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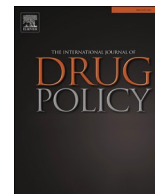
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Essay

Towards a social harm approach in drug policy

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ABSTRACT

In this paper, we explore how the social harm approach can be adapted within drug policy scholarship. Since the mid-2000s, a group of critical criminologists have moved beyond the concept of crime and criminology, towards the study of social harm. This turn proceeds decades of research that highlights the inequities within the criminal legal system, the formation of laws that protect the privileged and punish the disadvantaged, and the systemic challenge of the effectiveness of retribution and punishment at addressing harm in the community. The purpose of this paper is to first identify parallels between the social harm approach and critical drug scholarship, and second to advocate for the adoption of a social harm lens in drug policy scholarship. In the paper, we draw out the similarities between social harm and drug policy literatures, as well as outline what the study of social harm can bring to an analysis of drug policy. This includes a discussion on the ontology of drug crime, the myth of drug crime and the ineffective use of the crime control system in response to drug use. The paper then discusses how these conversations in critical criminology and critical drugs scholarship can be brought together to inform future drug policy research. This reflection details the link between social harm and the impingement of human flourishing, explores the role of decolonizing drug policy, advocates for the centralization of lived experience within the research process and outlines how this might align with harm reduction approaches. We conclude by arguing that the social harm approach challenges the idea that neutrality is the goal in drug policy and explicitly seeks to expand new avenues in activist research and social justice approaches to policymaking.

In responding to critiques about the limits of the concept of ‘crime’ and structural issues in the criminal legal system, critical criminologists in the mid-2000s began a conversation about the need for a conceptual shift towards different approaches to the study of harm that do not rely on legal definitions or concepts – what emerged was the concept of social harm. In a seminal article establishing this area, Hillyard and Tombs (2007: 19) write:

a re-assessment of the limits of criminology is necessary, and all the more fruitful if this is an exercise which assesses the merits or otherwise of criminology alongside an alternative set of discourses.

The social harm approach asks us to de-centre the role of criminal law and therefore legally defined notions of crime. This has included a discussion of what constitutes harm and how that harm is socially produced and defined. Parallel conversations in drug scholarship have critiqued the way the harms of drug use have been presented as the consequence of medical and criminal pathology (Conrad & Schneider, 1992). Critical drug scholarship has unpacked the way drug policy often

assumes that drug use involves inherent physical and psychosocial risks to the consumer, in ways that ignore how drug policies contribute to those risks (Rhodes, 2009). This has included critique of the way drug laws criminalize people who use drugs (Buchanan & Young, 2000), and the way the impacts of drug laws are concentrated on the socially disadvantaged (Alexander, 2012; Amundson, Zajicek & Hunt, 2014). Yet, critical drug scholarship can hardly be regarded as representative of the drugs field, nor of drug policy studies (Seear & Mulcahy, 2023).

In this essay, we will reflect on how conversations about the study of social harm and drug policy can be brought together. It is worth stating from the outset then what we mean by drug policy, and what policy contexts we have in mind when discussing the topic. Drug policy is a highly contested space, drawing on different and often conflicting disciplinary traditions, jurisdictional boundaries, organization systems, public policy goals and political commitments (Ritter, 2021). With all this acknowledged, drug policy can be broadly understood as the way drugs are regulated by governments, including the laws made about them and the institutions and programs that are funded to respond to

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issues that arise from peoples use of these substances - or as we will argue in this essay, the issues that arise from how drug policy constrains the way people are allowed to access and use these substances. Another significant frame of reference for the purpose of this essay is an acknowledgement that much contemporary drug policy is dominated by prohibitionist frameworks, which emerged as part of the colonial project of European imperialism – both for the purpose of expansion of empire in places like the United Kingdom, where the second author is based, and as a way to justify the stolen lands and wealth of Indigenous peoples (Daniels et al., 2021) in places like Australia, where the first author is based. While much of the literature on drug policy, and points of discussion in this paper, relate to policy about *drug use*, the context above provides a necessary articulation of the interrelatedness of how criminalized substances are cultivated, trafficked, sold and subsequently used – how substances are cultivated impacts all parts of the process down to the way they are used. In the context of this paper then, we will be speaking to drug policy as including all aspects of the regulation of drugs by governments, but focusing on how these forms of regulation impact the lives of those who are most subject to this regulation: people who use drugs. Similarly, our focus will be on the way drug policy operates in the global north, though the coloniality of drug prohibition certainly has impacts outside empirical powers and the settler colonies they have established (Lasco, 2022), and therefore may well have a wider relevance.

This paper is a call to focus on social harm instead of crime, or legally defined notions of harm, in drug policy. It asks us to abandon the concept of crime, and by extension the legal institutions that derive from and uphold it, to broaden out our understanding of what is harmful and what kind of harm matters in conversations about drugs. The paper begins with an articulation of where the concept of social harm came from, and an overview of the contributions it has made. This is followed by critical reflection on the principles of social harm and its relationship to existing drug policy scholarship. In the final section, we reflect on how a social harm approach might be used to reimagine drug policy and research.

Criminology, social harm and zemiology

The development of the social harm perspective was born out of key ontological and epistemological critiques of the discipline of criminology (Canning & Tombs, 2021). These critiques are not new, and have extended on long traditions of structural analysis in critical criminology (Young, 2011; Taylor, Walton & Young, 1973), including attempts to expand the remit of the discipline beyond the parochial ‘crime problem’ (Henry & Milovanovic, 2002) as well as a refusal to limit criminology to the study of that which is defined by the criminal law (Muncie, 2000; Henry & Lanier, 1998). Marxist traditions in the discipline have long sought to shift the focus from legal definitions of crime, and towards the crimes of the powerful (Quinney, 1980), to bring attention to disparities in harms that are punishable by law and those that are not. A key example of this is the introduction of white-collar crime as a way of displacing the focus on street-based offences or offences in working-class communities – an attempt to disrupt ideas around the apparent inherent deviance of the working class. These critiques have focused on the way the criminal law constrain ideas of morality (and by extension legality), often made in the image of established power structures and relations. The social harm perspective builds on these traditions, but rather than seeking to expand the discipline, it seeks to move ‘beyond criminology’ (Hillyard et al., 2004).

Social harm scholarship has argued that the concept of *crime*, and the criminal legal institutions that are associated with it (police, courts, prisons and so on), are not equipped to address large scale, systematic and organized forms of harm. This explicitly includes harm done by the state, which is responsible for defining crime and has established and has oversight of criminal legal institutions. From this position state crime becomes redefined as state violence (Davis & White, 2022) in

service of seeking alternatives to a reliance on asking the state to condemn itself – which, as a legal and political system, it has proven unable to do.

Key examples of the use of social harm in the field include areas such as harm caused in approaches to immigration and border control (Soliman, 2021; Canning, 2018), state intervention in families and child ‘protection’ (Wroe, 2022), and poverty (Pemberton, Pantazis & Hillyard, 2017) and social exclusion (Pantazis, 2016). This work has articulated how, when the state generates significant social harm by failing to meet its own responsibilities - to be a responsible member of the global community, to take carriage of the welfare of its own citizens, and so on - it is unrealistic to expect that the state will generate laws that criminalize its own conduct, nor see its conduct as a violence in need of intervention. Moreover, it is unethical to expect that victims of state-produced harms should receive ‘justice’ from the source of that harm.

Scholars drawing on social harm have also focused on broader forms of systemic harm. This includes harms caused by corporate actors (Davies, Hernandez & Wyatt, 2019) in toxic capitalism (O'Brien, 2011) and in relation to the climate crisis. Social harm perspectives have been used to emphasize the structural dimensions of gendered violence (Cain & Howe, 2008) and in the systematic exclusion of gender-diverse people from society (Armstrong, 2021). These uses of social harm have articulated how deleterious social systems and forms of social inequality often go unrecognized by the state, and how in many instances the state benefits from inequitable social relations, and the social exclusion of some - and so even when the state is not an active agent in the doing of harm, it can be investing the doing of some kinds of harm. This has included calls for a canonical revisioning of social harm perspectives that account for the colonial imposition of the state and its capitalist interests on colonised peoples and settler-colonial societies (Wright, 2023).

With the expansion of areas in which the social harm approach has been applied, there has been an accompanying, though ongoing discussion about whether the study of social harm should be considered an offshoot of critical criminology or whether it should form its own discipline. In many ways the distinction is an ontological and epistemological one, about what the concept of crime is and how we can develop knowledge about it. In recalling key moments in the inception of the concept of social harm, Tombs (2018: 11) notes:

[some] felt that the notion of social harm could be developed at the margins of criminology, through challenging the discursive power of concepts of crime, ‘criminal’ and ‘criminal justice’. But for some, given the integral nature of these latter concepts to the discipline of criminology itself, any sustained focus on social harm could only be achieved within a new and separate discipline.

This separate discipline is sometimes referred to as zemiology – the etiology of the term is drawn from the Greek word ‘zēmía’, which has meanings such as ‘harm’, ‘hurt’, ‘damage’ or ‘loss’ (Saunders, 1991). There have also been attempts to reconcile uses of the concept of social harm within criminology and its development into zemiology (Boukli & Kotzé, 2018; Copson, 2018). This includes analysis of the way the Greek translation of ‘zēmía’ encompasses both harms that are outside the legal system as well as concepts that are central to contemporary legal systems, such as punishment and retribution (Kotzé, 2018). About this disciplinary distinction Canning and Tombs (2021: 48) have noted that:

we argue that zemiology is a work in progress: its future projects may take on similar epistemological approaches, but the topics covered should move away from those defined as ‘criminal’ activities and focus solidly on significant, large-scale institutional harms.

For our purposes, we do not see the need to answer that disciplinary question here, but we do wish to make the distinction that in the social harm approach we are speaking to we are not asking for the expansion the term ‘crime’ to uncriminalised harm, but are interested in what

happens when we abandon the concept of crime in drug policy.

Conceptualizing the social harm of prohibition

Social harm scholarship centres the way laws are inseparable from the social and political processes that produce them (public policy debates, media discourse, parliamentary legislative procedures, etc.) as well as the policies that enact them in practice (funding allocations, police practice, service delivery, etc.). Drug laws are no different. A social harm approach acknowledges that people cannot be separated from the social systems in which they occupy (access to economic opportunity, social services, raced and classed systems of power, and so on) - people who use drugs thus also exist in broader social structures and ecosystems from which their drug use cannot be separated.

In acknowledging the way criminal law is inseparable from broader systems, and forms of social inequality, Hillyard and Tombs (2007) outlined a set of key principles for the study of social harm (set in italics below) that we reflect on in this section in relation to drug policy scholarship. Here we seek to draw out the similarities or cross-overs between social harm and drug policy literature, as well as outline what the study of social harm can bring to an analysis of drug policy.

The ontology of drug crime

The social harm approach has articulated that *crime has no ontological reality* - there is nothing intrinsic to an event that constitutes it as 'crime'. Rather, crimes are necessarily constituted through a range of social and legal processes, such as detection and decision-making by police, trial proceedings, conviction and so on. Relatedly, drug scholarship has long engaged with the ontological politics of drugs and drug use. Shared classic texts of both critical drug scholarship (Maher & Dertadian, 2018) and critical criminology - like Becker's *Outsiders* (1963) and Young's *The Drug Takers* (1971) - have long acknowledged the constructedness of labelling drugs as 'deviant'. Elements of the critical drugs field has embraced the notion that criminal legal processes are selectively and unevenly applied to drug use in the community (Musto & Korsmeyer, 2008; Shein, 1993), and has even explored the constitutive production of drug use as crime (Smith & Raymen, 2018). Drug scholarship has also explored the ontological multiplicity of drugs and drug-related phenomena. For example, Seear and Fraser note:

It is not possible to speak of a single or consistent legal response to alcohol and other drug issues, including addiction, whether within a single jurisdiction involving pieces of legislation enacted at the same point in time, or within a broader area where more than one legislative instrument may apply. (Seear & Fraser, 2014: 447)

Scholarship on the ontology of drugs has included the examination of, for example, the way disease (Fraser & Seear, 2016), overdose (Dertadian & Yates, 2023), addiction (Fraser, Moore & Keane, 2014) and treatment (Fraser & valentine, 2008) are enacted in practice, as opposed to being single, knowable phenomena that are viewed as emanating from some anterior social reality to be studied 'at a distance'. These approaches focus on the multiple enactments of drugs and drug-related concepts, and in this way may well be compatible with the idea that, just as 'crime' has no underlying ontological foundation neither does 'drug crime'.

It may be worth lingering on this for a moment to demonstrate the point: not all drug use is processed through the legal system, which is the only way *crimes* come into being. Though drug use is common in the community the process of policing and charging people with drug offenses is highly selective, and often targets people of colour and working-class communities (O'Neill & Loftus, 2013). The way the law defines drug possession also differs greatly between jurisdictions, as do evidentiary requirements, thresholds for what counts as trafficable amounts (O'Reilly et al., 2022), and so on.

It is thus important to acknowledge that the category of 'drug crime'

consists of many petty events, and often explicitly excludes many serious harms. The vast majority of drug offenses processed through the criminal legal system involve low-level possession charges (Mooney et al., 2018; Ward, 2013) and therefore do not involve significant or large-scale forms of harm. This is of course akin to most criminal offenses processed through the system, which involve small amounts of financial loss and minor physical impacts (Hillyard & Tombs, 2007). Though there are limited examples of serious and large-scale harms that can be defined as criminal (like white-collar crime), they are often difficult to prosecute or have much higher burdens of proof than most drug possession and other petty offenses. Most forms of serious and large-scale harm are instead dealt with by legal regulatory frameworks that sit outside criminal law. This is largely because the *construction of 'crimes'* in the criminal law narrows its definition to individualized models of responsibility based on the guilty mind (*mens rea*) of the person being prosecuted. Yet there is no ethical basis for assuming that *interpersonal harm* should be dealt with by criminal law, while *indirect (and therefore social) harm* should be dealt with by regulatory systems.

Relatedly, in the majority of cases when the criminal legal system is dealing with drug offences these do not involve a victim who has been harmed. Though some argue that buying or using drugs that are manufactured in exploitative conditions and trafficked through violent criminal networks means that possession of criminalised substances is not victimless. We would contest this position and note that this unfairly invokes models of individual responsibility closely connected to the concept of crime, in circumstances that are clearly the product of prohibition in a globalized world - which is well outside the control of people engaged in street-level drug transactions. A focus on the individual responsibility of the person who purchases criminalised substances for the harms caused in their manufacture, distribution and sale elides the way that prohibition provides the conditions under which exploitative and violent drug markets are made possible. In this way, prohibition contributes to the construction of drug use as involving deviant or illicit intent, while making invisible the large-scale harm caused by prohibitionist policies that generate the incentive for and inability to regulate underground illicit drug markets. As a result of this fixation on the deviance of the 'drug user' and the desperation of the 'drug addict' there is often little room left for understanding the way drug laws shape violence in the drug market (Bourgeois, 2003; Maher, 2000).

All of this is to say that, while some drug scholarship is certainly critical of the criminalisation of people who use drugs and the lived effects of that criminalisation, it rarely directly challenges the way drug use is categorised as 'crime' (Maher & Dixon, 2017). This has meant that broader questions around whether it is ethical or justifiable for drug use to be considered a crime or subject to criminal legal intervention are often left undiscussed. As a result, the harm generated from prohibiting substances and the resulting targeted punishment of the drug use of some is either left out of the conversation or relegated to an empirical finding. In reflecting on the ontological politics of drugs as crime from a social harm perspective, we seek to argue that 'drug crime' is a rather empty concept, and is only enacted through social and legal processes. Conceptualizing drug policy through the lens of social harm therefore allows for a broader analytical frame to study the meaning of and responses to drug use.

The myth of drug crime

Research on crime often assumes that what it is measuring and analyzing is a preexisting social phenomenon, rather than one that is enacted through social and political processes. From this vantage point, social harm perspectives argue that acknowledging the processes that enact crime require us to make visible the myths that comprise crime - or *the myth of crime*. By the same token, research on drugs often assumes the presence of crime, or at the very least that drug use places people in proximity to criminality. In the context of drug policy then,

acknowledging the processes through which 'drug crime' is made means recognizing that in practice drug crime is a myth, a myth about certain kinds of people and drug use. A social harm approach asks us to disentangle the act of drug use/possession from the category of crime, and by extension from understanding it to be why people come into contact with the criminal legal system – instead, it is prohibition, the criminalising of particular kinds of drug use, of particular communities, which brings the concept of crime into contact with drug consumption.

There is drug scholarship which has sought to challenge an often-unquestioned association and sometimes causal link made between drug use, deviance, and crime - like for example the normalisation thesis. This work has tracked social change around drug use from the 1990s (Parker, Aldridge, & Measham, 1998; Measham, Aldridge, & Parker, 2001) to the present (Duff, 2020; Pennay & Measham, 2016; Coomber, Moyle and South, 2016) and initiated a significant conversation about the need to break down the distinctions between legal and illegal consumption. This involved making direct comparisons between culturally adopted forms of consumption (like with alcohol) and the reasons for the use of criminalised substances. Scholarship on youth culture has explored how drug use has shed a once narrow association with deviance, marginality and dysfunction (Duff, 2004) by appropriating narratives about consumer culture and developing cultures of (often middle-class) drug consumption that coexist with and even complement professional and family commitments (Askew, 2016; Hathaway, Comeau & Erickson, 2011).

In doing so however this literature also reinforces other distinctions around what it means to be normal/functional (Keane, 2021; O'Gorman, 2016), and in articulating a theory of normalisation around youth drug use this literature has in many ways maintained the relations of power that are central to the concept of crime. This is especially the case in research around recreational consumption in 'party' settings, which has had the (perhaps unintentional) effect of excluding the use of drugs in other settings – such as smoking and injecting drug use - from being understood as 'normal'. One good example of this is the way the 'recreational drug use' of often white and middle-class young people is lifted out of the more stigmatising category of 'illicit drug use' in normalization literature. This informs dichotomies of drug use – hard/soft; recreational/problematic; deviant/normalized - that perpetuate stigma among different groups of people who use drugs. This mirrors research which highlights processes of othering between and within groups of people who use drugs connected to lifestyle, drug choice, relative harmfulness, and functionality within society (Askew & Bone, 2019; Askew, 2016; Lancaster et al. 2014).

Though there has been some acknowledgment of processes of othering within groups of people who use drugs, there has been little exploration of how this operates to protect against the stigmatising and criminalising imperatives of prohibition. On this point, it is worth bearing in mind what is at stake for people who use drugs – what do they face if they are not able to position themselves as outside the myth of 'drug crime' or 'the criminal addict'? The answer is social and legal sanction. As such, people often defend their drug use within the wider context of prohibition – for example Hathaway and colleagues (2011) argue that the term normification reflects the way people who use drugs seek to normalize the self, rather than normalize drug use per say.

Here we argue that a social harm approach must confront the way drug research, like much of criminology, often leaves the relationship between *criminalisation and punishment* under-examined. The concept of crime necessarily involves an imperative to punish and if, as we have explored here, it is selectively applied to drug use in society, then this selective process of criminalising drug use will be felt most harshly by minoritized and marginalized communities. This is well evidenced in emerging literature on the way medical models of addiction and legal notions of therapeutic jurisprudence often converge to increase the surveillance of people who use drugs in programs like drug courts (Kaye, 2013). Critical evaluations of drug courts have noted that they are very often coercive (Tiger, 2013), and have found that they intensify

criminalization through strict control of the lives of people who use drugs. This includes carceral punishments associated with minor infringement of court orders, which would not be subject to criminal sanction in other contexts (Vrecko, 2009). The selective punishment of people who use drugs has significant implications on the stigma they are subject to. While the drugs field has developed strong evidence around drug-related stigmas, less is understood about the way people who use drugs might navigate that stigma to avoid punishment (both social and legal).

Stigma between groups of people who use drugs is thus an illustrative example of the need to place distance between oneself and those who occupy the edges of society. Attempts are made to differentiate in ways that disentangle drug use from crime or harm, like types of drugs (heroin, methamphetamine, etc.) or ways of using them (smoking, injecting) that are *more* or *less* associated with criminality. These are tacit acknowledgments of the *myth of drug crime*, examples of attempts to enact personal drug use at a distance from, or even outside the criminal question by comparison.

In reflecting on the way drug scholarship has engaged with the question of the myth of drug crime, we note that a social harm approach would ask us to consider the question of why the category of crime can be left in place for some, with a research agenda focused on how, often white and middle-class people who use drugs can develop normal adaptations to that which is enforced as criminal pathology in other contexts. This also signifies the importance of the zemiological consideration of how the category of crime serves to *maintain power relations*. This requires us to interrogate more directly the concept of crime, its application to drugs and the way it imagines its subject - from this vantage point the normalisation of drug use in 'bounded' contexts should be viewed as part of the colonial and carceral systems from which it emerges. The social and legal process that generate *drugs as crime* are processes of racialisation, processes of class violence that always already reinscribe the pathology (criminal or otherwise) of 'othered' groups. We see the task of abandoning the category of drug crime as core to breaking a cycle of scholarship which has only been able to focus on how people adapt to the apparent criminality of drug use and can only imagine the drug use of white and middle-class people as 'normal'. This is an approach that takes its lead from the activist origins of harm reduction (Hassan, 2022), which takes a more universal approach that posits that sensible drug policy must start from the position that drug use is a normal part of the human condition – the antithesis of a criminal pathology – and that good public policy is therefore about making drug use as safe as possible.

Responding to drug crime

Owing to the way crime is often decontextualized from the processes that produce it, both criminology and the drugs field often sanction and authorize the *expansion of regimes of crime control*, which are *not effective*. While critical drugs scholarship has certainly argued against the expansion of the surveillance of people who use drugs, as well as criminalizing and aspects of medicalizing drug use, there is an often uneasy relationship between critical drug scholarship and drug policy. For example, Seear notes that poststructuralist approaches have:

“...generated important insights, including that drugs become an object for thought (and action) through policy, routinely depicted as self-evident 'problems' generating a range of problems including criminal behaviour, illness, injury and death. [Yet] the notion that drugs are inherently harmful is both commonplace and taken-for-granted in much policy” (Seear, 2023: 6)

This is despite the reality that on any measure by which crime control has sought legitimacy as a public policy approach to drugs, including the expansion of police powers (Stuurman, 2020) and social surveillance (Bardwell et al., 2022) that it has ushered in, it has failed to achieve its stated goals. Likewise, prohibition has proven unable to control the

global supply of drugs, to reduce the demand for drugs, to reduce the burden of drug use on the health system, and to make communities safer (Csete et al., 2016) – in fact, it has been argued to make each of these situations worse (Seear, 2020; Lawrence, 2007).

As noted above critical drug scholarship has sought conceptualisations of drug policy that can account for the myths that comprise drug crime and policy responses to it. For example, poststructuralist drug policy research has highlighted how regulatory structures and systems shape drug problems, rather than respond to them. Carol Bacchi's (2009) WPR (What is the Problem Represented to Be?) framework has been used to shift the policy analysis focus from evaluating the usefulness of policies in addressing problems, to an analysis of how that problem is constituted within policy. WPR urges researchers to ask how and why behaviour (in this instance, drug use) and phenomena (drugs) become problematized. This challenges the assumption that drug problems merely exist outside of the policy context and posits that these are shaped and (re)constituted within policies themselves. Walker and colleagues (2020) for example use the WPR approach to highlight how prohibitionist and harm reduction policies are in conflict. They use the example of prison drug policy in the Victorian state of Australia which is positioned as harm reduction but prohibits the provision of unused injecting equipment. The authors explicate how this prohibition on unused injecting equipment creates harms within the prison environment, such as sharing of equipment within a population with high rates of Hepatitis-C and other blood-borne viruses, the inability to clean equipment, fear of reprisals that can lead to marginalized practices that create stigma – the prohibition on the provision of unused inject equipment therefore produces the harm the policy says it is seeking to reduce.

In this way, both the social harm approach and critical drug studies draw attention to institutions, policies, processes, and discourses as harm producing, rather than harm reducing. Yet, WPR is a method that asks drug researchers to begin with a policy, and systematically articulate how social or structural issues produce the problem that the policy purports to respond to. This often results in empirical and analytical findings that draw attention to the way prohibition generates the object of drug policy as a matter of responding to a criminal problem, a carceral subject and so on. Social harm on the other hand asks us to start from the position that the object of analysis should be prohibition itself, and the attending social inequalities that help to constitute it.

Reimagining drug policy

Now that we have brought the conversations in social harm and drug policy closer together, it is necessary to reflect on how a social harm approach might be used to reimagine drug policy. In a context in which international consensus around drug prohibition is beginning to fall away (Stevens et al., 2022; Bonn et al., 2020) it is more important than ever to develop new ways of thinking about drug policy and harm. Here we draw from the interdisciplinary frameworks that have already emerged in social harm literature as paths to alternative discourses to that of crime and the criminal legal system. Social policy scholar Pemberton (2007; 2016) has for example drawn from Doyal and Gough (1991) in the development of a framework to conceptualize how social harms are experienced as unmet needs. Similarly, Yar (2012) defines social harm within a needs-based framework comprising love, rights and esteem, while sociologist Sayer (2011) argues that we can derive a better understanding of what matters to people by studying concepts such as dignity, rather than health.

Foundational to these concepts of social harm is a call to move away from carceral logics and pathologising imperatives to make space for, what Pemberton (2004) refers to as 'human flourishing'. In order to take up these ideas in the design and development of drugs and drug policy research, this requires deep reflection on what research matters (most) and how this translates to real-world policy contexts.

Social harm and the decolonization of drug policy

Given the colonial imperatives that rest behind the emergence of prohibition it is significant in any attempt to refocus the drugs field around systematic and structural harm to canvas the many recent calls to decolonize drug policy. The case for a social harm approach that this paper seeks to make acknowledges both the need to undo the relationship between colonisation and drug laws (Daniels et al., 2021) and the coloniality of the capitalist and carceral character of the societies that zeminology has focused on (Wright, 2023). In doing so it is essential to recognize the call to decolonize as necessarily a matter of contesting the land ownership of the colonial power (Tuck & Yang, 2012), and the associated political rights of Indigenous peoples: these include the right to govern lands that were stolen from them (sovereignty) and the right to make decisions about their own lives (self-determination) (Shrinkhal, 2021). Indigenous scholars have long noted that settler-colonialism is a structure, not an event (Wolfe, 2006), and therefore understand it to be an active and ongoing form of violence in contemporary society (Quijano, 2000). This framing has been developed into a broader movement in which First Nations women in particular have led advocacy for an intersectional feminist approach which reduces rather than expands the impact of carceral systems on colonised peoples (DesLandes et al., 2022; Watego, 2021).

Taking the political rights of First Nations peoples and the intellectual and activist traditions of Indigenous scholarship seriously requires abandoning some well criticized but still prominent elements of the epistemology and ontology of much drug scholarship. For example, First Nations scholars have long critiqued the idea that the goal of research is to achieve 'neutral' and 'value-free' knowledge (Walter & Andersen, 2016; Tuhiwai Smith, 1999). Indeed, the search for neutrality has been criticized for centering colonial knowledge systems and cementing colonial knowledge practices as the only 'legitimate' (Battiste, 1998) way to understand social phenomena – or as Tobi (2020: 270) notes "[the] coloniser's claim to epistemic superiority is premised on a (false) claim to neutrality and objectivity".

It is especially important to reflect on these epistemic questions in the drugs field, because prohibition has a long history of targeting First Nations peoples (Daniels et al., 2021). The implication that academic researchers or scientific research methods are better able to access the 'truth' of Indigenous people's relationship to prohibition, drugs and harm, over and above Indigenous people's themselves, is a clear example of what is often referred to as epistemic violence (Nakata, 2007). This epistemic violence often involves paternalistic attempts to 'care' for the 'savage native' who is presented as not able to *know* how to care for their own (Porter, 2019) – creating ideal conditions for legal intervention into their lives, especially if they use drugs. This dovetails with broader accounts of 'care' in the drugs field, which have contested the way legal systems claim to care for people who use drugs: as Farrugia and colleagues note (2019: 433) "Despite its benevolent tone, care is not an innocent discourse, and research on care must not obscure or conceal the ethics and politics of attempts to care". The epistemic violence of state-based forms of 'carceral care' (McGlade, 2019) sits in contradistinction to the way harm reduction and the lived knowledge of peer user communities have sought to care for one another (Kolla & Strike, 2020; Watson et al., 2020). Relevant too is the way First Nations peoples (and other racialized communities) resist and survive prohibition, such as the development of Indigenous Harm Reduction (Native Youth Sexual Health Network, 2022). Ignoring or not responding to the concerns of First Nations communities and Indigenous scholarship, which note that Indigenous peoples are the experts in their own lives, is a harm often unrecognized in the field (Dertadian, 2024).

Taking a social harm approach may allow drug policy to centre these harms of prohibition as the forms of ongoing colonial violence that they are. It is our contention then that, as critical drug scholars who are seen as experts on drug policy, we should be considering the harms of prohibition as a form of colonial violence, the likes of which criminal legal

systems are epistemologically and ontologically unable to see. Legal systems do not make laws about the ongoing violence that legitimize its authority as the law of the land (Giannacopoulos, 2023). Further, the role of lived experience and care for community in relation to principles of decolonial practice outlined here also have broader implications in the field, and will be discussed below.

Lived experiences of drugs and social harm

To fully recognize what interrupts the human flourishing of people who use drugs, and what undermines their dignity, we must speak directly with and centre the experiences of people who have lived the harms of prohibition. Both social harm and drug policy scholarship have called for the better inclusion of those with lived experience in research.

Drug scholarship has for example noted that “the voices of people who use illicit drugs have been marginalised from drug policy debate” (Lancaster, Ritter & Stafford, 2013: 60). In response, the field has seen calls for the inclusion of the voices of people who use drugs as representing an opportunity to advance participatory democracy in drug policy (Ritter, Lancaster, & Diprose, 2018) and to be “invited to contribute [to research] as a group of experts” (Lancaster et al., 2015). In further conceptualizing how we might see experience as evidence in policy processes, valentine and colleagues (2020) have warned against doing so in ways that rely uncritically on redemption narratives that neatly move from being an ‘addict’ to being ‘clean’. They note that we must embrace rather than shy away from the messiness that often exists in people’s experiences of drug use, in ways that are not divorced from the structural conditions and policy arrangements that produce drug harms (valentine et al., 2020). There is a lesson in these accounts of how lived experience might come to be a fuller part of drug policy about ensuring that the full spectrum of people’s experiences with drugs are accounted for and not reduced to dominant, often moralising and stigmatising ideas about drug use.

Calls to include lived experience in drug policy are mirrored in social harm scholarship, which has articulated the role of lived experience as an important step in decentering crime in the study of harm. Pemberton (2007: 33) has for example said that the role of lived experienced perspectives in social harm scholarship “is to help create the discursive spaces where the marginalized can articulate their lived experience of harm without persistent reference to the notion of ‘crime’”. Given the above, we see the role of incorporating the voices of people who use drugs in drug policy research as central in allowing space to cultivate a language about drug use divorced of criminal pathology, a way of speaking about drug use that does not require apologizing for its presence in one’s life. Qualitative research already has a demonstrated capacity to “provide powerful correctives to biomedical and behaviourist paradigms” (Maher & Dertadian, 2018: 113) - we suggest the same can be done for the criminal and carceral paradigms.

Pertinent to conversations about including lived and living experiences of drug use in ways that decentre the criminal and carceral are conversations about the language we use to describe those who are subject to (the harms of) drug policy. Peer user movements and advocates have led the charge to remove dehumanising language from drug policy, and have championed the use of person-centered language: this includes around drug use itself (people who use drugs) (INPWUD, 2011), but also related to diagnosis (people diagnosed with substance use disorder) (Traxler et al., 2021), and processes of criminalization (system impacted people) (Berkeley Underground Scholars, 2023) and incarceration (people who live in prison, formerly incarcerated people) (Harney et al., 2022). Whilst it is important to recognize the significance of self-identification, which may include positive identification with terms such as ‘addict’ or ‘junkie’, we must critically interrogate the identities and ways of being that are available to people who use, supply, and cultivate drugs, especially labels that have been constructed through legal and criminal processes.

One of the key areas where calls for lived experience in the field is

necessary has been around peer-led campaigns to decriminalize drug possession (Bartoszkowski, 2021; Greer & Ritter, 2019). As decriminalization has gained momentum in Europe, North America, and Australia over the last 30 years, a significant body of evaluation literature has accompanied it – yet little of this has included the perspectives of those who use drugs and are therefore those most impacted by these drug law reform initiatives (INPUD, 2018). The most common form of decriminalisation has involved replacing criminal sanctions with civil sanctions (such as fines) or court orders to attend treatment. Of the few studies that have sought the views of people with lived experience of drug use about decriminalization, clear evidence is emerging that simply removing drug possession from the criminal law has limited impact on the harm that legal systems generate towards people who use drugs:

These accounts only serve to reinforce the fact that without full decriminalisation (no sanctions, no exceptions) many of the entrenched problems between law enforcement and people who use drugs will largely continue unabated, albeit in a less obvious manner in some contexts. (INPUD, 2021:17)

Seemingly progressive public policy remains ineffective, and the health crisis remain unabated because social inequality, including racial and gendered violence, are entrenched (Lopez et al., 2022). It is our contention that social harm may provide a useful conceptual tool in explaining why simply removing possession from the criminal laws is not enough to achieve the human flourishing of people who use drugs.

From a social harm perspective, incorporating lived experience in drug policy is about placing those most harshly impacted by prohibition, those most harmed by prohibition, at the center of the research endeavor. It means refocusing the epistemological energy of the field away from ‘scientific’ and ‘representative’ research and towards ‘situated’ and ‘grounded’ understandings of the harms of criminalization and the path(s) towards supporting the human dignity of people who use drugs. This must be done in ways that avoid extractivist research practice that take from communities of people who use drugs without genuinely incorporating them in the way projects are framed, methods are designed, and findings are used (Lenette & Nesvaderani, 2021), as well as in ways that ensure their same inclusion in the services to which this research is likely to be the most relevant (Pauly et al., 2015).

Social harm and harm reduction

It is worth acknowledging that the way a social harm approach is driven by an imperative to disentangle drug use and crime is of course not necessarily new, given this formed a central part of the mutual aid practices (Spade, 2020) and peer user movements (Crofts & Herkt, 1995) of the early history of harm reduction.

While we see social harm approaches as compatible with contemporary harm reduction, our reflections in this paper wish to engage more deeply with what version of harm reduction is most compatible with the social harm perspective. In valuing the need to centre the lives of those most harshly impacted by drug laws and policies, in putting human flourishing at the core of the drug policy project, some versions of harm reduction become more appealing, and others less so. Though the authors recognize that these are not entirely distinct or unrelated, our call to move toward a social harm approach to drug policy is less compatible with bureaucratized and medicalized models of harm reduction, and is more compatible with the activist origins and peer-led elements of harm reduction.

Well before the HIV crisis created the imperative for harm reduction to become mainstream public policy (Des Jarlais, 1995; Cotton, 1994) it was developed in practice among underground communities of people who use drugs, and those abandoned by social systems, like those with limited economic means, gay and trans people of colour and those engaged in street-base sex work (Hassan, 2022). In fact, early harm reduction was explicitly committed to an “overarching politics about the dehumanizing role of state violence in our lives” and with “the possibility

of living freely, without the fear of violence, police, or prisons" (Hassan, 2022). This is quite a distance from the more mainstream version of harm reduction that has been popularized since, which has sought out partnerships with the state for harm reduction at scale. In this context, harm reduction policy often ends up being about *making prohibition safer* because it is required to respond to conservative policy and policy-making processes. A common way of (re)framing harm reduction under these political conditions is to defer to medical knowledge or authority, to say that drug use is a health/medical rather than a criminal problem (Vearrier, 2019; Roe, 2005; Marlatt, 1996). Yet this ignores the way medical surveillance (Frank et al., 2021) and social control (Conrad, 1992) of people who use drugs has also been demonstrated to undermine the experience and expertise of affected communities, as well as undercut elements of the peer user movement (Stanley, 2021). Here we do not mean to suggest that peer-lead harm reduction is not already informed by robust public health practice, nor that clinically-oriented harm reduction services have no role to play. Both are important and key to ensuring the health and happiness of communities of people who use drugs. Rather, we wish to make the point that medical models which de-emphasize or de-value the expertise of those with lived experience can be harmful (Dertadian & Yates, 2023).

There are more contested accounts of contemporary harm reduction in drug policy literature, which have sought to account for the transformations that it underwent in its journey to the mainstream. These accounts have focused on developing a stronger conceptual foundation and an understanding of how it works (and therefore what it is) in practice. For instance, Miller (2001) notes that harm reduction lacks a substantial sociological theoretical underpinning, which has allowed it in many cases to be appropriated and operate as a governmental tool of 'surveillance medicine'. By contrast, other scholars have placed a strong emphasis on the need for a communitarian ethos in contemporary harm reduction (Zigon, 2018; Fry, Trelloar & Maher, 2005) as a form of 'ground up' praxis – though this position may not always take into account who is allowed or enabled to become part of peer user communities and who therefore is made safe by public health harm reduction services – women, trans and gender-diverse people (Boyd et al., 2020) as well as racialized people who use drugs (Lopez, 2022) are frequently marginalized from some public health harm reduction services.

Harm reduction policy literature has also explored aspects of the criminal question more directly, including advocacy for a human rights approach to harm reduction that position prohibition as a moral constraint on the universal principal of bodily autonomy (Ezard, 2001; Hathaway, 2001). Prominent too is the way harm reduction workers in places like Argentina (Harris, 2016) have been found to recognize that the "legal apparatus is a major contributor to PWUD's [people who use drugs] discrimination, stigmatization, and isolation from health and social services" (Harris, 2021: 260). There is then a recognition in this literature that it is plausible to regard the stigma associated with drug laws as a harm unto itself, and that therefore explicitly political endeavors such as drug law reform (as mentioned mention above) should fall under the remit of harm reduction (O'Hare, 1992). The social justice implications (and possibilities) of harm reduction have also been explored in the literature, with an emphasis on not simply reducing drug harms but addressing the 'root causes' of those harms (Pauly, 2008), such as poverty, housing instability and violence (both structural and interpersonal).

One of the key issues related to (contemporary) public health versus (activist) peer models of harm reduction is the difference in the way each might configure the role of police. A social harm approach involves a call to return to the activist origins of harm reduction precisely because this was a direct response to the targeted policing of people who use drugs, developed as a form of mutual aid to keep communities of people who use drugs safe from both the potential harms of drug use and the direct harms of police intervention. These are lessons worth revisiting in a context where harm reduction has become more mainstream in public health policy, and the ways in which it has thus been required to

accommodate the often-unquestioned legitimacy of the police (Vitale, 2021). In saying so, our call for a social harm approach is also a call to be skeptical of the idea that we can or should involve the police in harm reduction initiatives in safe ways, except perhaps in strategic ways that allow for the shrinking of their presence in and around harm reduction services.

Conclusion: adopting the social harm approach within drug policy

In drawing together our reflections on how drug policy scholarship and the social harm approach can be brought together, we offer some suggestions for research and policy.

Firstly, as drug scholars who have never fully seen themselves as either critical realist or poststructuralist, but who have always used the tools from both of these traditions, we see the social harm approach as having the potential to draw together the broad concerns of critical drug policy scholarship in ways that are generative. Those are the traditions that we have operated in, though we are of the position that administrative, quantitative and positivist drug research can and should engage with a call to consider the social harms of drug policy.

The social harm approach contributes to the conversation about values and moral positions within drug policy scholarship. As the ontological position is that prohibition is social harm, we reject the notion that drug research could or should be value neutral. As Ritter (2011) observes, all policymaking is value-laden, even if this is not made explicit. The endeavor for social harm researchers is to illuminate how social harms are produced and reimagine policies, practices, and discourses that progress social harm reduction. Canning and Tombs (2021:139) state, "zemiology, we would argue, only makes sense as an activist as well as an academic activity". This explicitly connects the research endeavor to social justice policymaking. Drug policy scholarship has the interdisciplinary infrastructure to incorporate a social harm lens, and there is an ever-growing number of academics that are committed to both research and advocacy in the drug policy space. The social harm approach has the potential to operate as a tool to advance and push forward positions that have been articulated for some time in the field, by bridging gaps between intellectual and activist arguments, to continue the momentum to generate a collective endeavor to make drug policies better through progressive social change and the pursuit of class, gender, and racial justice.

A social harm approach opens new possibilities within drug policy scholarship, advocating for reparations (Koram, 2019) that reduce the stigmatization and marginalization of people who use, supply and cultivate drugs, with a focus on centralizing their voices and experiences within research and policy design. Furthermore, progressive policy change and the policy-making process must focus on mitigating potential social harms, for example, environmental damage, operate in solidarity with Indigenous communities, consider the impact on socioeconomically marginalized communities and avoid market exploitation and capitalist monopolies within regulation models. Advocation for safer methods of consumption is directed towards structural change through provision of services, and equal access to advice and resources that can reduce drug-related harm. Policy recommendations should be focused on readdressing power imbalances and facilitating community benefit and autonomy, rather than institutional power and control. Researchers must set their agendas for knowledge generation in collaborative dialogue with affected communities and engage in the co-production of knowledge with them. The social harm approach therefore adopts a values position that aligns with the decentralization of power within the research process, ensuring that research is conducted in a way that does not exploit participants. This highlights the need to build respectful relationships with peer networks and support groups over time, and an integration of methods that capture experiences in a non-extractive way. Canning and Tombs, (2021) illuminate the importance of harm mitigation during research, which

adopts a feminist ethics of care to ensure that research does not cause further harm to participants, including the avoidance of retraumatisation. This involves collaborative effort to negotiate the ethics of care and the ethics of practice within the drug field.

The social harm approach has the potential to advance theorisation about the impact of policies and legislation on affected groups and communities, as well as assist us with the endeavour of 'reimaging drug policy futures' beyond the punitive paradigm. Rhodes and Lancaster (2021: 94) suggest that the adoption of novel ontological frameworks can advance drug policy scholarship:

a different mode of drugs policy research might be possible, one which moves beyond prediction and the evidencing of future as a linear extension of the proximal past, to one which is more speculative, inviting of multiple alternative future possibilities, more open to using and mixing different forms of evidence, more amenable to working theoretically as a form of evidencing, as well as more ecological in its outlook.

The promise of imagining drug policy outside the concept of crime is ultimately what this essay is about. This will require creative and collaborative engagement with the research community and the communities we do research with. How the social harm approach might be adopted within drug policy scholarship is yet to be imagined, but well worth devoting our imagination to.

CRedit authorship contribution statement

George Christopher Dertadian: Formal analysis, Conceptualization, Methodology, Writing – original draft. **Rebecca Askew:** Methodology, Formal analysis, Writing – review & editing, Conceptualization.

Declaration of competing interest

None.

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