

Drug Law Enforcement: A Study in the Interplay of Power and Resistance

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Abstract

This article investigates the links between drug law enforcement initiatives designed to reduce the availability of illicit drugs, and the illicit drug problem in Australia. Of particular interest are supply-reduction initiatives designed to locate and eradicate the production of illicit drugs in 'source' countries; the interdiction of drugs at the border; and attempts to disrupt the distribution of drugs at the community or street level. The examples provided illustrate that rather than reducing or deterring the trade in illicit drugs, many supply-reduction initiatives, when 'successful', create conditions that are favourable to the operation and expansion of the trade. This suggests that drug law enforcement is not the 'solution' to the drug problem, but part of the problem. The initiatives and effects outlined will be situated and discussed within the concepts of success and failure, power and resistance, and constitutive dialects.

Introduction

Michel Foucault (1977) made the observation that despite the historically recognised failure of the prison to achieve its reformatory and corrective goals and ideals it has not been abandoned, rather it has repeatedly been endorsed and promoted as an indispensable apparatus in the control of crime and delinquency. He noted that although critiques of the prison have been acknowledged for over a century and a half, the remedy is invariably the same: 'the reactivation of the penitentiary techniques as the only means of overcoming their perpetual failure; the realization of the corrective project as the only method of overcoming the impossibility of implementing it' (Foucault 1977: 268). In fact, Foucault argued that the continuation of the prison could be attributed to its failure to reform and correct criminal behaviour.

Those working in the field of governmentality and the problematics of governance have taken up the centrality of failure to governing projects. Peter Miller and Nikolas Rose (1990:10) note that whilst 'governmentality' (a way of thinking about and acting upon the activity of governing) is 'eternally optimistic, "government" is a congenitally failing operation'. Indeed, in an important sense failure is the driving force behind governmental impulses. For Rose and Miller (1992:191): 'We do not live in a governed world so much as a world traversed by the "will to govern", fuelled by the constant registration of "failure", the discrepancy between ambition and outcome, and the constant injunction to do better next

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time'. Alan Hunt and Gary Wickham (1994:80) concur, arguing that 'failure' or 'incompleteness' is central to the process of governance insofar as it 'serves as an incentive for new governing efforts'.

We see these governing principles operating in the continuous, yet often ineffective or problematic, attempts by political authorities and law enforcement bodies to prevent or reduce the supply of illicit drugs. Indeed, the historical failure or incompleteness of supply-reduction drug law enforcement has not led to its abandonment, but rather to new and reinvigorated attempts to make the approach succeed. We find an example of this in submissions to the *Australian Royal Commission of Inquiry into Drugs* (1980). Critics of the criminal justice approach to the problem of illicit drugs argued that the approach had 'failed in spite of the public monies spent on the police and the court system' (Australian Royal Commission of Inquiry into Drugs 1980:D12). However, the Commissioner, Justice Williams, disagreed, responding 'that there has been a large degree of inefficiency in law enforcement operations to date and that a much better result can be obtained if Australia mobilises its resources and adopts a truly national policy against illegal drugs' (Australian Royal Commission of Inquiry into Drugs 1980:D12). In other words, the criminal justice approach was not so much a failed approach, but an incomplete approach; one that, given more money and resources, would 'do better next time' (Rose and Miller 1992:191). As with the prison, despite the failure or incompleteness of the criminal justice approach, the approach continues to be offered as its own remedy.

This article borrows from the rather broad meaning of government and governance suggested by Foucault (1983). He suggests that the concept of government goes beyond the narrow conventional reference to political structures and the management of the state to include 'modes of action, more or less considered, which [are] designed to act upon the possibilities of action of other people. To govern, in this sense, is to structure the possible field of action of others' (Foucault 1983:221). Here the focus is on how authorities have thought about and acted upon the problem of illicit drugs; how they have sought to structure the possible field of action of drug producers, traffickers and users. It considers one primary strategy deployed to reduce the supply of illicit drugs: supply reduction.¹ This article considers the effects of failure and partial success on drug law enforcement supply-reduction programs, technologies and strategies that have sought to reduce and ultimately eliminate the production, distribution and use of illicit drugs in Australia and elsewhere around the world. Of particular interest are those initiatives designed to locate and eradicate the production of illicit drugs in 'source' countries; to interdict drugs at the border; and to disrupt the distribution of drugs at the community or street level. It is argued that despite concerted governmental efforts, particularly over the past 30–40 years, the production, distribution and use of illicit drugs have, for the most part, remained resilient to such efforts. Even though some supply-reduction initiatives have been deemed 'successful', the success has often been partial, producing new and unintended problems that have necessitated further law enforcement and criminal justice efforts. As will be illustrated in the examples below, rather than reducing or deterring the trade in illicit drugs, many supply-reduction initiatives have created conditions that have been favourable to the operation and expansion of the trade. As a result, rather than abandoning or reducing the

¹ Other major strategies deployed in Australia and elsewhere are demand reduction, harm reduction and prevention. The bulk of government funding, however, is spent on drug law enforcement and interdiction supply-reduction initiatives. According to Moore (2008), of the A\$1.3 billion spent on proactive drug-related activities in 2002–03 by Australian governments, 55% of the funding went to enforcement, 23% to prevention, 17% to treatment, and 3% to harm reduction.

role played by supply-reduction drug law enforcement, the approach has been intensified. This has been the case under the Howard Liberal/National Coalition Government in Australia, with as yet no clear indication of change under the current Labor Government.

The initiatives and effects outlined will be situated and discussed within the concepts of success and failure, power and resistance, and constitutive dialects. The standard approach to the drug problem sees the problem as separate to the solution. A constitutive approach considers these to be co-determined. Malpas and Wickham (1995:47) remind us that '[g]overnance has to be understood in relation to its objects and the objects of governance can only be understood in relation to practices of governance'. Neither governing practices nor objects of governance 'can be understood independently of the overall governing structure, which includes both the object and the attempt to control it'. Understanding that the problem and solution are intimately and integrally connected draws attention to the strategies used to control illicit drug use and the consequences.

Policing the source

Attempts to control the production and distribution of illicit drugs at their source have been primarily an international effort championed by the United States of America (US) and organised through the United Nations (UN). Historically Australia has been a willing and active supporter of international drug control (Department of Health 1985; Ministerial Council on Drug Strategy 1988), and it continues to be so (Ministerial Council on Drug Strategy 2004). The rationale underpinning the 'source' control and border interdiction strategies is that these are 'more cost effective than law enforcement interventions within Australia' (Ministerial Council on Drug Strategy 1988:143).

The country most directly involved in attempts to suppress or eradicate the production and distribution of illicit drugs at their source is the US.² From the late 1960s, the US Government has instigated a series of bilateral agreements with compliant countries identified as drug producing 'source' countries. In some instances, they have made resources and personnel available to foreign national governments (eg Turkey, Mexico and Peru) willing to cooperate with North America's drug eradication aspirations (Reuter 1985). Uncooperative governments, on the other hand, have been subjected to a range of sanctions, such as the suspension of aid and preferential tariff agreements, instigated and enforced by the US (see Mansfield and Sage 1998:165). However, to the general bewilderment of many First World governments, not least the US, attempts to eradicate the perceived source of the drug problem have not produced the desired results. Indeed, in many respects they have been counterproductive. Observers have noted that the effect of international initiatives operationalised to suppress the trade in illicit drugs has led to the proliferation of the trade (inciting, in turn, further governmental attempts to suppress it).

We see an example of this when, in the early 1970s, the US persuaded the Turkish Government to ban the production of opium, some of which was being processed into heroin and diverted to the black market in North America (Brecher 1972:91). The unintended consequence of this intervention was a shift in opium-heroin production to other, less

² First World governments tend to locate the source and problem in Third World countries. This is both convenient in constructing the evil antithesis or other, and ethnocentric as neither the US nor Australian Governments, for example, have been able to eradicate the cultivation or manufacturing of illicit drugs, such as cannabis and amphetamines, in their own countries (see Drug Enforcement Administration (DEA) Congressional Testimony 2007; Australian Institute of Criminology 2009).

accessible areas, making further intervention more difficult. The shift was noted in a 1989 report by the US Department of Justice to the President:

When Turkish authorities clamped down on the illicit cultivation of opium-producing poppies, drug organisations shifted production to the Golden Triangle region of Southeast Asia and to the mountain regions on both sides of the Afghanistan-Pakistan border. This flexibility enables the major traffickers to regroup and to redirect a part of their operations without disrupting the whole (cited in Bertram et al 1996:18–19).

A further consequence produced by the suppression of the Turkish heroin trade in the early 1970s was to stimulate the Mexican heroin trade, which soon became the major supplier of heroin to the US (Reuter 1985).³ This made interdiction considerably more difficult for authorities in the US because of the common border between the US and Mexico, and the large amount of daily commercial and private traffic between the two countries.

By the mid 1990s, opium cultivation — previously more or less confined to the Asiatic countries (China, Turkey, Iran, Afghanistan, Pakistan, India, Burma, Thailand and Laos) and the Mexican region — had spread to Guatemala, Colombia, Poland, Ukraine, Moldova, the Caucasus, Columbia and Peru (Wodak and Owens 1996).

Similar proliferation patterns have been discerned in the cultivation of coca. The effect of a number of specific and well-documented supply-reduction initiatives backed by the US Government and carried out by the Peruvian and Bolivian Governments throughout the late 1970s and 1980s have been to extend and expand the illegal cultivation of coca (Wisotsky 1990; Mansfield and Sage 1998). Wardlaw (1993:93) notes: ‘Once confined mainly to Peru and Bolivia, illegal coca cultivation has now spread throughout Latin America, as well as expanding substantially in Peru and Bolivia themselves’.⁴

These examples illustrate the unintended and unforeseen effects of (‘successful’) supply-reduction initiatives and interventions: as attempts are made to suppress and/or eliminate illicit production in one locale, another is established to take its place; and as these come under pressure, new locales emerge and, in some instances, old locales are re-established and expanded. Some commentators have called this phenomenon the ‘Hydra effect’ (Bertram et al 1996:13);⁵ others have likened it to squeezing a balloon: ‘constrict it in one place and it expands somewhere else’ (Jarvik 1990:389). The effect, however, is the same: in addressing one problem, other problems are created. The effect of this interaction — between attempts to govern illicit production and the resistance produced by such attempts — has been the proliferation of drug producing regions and an increase in the production of illicit drugs. World production of opium, for instance, has increased from an estimated 990 metric tons in 1971 to an estimated 8,870 metric tons in 2008. Similarly, coca production increased from an estimated 20,000 metric tons in the late 1960s to an estimated 298,200 metric tons in 2008 (UN Office of Drugs and Crime 2008; Mansfield and Sage 1998). In the mid 1990s, the *World Drug Report* concluded that not only had the production and trafficking of illicit drugs increased between 1985 and 1995 (the production of opium poppies had more than tripled, and coca leaf production doubled), but it had also spread to new geographical areas, and that this trend was expected to continue (UN International Drug Control Programme 1997). More recently, the UN Office of Drugs and Crime has sought to

³ It was estimated that, by the mid 1970s, Mexico was supplying around 80% of the total heroin consumed in the US (Reuter 1985).

⁴ Wisotsky (1990:60) contends that even ‘if coca were effectively curtailed in *all* of South America, cultivation would shift to other countries, including Indonesia, Madagascar, Guyana, and Sri Lanka’ (emphasis in original).

⁵ In Greek mythology Hydra was a many-headed serpent. Each time one of the serpent’s heads was cut off by an adversary, two heads would grow to take its place.

put a positive spin on world efforts to combat the illicit drug problem arguing that the cultivation, production, trafficking and use of illicit drugs had now stabilised.⁶ However, as the current *World Drug Report* notes:

The drug problem is being contained but there are warning signs that the stabilisation which has occurred over the last few years could be in danger. Notable amongst these is the increase in both opium poppy and coca cultivation in 2007, some growth in consumption in developing countries and some development of new trafficking patterns (UN Office of Drugs and Crime 2008).

The rapid proliferation of sources and trading routes has rendered the interdiction project even more problematic than it was prior to the substantial increases in government activity. The more regions producing illicit crops and the more distribution routes established, the more complex the task faced by enforcement authorities. Among other things, the expanding and geographically shifting locales and trade routes make it particularly difficult for authorities to identify and target illicit importations.

Policing the borders

Border interdiction is positioned as an important governmental strategy because it is believed to hold the most promise, given the limited resources available. As the Ministerial Council on Drug Strategy (1988:223) reasoned:

it is a far better use of limited resources to control the production of illicit drugs and to intercept them in large quantities, before they enter Australia, than to engage in expensive community level policing once the drugs are widely distributed throughout the nation.

While such reasoning may seem sound, given the magnitude of the task and the logistical problems involved, the difficulties in realising such goals are another matter. Policing Australia's borders, for instance, is obviously a formidable task. In general, the Australian Customs Service (ACS) is responsible for controlling the movement of all passengers and their baggage; planes, ships and their crew; and air and sea cargo entering and leaving Australia. To indicate the size of the task, the ACS cleared over 10 million air cargo consignments and 2.3 million sea cargo consignments in the year 2007–08. In the same year, around 23.66 million international air passengers were processed (Australian Customs Service 2008). In addition, there are innumerable yachts and other pleasure crafts, and light aircraft navigating Australia's 15 million square kilometres of offshore maritime area and 36,735 kilometre coastline, a large proportion of which is sparsely inhabited. Given such logistics and the magnitude of the task, if border interdiction has been set up to stop illicit drugs entering the country, then it can only fail.

The already difficult task facing barrier enforcement is further exacerbated by the relatively small quantities of illicit drugs required to satisfy the needs of Australian users. Although the following estimates should be treated with caution, Weatherburn and Lind (1995:48) have estimated the total annual heroin consumption in Australia in the mid 1990s

⁶ A word of caution is required when using data associated with the drug problem. The clandestine nature of the problem makes the collection of data problematic. Moreover, the politics of the day put considerable pressure on what data is collected, how it is analysed and what use is made of it (see Manderson 1993; Bertram et al 1996). One group of concerned observers, the International Drug Policy Consortium (a global network of non-governmental organisations (NGOs) and professional networks with an interest and expertise in drug policy issues), has questioned the objectivity of the *World Drug Report*. While recognising the useful information and analysis contained in these reports, the Consortium maintains that the data presented is often selective and the policy conclusions unsubstantiated (International Drug Policy Consortium 2008).

to be between 1,039 and 4,797 kilograms of pure heroin.⁷ One standard six-metre steel shipping container (33.1 square metres) holds around 20,710 kilograms (approximately the contents of a three-bedroom house). If the heroin population remained stable, *one* standard six-metre shipping container of pure heroin could sustain the needs of the entire regular and recreational heroin population for between four and twenty years (depending on which estimates are used). While it is unlikely that smugglers would attempt to import so much heroin in a single shipment, the chances of success are relatively high considering that it is not technically possible to screen shipping containers in a general manner; if they are all searched, they would need to be searched individually (Wardlaw 1993).⁸

There are other problems associated with border interdiction, including the competing mandates with which the ACS is required to work. Beginning in the mid 1980s, the ACS has been directed to screen as many incoming passengers and crew as possible, and as much luggage and cargo as possible, while at the same time facilitate the speedy processing of passengers and cargo 'with the minimum of interference' (Australian Customs Service 1986:5–6). These continue to be central values to the ACS (Australian Customs Service 2007). The successful and effective realisation of one mandate problematises the successful and effective realisation of the other. Yet both are considered 'major objectives': one serving Australia's enforcement objectives — the interdiction of prohibited drugs and other goods; the other serving Australia's economic objectives — the expeditious processing of commercial goods and overseas travellers (Australian Customs Service 1988, 2007, 2008). In this instance, the problem for authorities is not simply with the interdiction of prohibited drugs, but with interdicting drugs without compromising other governmental objectives and initiatives.

The ACS has responded to these competing enforcement and economic objectives by developing and/or adopting a range of strategies, technologies and techniques including operational techniques used to identify suspect drug couriers and cargo. Many of these are centred on risk assessment or management, profiling, and behavioural observation techniques (Australian Customs Service 1989, 2007, 2008; McDowell 1992:98–9). Through monitoring international (and national) trends — in illicit drug production, in detection and seizures, in importation routes and methods of concealment, in suspected drug couriers, and so on — profiles are constructed that enable the assessment of passengers and cargo in terms of potential risk. The movement of individuals and cargo from known illicit drug source countries (such as Burma, Laos, Thailand, Afghanistan) have been especially targeted.

Knowledge is a central component in the operation and deployment of these technologies. Risk assessment and management, profiling and behavioural observation techniques and strategies rely on the accumulation and dissemination of information by criminal intelligence bureaus. The general problem with such techniques and strategies is that they are primarily *reactive*, contingent upon knowledge generated by or through governmental activity. As Sutton and James (1996:90) point out, risk assessment and profiling techniques 'are based essentially upon known identities and patterns of trafficking'. Consequently, the effectiveness of such techniques is contingent upon what is already known to authorities. Drug traffickers, couriers and patterns of importation and trafficking unknown to authorities do not register on such data systems and, therefore, are

⁷ The fact is that authorities do not know how many heroin users there are in Australia. This obviously makes it difficult to estimate the total annual consumption of heroin. Estimates range from 36,000 to 150,000 heroin users (Weatherburn and Lind 1995). Nevertheless, for the following illustration, these estimates will suffice.

⁸ According to their Annual Report, the ACS inspected around 5% of the total loaded import sea containers entering Australia in 2003–04 (Australian Customs Service 2004:40).

not significantly affected by such techniques. Although the computer processing capabilities of criminal intelligence agencies can facilitate the collation, analysis and dissemination of information concerning drug-related arrests, charges and seizures, such technology cannot identify or profile those persons or groups who have not yet come in contact with customs or police officers. In other words, authorities gain their understanding of drug trafficking through examining the *modus operandi* of those who are caught. The operations and activities of those who are not caught remain obscure. These techniques are reactive and operate on the assumption that traffickers will continue with the same *modus operandi* even though their drugs are being interdicted and their couriers arrested. Obviously traffickers can subvert these and similar techniques simply by altering their activities and operations. For the most part, such techniques have served to *stimulate* criminal innovation by forcing drug traffickers to regularly alter their strategies of transportation and distribution. As a consequence, new drug trading routes and contacts with unidentified trading companies have been established, couriers unknown to authorities have been recruited, new methods of concealing drugs have been invented, among other things. Indeed, Sutton and James (1996:29) claimed that between 1989 and 1993:

[not only had] drug importations and domestic production and manufacture ... increased ... [but] there have been developments in terms of new 'players' in the market, including the increasing involvement of certain ethnically-identifiable criminals, the shift of traditional Anglo-Australian career criminals into the drug market, and the introduction of manufacturers and traffickers without traditional associations.

The effect of such techniques has been to spread the problem of drug use and trafficking to countries that had previously not experienced significant problems with psychoactive drugs such as heroin and cocaine. This was a concern noted in the 2007 *World Drug Report*:

More interceptions of cocaine and heroin shipments across the world have played an important part in stabilizing the [illicit drug] market. However, as we witness successes in some areas, challenges appear in others. Although drug abuse levels are stabilizing globally, countries along major and new trafficking routes, such as those now going through Africa, may face increasing levels of drug consumption (UN Office of Drugs and Crime 2007).

What needs to be emphasised is that the development of these strategies and techniques, and the acquisition of information upon which they depend, was not stimulated and shaped simply by the problem of drug importation and trafficking, but by the problem of dealing with these problems, that is, the formidable logistical difficulties the ACS has had to overcome, as well as the quandary of realising the generally antagonistic enforcement and commercial responsibilities imposed upon them. These problems and the strategies and techniques developed to deal with them have, in turn, further complicated the ACS's field of operation. This is a characteristic noted by Rose and Miller (1992:190), who state: 'The world of programmes is heterogeneous, and rivalrous. Programmes complexify the real, so solutions for one programme tend to be the problems for another'.

Pyrrhic victories

While attempting to solve problems associated with supply, border interdiction, when successful, has created other problems for authorities. For instance, experiences overseas reveal that successful interdiction of large shipments of cannabis has led some cannabis smugglers to turn to less bulk per dollar value drugs, such as cocaine and amphetamines (Bertram et al 1996). As these drugs are easier to conceal, they are often more difficult to detect. Moreover, cocaine and amphetamines are potentially more toxic than cannabis and

can be injected, increasing the risk of the spread of infectious diseases (McKetin, McLaren and Kelly 2005; Wodak and Owens 1996). These substances are also more profitable and, thus, likely to attract more experienced and organised criminal entrepreneurs into the drug trade (McKetin, McLaren and Kelly 2005).

Successful border interdiction also has the potential to *stimulate*, rather than stifle, both the foreign and domestic production of illicit drugs. An increase in interdiction can lead to an increase in foreign drug production as importers are forced to replace shipments seized by authorities. As Reuter (1988:60) points out: 'Total demand for [drug] producers equals the sum of shipments that are seized and those that reach their destinations. As more is [sic] seized, total export demand goes up'. At the same time, successful border interdiction acts as a tariff on imported drugs to the benefit of Australia's own domestic drug industry (primarily cannabis and amphetamines). In both Australia and North America, domestic markets have evolved to replace the shortfall created by the successful interdiction of foreign imports. Authorities in both countries have reacted to the increased domestic cannabis market by targeting cannabis plantations. This, in turn, has led to the cultivation of smaller plantations concealed in forest areas and the like, and to the development of hydroponics technologies for indoor cultivation (Parliamentary Joint Committee on the National Crime Authority 1989). Both responses have made traditional policing techniques, such as aerial surveillance, less effective. Furthermore, hydroponics has increased cannabis yields and led to the cultivation of a more potent product (Bertram et al 1996:19). Ironically, the increased potency of cannabis is used to justify the continued proscription of cannabis.

A more problematic consequence of the determined suppression of Australia's domestic cannabis industry has been the stimulation of a domestic amphetamine industry and market. This is more problematic for authorities (and users) for a number of reasons — one being that large quantities of amphetamines can be manufactured in backyard laboratories that, in comparison with the acreage required to cultivate large quantities of cannabis, are far more difficult to locate and eradicate. In addition, because of their size, amphetamines are easier to distribute than the more bulky cannabis product. As the *World Drug Report* noted, the clandestine manufacturing of synthetic drugs has significantly reduced the need to traffic such drugs over vast distances. Consequently, not only has the risk to traffickers been reduced, but also the input costs, thus making these drugs more profitable than their imported counterparts (UN International Drug Control Programme 1997).

Recent attempts to reduce the domestic production of amphetamines include the imposition of tighter controls on the sale of precursor chemicals needed to manufacture these drugs. However, as Wodak and Owens (1996) point out, in the past such controls have either been subverted or they have led to an increase in the quantity of amphetamines imported into Australia (see also Drabsch 2006). The problem of controlling the distribution of precursor chemicals is made more difficult because many of the precursors used to manufacture illicit psychostimulants are essential to legal commercial manufacturing processes (Wardlaw 1993; Groves and Marmo 2009). Indeed, concern that precursor chemicals were 'increasingly being produced out of chemicals that remain readily available on the market' was noted in the 2007 *World Drug Report* (UN Office of Drugs and Crime 2007:36).

The 2007 *World Drug Report* provides another illustration of the 'Hydra effect' and its consequences:

Traditionally, the majority of methamphetamine in the USA was produced domestically, with the precursor chemicals smuggled into this country via Canada or Mexico. Improved controls in Canada and further tightening of controls in the USA have led to a decline in the number of

clandestine laboratories operating within the USA and a shift of production across the border to Mexico. However, Mexico has now also improved its precursor control regime, prompting drug trafficking organisations to exploit other areas, such as Central America and possibly Africa (UN Office of Drugs and Crime 2007:16).⁹

In addition to these concerns, Wardlaw (1993:98) warned early in the 1990s that:

the production of more dangerous drugs using alternative chemicals, the manufacture of amphetamines containing dangerous impurities as a result of new chemical processes or combinations, and an increase in thefts of precursors (some of which would almost certainly involve violence or corruption) could well produce an overall situation which is as bad or worse than that which now faces us.

Despite concerted attempts to reduce methamphetamine use in Australia, methamphetamine consumption continues to rise. The efficacy of newly implemented initiatives, such as Project STOP (the rescheduling of products containing precursor chemicals used in methamphetamine production), is yet to be established. According to Groves and Marmo (2009), though, they are unlikely to achieve their objectives without a determined effort to reduce the demand for these drugs. Rather, in isolation, such initiatives are more likely to 'elicit diversifying strategies to fulfil the potential gap in the market, such as increased international trafficking of the drug or its precursors' (Groves and Marmo 2009:414–15).

Street-level enforcement

Even a substantial increase in the rate of successful interception by the ACS would have little effect on the domestic drug market because most of the drug's value is added *after* it has entered the country of destination. Most of the profit is made as the drug is divided and 'cut' (adulterated) and distributed through local supply networks. Dobinson and Poletti's (1989:93–8) study of heroin users and dealers estimated that in the mid-to-late 1980s the market price for a kilogram of heroin bought in Asia for between A\$12,000–A\$15,000, sold in Australia for between A\$200,000–A\$250,000 per kilogram. Given such huge profit margins, successful interdiction would result in relatively small losses to the importer, with such losses easily absorbed.

There are also concerns about the perverse effects community or street-level drug enforcement has had on the structure of the drug market — effects that exacerbate the problem of controlling drug use and trafficking drug law enforcement. In their study on the consequences of police interventions into heroin supply networks in the English district of Worthing in the 1980s, Fraser and George (1992) found that when the disruption of the distribution network was minor, the effect was short lived and distribution resumed at the level prior to the disruption. When, however, the disruption was major, as happened between 1984 and 1986, the distribution network 'mutated' into a smaller and dispersed 'house-dealing system'. Such a distribution system, according to Fraser and George (1992:164), presented 'a more difficult challenge to policing'. Fraser and George (1992:165) also noted that following the disruption of the distribution network in Worthing, 'there were many reports of bad deals, rip-offs and increasing numbers of identified primary opiate users who turned to benzodiazepines, alcohol and other problematic combinations in ill-fated attempts to satisfy their addiction'. Some of these problems have been noted in a more

⁹ The Report goes on to note that the production and consumption of methamphetamine had increased in South Africa (UN Office of Drugs and Crime 2007).

recent study associated with the heroin shortage in parts of Australia between late 2000 and early 2002. Due to the heroin drought, many users switched to, or substituted their heroin use with, methamphetamines. The lower quality heroin stimulated injecting practices, and the use of stimulants led to an increase in mental disorders. There was also a significant increase in drug-related property crime and stimulant-induced violent crime during this period (Bush, Roberts and Trace 2004; McKetin, McLaren and Kelly 2005).

The detrimental effects of street-level policing were featured in research conducted by Maher and Dixon (1999). Over a three-year period, they studied attempts by law enforcement agents to reduce the use and street-level trade of heroin in the Sydney suburb of Cabramatta in the mid-to-late 1990s. In one respect, the policing initiatives — particularly the ‘crackdowns’ — were ‘successful’ insofar as they disrupted street-level dealing and use, destroyed drugs, arrested some drug users and moved others on. The problem was that high-risk behaviours emerged among drug users associated with the storage, transfer and administration of heroin. To avoid detection, sellers were carrying heroin in their mouths and noses and, in some case, transferring the drugs directly into the mouths of the buyers, or if approached would swallow the container; both users and buyers were hiding their injecting equipment in public spaces in case they were stopped and searched; and users were reusing unsterile syringes in addition to other risk-taking practices. A further effect of such street-level policing was the displacement of the drug market to areas hitherto unaffected. Such things have the potential to affect the health of the host community as well as outlying communities. Maher and Dixon (1999:509) concluded:

Our research indicates that crackdowns, whether carried out in the name of law enforcement or quality of life, push markets in directions that are highly undesirable. Such ‘successes’ and ‘victories’ may be won at a cost which, in the long term makes them not worthwhile.

Drug law enforcement initiatives can also lead to the drug market becoming more organised, proficient and, perhaps, more ruthless. Some commentators contend that those most likely to be arrested and removed from the market are the least experienced, least efficient and least organised, leaving the market to the strongest, most experienced and efficient dealers (see Wardlaw 1985, 1993; Bertram et al 1996). In one sense, drug enforcement serves the interests of the surviving dealers by removing their competition. In summary, what limited success drug law enforcement has had, while not reducing the supply of illicit drugs, has most likely reduced the competition for those who have escaped detection and arrest, and served to organise a more effective and efficient distribution network.

Harm producing

As we have seen, the aims and objectives of one program or strategy can undermine the aims and objectives of another. This is evident in the competing aims and objectives enshrined in Australia’s national drug strategies. Formalised in the mid 1980s, Australia adopted a harm-reduction or minimisation approach with the aim to ‘minimise the harmful effects of drugs on Australian society’ (Department of Health 1985:2). The strategy was not adopted to replace existing supply and demand reduction strategies, but to serve as a desired objective (see Bennett 2008). There are, however, tensions between the goals of harm reduction and supply reduction; the aims and objectives of one tend to undermine the aims and objectives of the other.

The aspirations of authorities, and the deterrent role they envisage drug law enforcement will play, are summed up by the Parliamentary Joint Committee on the National Crime Authority (1989:57):

By deterring people from becoming involved in drug trafficking, law enforcement hopes that the supply to the market will be reduced, that the price of drugs will rise, that existing users will not be able to obtain supplies of their drugs and that new users will not be able to enter the market through an inability to obtain drugs.

These aspirations are informed by market economic principles that predict that as illicit drugs become scarce, their price will rise placing them beyond the financial reach of most consumers. Such principles are premised on the assumption that the demand for drugs such as heroin, cocaine and cannabis is price-elastic — that is, demand is responsive to changes in price: as prices rise, demand falls and vice versa. The literature on the subject is, for the most part, speculative and divided (Weatherburn and Lind 1995). Even so, some commentators argue that driving up the market price of illicit drugs in an attempt to deter use will make the commodity more valuable and, thus, the trade in illicit drugs more profitable. This, in turn, will attract more entrepreneurs to the trade, stimulating an increase in drug importation and trafficking. An increase in importation and trafficking is likely to produce an increase in the availability of drugs and, along with increased competition, a reduction in their market price (Bertram et al 1996; Weatherburn et al 2000; Kleiman 1992).

Nevertheless, even if a reduction in the availability of psychoactive drugs and a corresponding increase in their retail price could be achieved, this would not necessarily produce a corresponding reduction in drug-related harm to the individual or the community. Those who continue to use illicit drugs, regardless of their inflated price, have to raise the money to maintain their use, which, in the past, has included dealing in illicit drugs, prostitution, property offences, embezzlement, fraud, and armed robbery (Parliamentary Joint Committee on the National Crime Authority 1989).¹⁰ As well as endangering those involved in such precarious activities, there is a financial cost to the community in the form of increased insurance premiums, increased price of merchandise, increased financial institutional charges, and increased security measures for businesses and homes (Parliamentary Joint Committee on the National Crime Authority 1989:80–1). Other detrimental effects that the strategy of supply reduction can have on a community include the abrogation of civil liberties, and the huge costs involved in operating and maintaining drug law enforcement.¹¹

Other than a possible deferment to treatment for some users, the effects of supply-reduction strategies on the user are not generally beneficial to the user. For instance, higher prices or scarcity can affect the way illicit drugs are used. To maximise the effects of certain illicit drugs they are often injected rather than smoked, sniffed or swallowed. The use of drugs intravenously is especially problematic if administered in unsanitary conditions or if contaminated needles are shared (Wodak 1992; Maher and Dixon 1999). Furthermore, to offset higher prices, dealers often adulterate drugs with a range of substances, including potentially lethal substances such as strychnine and arsenic (Parliamentary Joint Committee

¹⁰ Donnelly, Weatherburn and Chilvers (2004) noted that there was a 55% increase in robbery rates across New South Wales immediately after the 2001 heroin shortage. Nevertheless, this is not to say that all those who use illicit drugs commit crimes or turn to prostitution in order to finance their use. The connection between drugs and crime is generally more complex (see Dobinson and Ward 1985).

¹¹ Collins and Lasplesley (2008) estimate that for the years 2004–05, the cost of drug law enforcement (including police, courts and prison costs) was around A\$2.212 billion. When other tangible costs are added, this increases to A\$3.840 billion.

on the National Crime Authority 1989; Weatherburn, Lind and Forsythe 1999). Not only is it difficult to determine the quality of the drug procured, it is also difficult to estimate its potency. The use of heroin is a case in point: as Wodak (1992, 1990) points out, the morbidity and mortality associated with the consumption of heroin are primarily the result of chemical or microbiological contamination and an uncertainty about the dosage, not the drug's pharmacology.

In one sense, the problems experienced by users as a result of supply reduction are not so much unplanned, but form part of the supply-reduction rationale and strategy. In short, the objective of drug law enforcement and the strategy of supply reduction is to deter potential users from using illicit drugs by making it difficult, expensive, and risky to procure and consume them (see Parliamentary Joint Committee on the National Crime Authority 1989). In other words, one of the deterrent-motivated aims of supply-reduction drug law enforcement is to increase, rather than reduce, the risks and difficulties — and, therefore, the potential harm — associated with the procurement and consumption of illicit drugs. The difficulties, financial costs and risks associated with illicit drug use, and the hardships these produce, play an essential role in supply reduction's deterrent strategy. The problem for authorities under a harm-reduction directive is how to reduce the harm and risks associated with the procurement and consumption of illicit drugs without facilitating their procurement and consumption. In other words, the problem is how to make illicit drug use relatively safe for those who use them and, at the same time, unobtainable and undesirable to those who do not. Once again, we find that competing (or confused) objectives have created an antagonistic relationship. Attempts to mitigate the harmful effects produced by the 'war on drugs' serve to undermine the war on drugs; and attempts to intensify the war on drugs serve to undermine harm-reduction initiatives. Ironically, we have created a 'civil war' in which we seek to help the people we harm. This leads Wodak and Moore (2002:19) to suggest that '[i]t is more the case that drugs are dangerous because they are banned than that they are banned because they are dangerous'.

Constitutive dialectics

How are we to understand this relationship between the (drug) problem and (supply-reduction) solution? The conventional understanding is that a problem exists independent of its proposed solution. From this perspective, strategies — such as supply, demand and harm reduction — are governmental solutions devised in response to the various problems associated with drugs (as well as electoral demands). Such an understanding constructs the relationship between problem and solution in a temporal, unilinear, and deterministic manner: the problem both precedes and necessitates a solution and the solution, in turn, acts upon the problem.

A more productive way of understanding the relationship is in terms of dialectics and co-determination (Einstadter and Henry 1995; Henry and Milovanovic 1996). In this relationship, the problem and solution are not seen as discrete entities, but as interrelated, overlapping and interactive. In this model, the solution and problem affect each other so that changes in one produce changes in the other.¹² Such a conceptualisation draws our attention

¹² By referring to 'problem' and 'solution' the suggestion is not that these are single or unified entities; rather these are used as summary terms for a range of strategies and technologies more or less in opposition to each other. As such, the causal relationship in mind is one of 'multiple interactive causation since it involves reciprocity between several causes and outcomes' (Henry and Milovanovic 1996:126). In addition, because

to the dialectical interplay between mutually constitutive forces: strategies of power both produce and necessitate transformations in strategies of resistance, which in turn both produce and necessitate transformations in strategies of power, and so on. Thus, power engenders, shapes and is shaped by that which it seeks to control, and resistance engenders, shapes and is shaped by that which seeks to overcome it (Foucault 1980). As such, we can conceptualise the relationship in Foucauldian terms of power–resistance, where power and resistance are conceptualised as two poles of the same relationship: one ‘in which force is always pitted against force, the constraining action against the action it is trying to constrain’ (May 1993:114). In doing so, we find that the drug problem is not something that exists external to the play between power and resistance, but is the product of power–resistance.

This is evident in attempts to control the cultivation and production of illicit drugs, in attempts to police national and state borders, and in attempts to police drug use and dealing on the streets. All such attempts are shaped not only by the initial target problem, but also by the resistance the problem produces. As we have seen, attempts to eradicate the cultivation and production of drugs at their source has served to disperse, increase and concentrate the cultivation and production of illicit drugs, and has often done so in such a way as to make the problem more difficult to police. This in turn has necessitated new strategies (eg income and crop substitution programs) and technologies (eg satellite surveillance), which have been met with new forms of resistance (eg clandestine laboratories, relocations). In Australia, the task of policing Australia’s borders has produced innovations in both policing (including state-of-the-art surveillance and examination technologies) and crime (eg increased domestic production and clandestine laboratories; the stimulation of the cocaine and amphetamines industry and market; the entry of new players in the drug trade). Street-level policing has dispersed drug dealing and arguably fostered a more organised, proficient and ruthless drug market (problem) by removing low-level dealers, necessitating new policing strategies and problems. In sum, intervention into the drug problem has helped to both shape and reshape the drug trade (problem) and shape and reshape supply-reduction drug law enforcement strategies (solution) deployed to eliminate or contain it.

The analysis above suggests that not only are supply-reduction strategies unable to prevent or significantly reduce the production, trafficking and use of illicit drugs or the posited harm associated with these activities, but they actually create the conditions for the continuance and amplification of these problematic activities. Furthermore, supply-reduction strategies have, for the most part, made the problem more difficult to govern by stimulating criminal innovation, by reducing competition between drug producers and traffickers, by spreading and fragmenting the illicit market, and so on. In short, the difficulties and problems experienced by drug law enforcement in preventing or reducing the production, importation and distribution of illicit drugs has often been an *effect* of the governing endeavour itself.

A constitutive approach recognises that the problem and solution, power and resistance, crime and control are intimately and integrally connected. In doing so, it draws attention to the consequences of the policies and practices deployed. Traditionally, supply-reduction policies and practices have been set in opposition to drug-related crime. The contribution such policies and practices make to crime is rarely considered. Thus, we need to take into account the dialectical nature of drug control to recognise that ‘attempts to control crimes often result in increased amounts of that which is to be controlled’ (Einstadter and Henry 1995:292).

both the problem and solution have the power to influence and transform the other, neither has causal priority over the other.

The current situation has evolved in and through the interplay of power and resistance. However, a simple input-output model is unlikely to predict the amount or form that resistance will take. Such a model is predicated on a sequential, linear, causal schema that does not and cannot account for accidents, chance and, importantly, the innovations produced by free agents in response to the exercise of power. In Foucault's account, power is 'an action upon an action' and functions by structuring the field of possible action (Foucault 1983:220). This, in turn, produces resistance. While we can document and analyse the interaction and effects of power and resistance, we cannot predict the outcome; such outcomes are necessarily provisional, contingent and inherently unstable.

Linear logic informs current supply-reduction policies and practices. When these policies and practices do not produce the required result, they are usually intensified, rather than replaced. Historically, this has meant higher penalties and harsher sentences, more control agents and larger prisons, the search for new techniques and technologies, and so on. The reasoning behind such punitive strategies assumes that people will respond in a more or less singular determined manner in that they will eventually cease using illicit drugs or taking them up in the first place. If such responses are not forthcoming, then it is simply a matter of boosting the existing strategies. However, rather than reducing resistance, these strategies tend to generate new and intense forms of resistance. As documented above, harsher penalties, increased surveillance and policing have produced a more difficult and ruthless environment in which drugs are produced, distributed and used. They have increased the price and value of drugs and with it the potential profit. The risks are high but so are the profits, serving as an incentive for criminal perseverance and innovation.

The constitutive dynamic between power and resistance suggest that, rather than increasing penalties and policing, we need to find ways of reducing them. Removing all penalties would produce a state of uncontrolled availability, which few would endorse. Nevertheless, there are numerous alternatives to the current state of total prohibition that would alter the play between control and resistance.¹³ Partial prohibition and controlled availability are two models considered elsewhere (see Wodak and Moore 2002; Commonwealth of Australia 1994). One principle gaining momentum, though not without resistance or conceptual and ethical problems, is harm reduction.

Prohibition and supply reduction are coercive strategies, formed around what Foucault (1977) calls sovereign and disciplinary power — power that demands obedience to the law and authority. These strategies are regulated through legislation, control agents and systems of surveillance. Harm reduction employs a different strategic focus. The primary aim of harm reduction is to reduce the harms associated with using drugs, not necessarily drug use itself (Heather et al 1993). The latter may form part of a harm-reduction goal, but is not prioritised as it has been in the past.

Australia officially adopted a harm-reduction policy in 1985 as a featured component of Australia's first National Campaign Against Drug Abuse (see Bennett 2008). In the late 1980s, harm-reduction initiatives, such as the needle and syringe programs, were widely endorsed as an enlightened pragmatic response to the newly emerging problem of HIV/AIDS. The problem has been that harm reduction in Australia (and elsewhere) has had

¹³ We should keep in mind that from a Foucauldian perspective, resistance is not necessarily a problem to be solved, but rather a necessary counterstroke to attempts to govern people's activities and behaviour. More specifically related to drugs, Foucault (1977:226) argued in an early interview that 'the campaign against drugs is a pretext for the reinforcement of social repression; not only through police raids, but also through the indirect exaltation of the normal, rational, conscientious, and well-adjusted individual'. Thus, in the spirit of Foucault, the aim is not to suggest ways of eliminating resistance, but simply to improve the current situation.

to work within existing prohibitionist policies, rather than as an alternative to prohibition. As such, it has been unable to address the structural cause of the harm produced by prohibition (Wodak and Moore 2002). Indeed, because harm reduction ameliorates some of the more brutal aspects of prohibition, it may extend the public tolerance and juridical tenure of prohibition.

While the principles of harm reduction can be applied to various areas, including drug education and drug law enforcement, it has historically been associated with the field of drug treatment (Heather 1993). As a governing principle in drug treatment discourses and practices, it has been subjected to considerable scrutiny and criticism. Considered essential to Australia's National Drug Strategy, authorities have demanded regular, independent and rigorous evaluation of drug treatment programs and harm-reduction initiatives, both in terms of their efficacy and cost-effectiveness. In contrast, few such demands have been imposed on supply-reduction law enforcement (Wodak and Moore 2002). Indeed, very few major evaluation reports have been conducted into the effectiveness and consequences of supply-reduction drug law enforcement (see Sutton and James 1996; Green and Purnell 1996). The research available is usually confined to identifying patterns of supply and use, not the effectiveness of initiatives.¹⁴ The analysis above suggests that prohibition and supply reduction require the same level of scrutiny other governing strategies are subjected to.

Concluding remarks

Conventional understandings of the drug problem have drawn our attention to the problem to be solved and, in doing so, have helped to justify the solution. Considering the problem in relational terms brings both the problem *and* solution into question. Not only is our attention drawn towards the problem and the governmental strategies and technologies that seek to solve it, but more importantly, our attention is drawn to the relational interplay between the problem and solution. A dialectical model draws attention to the integral interrelationship between and co-determination of the problem and solution, power and resistance, success and failure. In doing so, we find that the solution is part of the problem, or to put it another way, part of the problem is the solution. The model serves to highlight the contribution supply-reduction drug law enforcement has made to the creation of the drug problem. As Maher and Dixon (1999) state, if we value public health and community safety, we need to know what not to do. This article has sort to suggest problematic areas in need of further scrutiny.

Failure or partial success has been a central, rather than an exceptional, force that has stimulated the governing process. Programmatic aspirations have, more or less without exception, fallen short of expectations; techniques and technologies of governance have failed to accomplish the tasks required of and envisaged for them, and partial or limited local successes have engendered new and often unanticipated problems requiring further governmental responses. Nevertheless, the promise of success remains, as evident by the Federal Coalition's launch of the National Illicit Drug Strategy: 'Tough on Drugs' in 1997. This campaign promised to be an 'effective national effort to combat the menace of illicit drugs', to 'end the misery inflicted by illicit drugs on Australian lives', 'to prevent a new

¹⁴ The National Drug Strategy website (<<http://www.nationaldrugstrategy.gov.au>>) currently features a report titled: 'Return on investment 2: evaluating the cost-effectiveness of needle and syringe programs in Australia 2009' (Department of Health and Ageing 2010). This is the latest in a long line of reports evaluating drug treatment programs. Nothing similar exists on this website in relation to drug law enforcement.

generation of users and addicts emerging’, to break ‘the cycle of drug dependency and criminal behaviour’, and to ‘make a significant difference to the benefit of all Australians’ (Department of the Prime Minister and Cabinet 1997). This highly lauded and promoted drugs campaign, as with those that preceded it, once again offers drug law enforcement as the chief solution to the failure of drug law enforcement.

There is, as yet, no indication that the current Labor Government intends to change the status quo, despite a commitment to ‘evidence-based strategy’ (Australian Labor 2009).

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