

POLICY AND GOVERNANCE

Drug policy in Australia: The supervised injecting facilities debate

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Abstract

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The supervised injecting facilities debate in Australia, which reached its peak between 1999 and 2001 when the ACT, Victoria and NSW attempted to establish such facilities, was one characterised by a high degree of conflict between groups with differing moral and political beliefs about drug use. Case studies of each jurisdiction were assembled to delineate the impact of these different groups on the eventual failure to establish trials in ACT and Victoria, compared to success in NSW. The results indicate public opinion was sharply divided on the issue, therefore cannot be considered a major determinant of public policy in this area. Politicians however, because of their ability to block the legislation and funding needed to establish the trials, undoubtedly had the greatest influence in policy making.

DRUG POLICY IN AUSTRALIA – THE SUPERVISED INJECTING FACILITIES DEBATE*

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1 Introduction

Since the mid 1980s, Federal and State and Territory Governments in Australia have endorsed a *National Drug Strategy*, the aim of which is to reduce the harm caused by licit and illicit drugs in the Australian community. Development and implementation of the *National Drug Strategy* is underpinned by numerous advisory and consultation structures, which include representation from all levels of government and various professional groups, such as doctors, the police, researchers and non-government organisations (Ministerial Council on Drug Strategy 2004).

Despite a highly formalised “partnership” approach to drug use (Australian National Council on Drugs 2002), it is arguable many groups outside this partnership have considerable influence on which initiatives are actually developed and implemented in relation to drug use. These groups include the media, opposition parties at both Federal and State and Territory levels, anti- drug lobbies, businesses and finally, the general public. This report will investigate the role of public opinion, versus that of interest groups (including professionals) and political parties, in the development of public policy. In doing so it will focus on illicit drug policy and in particular the attempts to establish supervised injecting facilities in the ACT, NSW and Victoria.

2 Drug Policy In Australia

2.1 Philosophical Approaches to Illicit Drug Policy

It is necessary first to outline debates around illicit drug policy itself. Internationally, there are three dominant discourses in relation to illicit drug use – prohibition, legalisation and harm minimisation (Mendes 2002). Prohibition is most famously practised in the United States, and is associated with a “zero tolerance” approach which seeks to completely eradicate drug use (MacCoun and Reuter 2001). Such an approach is manifest, for example, in the lack of federal funding in the US for initiatives such as Needle and Syringe programs. These programs aim to reduce potential harm from illicit drug use rather than drug use per se (Vernick, Burris and Strathdee 2003).

At the other end of the spectrum is legalisation of drugs such as cannabis and heroin. Proponents of this approach argue the distinction between licit and illicit drugs is an arbitrary one, with much of the harm caused by illicit drug use due to the illegal status of drugs rather than their intrinsic properties (Wodak 2000). In Australia, the social and economic costs of illicit drug use are estimated at \$6.1 billion per year, with much of this cost attributed to drug related crime (Lapsley and Collins 2003). Despite this, legalisation of soft drugs such as cannabis have only taken place in a few countries such as the Netherlands. Calls for the legalisation of illicit drugs are generally overshadowed by the perception that such a move would lead to increased use of hard drugs such as heroin (Kutin and Alberti 2004).

Harm minimisation has been the official policy of Australian governments for the last twenty years (Australian National Council on Drugs 2002). Though a highly contested term, harm minimisation most commonly refers to an approach which recognises that while drug use can never be completely eradicated, measures can be taken to reduce its negative consequences (Hamilton and Rumbold 2004). There is strong evidence, both in Australia and internationally, that harm minimisation policies such as methadone maintenance treatment, supervised injecting facilities and needle and syringe programs greatly reduce the social, economic and health costs of illicit drug use (Loxley et al 2004). The establishment of needle and syringe programs in Australia in the late 1980s for example, is believed to be the single reason for the extremely low rates of HIV among people who inject drugs (Butler 2003).

2.2 Participants in Illicit Drug Policy in Australia

Underpinning illicit drug policy in Australia is the so-called partnership, the main elements of which will be briefly summarised. The overarching entity with responsibility for drug policy in Australia is the Ministerial Council on Drug Strategy, which is comprised of all State/Territory and Federal Ministers in the health and law enforcement portfolios. Supporting the Ministerial Council on Drug Strategy are two bodies, the Intergovernmental Committee on Drugs and the Australian National Council on Drugs. The former consists of senior officials at State/Territory and Federal levels in the health and justice portfolios, while the latter was established specifically in 1998 to provide advice to the Prime Minister, by representing the

perspective of community based organisations involved in drug treatment and rehabilitation (Ministerial Council on Drug Strategy 2004).

Apart from these three structures, there are a number of peak bodies, professional and community based organisations involved in the policy process. Professional associations include the Alcohol and Other Drugs Council of Australia which represents the drug and alcohol service sector, and broader health professional groups such as the Australian Medical Association and the Royal Australian College of Physicians. Additionally, a large number of religious and secular community based organisations such as the Uniting Church and Salvation Army are involved in delivering drug education and treatment services.

Those involved in the illicit drug policy process can be characterised as an “issues network” (Smith 1993, Marsh 1998) for several reasons. Firstly, there are many participants, from clinicians to businesses to drug user groups. Secondly, the illicit drugs debate is marked by much conflict, which can be attributed to differing moral views on the nature of illicit drug use (Hathaway 2002, Parkin 2000). Those who believe drug use is inherently wrong are more likely to support law enforcement, education and rehabilitation measures designed to stop drug use entirely. On the other hand, those morally neutral view of drug use are more likely to support harm minimisation measures (Bush and Neutze 2000). Finally there are resource inequalities. In a typical issues network, those with the most resources will have the most influence in policy making. The majority of funding for drug related initiatives derives from the Federal Government, therefore it would be expected that John Howard’s pronouncements regarding a “zero tolerance” approach to drug use would be reflected in illicit drug policy (Bammer et al 2002). Indeed, as mentioned previously, there is a strong bias in national policy documents and funding allocations towards law enforcement.

The harm minimisation approach received bipartisan support when the first National Campaign Against Drug Abuse was launched in 1985. However, some involved in illicit drug policymaking perceive support has been undermined since election of the Howard Government in 1996 (Department of Health and Ageing 2003). Two incidents appear to illustrate this. One is the Federal Government refusing to allow the

importation of heroin into Australia for a heroin prescription trial in the ACT in 1997. This was despite the Ministerial Council on Drug Strategy endorsing the trial. Secondly, rather than directing additional resources to State and Territory Governments for harm minimisation measures such as Needle and Syringe Programs, the majority of Federal funding is now provided to the Australian Federal Police for law enforcement in relation to illicit drugs (Bammer et al 2002).

3 Possible Determinants of Illicit Drug Policy

3.1 Public Opinion

The seeming erosion of harm minimisation in Australia raises questions about what has caused the policy shift. One possibility is that public opinion has played an increasing role in determining policy directions. The broader community has had a longstanding ambivalence towards harm minimisation programs, due to the belief that they condone illicit drug use (Makkai and McAllister 1998). The National Drug Strategy Household Survey (AIHW 2002) found in 2001 that public support was greatest for law enforcement measures such as the interdiction of illicit drugs coming into Australia. Those interviewed stated \$50 out of every \$100 spent in illicit drug policy should be directed to law enforcement, \$20 to treatment and \$30 to education. Such opinions appear consistent with the increasing emphasis on supply reduction in the most recent iterations of the *National Drug Strategy*, and the allocation of Federal Government funding in this regard (Ministerial Council on Drug Strategy 2004).

The relationship between public opinion and public policy in general has been explored extensively in the United States, with most research supporting three key conclusions (Burstein 2003). Firstly, there is relationship between public opinion and public policy, though the direction and strength of this relationship is debatable. Secondly, the more salient the issue is to the public (or the more attention paid to the issue), the stronger the relationship between public opinion and public policy is likely to be. Finally, interest groups and political parties have the potential to disturb the relationship between public opinion and public policy.

From these uncontroversial aspects, contradictory theories have been developed. One is that public opinion almost always has a large effect on the direction of public policy (Erikson et al 2002). Advocates of this theory cite global studies of responsiveness which have found a positive correlation between the liberal or conservative “mood” of the electorate and ensuing changes in policy, as measured by funding levels and relevant legislation. This theory is also supported by studies which show public opinion is strongly reflected in public policy in specific subject areas, such as welfare spending. Data showing “middle Australia” now prefer increased spending on health and education, together with recent increases in social expenditure by the Federal government seem to provide domestic proof of this theory (Wilson and Bruesh 2004). That is, changes in the preferences of voters away from tax cuts towards greater social spending will be mirrored by changes to fiscal policy.

A second theory is that public opinion has only a small effect on public policy (Jacobs and Shapiro 2002). The independence of elected officials means they need only canvass public opinion in order to successfully market policies which have already been decided upon. Australian research highlighting the increased role within political parties of “pollsters” who provide advice on how to target messages in light of trends in public opinion seem indicative of this (Peisley and Ward 2001). This theory also states that the policy attitudes of most citizens are weak and is evidenced by studies which show that people do not consistently apply abstract beliefs and principles to complex policy issues (Dutwin 2003, Goren 2004).

A third theory stresses the relationship between public opinion and public policy is not fixed but contingent on numerous factors (Manza and Lomas Cook 2002, Domhoff 2002). These include the salience, intensity and coherence of the issue. For example, the more salient an issue, the greater the risk to political parties in moving away from the preferences of the median voter and the stronger the influence of public opinion. The extent to which the relevant policy domain is dominated by interest groups is also important, with increasing numbers of interest groups expected to dilute the influence of public opinion.

This last theory, *prima facie*, seems to come closest to describing illicit drug policy in Australia. The illicit drug policy domain, as mentioned previously, is characterised by

a multitude of divergent voices which may obscure public opinion. For example, despite a lack of public support in the late 1980s for Needle and Syringe Programs, these programs were still implemented because professionals and lobby groups were able to draw attention to the likelihood of an HIV epidemic and the potential for such programs to prevent transmission of HIV through injecting drug use. In the 1990s public policy and public opinion appear more aligned, with both emphasising law enforcement over other drug related initiatives. It is not clear if this alignment is due to greater responsiveness by the Howard Government to public sentiment on illicit drug policy, or if the Government is merely operationalising its own previously held beliefs.

3.2 Interest Groups and Politicians

If interest groups and politicians can also be critical in illicit drug policy making, further investigation is warranted of how they shape solutions to the problem of drug abuse. A theory which may prove instructive here is the policy streams approach.

The policy streams approach postulates there are three separate pathways in policy making (Parsons 1995, Kingdon 2003). The first is the problem stream which uses statistics or critical events to focus attention on an issue. Elected officials are ascribed an important role in this stream in deciding which issues are defined as problems. The second stream is the policy stream in which alternative solutions to the problem “float” with some rising to the top while others disappear. Professionals play the greatest role in “alternatives specification” or determining which solutions to a given problem enter the stream. Factors such as compatibility with community values on the other hand are critical in determining which solutions gain dominance in the policy stream (Kingdon 2003).

Finally there is the political stream which incorporates the influence of political parties, public opinion and the need to negotiate consensus. Kingdon (2003) argues that when these three streams converge, a “window” appears through which policy change can occur. Such a window seems to have appeared in the 1980s with evidence of increasing drug abuse precipitating the acceptance of the harm minimisation model as an alternative to prohibitionism. On a political level, a socially liberal Federal

Government aided the philosophical shift in official illicit drug policy to harm minimisation. At the present time, the policy and political streams appear to have diverged, with professionals continue to advocate for more radical harm minimisation measures such as heroin prescription trials, while the Federal Government focuses on law enforcement (Hamilton and Rumbold 2004).

4 Supervised Injecting Facilities in Australia

A preliminary overview of illicit drug policy in Australia suggests interest groups and politicians have had significant influence, with public opinion perhaps playing a subsidiary role. Though these patterns are clear at the national level, it does not necessarily follow that they will also hold at the state/territory or local level. Literature on policy implementation suggests that although harm minimisation is the official policy of both Federal and State/Territory Governments, attempts to implement this policy may be obstructed by factors such as political responsiveness to negative public opinion, legislative barriers and lack of resources (Hogwood and Gunn 1984, Sabatier 1986).

One method of further delineating the impact of different players at the local and state/territory level is by considering the supervised injecting facilities debate in Australia. Supervised injecting facilities are defined as “legally sanctioned and supervised facilities designed to reduce the health and public order problems associated with illegal injecting drug use” (Dolan et al 2000, Kimber et al 2003). 59 such facilities have been established internationally, with the majority located in Germany, Switzerland and the Netherlands (Kimber et al 2003). Advocates of such facilities suggest their establishment can lead to less disturbance associated with injecting in public, improved access to services for people who inject drugs and fewer drug related overdoses, as injecting takes place in the presence of medical and nursing personnel. By this definition, such facilities fit neatly within the paradigm of harm minimisation.

In Australia thus far, there have been serious moves to open supervised injecting facilities in three jurisdictions – New South Wales, Victoria and the Australian Capital Territory, with NSW alone proving successful. Case studies on each

jurisdiction are presented below, as a means of testing if interest groups and politicians did mediate the influence of public opinion in the supervised injecting facilities debate and if so, which of the two was more powerful.

5 Case Studies

Case studies were assembled using the following sources:

- Newspapers clippings from major metropolitan newspapers in Canberra, Sydney and Melbourne from 1998 to present;
- Media releases by relevant organisations including State and Federal Governments, community and church based organisations, professional associations and other lobby groups over the same time period;
- Hansard records from the ACT Legislative assembly, and NSW and Victoria Parliaments.
- Journal articles; and
- Reports from advisory bodies established in each jurisdiction to investigate the merits of supervised injecting facilities.

Data from these sources was used to determine which interest groups, politicians and the members of general public were involved in the debate in the three jurisdictions, their respective positions and who had the most influence at each of three critical junctures. The first juncture is the framing of supervised injecting facilities as a solution to drug related problems, which can be expected to shed light on who instigated the debate about trials in each state. The second juncture relates to discussions about the location of trials, and is where public opinion can be expected to be most prominent. The third juncture concerns the final decision whether or not to proceed with trials, and should provide information about who ultimately exercised the most influence in this policy area.

5.1 Australian Capital Territory

Discussion around a Supervised Injecting Place Trial in the ACT began in earnest in 1998, and was formalised in 1999 when the Liberal Government released in *From*

Harm to Hope: ACT Drug Strategy, thereby committing itself to “ongoing consideration of a proposal to establish a safe injecting place, subject to legislative assembly approval” (ACT Health 1999). The Supervised Injecting Place Bill 1999, which would allow establishment of such a facility, was approved by Labor, Greens and key government members (including Chief Minister Kate Carnell) in the Legislative Assembly later that year. This was despite anti trial petitions from residents and retailers being tabled during the debate (ACT Hansard 17 February 1999). At the time of the vote, Health Minister and Independent Michael Moore justified the proposal by saying “A supervised injecting room is about saving lives. It is about stopping the spread of disease” (ACT Hansard 9 December 1999).

An advisory committee including health professionals, drug users, the police, residents and business representatives was established in February 2000 to oversee the trial (ACT Government Media Release 9 February 2000). Civic was chosen as the location because strong evidence suggested it was hub of drug activity in Canberra. In April 2000, with urging from the Prime Minister, the International Narcotics Control Board visited Australia to express concern that the trial would contravene Australia’s obligations under international drug control treaties. Health Minister Michael Moore refuted these concerns with legal advice provided to the ACT Government stating the trial would not breach international law (ACT Government Media Release 11 April 2000).

Further problems arose later in the year when the Carnell Government sought to pass its 2000-2001 Budget through the Legislative Assembly. The budget included an allocation of \$800,000 to run the Supervised Injecting Place Trial. As the Government held the minority in the Legislative Assembly, one extra vote was needed for the Budget. The ACT Government faced with the choice between securing the vote of independents Paul Osborne and Dave Rugendyke who were opposed to the supervised injecting place trial, or accepting the offer of the ALP and Greens to pass just the health component of the Budget (Canberra Times 29 June 2000 p1). Greens member Kerrie Tucker was quoted as saying:

“The Greens believe the direction of this Government is unjust and unsustainable.... However as we do support the supervised injecting place, and reject Mr Rugendyke and Mr Osborne’s

hijacking of the parliamentary process over this one issue, I am prepared to support the health line if necessary.” (CT 29 June 2000 p1)

On 2 June 2000, the ACT Government negotiated a deal with the two independents (Australian Associated Press 3 July 2000). As part of this deal, the independents would pass the 2000-01 Budget if funding for the trial was redirected towards drug education and treatment programs. Chief Minister Carnell announced

“We have reached an agreement with the Independents to amend the health line of the Budget so that funding for the supervised injecting place is not included ...The supervised injecting place legislation will be deferred until after the next election.. so that the people of Canberra can have their say” (Daily Telegraph 4 July 2000 p 17)

Announcement of this compromise was met with strong criticism from the Labor Party, the Greens, the Alcohol and Other Drugs Council of Australia and interest groups such as Families and Friends for Drug Law Reform, an organisation founded by parents whose children had died of drug related overdoses. Health Minister Michael Moore himself admitted to being “extraordinarily disappointed” with the postponement of the trial, claiming, “in the interim some lives will be lost who I believe could have been saved” (CT 5 July 2000 p1).

For their part, the Independents involved stated they did “what we believed was right” with the deal being “a compromise that will give the community the opportunity to have a voice on this issues, something that has not occurred to date” (ACT Hansard 10 July 2000). Aside from a vigils in remembrance of drug overdose victims and occasional editorials by Brian MacDonnell urging support for supervised injecting facilities, the debate on this issue subsided until July 2001, when Chief Minister Gary Humphries proposed that a referendum on drugs be held in conjunction with the ACT elections later that year (ACT Government Media Release 9 August 2001). One of the questions to be included in this referendum was “Do you approve of the running, in the ACT, of a trial of a supervised injecting room for people dependent on heroin?” with Humphries declaring

“A recent community survey on the issue confirmed there was growing awareness of the issues, and a range of strong opinions. The argument, posed by the Greens/Labor Coalition, that the issues are “too complex” for the electorate is nonsense ... the Liberals want to give the community a greater say in government decision making especially on sensitive and contentious issues like a supervised injecting place” (ACT Government Media Release 9 August 2001).

Local polling at the time suggested division within the ACT community on the issue of a supervised injecting place trial; with roughly half those polled supporting a trial and another 40% opposed to it. Editorial comment in the Canberra Times interpreted this result as indicating more people “are open to dealing with the drug problem in new ways because the war on drugs isn’t working” (CT 7 August 2001, 11 October 2001 p8). The referendum proposal was defeated in the Legislative Assembly prior to the election, with Labor leader Jon Stanhope claiming a trial of a supervised injecting place would no longer be needed in the ACT as one was being conducted in NSW (CT 30 September 2001 p1).

Stanhope reaffirmed this position after the ALP won the 2001 ACT Government elections, saying he would postpone a decision until results from the NSW trial were available (CT 29 November 2001 P3). Yet in November 2002, in response to an increase in heroin overdoses, Stanhope indicated the ACT Government would revisit the issue, saying

“I have always said we would wait for the outcome of the NSW trial. We have been waiting patiently for that but we have just begun a new budget round. If we don’t consider a trial in this budget round then it would potentially mean we couldn’t consider it for another year and I’m not prepared to do that”. (CT 29 Nov 2002 p 5).

In late 2003, a report commissioned by the ACT Government (Bloggs 2003) indicated a supervised injecting place was no longer a priority for injecting drug users themselves, with the Chair of Alcohol and Other Drugs Taskforce concluding “Given the high proportion of drug users injecting in their own homes ... and the dispersed nature of injecting across the major urban areas, a supervised injecting place trial in the ACT was not considered a high priority...”. (ABC News 16 Dec 2003).

Criticism continued from the State Opposition around the Government's drug policy in general, while Families and Friends for Drug Law Reform specifically targeted failure to establish a supervised injecting place trial. In relation to the ACT Government's new drug Strategy, Brian MacDonnell noted:

“There was no discussion on it (a supervised injecting place trial) and I suspect that people were a little concerned that if it went, money that would be otherwise available for other services would be diverted from them, so without any discussion the proposal was lost”. (ABC News 4 August 2004)

Stanhope responded by saying

“..Brian McConnell is the only one now that would put a drug injecting room ahead of other initiatives. We've listened to the community, we took advice, the advice we have quite explicitly is that a drug injecting room is not the top priority” (ABC News 6 Aug 2004).

5.2 Victoria

Supervised injecting facilities appeared on the Victorian agenda through a report of the Premier's Drug Advisory Council under the Liberal Government in 1996. Such facilities only became a possibility in late 1999 however, when the new Labor Government committed itself to trials in five areas known for a high incidence in drug use – inner city Melbourne, Collingwood, Fitzroy, Springvale and St Kilda. The commitment occurred in the context of a number of well publicised deaths due to heroin overdoses, and pressure from key welfare services to at least trial supervised injecting facilities as a new way of dealing with the problems caused by drug use (Australian Associated Press 25 February 1999).

In announcing appointment of a Drug Expert Advisory Committee which would investigate, among other things, the viability of the proposed trials, the Health Minister John Thwaites noted

“There is enthusiasm in some quarters to act virtually immediately on the Government’s commitment to medically supervised injecting facilities. But the development of these facilities raises critical planning and community issues for local government which will require careful consideration and discussion” (Victorian Hansard 10 November 1999).

The State opposition, including leader Denis Napthine began to question the proposal immediately, with the latter stating

“If the government is seeking a bipartisan approach and community support it must be open and inclusive about its proposals for such galleries. The community is concerned and frightened about drugs, drug addicts and the effects of the drug trade on crime in the community” (Victorian Hansard 10 November 1999).

The Drug Policy Expert Committee, which included clinicians, legal professionals, local government officials and church groups was tasked with consulting with the community in the five municipalities where trials were proposed. Prior to its report being released, the Prime Minister entered the debate, suggesting the trials planned for Victoria, ACT and NSW might be in breach of international drug control treaties. In an interview on 2UE in mid December 1999, Mr. Howard stated the Federal Government would investigate possible breaches of the 1961 Single Convention on Narcotic Drugs. His claim was immediately countered by the Chair of the Drug Policy Expert Committee (Dr David Pennington), the Victorian Health Minister and lawyers in the Federal Attorney General’s Department, all of whom claimed the trials would not necessarily breach international law (The Age 18 December 1999 p1).

The then Australian Federal Police Commissioner, Mick Palmer also expressed opposition, saying “The message that young people can go to these places and safely inject is wrong” (Sun Herald 19 December 1999 p5). Soon after, an organisation comprised of family and church groups opposing the trials was formed. The Community Coalition for a Drug Free Society included the Australian Family Association, Retired Servicemen’s League (Victoria), Women’s Christian Temperance Movement and Church of Jesus Christ of Latter Day Saints. The Coalition’s spokesperson Peter Stokes echoed the views of the Prime Minister and other opponents by proclaiming

“We are deeply concerned that those promoting a soft policy on drug use in Victoria are getting all the attention ... Promoting safe drug use rather than abstinence has sent the wrong message to the community, especially young people.”(The Age 15 February 2000 p5)

The Drug Policy Expert Committee released its report in March 2000. The report stated wide consultation had occurred with the public, including businesses, health service providers, drug users and community members. While some members of the community also believed a supervised injecting facility would “send the wrong message” about drug use and would entrench drug users in certain areas, the report suggested as many as two thirds in all municipalities except in the City of Dandenong supported a trial in their area. Based on these findings the committee recommended the trials proceed, but with local communities involved in the discussions about trial locations (Drug Policy Expert Committee 2000).

Health Minister Thwaites welcomed the report, while noting “The Government is aware of community concerns about injecting facilities, and intends to implement trials only where there is support and collaboration from the councils involved” (Victorian Government Media Release May 26 2000).

With further urging from welfare organisations such as Wesley Central Mission (which hoped to run one of the trials), the Bracks Government starting preparing in June 2000 the Drugs, Poisons and Controlled Substances (Injecting Facilities) Bill. The Victorian Police gave a conditional guarantee to cooperate in the trial, while still enforcing the law and maintaining strict patrols in the areas which would surround the facilities (The Age 2 June 2000 p6, Herald Sun 2 June 2000 p4).

The Bill needed to be approved by State Parliament before the trials could proceed. Health Minister Thwaites outlined at this time that a service agreement detailing the operational arrangements of the facility would be entered into between the minister and the administrator of each trial. Importantly, in an attempt to garner Opposition support, Thwaites announced the agreements would be presented to the Parliament for approval, with both the lower and upper houses having the right to veto them. If the

service agreements was vetoed, the trial would not proceed in that site (Victorian Government Media Release 1 June 2000).

Despite this, the Opposition continued to express doubts about giving in principle support to the trials before detailed plans were available. Around the same time the resident group Footscray Matters called for a referendum on the trials, accusing the Bracks Government of disregarding community views on the issue and stating they would vote out the Government if the trials proceeded (AAP 4 June 2000). Bracks countered “I can’t stand by as Premier and watch this tragic loss of life. If it means that we lose some support over it is still the right thing to do” (Herald Sun 5 June 2000 p11). Other government members highlighted that community support for the trials actually did exist, with one pointing to the formation of a pro trial resident group, Footscray Cares and asserting

“..they (Footscray Cares) are also concerned about the incidence of drug use in businesses areas. They want supervised injecting facilities for users to help rid the community of the public blight of heroin abuse” (Victorian Hansard 31 May 2000)

A retail forum including businesses such as Myer and David Jones entered the debate by calling for greater law enforcement to deal with drug use in the city. The forum stated that many businesses were likely to leave if the city did not become a “drug free zone” (Herald Sun 6 June 2000). The following day a proposal by Wesley Central Mission to establish a facility was rejected by Melbourne City Council on the grounds that state legislation had not yet been passed (AAP 7 June 2000). Soon afterwards, the City of Greater Dandenong Council voted overwhelming in favour of a motion which declared “.. the council rejects in total (supervised injecting facilities) and perhaps closes this debate forever and a day” (The Age 14 June 2000 p4). The motion was largely reflective of a community consultation process which the Age criticized for reaching only a small percentage of residents, and also a public meeting a month prior organised by Footscray Matters, in which 90 percent of those attending opposed the trial (The Age 16 June 2000 p14).

In response to this decision, Opposition Leader Denis Napthine noted “In the communities I am meeting with there does seem to growing concern about injecting

rooms” (AAP 14 June 2000). National Party Leader John Ryan questioned the veracity of the surveys conducted by the Drug Policy Advisory Committee, citing polls conducted by the Sun Herald which illustrated overwhelming opposition to the trials. Contrary to this, the mayors of two municipalities where trials were planned insisted

“Local people in our cities support a trial. We believe their needs have been largely ignored in the debate on this issue. The issue for them is simple: they don’t want to be confronted by drug users and used syringes in their daily lives.” (The Age 17 June 2000 p9)

Premier Bracks sought to bolster these claims by adding

“ It is no surprise that support for supervised injecting facilities, among a range of other initiatives, also comes from groups such as the Australian Medical Association, Law Institute of Victoria and other key groups including ambulance workers ... they can see what is happening” (Victorian Hansard 7 September 2000)

In September 2000, the Opposition announced they would vote against the Injecting Facilities Bill in Parliament, effectively ending the debate about supervised injecting facilities in Victoria (Victorian Hansard 7 September 2000). The opposition cited legal and financial problems with the trial, in addition to lack of support from the public and organisations such as the Salvation Army as reasons for their decision. Evidence of public opinion included consultations undertaken in member’s electorates and editorial comment in the Herald Sun, such as the following:

“The Liberal’s decision was the correct one. It reflects the view of an overwhelming number of Victorians that the state has no business sanctioning and facilitating the use of this dangerous and illegal drug” Sun Herald 15 August 2000

Though the Bracks Government periodically reaffirmed its commitment to the trials, by the 2002 election the issue was deemed a lower priority (The Age 12 October 2002 p6). Bracks has since stated that a reduction in overdose related deaths means supervised injecting facilities are no longer needed in Victoria (Herald Sun 29 January 2004 p22).

5.3 New South Wales

A trial of a supervised injecting facility in NSW was first recommended by the report of the Wood Royal Commission into Police Corruption in 1997, with a Parliamentary Committee formed to investigate its feasibility voting against the establishment of a trial in 1998. This prompted a group including clergymen, former MPs, doctors, drug users and the parents of drug users to establish an unsanctioned supervised injecting facility in early 1999 at the Wayside Chapel in Kings Cross, Sydney. The “Tolerance Room” was intended by its founders to act as a “symbol of civil disobedience” rather than a viable option for service delivery (Wodak et al 2003).

Though closed by police soon after it opened, media attention surrounding the Tolerance Room forced the issue onto the agenda for the NSW Drug Summit in late 1999 (Wodak et al 2003). The Drug Summit brought together all members of the NSW Parliament with community representatives to discuss drug related issues in NSW. One of the Summit’s recommendations was:

“The Government should not veto proposals from non government organisations for a tightly controlled trial of a medically supervised injecting room in defined areas where there is a high prevalence street dealing in illicit drugs ... providing there is support for this at the community and local government level” (NSW Drug Summit 1999)

In July 1999, NSW Premier Bob Carr announced an 18-month trial of a medically supervised injecting facility would be run in Kings Cross and operated by the Catholic organisation Sisters of Charity (Sydney Morning Herald 28 July 1999 p14). Carr said his government “wanted to protect the community from the degrading effects of heroin use” while Special Minister for State John Della Bosca made references to “evidence based politics” (SMH 29 July 1999 p4). To prevent criticism that the trial would deflect funding from education, treatment and rehabilitation, it was decided the trial would be financed using the confiscated assets of people charged with dealing drugs (Wodak et al 2003).

The Drug Summit Legislative Response Bill was presented to the NSW Parliament in September 1999. While members of the government cited acceptance of the need for a trial among residents of Kings Cross, the Coalition declared it would oppose the Bill, with leader Kerry Chikarovski saying “It will convey the wrong message to young people and the wrong message to the community. Indeed, it will not convey to the rest of the world that we are serious about tackling drugs in NSW (NSW Hansard 11 November 1999)

Many Coalition members asserted that representation at the Drug Summit was biased towards those in favour of harm minimisation (NSW Hansard 11 November 1999, 16 November 1999). Greens, Democrats and independent MPs on the other hand, claimed that the Bill did not go far enough, with the local MP for the Kings Cross Area, Clover Moore noting

“At the other end of my electorate, in Redfern-Darlington, there is also strong support for a supervised injecting facility and frustration that so far only one trial has been approved ... By voting for this legislation, you vote to send a message that you want to save lives...” (NSW Hansard 16 November 1999)

The Drug Summit Legislative Response Bill was passed by the NSW Parliament in September 1999, with a number of Opposition members crossing the floor to support the legislation. Like their Victorian and ACT counterparts, the NSW Government also defied the Prime Minister and International Narcotics Control Board, stating the trials did not contravene international law (The Australian 16 December 1999 p1) However establishment of the trial began to experience a number of setbacks. The first was in July 2000 when the Vatican ordered the Sisters of Charity to withdraw from the trial on the basis that participation would cause “scandal” in the broader community. Cardinal Ratzinger, head of the Vatican’s Congregation for the Doctrine of Faith in a letter tabled in the NSW Parliament, is quoted as saying “...these facilities encourage the abuse of and illegal trafficking in drugs, undermine respect for law, degrade social mores, and oftentimes represent the first step towards decriminalization of drugs” (SMH 7 July 2000 p13) As a result funding to operate the medically supervised injecting facility was provided to the Uniting Church.

Another setback occurred when the Kings Cross Chamber of Commerce challenged the legality of the operating license issued to the Uniting Church in the NSW Supreme Court. The Chamber of Commerce indicated they did not oppose the trial in principle; rather, they did not want such a facility located close to local businesses. Counsel for the Chamber of Commerce stated that the NSW Government did not adequately consult with local residents and businesses regarding location of the medically supervised injecting centre (The Australian 22 March 2001 p10). Though the court ruled that the license was valid, the Chamber of Commerce continued to oppose the trial, referring to it as a “Petri dish” and “social experiment” (SMH 6 April 2001 p1).

The trial finally started in May 2001, with newspaper coverage indicating wide support among health professionals and tolerance from the police (Daily Telegraph 7 April 2001 p4). For example, the Royal Australian College of Physicians President Richard Larkins was quoted as saying

“The predominant approach that’s been supported by the Australian community and the government has been one based around law enforcement. The evidence from all countries around the world has been that that approach alone is insufficient” (AAP 13 May 2001)

Criticism of the trial also continued for the first 18 months, with the lobby group A Drug Free Australia being one of the most vocal opponents. The group commissioned a report in 2003 purporting to show that overdose rates in the facility were much higher than those in the surrounding area. Based on these figures, the President of a Drug Free Australia claimed “The centre has failed on its own indicators. It should be closed and that money should be put into rehabilitation” (AAP 11 September 2003).

The medical director of the trial refuted the figures and Premier Carr defended the NSW Government’s commitment to the trial, claiming

“.. on balance, it’s better to have a medically supervised injecting room than to have these people injecting in the alleyways in Kings Cross, forcing the paramedics, the ambulance crews to risk their own lives trying to track them down when an overdose has occurred” (AAP 11 September 2003).

In mid 2002, the Government sought a 12 month extension of the trial to compensate for delays in its establishment. Della Bosca justified the extension by arguing “Closing the door without waiting for scientific evidence would be abandoning the evidence based approach to drug policy in NSW” (NSW Government Media Release 19 April 2002). The Opposition claimed the extension was an attempt to prevent the trial from becoming an issue in the NSW State elections in early 2003. The extension was nonetheless approved.

In mid 2003, an evaluation report on the first 18 months of the trial was released. The report indicated that although it was hard to differentiate the effect of the trial from the “heroin drought” which had taken place over the same period, the trial was responsible for saving some lives, making referrals to other health and welfare services and reducing injecting related health problems. The evaluation report also noted local residents and businesses believed there was less public injecting and equipment left lying on the streets than previously. Finally, the report noted that while approval of supervised injecting facility was high among residents and businesses in 2000, approval at the time of evaluation was even stronger (Medically Supervised Injecting Centre Evaluation Committee 2003).

Though trial opponents used the ambiguous findings of the evaluation to argue for its closure, the NSW Government (again with the support of a number of Coalition members including Opposition Leader John Brogden) voted in September 2003 to extend the trial for a further four years (NSW Hansard 17 September 2003). In 2004, local MP Clover Moore and others such as Indigenous MP Linda Burney renewed calls for a second supervised injecting facility to be established in Redfern.

6 Discussion

6.1 The Impact of Public Opinion

According to the National Drug Strategy Household Surveys, public support for supervised injecting facilities grew between 1998 and 2001 (when the debate was at its peak) from around a third to just under a half of those interviewed (Table 1). This trend is evident at the national level, and in individual jurisdictions including Victoria,

NSW and the ACT. The ACT is notable as it is the one jurisdiction where more than half (55 %) of those surveyed supported supervised injecting facilities. This may be why the debate in the ACT, though not resulting in establishment of a supervised injecting facility, was characterised less by disagreement about the merits of such facilities than debates in Victoria and NSW.

Despite an increase in public support (concurrent with attempts to establish trials in the three jurisdictions), it is clear that at the macro level, public opinion on supervised injecting facilities was sharply divided. However in Kings Cross and in four of the five municipalities chosen for the Victorian trials, support amongst local residents, in surveys conducted on behalf of the respective State Governments, was high. This suggests public opinion at the micro level enabled initial discussion and planning of supervised injecting facilities, though such facilities did not eventuate in Victoria. In this instance, therefore, the theory that public policy is determined by broad “global” trends in public opinion does not appear plausible. This is because opinion at the national and state levels was polarised so a straightforward correlation between opinion and policy outcomes is impossible to draw. Also, public opinion at the micro level was on some accounts different to that at the macro levels. This indicates there is more than one way of defining “public opinion” in relation to supervised injecting facilities.

The question of what constitutes public opinion also arises given claims by trial opponents that tools used by the Victorian and NSW State Governments to measure public opinion were flawed. Opposition members in the Victorian State Parliament asserted questions in surveys conducted by the Drug Policy Expert Committee did not provide an accurate reflection of community views compared to a poll conducted by the Sun Herald. The latter found Victorians were overwhelmingly opposed to supervised injecting facilities. By the same token, opposition members in the NSW State Parliament accused the Carr Government of “stacking” the 1999 NSW Drug Summit with pro harm minimisation groups, therefore barring a true representation of public opinion. Opponents also challenged the results of surveys in the Kings Cross local area, claiming representative samples were not used.

Furthermore, the polarisation of public opinion at national and state levels seems to contradict Jacobs and Shapiro's assumption that the policy attitudes of the average person are weak. This is clearly not the case in relation to supervised injecting facilities, as most people appear to hold strong beliefs about the merit of such facilities though overall public opinion does not tend to one extreme or the other (AIHW 2001). This polarisation of views also makes it difficult to reconcile the supervised injecting facilities debate with the theory that the influence of public opinion is dependent on salience and intensity of the issue. Illicit drugs policy clearly ranks high on both these dimensions, yet because public opinion is divided, one cannot conclude it was critical in the final success or failure of State and Territory Governments to establish trials. For the same reasons the theory that policies will tend towards the preferences of the median voter (Abelson 2003) is not applicable. As people tend to lie at one or extreme or another with respect to supervised injecting facilities, it is not clear who the median voter is.

The influence of certain sections of the public was a distinguishing factor in the Victorian case study though, via formation of local groups purporting to represent both community opposition and support for the trials. Footscray Matters and Community Coalition for a Drug Free Society (which were against the trials) and Footscray Cares (which advocated for the trials) appeared to have been established specifically to intervene in the debate around supervised injecting facilities. Footscray Matters is credited with organising hostile public meetings in the City of Dandenong which, together with a survey conducted by the local council, convinced councillors to vote against establishment of a trial in that municipality. This appears to have acted as a catalyst for Opposition State MPs to vote against the enabling legislation, despite evidence that residents of the other four municipalities approved of a trial in their area.

In the ACT scenario there is little evidence of such groups existing, apart from the tabling of a petition from residents and retailers indicating disapproval of the trial. Though the Sydney press has, through the duration of the NSW trial, reported adverse comment from A Drug Free Australia it is worthwhile noting that this is a national lobby group who do not claim to represent the views of local residents. The absence of locally based community groups in opposition to the trials could possibly be because exposure to public injecting drug use in the Civic area in the ACT and the

previous existence of an unsanctioned supervised injecting facility in Kings Cross. Both of these factors could be expected to mitigate opposition to a trial which promised to reduce public injecting.

6.2 Interest Groups

6.2.1 Health and other Professionals

All three case studies are consistent with Kingdon's theory that it is professionals or specialists which are responsible for "alternatives specification" in any policy debate. In the ACT, the idea of a supervised injecting facility was introduced into the public domain through release of the *1999 From Harm to Hope Strategy*, which was developed through the contributions of health professionals. Four years later, in providing rationale for why a supervised injecting facility trial was no longer a high priority for the ACT Government, Chief Minister Stanhope and others deferred to the advice of experts of the Alcohol and Other Drugs Taskforce.

Similarly in Victoria, a Drug Policy Expert Committee chaired by a renowned clinician provided significant impetus for the trialling of supervised injecting facilities through recommending such trials be a major plank in the Victorian Government's drug policy, and suggesting where and how they should operate. The Chair of the Drug Policy Expert Committee, alongside the Victorian Premier and Health Minister, was the most prominent advocate of the trials in the press, and his advocacy included publicly refuting the arguments of the Prime Minister and other opponents. In seeking to promote the trials, government MPs also made reference to the endorsement of professional associations such as the Australian Medical Association and the Law Society of Victoria.

However it is perhaps in NSW that professionals had the greatest and most unconventional impact on the supervised injecting facilities debate. Through establishment of an unsanctioned "Tolerance Room" in 1999 by a group of doctors, MPs and clergymen, the question of supervised injecting facilities was placed firmly on the agenda of the 1999 NSW Drug Summit, with a mandate for a trial subsequently given. Following establishment of the trial, it was the medical director of the

Medically Supervised Injecting Centre who, alongside the Premier and Special Minister for State most often was called upon in the press to defend the trial.

Through involvement in advisory bodies and pronouncements in the press, police in all three jurisdictions expressed implicit support for the trials. At the national level, professional associations such as Royal Australian College of Physicians and the Alcohol and Other Drugs Council of Australia also indicated strong support, with the Australian Federal Police Commissioner Mick Palmer offering a contrary view. The Australian National Council on Drugs was cautious, claiming they would only support supervised injecting facilities if they were proven effective. These bodies do not appear to have substantially influenced debate at the local level.

6.2.2 Other Interest groups

The influence of other interest groups is most obvious in the Victorian and NSW case studies. Though Families and Friends for Drug Law Reform has had some success in keeping supervised injecting facilities in the local ACT media, this has not ultimately led to establishment of a trial in that state. The other body which played a role in the ACT was one which also influenced the Victorian and NSW debates, that is, the International Narcotics Control Board. In late 1999 the Board urged all three jurisdictions against trials. This received much coverage in the media and in parliamentary debate but all three State and Territory Governments refuted the Board by claiming their own legal advice indicated the trials were consistent with international drug control conventions. Therefore, it appears the International Narcotics Control Board did not play a decisive role in determining whether trials were established or not.

Another key group were religious and associated welfare organisations. In Victoria the Hanover Centre and Wesley Mission were instrumental in pushing for supervised injecting facilities based on the argument that such facilities would benefit their clients. On the other hand, the Salvation Army expressed disapproval of such trials, and their disapproval was used by opposition members to support their position on the Supervised Injecting Facilities Bill in Victoria.

The role of such organisations was also mixed in NSW. The Uniting Church played a lead in garnering acceptance for supervised injecting facilities by providing the venue for the “Tolerance Room” and later for the formal trial. The Vatican however tried to halt the trials by preventing a local Catholic organisation, the Sisters of Charity, from participating. Though not successful in stopping the Centre from opening, the Vatican’s intervention did significantly delay the trial and again highlights differences between macro and micro level politics.

A third key interest group was the business sector, most notably the Kings Cross Chamber of Commerce and the Retailers Forum in Melbourne. Both expressed opposition to trials in their local area. It is arguable that the latter was more influential in the failure of attempts to establish trials in Victoria because it represented large, prestigious companies such as Myers and David Jones, compared to the smaller businesses which populate the Kings Cross Area.

6.3 Politicians and Political Parties

Politicians had an instrumental role in determining whether trials of supervised injecting facilities proceeded in all three jurisdictions. The need for legislative reform provided Members of Parliament with the final veto. Trials in Victoria were blocked when opposition members exercised this veto, while in the ACT, independents utilised the balance of power to redirect funds away from a supervised injecting facility.

Parliamentary discussions in the ACT, Victoria and NSW also reveal similar themes. Trial advocates, including the Liberal ACT Government, Labor NSW and Victoria Governments, Greens and Democrats members made reference to saving lives and noted professional support for supervised injecting facilities. In doing so, politicians (as predicted by the policy streams approach), successfully placed supervised injecting facilities on the agenda by defining drug abuse as a problem which required new solutions. Trial opponents in comparison were more likely to argue that inadequate community consultation had taken place, that supervised injecting facilities were “sending the wrong message” and that the public generally was not in favour of the trials.

Despite the power of politicians in this scenario, their role was not one of manipulating public opinion, as predicted by Jacobs and Shapiro. Politicians, especially those opposed to the trials used public opinion selectively to reinforce arguments for and against supervised injecting facilities. In this way, public opinion may have had an indirect impact on the debate, especially in Victoria where resident groups opposed to the trials were most dominant.

Differences in the structure and membership of the Parliament in each jurisdiction influenced the outcomes of the supervised injecting facilities debate. In the ACT, the Government did not have a majority. Therefore, and notwithstanding the support of the Labor Party, Greens and key Liberal government members, the Supervised Injecting Place Trial became subservient to the wider political context when Labor and Greens members refused to pass the 2000-2001 Budget. This refusal provided anti trial independents with the ability to negotiate with the ACT Government for the redirection of trial funding towards treatment and rehabilitation.

In Victoria, the opposition Liberal and National Parties appeared against the trials from the outset, and were able to use their majority in the State Upper House to block the enabling legislation. In providing rationale for this decision, Coalition MPs made several references to a lack of community support in their electorates (whether or not such electorates were proposed to host trials) and the need to provide more funding into education, treatment and rehabilitation rather than supposedly encouraging drug use by establishing supervised injecting facilities.

In NSW, despite the Liberal and National party members again being largely opposed to the trials and raising similar arguments to their Victorian counterparts, Coalition Members of Parliament were given a conscience vote on the Drug Summit Legislative Response Bill. This led to a few of them crossing the floor to vote in support of trials. Also, unlike Victoria and the ACT, parliamentary debate in NSW included strong pro trial statements by the local MP for Kings Cross, Clover Moore, and by Democrats and Greens MPs who regularly argued that more than one trial should be established.

It is worth noting supervised injecting facilities did not figure prominently in State or Territory elections held over the past five years. In the ACT, Chief Minister Humphries attempted to tie a referendum on drugs policy to the 2001 elections, but this was defeated in the Legislative Assembly. Timing of the establishment and extension of the NSW trial did not (by design according to Opposition MPs) coincide with the 2003 NSW elections. Finally in Victoria, supervised injecting facilities were firmly off the agenda by the time of the 2002 elections.

7 Conclusion

The debate around supervised injecting facilities in Australia provides conditional proof for the theory that impact of public opinion on public policy is contingent upon the role of interest groups and politicians. In all three jurisdictions, discussion around trials of supervised injecting facilities was “crowded” with interest groups including businesses, church organisations, health and law enforcement professionals and resident groups. Furthermore, politicians were obviously the final arbiters on whether trials proceeded or not in their respective jurisdictions.

Definitive claims about the impact of public opinion cannot be made however, because on this particular issue, opinion at the national and jurisdictional levels was polarised and therefore gives no clear indication of policy preferences in the electorate overall. Though one might expect interest groups or politicians to exploit division to reinforce their own positions (as seems to have happened in this instance), none of the three theories about the impact of public opinion offer predictions about policy making when opinion is so divided. There is also failure to contend with problems in defining public opinion, with respect to a policy with national, state/territory and local aspects. In this case, while public opinion at the national and state/territory level was divided, public opinion at the local level appeared firmly in favour of supervised injecting facilities.

Conditional support can also be offered to the policy streams approach, to explain why a trial proceeded in NSW but not in the other two jurisdictions. In NSW, the problem, policy and political streams coalesced. In Victoria and the ACT however, the policy stream advocating for supervised injecting facilities was at odds with the

political stream. Opposition and Independent members in Victoria and the ACT blocked the legislative reform and funding needed for the trials to proceed, and Stanhope and Bracks eventually announced that supervised injecting facilities were no longer a priority for their respective governments.

What the policy streams approach does not provide is an understanding of how different policy mechanisms and governance arrangements determine which players will most influence the process. Two issues around implementation of supervised injecting facilities were critical in the success or failure to establish trials – the need for legislative reform, and the need for funding. There were no obstacles for NSW in regard to these two issues as support from some opposition members allowed the relevant legislation to pass through the NSW Parliament, and because financing for the trial came via a special fund. In Victoria, legislative reform proved to be an insurmountable barrier, while in the ACT, funding for the trial was sacrificed in order to negotiate with anti trial Independents and salvage the rest of the 2000-2001 Territory Budget.

Finally, the supervised injecting facilities debate has two important implications for the policy making around highly contentious issues in Australia. Firstly, community consultation which at the local level indicates support for an initiative may not be adequate to ensure the initiative is successfully established. In Victoria especially the section of the public most virulently opposed to the trials seemed to have greater influence compared to the majority which supported the trials. Secondly, debate will not always be sufficient in resolving differences with respect to a particular issue. The three case studies seem to indicate that most of those involved entered the debate with pre existing beliefs about the nature of drug use, and appropriate responses to drug related problems. These beliefs remained largely unchanged through the process of discussion, indicating there may be some issues on which it is impossible to reach consensus.

8 Appendix

Table 1

Support for supervised injecting rooms (%)

	NSW	ACT	VIC	National
1998	32.7	36.0	34.1	33.1
2001	44.8	55.1	47.4	45.1

Source: AIHW 1999, 2002

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