the often fractious relationship between the role and use of evidence in decision-making and the principles of parliamentary democracy and how best to bridge this gap. With this in mind, the first section offers a brief overview of the way drugs are classified under 1971 MDA. This is followed by a look at more recent events relating to proposed changes to the drug classification system primarily relating to cannabis. Next, discussion turns to the link between the disputes over drug classification and how these relate to some of the principles of good governance outlined in previous research by the United Kingdom Drug Policy Commission (Hamilton et al., 2012). The penultimate section turns towards some potential solutions. Finally, some concluding remarks are made.

The 1971 MDA drug classification system

The origins of the 1971 MDA can be traced to discussions in the run up to the 1961 United Nations Single Convention on Narcotic Drugs. The Single Convention aimed to standardise the control of narcotics across nations so that certain drugs could be used only for scientific, medical, and in some cases, industrial purposes. This was achieved by arranging drugs into schedules and applying appropriate controls based on their harm and toxicity. Any article in contravention of the convention was a punishable offence, with a custodial term for serious breaches (Fortson, 2005). A defining feature of the MDA is its instigation of a strict classification system for scheduling drugs. Thus, in the UK drugs are placed in one of three categories, A, B or C determined by the extent of relative harm their misuse is perceived to inflict on the individual and society. Indeed, as Levitt, Nason, and Hallsworth (2006, p. 15) note Section 1.2 of the MDA states that drugs are divided between classes based on: (a) whether the drug is being misused; (b) whether it is likely to be misused and (c) whether the misuse in either case is having or could have harmful effects sufficient to constitute a social problem.

A further key component of the 1971 legislation was that it established Britain's first statutory expert advisory body on illicit drugs, the ACMD. Amongst their many functions, the ACMD continuously review the UK drug situation, paying particular attention to the misuse (or the potential thereof) of drugs by the public to the extent that they might be considered a social problem. This is mainly achieved through the production of detailed and rigorous evidence reviews. Their membership is made up from across the scientific, industrial and professional sectors, but most of their work concentrates on the pharmacological evidence-base for existing and emerging substances thus embedding science, research and expertise into the decision-making process. For most of its existence it was common practice for the government to accept and act upon the recommendations of the council, although in a very high-profile way this relationship has been tumultuous over recent years, highlighted in recent public debates about the classification of ecstasy, magic mushrooms[1] and, primarily, cannabis within the MDA.

The changing status of cannabis in the MDA

In the run up to the cannabis classification in 2004, evidence from a number of high-profile reports into the operation of the MDA had concluded that the current system had created some anomalies and that cannabis, in particular, was classified too high in class B (Home Affairs Committee, 2002; Police Foundation, 2000). The Police Foundation Report (2000) had particular significance suggesting that the downgrading of cannabis should be undertaken alongside more discretionary use of police warnings for cannabis possession offences. This coincided with the so-called 'Brixton experiment' which effectively introduced informal disposal and a formal on-the-spot warning for those caught in possession of cannabis. Against this backdrop, the then Home Secretary David Blunkett, told the Home Affairs Committee in October 2001 that he was 'minded' to downgrade cannabis and would seek advice from the ACMD on the possibility of reclassification. The ACMD (2002)

[1] In the 2005 Drugs Act, against the evidence and the opinion of various practitioners, magic mushrooms were placed into class A on the grounds that their active components – psilocin and psilocybin – were of equivalent harm as other class A substances. This has had consequences for use of psilocybins, in particular, in treatment for mental health conditions.

Please cite this article in press as: Monaghan, M. Drug Policy Governance in the UK: Lessons from changes to and debates concerning the classification of cannabis under the 1971 Misuse of Drugs Act. *International Journal of Drug Policy* (2014), http://dx.doi.org/10.1016/j.drugpo.2014.02.001