



PROBLEMATIZING PROHIBITION: A POST STRUCTURALIST ANALYSIS OF BC'S DRUG DECRIMINALIZATION FRAMEWORK

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INTRODUCTION

As the War on Drugs rages on, drug law reform continues to be the subject of much discussion and debate the world over (6, 7, 13). Prohibitionist drug policy frameworks in Canada and beyond have contributed to a devastating loss of human life (7, 10, 13) including British Columbia where 2,224 lives were lost to illicit drug toxicity in 2021 (8).

Drug decriminalization has gained increasing public support and has now been endorsed by health, legal, and enforcement agencies (4, 13). These recent calls emerge after decades of tireless organizing from drug user activists and their accomplices in grassroots harm reduction movements (7,10). Drug decriminalization is often seen as an unequivocal sign of progress, however the models that exist internationally as well as their impact and effectiveness vary greatly (6,12).

In 2021, British Columbia became the first province to seek an exemption from Health Canada under Section 56(l) of the Controlled Drugs and Substances Act and decriminalize the personal possession of illicit substances. This research project applies Carol Bacchi's analytic framework entitled What is the Problem Represented to Be (also known as a WPR Approach) to BC's emerging decriminalization policy. The project aims to better understand the way that the "problem" of (and therefore the solutions to) substance use and drug toxicity deaths are represented in the policy.

METHODS

This project applies Questions 1-4 from the WPR Approach (1 p48) to analyze BC's report (4) entitled: Decriminalization in BC: S. 56(l) Exemption: Request for an exemption to Health Canada from the Controlled Drugs and Substances Act (CDSA) pursuant to Section 56(l) to decriminalize personal possession of illicit substances in the Province of British Columbia. This discursive and thematic post-structuralist analysis is inclusive of the 44-page report published by the BC Ministry of Mental Health and Addictions in October of 2021.

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RESULTS

1. What's the 'problem' represented to be in a specific policy or policy proposal? (1 p48)

The policy proposal represents substance use as a public health issue. It notes that approaching substance use a public health problem is a "widely accepted" societal notion (4 p4). By representing substance use a public health issue, rather than criminal one, the policy's "overarching goal" is to "[save] and [improve] the lives of people who use drugs (PWUD)" (4 p12). Through removing criminal sanctions for people who carry a small amount illicit substance for personal use, the policy intends "to better ensure that all British Columbians who use substances can access health and social services without fear of criminalization (4 p11).

2. What presuppositions or assumptions underpin this representation of the 'problem'? (1 p48)

BC's policy has been celebrated for signalling the end of an era of conceptualizing substance use as a criminal problem while heralding in a new progressive understanding of substance use as a health problem(4,13). However, for Bacchi, health is "a slippery concept, rather than a fixed idea" (1 p128). For Foucault, health is bound up in modern power and normative assumptions about what a productive and normal life and social body look like (11). Encouraging people to access sites of medical surveillance and intervention continues to locate the problem within the individual. Critical harm reductionists, disability scholars, and people who use drugs remind us that medicalization is not inherently de-stigmatizing (5).

3. How has this representation of the 'problem' come about? (1 p48)

The representation of substance use as a health issue is not new. Understandings of substance use as a deviant and pathological condition to be treated by health and legal intervention stretches back to the 1940s and 50s (5). Representations of the 'problem' contained within the policy are the result of complex and conflicting discourses brought forward by stakeholders involved including politicians, police, and people who use drugs.

4. What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently? (1 p48)

As people who use drugs and their accomplices have highlighted (9) the policy does not challenge the criminalization of people who:

- use relatively larger quantities of drugs
- are polysubstance users,
- buy in bulk due to limited access to supply (i.e., in rural and remote communities)
- are houseless and must carry all their supply on them at one time
- sell drugs
- are under 19 years old

In this way it leaves prohibition unproblematized for many and does not challenge the status quo a carceral justice system rooted in settler colonialism, White supremacy, and border imperialism.

5. What effects are produced by this representation of the 'problem'? (1 p48)

Due to the brevity of this research project, questions 5 was excluded. Future research could apply this questions to BC's emerging decriminalization framework.

6. How/where has this representation of the 'problem' been produced, disseminated and defended? How has it been (or could it be) questioned, disrupted and replaced? (1 p48)

Due to the brevity of this research project, question 6 was excluded. Future research could apply this questions to BC's emerging decriminalization framework.

DISCUSSION

Drug user led social movements remind us that decriminalization is long overdue (7,10). However, a WPR Approach challenges taken-for-granted assumptions that drug decriminalization or framing substance use as a public health problem is inherently progressive or liberatory. A WPR approach asks how unthinkingly adopting a curative framework to substance use might undermine the stated objective of the policy to improve the lives of people who use drugs (4 p12). It emphasises that substance use is not inherently problematic and that interrogating the construction and concepts of substance use and criminality are a necessary part of disrupting the harmful effects of historic and ongoing drug policies and practices.

This proposed drug law reform emerges in response to a series of enduring crises including the drug toxicity crisis and the housing crisis. However, as BC's policy acknowledges (4 p16) it is only one small part of addressing the ongoing harm of poverty, homelessness, settler colonialism, and White supremacy. We found that a WPR Approach is helpful to critically analyze policy problem constructions but limited in its ability to offer a much-needed practical evaluation of the proposed framework. BC's decriminalization policy will need to be evaluated over time to understand the lived and discursive effects (6, 7, 9, 10). PWUD should be at the centre of these processes to ensure maximum benefit and reach of any given framework (7, 9, 10). Regardless of the model of decriminalization states adopt, the International Network of People who use Drugs assert it should simply be a "step along a continuum" towards "the full legal regulation of all drugs in a timely manner" (7 p38).

CONCLUSION

BC's emerging decriminalization framework represents a novel drug policy reform that is widely supported (4, 13) and seeks to protect and improve the lives of people who use drugs (4 p12). The policy has many strengths that other provinces and states may seek to replicate. However, it does not problematize prohibition for everyone (9). A WPR analysis of BC's decriminalization framework highlights that drug decriminalization and problematizing substance use as a health issue is not inherently progressive or liberatory. A WPR analysis emphasizes the importance of looking closely at the taken-for-granted assumptions implicit within the policy to understand whether it challenges or reifies the violence of drug prohibition.

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