

HEPATITIS TRANSMISSION AND PREVENTION: EXPLORING THE ROLE THAT THE LAW PLAYS IN SHAPING BLOOD BORNE VIRUS EPIDEMICS

Dr Kate Seear

Background: In recent years, researchers have begun to develop a more nuanced and sophisticated understanding of the complex nature of blood-borne virus (BBV) transmission (and prevention). In this work, including my own book with Suzanne Fraser (*Making disease, making citizens: The politics of hepatitis C*) BBV transmission is increasingly conceptualised as a complex phenomenon shaped by a multitude of forces. Indeed, diseases are not purely biomedical phenomena, but 'socially constituted' objects (Fraser and Moore, 2011). In other words, the hepatitis C virus and its epidemics are directly shaped by an array of factors, including language, policy and practice, along with – crucially – stigma. As such there is a compelling argument for more work that traces the ways policies and practices help to shape epidemics, and, by extension, the lives of those living with hepatitis C.

Approach: In this paper, I take up these insights through a consideration of the role that *the law and legal practices* play in shaping hepatitis C transmission and the nature and scale of hepatitis C epidemics. I consider some of the ways that criminal justice settings are implicated in transmission, through, for example, the lack of needle and syringe programs in prisons and remand centres, and other institutional and legal forces that impact upon people who inject drugs. I then explore how the law might intervene in more productive ways to prevent hepatitis C transmission.

Method: Drawing on interviews I undertook with lawyers working in Australia and Canada, and developments in international human rights litigation, I consider opportunities for change and reform.

Findings: I argue that lawyers have the power to reshape the profile of hepatitis C epidemics in Australia and to improve the lives of people who inject drugs, but that many of these opportunities remain unrealised. One reason for this is that legal practice is often hampered by lawyers' simplistic assumptions about drug use, drug 'addiction' and drug-related harms. These assumptions may foreclose novel and innovative ways of agitating for change. Focussing particularly on the strategic use of human rights arguments to advance the interests of people living with BBVs in Canada, I consider ways that Australian lawyers and advocates could more proactively intervene in BBV transmission and prevention.

Conclusions: Although they might not always view it as part of their job, I argue that lawyers have ethical and professional obligations to consider the potential for their work to shape, reinforce and entrench stigma, to produce harms and to shape BBV epidemics. I conclude with recommendations for changing these beliefs, assumptions, dynamics and practices. I argue in favour of a 'dialogue' model of practice, whereby lawyers engage more fully with clients as *peers* in the development of legal strategies pertaining to alcohol and other drug use. I argue that much can be learned through such dialogue, along with knowledge sharing with human rights experts, and with peers and colleagues from other countries who are already leading the way in this space.