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**The Psychoactive Substances Bill (2015): A thematic analysis of
parliamentary debates and newsprint media.**

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Abstract

The Psychoactive Substances Act (2016) is the UK's most recent legislation addressing use of recreational drugs. It implements a blanket ban on all psychoactive substances pre-emptively, with no required assessment of the harm of a substance as a condition of being banned. Hence, this Act presents a potentially new and profound move in the state's role regulating substance use. There has been little research into the inception, implications or potential consequences of the Act. This research focuses on the political and media discourses leading up to passage of the Bill into law to address this gap. It thematically analyses parliamentary debate throughout the Bill process and newsprint media at the concurrent time in order to explore links between parliamentary and media discourse. From the data analysed, this researcher found that themes of harm and legitimacy ran through both samples. This is despite the notable absence in the Bill of a scale of harm, or classification system, for substances legislated for, indicating the gap that can exist between the ideas driving a policy and its eventual contents. The researcher had suspected media reportage may contain sensationalised stories, and parliamentary debate may refer to such media stories, however this supposition was not evidenced by the samples analysed. This research ultimately concludes that drugs policy is driven by 'real life' experience over media representations of drugs, and that the current UK government approach to drug use promotes a criminal justice approach over minimising social harms.

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Glossary

ACMD- Advisory Council on the Misuse of Drugs

ECMDDA- European Centre for Monitoring Drugs and Drug Addiction

HC- House of Commons

HL- House of Lords

HCHASC- House of Commons Home Affairs Select Committee

ISCD- Independent Scientific Committee on Drugs (now DrugScience)

MDA- Misuse of Drugs Act (1971)

NPS- New/novel psychoactive substances

NPSREP- New Psychoactive Substances Review Expert Panel

NPSRREP- New Psychoactive Substance Review: Report of the Expert Panel

PSA- Psychoactive Substances Act (2016)

PSB- Psychoactive Substances Bill (2015)

ROI- Republic of Ireland

RSPH- Royal Society for Public Health

SPC- Scottish Prisons Commission

SPS- Scottish Prison Service

SDF- Scottish Drugs Forum

TCDO- Temporary Drug Class Order

TRTR- *The Road to Recovery*

UKDPC- UK Drug Policy Commission

UNODC- United Nations Office on Drugs and Crime

WHO- World Health Organisation

Chapter 1- Introduction

The UK's current approach to drug use is dominated by criminal justice responses. This has the effect, I argue, of criminalising sections of the population, not all drug users but only users of specific substances, as alcohol and tobacco, known to cause serious individual and social harm remain legal. The dominance of a criminal justice paradigm in responding to substance use suggests that the prevention of harm is not at the forefront of government policy, despite widespread recognition among policymakers that drugs primarily raise concerns about health and harm caused to individuals, family and societies. This research explores the tension between an understanding of drugs as a social harm and a regulatory response which largely treats drugs as a criminal problem. In doing so it considers the value of an emergent analytical lens in criminology which focuses on social harm. It adopts social harm as a lens for analysing recent UK drug legislation. It then looks at the portrayal of drugs by mainstream UK media to explore possible linkages between media representations of a drug 'problem' and the government's recent enactment of a punitive 'blanket ban' on psychoactive substances.

1.1- Context

The Psychoactive Substances Bill (2015) defines a psychoactive substance as 'any substance that is capable of producing a psychoactive effect in a person who consumes it, where that substance is not an exempted one.' New psychoactive substances (NPS) are more commonly known as 'legal highs', a term not only misleading and frequently inaccurate, but also one that remains popular, in spite of the widespread ban effected by the Psychoactive Substances Act (2016) (BBC 2016a, Panorama 2017). The term 'legal high' has become a popular shorthand to describe new drugs on the market created in factories, specifically designed to mimic the effects of traditional, illegal drugs such as ecstasy or cocaine, but with a chemical structure that is not prohibited under 'the 1961 Single Convention on Narcotic Drugs or the 1971 Convention on Psychotropic Substances' (United Nations Office on Drugs and Crime [UNODC] 2016), therefore described as being legal. NPS include substances such as synthetic cannabinoids and cathinones (EMCDDA 2015b), which in themselves vary from each other not only in their effects but in their categorisation. Cannabinoids for example are a group of 'dissimilar substances that produce similar effects', whilst cathinones are grouped by being 'similar substances with similar effects' (Home Office 2014, p10); other groupings of NPS include stimulants, opiates and hallucinogens (Barber 2015). NPS are therefore further distinguished from 'traditional' illegal drugs whose effects are specific to each type of drug. The blanket ban

created by the PSA responds to this differentiation from traditional drugs, as banning all psychoactive substances ‘protects’ from future NPS, not just those in existence at the time of the Act.

The PSA is the United Kingdom’s most recent drug legislation, reflecting current political attitudes to drug use and drug users. This research will examine parliamentary debate around its construction, and is particularly interested in how media coverage of NPS at the time of the Psychoactive Substances Bill (2015) may have created particular influences affecting the Bill’s drafting. In brief, the PSA is a ‘blanket ban’ (Barber 2015:4, Home Office 2015a) on all psychoactive substances, whose name was even a point of contention (ACMD 2015a, Barber 2015, Home Office 2016c). The Psychoactive Substances Bill (PSB) originally had the descriptors ‘Novel’ and ‘New’, evident in the New Psychoactive Substance Review: Report of the Expert Panel (NPSRREP) (2014), the document intended to guide government policy on NPS. David Nutt, Chair of DrugScience (formerly Independent Scientific Committee on Drugs [ISCD]) and Les Iversen, Chair of the government’s Advisory Council on the Misuse of Drugs (ACMD) protested the loss of the ‘new/novel’ descriptor, as its presence separates these new designer drugs from less harmful substances such as nitrous oxide (laughing gas), amyl nitrate (poppers) or even coffee, that have been around for a long time yet not assessed as being harmful enough to warrant being legislated by the Misuse of Drugs Act (MDA) (1971) (Home Office 2015a&b, Nutt 2016a).

Until the passing of the PSA, illicit drugs were legislated for within the UK by the Misuse of Drugs Act 1971 (MDA). The intention of the MDA was to classify drugs by their potential to harm (Barber 2015, Nutt 2012, Nutt *et al.* 2007), the harm ‘levels’ being classes A, B & C, with A containing most harmful substances. The biggest impact of this classification system is on the ‘legal penalties for importation, supply and possession’ (Nutt *et al.* 2007: no page number), with more severe penalties associated with the apparently more harmful drugs. Alcohol and tobacco are notably absent from the MDA, leaving their control outwith criminal legal jurisdiction. In 2007, the government’s Advisory Council on the Misuse of Drugs (ACMD) undertook research in order to try and ascertain relative harms of substances, both legal and illegal (Nutt *et al.* 2007). The intention of the research was to look at the potential harm of substances in order to rank drugs by how harmful they are, assessing legal substances including nicotine and alcohol alongside illicit substances legislated for by the MDA. Nutt *et al.*’s research found the current UK drugs classification system to be more or less ‘arbitrary’ (2007), with the harm caused by alcohol and tobacco equating that of class A drugs. These

findings were re-substantiated by a further study by the Independent Scientific Committee on Drugs (ISCD) (Nutt 2012). Appendix 1 illustrates the scale of harm created by the ISCD, with harms categorised by harms to ‘users’ and to ‘others’, with as wide-ranging harms as ‘environmental damage’ and ‘drug-specific impairment of mental functioning’ taken into consideration for each substance tested (Nutt 2012:33). With harm to others considered, alcohol was found to be the most harmful drug in society, yet it is legally available, subject to restriction rather than prohibition. The harms taken into account do not mitigate for the legal status of a substance, so the accessibility of alcohol has undoubtedly raised its harm profile, however conversely the illegal status of other drugs may have in turn raised their harm profile. Some harmful aspects of drug-taking can be associated with their illicit nature, such as sharing needles or overdosing on substances whose strength is unknown. It was the ACMD’s belief that ‘discussions based on a formal assessment of harm rather than on prejudice and assumptions might help society to engage in more rational debate about the relative risks and harms of drugs’ (Nutt *et al.* 2007: no page number).

The MDA was not seen to be adequate legislation to cope with a recent influx of ‘legal highs’ flooding the European market in the early 21st century (Barber 2015, EMCDDA 2015b). The number of psychoactive substances qualifying for definition as NPS has been increasing rapidly according to an update from the EMCDDA Early Warning System who gather information on new substances from European members (EMCDDA 2015b), and ‘the availability of new psychoactive substance on Europe’s drug market has rapidly increased over the last decade’ (EMCDDA 2015a:34) leading to the question of how to deal with them in a policy context. ‘It is likely that the growth of the market in NPS will continue to pose a range of challenges for public health and drug policy over the next few years. The major drivers of many of these are the speed at which they appear, their open sale, and that there is little or no information on their effects and harms’ (EMCDDA 2015b:5).

Within the UK context, an initial response to emerging awareness of NPS and the perception of these substances as a threat was the implementation of temporary class drug orders (TCDO) in 2011 (Home Office 2011), whereby drugs that were not already covered by the MDA could be banned for up to 12 months prior to full assessment of their harms. It would be a requirement that the Advisory Council on the Misuse of Drugs (ACMD) were consulted and would recommend to the Home Secretary that a substance should be subject to a TCDO. During the period of being classified as a temporary class drug, a substance would become ‘a “controlled drug” within the meaning of the MDA’ (Home Office 2011:1). The 12 month ban was intended

to give enough time for the ACMD to ascertain harms caused by the drug in question, whilst ‘protect[ing] the public from potentially harmful substances’ (Home Office 2011:2), and also was intended to send out a message to the public on the government’s attitude to NPS, negating their ‘legal high’ image. The result of a TCDO would then be a parliamentary decision as to whether a substance would become permanently controlled or become legal again if evidence for control was insufficient. Using TCDO, the UK ‘banned over 85% of the main groups of NPS seen in Europe’ (Barber 2015:13), reported as being ‘over 500 NPS’ (Barber 2015:14, NPSREP 2014) exemplifying the extent of the problem in sheer numbers of substances available, but also underlining the extensive number of NPS already illegal prior to the conception of the PSA.

According to the UK Drug Policy Commission (UKDPC), a charity established to promote the use of evidence for better drug policy results, existing drug policies ‘have struggled to limit the damage drugs can cause’ (2012:10) and traditional means of combatting illicit substances are not equipped to deal with the ‘rapid creation of new drugs’ (2012:10). In other words, using TCDO to try to control NPS, was not effective (HM Government 2012). The new drugs develop at ‘such a speed that by the time one substance is controlled, another one with a slight change in chemical structure can take its place in the market’ (Barber 2015:4). This is problematic for control of NPS ‘because the minute we clamp down on one substance, up pop another one or two or three or 10’ (Lord Bates, HL 2015c, HC 2015b), describing how even TCDO cannot keep up with the speed of NPS development. It also leads to exponentially higher potential for harm, due to the ever-changing structure (therefore effects) of drugs available to consumers (NPSREP 2014). A government panel, The New Psychoactive Substances Review Expert Panel (NPSREP) was formed in 2014 to work out how best to ‘tackle NPS’ (Barber 2015:163), whose recommendations informed the Psychoactive Substances Bill (2015). The panel ‘recommended that a blanket ban approach, similar to that in place in Republic of Ireland, would be the best framework’ (Barber 2015:4, NPSREP 2014), however not without reservations about this approach due to the lack of comprehensive evaluation of the legislation in Ireland, potential ‘unintended consequences’ of a blanket ban (NPSREP 2014:38), and concern whether ‘this type of approach was a proportionate response to the problem of NPS in the UK’ (NPSREP 2014:38). The blanket ban approach is a substantial conceptual change to the way drugs have been legislated in the UK, as the PSA bans psychoactive substances on a precautionary principle without need for any evidence of harm (Barber 2015, HC 2015b, HL 2015b, NPSREP 2014).

1.2- NPS-related Harms

Harms from NPS can be broken down into many categories: harm to user; harm to others; physical harms; mental health harms; environmental harms; to highlight just a handful of the impacts that need to be considered when legislating substances. According to the EMCDDA, there has been a growth in harms reported from NPS. ‘Most of these concern non-fatal intoxications and deaths, but they also include broader social harms’ (EMCDDA 2015b:5). Another concern stated is the ‘emerging threat’ of organised crime groups (OCG) becoming involved in the trade and dissemination of these new drugs, although at this stage there did not appear to be extensive involvement of OCG in the NPS market (EMCDDA 2015b:6). There is evidence of NPS being sold deceptively as other traditional drugs leading to physical harms to users. Conversely however some claim a drop in physical harms to users has occurred due to their choosing a less harmful NPS over a potentially more harmful illicit drug. Professor Sheila Baird attributes a significant drop in cocaine-related deaths in the late 2000s (95 in first six months of 2008 compared to 22 in first six months of 2009 [Nutt 2012:117]) could be due to the proliferation of mephedrone, legal at the time referred to, encouraging users to switch from cocaine to mephedrone. One of the areas of concern for the blanket ban approach is that criminalisation of NPS could lead consumers to turn to more-readily-available alcohol in pursuit of psychoactive effects (Baroness Hollins, HL 2015b), thus turning them towards a substance implicated in 20,000 UK deaths per year (HL 2015b). Unlike the MDA, the PSA does not create a system of punishment proportionate to the potential to harm of a substance, but passes the responsibility onto police and sentencers (HC 2015b, HL 2015d).

One of the most agreed-upon areas of NPS-related harms is the lack of knowledge about long-term effects (EMCDDA 2015b, NPSREP 2014, Nutt 2012), however another area of agreement is that ‘the available evidence suggests that the overall harms from NPS are low’ compared with those of traditional drugs (Barber 2015:10). For example in England 2012/13 there were 1,630 admissions to treatment for people using mephedrone (banned in 2010) compared to 69,247 presentations for other drug-related treatments (NPSREP 2014). All of these twists and turns in the state response to NPS as well as the competing data on their harms, shape the interest fuelling my research.

Chapter 2- Literature Review

Before analysing the recent legislative debate around psychoactive substances, this chapter lays the groundwork by reviewing literature on moral panics and media representations of drug use. The social harm perspective and its pertinence to drug policy in the UK is also reviewed.

2.1- Drugs, the Media & Moral Panic

There is much literature linking media drugs coverage to moral panics (Coomber *et al.* 2000, Manning 2007, Omori 2013, Silverman 2012, Stevens 2011), in fact the first published reference to ‘moral panic’ was in relation to drug use, where Jock Young stated ‘the moral panic over drug-taking results in the setting-up of drug squads’ (quoted in Thomson 1998:7). The idea of moral panics as a systematic framework came from Stan Cohen’s (1973) *Folk Devils and Moral Panics*. His opening paragraph sets out well recognised elements of a moral panic: ‘a condition, episode, person or group’ who ‘become defined as a threat to societal values and interests’, being characterised in a ‘stereotypical fashion by the mass media’, with moral judgement coming from ‘editors, bishops, politicians and other right-thinking people’, and ‘diagnoses and solutions’ being offered by experts until ‘the condition then disappears, submerges or deteriorates and becomes more visible’ (Cohen 1973:9). He states that the condition in question may be altogether new, but equally could be something that is not novel, but is new to the limelight, in our case a new version of a familiar story, whereby NPS now replace crack, or heroin, or ecstasy, or marijuana. The effects of a moral panic can also vary; sometimes the panic may pass and ‘is forgotten, except in folk-lore and collective memory’, or they may have long-lasting impacts to the extent of changing ‘legal and social policy or even the way society conceives itself’ (Cohen 1973:9). According to Cohen, the conditions may be ‘damaging *in themselves*- but also merely warning signs of the real, much deeper and more prevalent condition’ (Cohen 2002:8), for example the use of drugs representing out-of-control youth and/or marginalised groups in society from particular social or ethnic groups.

Cohen and Young both highlight ‘the role of mass media in defining and shaping social problems’ (Cohen 2002:9, Young 2009), which will be the area focused on in this research. Cohen recognises that ‘it is in this form that most people receive their pictures of... deviance. Reactions take place on the basis of these processed or coded images: people become indignant or angry, formulate theories and plans, make speeches, write letters to the newspapers’ (2002:24, Pratt 2006). Newspapers report that politicians are ‘being urged’ to respond or act (Goode & Ben-Yehuda 1994a), but without specifying who is doing the urging, thus by

reporting it, the newspapers themselves can be instigating such urging. Another theme is ‘the repetition of obviously false stories’ key to ‘spreading mass hysteria’ (Cohen 2002:28). Coomber *et al.*’s research into how and why there is such a lack of accuracy in drug reporting does so from the point whereby ‘research, undertaken through a range of reflexive and empirical methodologies, has already established that this is not a rare phenomenon’ (2000:217, Taylor 2008). This can be exemplified recently with the media coverage of mephedrone relating a number of ‘fictional articles’ according to Nutt (2012:115) blaming mephedrone for teenage deaths, when methadone was the actual drug used. This would not suit the narrative of the media, given that the tabloids had already nicknamed mephedrone as ‘meow meow’, an example of Cohen’s process of *symbolisation* which imbues a formerly neutral word with ‘acquired symbolic powers’, in this case ‘wholly negative meanings’(1973:40). ‘Communication, and especially the mass communication of stereotypes, depends on the symbolic power of words and images’ (Cohen 2002:35). The other elements of Cohen’s perspective are: *exaggeration* and *distortion* of events by the media, with ‘sensational headlines’ and ‘melodramatic vocabulary’ (Cohen 1973:31), as well as their *prediction* of whatever incident has occurred inevitably occurring again. The specific criteria of a moral panic continues to be subject to discussion (Goode & Ben-Yehuda 1994a, Jewkes 2015), as does the relevance or potential impact of mass media in today’s social media age (Manning 2007), however the themes originally raised by Cohen are a useful guide to analysing media outrage, as is the intention of this research.

Drug discourse has seen a ‘significant spiral’ (Critchler 2003:15) of moral panic, where politicians have ‘absorbed media comment and responses’ (Silverman 2012:82) leading to policy effects. Omori (2013:519) states ‘the media is an institution embedded both in the larger political structure as well as general public opinion, and helps perpetuate a moral panic through its discourse on drug and crime problems’. Silverstone’s (2007) research ‘argues that, by defining the contours of public discourse on drugs, influential parts of the UK media have undoubtedly circumscribed the policy options open to government’ (quoted in Silverman 2012:96), a similar argument to Redhead (1995, quoted in Manning 2007:23) who argued that it was the discourse on drugs that produced the framing of drugs as a problem, rather than the ‘real consequences of drugs’. It can be argued that ‘intense news media coverage of the use of ecstasy’ has ‘disrupted the development of coherent harm-reduction strategies and prompted the government to revert to enforcement approaches to appease section of the press’ (Manning

2007:151), a failing that applies to all areas of drug coverage and legislation than just ecstasy use (Coomber *et al.* 2000, Taylor 2008, Thomson 1998).

The example of the sacking of David Nutt as Chair of the ACMD could be seen to reflect the media's quick-to-outrage stance on drug use, or to use one of Stan Cohen's moral panic attributions, the media's *sensitisation* to drug-related stories. Then Home Secretary, Alan Johnson's, justification for asking for Nutt's resignation was his ongoing debate in national media relating to drugs harms, explaining that Nutt's role at ACMD should be 'to advise rather than undermine government policy on drugs' (Johnson 2009). The ongoing debate in question stemmed from a journal article written by Nutt making a comparison 'between deaths from horse-riding and from ecstasy' (Nutt, quoted in Silverman 2012:88), which became (mis)interpreted and (mis)represented by the media as 'Professor Nutt has said that ecstasy is less dangerous than horse-riding' (Phillips 2009), when the issue he was trying to draw attention to was 'why are we so hung up on ecstasy?' (quoted in Silverman 2012:88). Mainstream media showed itself unable to discuss/promote a harms-based approach to drugs debates, instead calling for Nutt's dismissal (Phillips 2009). The irony here being that through trying to address the media's consistently overblown reaction to drug use, Nutt himself became a victim of it.

As outlined above, former Home Secretary Alan Johnson admitted the ban on 'legal high' mephedrone was 'hurried up' after 'a lot of newspaper stories after the [mephedrone-related] deaths of the two boys' (Johnson, quoted in Silverman 2012:84). The 2010 ban was celebrated by the Sun newspaper with the headline 'Meow banned from midnight- drug illegal in victory for the Sun' (quoted in Silverman 2012:85) claiming victory after a campaign to outlaw mephedrone had begun in the March. This follows on from other campaigns, or moral crusades from British newspapers. In the 1990s, the Daily Mail was 'media leader in the role of moral campaigner frequently boasting of its success in influencing politicians to introduce legislation' (Thomson 1998:27-28). In 2006, Terry Grange, spokesman from Association of Chief Police Officers (ACPO) 'accused the government of forming policy at the behest of tabloid newspaper agendas' (Silverman 2012:35) due to Home Office action on sex offenders immediately 'following a meeting with representatives of the *News of the World*' (Silverman 2012:35). In both the circumstances leading to the *News of the World* proposing "Sarah's Law" (which would give 'rights of notification and warning to local communities if convicted sex offenders were moving to their neighbourhoods' [Pratt 2006]), and the aftermath of the ecstasy-related death of Leah Betts, the parents of the victims became vocal campaigners. In the case of Leah

Betts, her parents ‘encouraged the circulation of the ‘death bed’ photograph of their daughter that offered news organisations a powerful set of symbols with which to construct the framework of ecstasy as a deadly threat’ (Manning 2007:154). Manning (2007:151-152) states that the news media has repeatedly represented ‘ecstasy use in terms of moral panic framework’ and ‘the intensity of news media coverage often has an important influence upon government thinking and resource allocation’. This research seeks to analyse how much of a thematic link between news media coverage and policy can be seen.

Omori (2013:520) explicitly states that ‘it is also likely that the media in turn helps frame and place pressure on how policy is passed and the current study tests whether the media influences the passing of legislation.’ Her quantitative research ‘measured as a rate of the number of times “methamphetamine” or “meth” appeared in local newspaper articles per newspaper’ (Omori 2013:523), ‘finding that news coverage predicts an increase in legislation, controlling for rates of use supports the moral panic literature generally. Theories of moral panics suggest that increased media attention on drugs such as methamphetamine places pressure on policymakers to take action and respond to the problem’ (Omori 2013:528). Although researching a similar topic, my research uses qualitative research to explore the particular representations of drugs issues and possible link between media coverage of drugs and policy content. The intention of using a qualitative approach is ‘in understanding rather than measuring’ phenomena (Lewis 2006:50). My interest is in the language used to portray drugs and drug users, given the power of symbolisation (Cohen 1973), constructionism (Schneider, A. & Ingram, H. 1993) and labelling (Jewkes 2015, Tierney 2010). By looking at the type and context of language used, as opposed to looking at the number of times NPS are referred to, I am able to interpret how they are being portrayed in each instance.

2.2- Social Harm perspective

A social harm perspective became a cohesive ideology in the late 1990s (Pemberton 2015). It argues that crime ‘has no ontological reality’ (Hulsman 1986, Hillyard and Tombs 2008), but rather is defined by those with the power to define it (Muncie 2000). Its focus is on human rights over state-defined crimes, arguing that greater societal, economic, environmental and humanitarian harms can be inflicted through activities that are not illegal, such as causing pollution or committing health and safety breaches, than through punishable crimes such as robbery (Pemberton 2008). This contrasts with behaviours defined in the current legal framework as ‘criminal’, such as rape and shoplifting: these may share the label of ‘crime’, but

potentially little else. In the UK at present, people from socio-economically deprived areas are heavily over-represented in prisons (Houchin 2005), reflecting the view that crime as a social construct demonises and controls the most marginalised classes of society (Reiman 1984, Yar 2012). This is reflected by the particular actions that are labelled as crimes, such as drug use, whilst arguably more harmful societal ills such as ‘poverty, malnutrition, pollution, medical negligence...’ are not (Muncie 2000:3, Hall 2012, Pemberton 2015). A social harm perspective however focuses on the harm done to someone or something and how best to ameliorate that, as opposed to only focusing on the behaviours committed (Hillyard and Tombs 2008, Hulsman 1986, Pemberton 2008). An aim of a social harm approach would be to seek ‘negotiation, mediation and arbitration’ rather than ‘guilt, punishment and exclusion’ (Hulsman 1986), diverting the path away from the criminal justice system.

2.3- Social Harm & Drug Use

A key driver of expanding penal populations in the UK and US has been criminalisation of various drug-related activities from large scale dealing through possession and use. Moreover, particular drugs have been penalised more heavily and this has had consequences for overrepresentation of ethnic minorities in prison, e.g. crack (Hari 2015, Omori 2013, Stevens 2011, Taylor 2008). Whether or not we think that drug use is dangerous or harmful, one effect of the current reliance on criminalisation as the main regulatory strategy has been scooping up disproportionate numbers of the poor and of minorities (Reuters & Stevens 2008). A social harm perspective might be one way of acknowledging problematic implications of drug use without also entailing confinement of the most marginalised members of society.

A social harm approach to drug users would be unlikely to see them prosecuted and persecuted with imprisonment, preventing not only the direct harm to individuals themselves, but also to wider society, who pay for not only the imprisonment of drug offenders, but also the ensuing social exclusion afforded to ‘ex-offenders’ (Eastwood 2016b, McAra 2015). In the UK, ‘sending drug users to prison without appropriate support either inside or on their release, may lead to a higher risk of death’ or lower risk of recovery (UKDPC 2012). The war on drugs was based upon the belief was that a reduction in supply and demand would have a natural consequence of reducing harms (Nutt 2012:268). Despite results to the contrary, the war on drugs continues, implying those with the power to make impactful changes are not necessarily looking to implement policies that reduce harms. The 1961 UN Single Convention on drugs ‘had set the tone of the debate as a moral battle’ (Nutt 2012:267), which continues today, with

drugs policy having ‘an added emotional and moral aspect that is not seen in most other policy areas’ (UKDPC 2012, Silverman 2012, Young 2009).

Recently the Royal Society for Public Health (RSPH) published a report calling on the government to rethink drugs policy, asking for them to follow a ‘public health-led approach’ (RSPH 2016) due to the failure of a law enforcement-led approach to ‘curtail demand or supply, or reduce the harms that drugs cause’ (RSPH 2016). John Middleton (President of Faculty of Public Health) states that ‘criminalisation and incarceration for minor, non-violent offences worsen problems linked to illicit drug use, such as social inequality, violence and infection’ (RSPH 2016). The World Health Organisation (WHO) also states that there is a need to focus drugs policy on public health as opposed to law enforcement, stating that current practices ‘entrench discrimination, propagate human rights violations, contribute to violence related to criminal networks’ as well as preventing access to health interventions (WHO 2016:7).

Alex Stevens (2011) writes that the effects of drugs, particularly their relation to causing crime, have ‘continually been exaggerated or distorted in order to justify policies which contribute both to the creation of inequality and to the production of harm’ (Stevens 2011:9, Taylor 2008), noting that *harm* encompasses a wider remit than crime alone. According to Hillyard and Tombs (2008), politicians use crime to legitimise power and increase popular support, which can be seen directly in relation to drug legislation. Drugs are the ‘most heavily mediated of policy areas’ in the UK (Silverman 2012:82) with relation to crime, health and morality. Despite a commitment from the Home Office in 2010 to ‘examine what works in other countries and what we can learn from it’ (quoted in Silverman 2012:83), UK governments have continued to distance themselves from the idea of decriminalisation, instead preferring to be seen to take a ‘tough stance’ on drugs. This can be evidenced by former Home Secretary Alan Johnson’s admission to Silverman (2012) that the rush to ban ‘legal high’ mephedrone was in part due to the proliferation of media stories about the drug’s use and a desire to enact a ban prior to an upcoming election.

The recent Release publication on drug decriminalisation is a comparative study of 25 jurisdictions where decriminalisation of drugs has been implemented (with varying forms of implementation/controls) (Eastwood *et al.* 2016). Their evidence ‘shows that the ending of criminal sanctions for drug use has no impact on the levels of consumption’ (Eastwood 2016a, RSPH 2016), a fact acknowledged even by the UK government (Eastwood *et al.* 2016). The UK continues to have one of the highest rates of drug-related deaths, with a 64% increase in

morphine-related deaths over the last two years (Eastwood 2016b) indicating that the tough stance on drugs is having least impact where it could be argued it matters most: on mortality rates. As explained by Eastwood (2016a) ‘the reality is that the criminal law does not have a deterrent effect, but criminalisation can have significant harms for individuals, their families, and society as a whole’.

Drugs themselves are not necessarily ‘the problem’, but rather the societal inequality within which people are taking drugs (Allen 2008, RSPH 2016, UKDPC 2012) with around 90% of drug users doing so without use becoming problematic (Eastwood 2016b, Taylor 2008, UKDPC 2012). Those for whom drug use does become problematic are often sufferers of mental health illnesses or of previous life traumas (Eastwood 2016b, RSPH 2016), *i.e.* the most vulnerable in society, leading to the conclusion that drug policy itself, rather than drug use, can be accused of immorality by punishing these vulnerable sections of society. The link between crime and drugs could be explained by legislation intentionally criminalising drugs and drug users, as opposed to a simplistic notion of ‘drugs cause crime’ as promoted by government policy or the media.

Stevens believes that current drugs legislation plays a part in ‘producing and reproducing inequality’ (Stevens 2011:1), however drugs debates tend to ‘ignore issues of equality’ (Stevens 2011:1) and the role played by drug policy in creating and propagating inequality, for example more money has been spent testing pharmacological impacts of drugs than testing the effects of drug policy (Stevens 2011). Health interventions that are consequently implemented ‘tend to ignore wider structural issues, including poverty, inequality and environmental degradation’ and simply focus on an individual’s responsibility to change (Stevens 2011:6), again relating to a need for a social harm perspective in relation to drug policy. Drug use occurs throughout society, often without offending behaviour or serious health impacts. ‘The harms associated with drug use, including death, illness and criminal victimisation are, in contrast, concentrated in socio-economically deprived areas and groups’ (Stevens 2011:10, Eastwood 2016b), comparable to the effects of the criminal justice system itself, whereby the bulk of those within the system are from the most socially deprived sections of society (Houchin 2005; Mooney *et al.* 2010, Tombs and Piacentini 2013).

Chapter 3 Methodology

‘The print media in the UK consistently produces representations of drug risks that are either wholly inaccurate, moderately so or exaggerated to a degree that is unhelpful and misleading’ (Coomber *et al.* 2000:218) yet its impact on policy continues (Silverman 2012). Noto *et al.* (2006:1263 quoted in Taylor 2008:376) found that ‘the print media is one of the key factors for defining public opinion and setting public policies regarding drugs.’ From my reading, as indicated in the literature review, an emphasis on *print* media impacting public opinion was apparent (Coomber *et al.* 2000, Manning 2007, Noto *et al.* 2006 in Taylor 2008, Omori 2013, Otten 1992, Silverman 2012), leading to a focus on newsprint media above other forms of mass media. Although ‘print’ media has traditionally referred to newspapers, in the present age newspapers often are accessed online; hence my terminology refers to newspapers whether accessed online or in paper printed forms.

3.1- Ethics

The data collected and analysed in this thesis consists of publicly available news stories. It is therefore naturally occurring (Lewis 2006), as it is data already in existence that I am collating and analysing, as opposed to generated for the purposes of this research. The ethical considerations of using this information are minimal. Consent is not required to analyse publicly accessible information, and the results of my analysis do not stand to cause any harm to those involved. I have taken quotes from articles and headlines, attributing them to their sources, so they can be checked and verified. Not only are there no participants likely to come to harm through the research, but the material is not of a sensitive nature likely to put the researcher in a dangerous position.

3.2- Methodology

I am choosing a qualitative approach because I am interested in the language used in both media and policy discourse. I believe the way in which a phenomenon is described and represented is impactful in many ways, with the potential to influence an audience and shape opinions about particular issues. The argument at the heart of this research is that the language used by newspaper media to report on NPS uses *exaggeration* and *distortion* (Cohen 2002:25), potentially creating ‘mass hysteria’ (Cohen 2002:28) which could then be reflected by a disproportionate policy response. This research seeks to understand if there is a relationship between language used by the media and language used by politicians. MP Anne McLaughlin states that ‘language is important’ (HC 2015b), referring to the use of the phrase ‘legal highs’.

That NPS have become known by this term, I argue, has created one of the imperatives to legislate against them, as a means of the government retracting their legitimacy (HC 2015b). My approach to the analysis was deductive, as I approached the data through the specific theoretical framework of social harm. It could be argued that taking this approach would inevitably skew the analysis, as I am seeking to support a particular argument. However, any researcher analyses data through their own perspective, which is the result of their own experiences and learning, as well as research interest. If I were to take an inductive approach, the themes I found would still be shaped by, and analysed through, the prism of my own personal viewpoint. By taking this deductive approach, I have clarified my standpoint prior to beginning the research and cannot be accused of an unconscious bias. This also enhances the ability to reproduce this research if its validity were in question, as the framework for analysis is clearly outlined.

3.3- Method

‘Thematic analysis is a method for identifying, analysing and reporting patterns (themes) within data’ (Braun & Clarke 2006:79), which is an appropriate tool for my research. The analysis of data took place at not just a semantic level, but at a latent level, which ‘goes beyond the semantic content of the data, and starts to identify underlying ideas, assumptions and conceptualisations’ (Braun & Clarke 2006:84). ‘Analysis from within this latter tradition tends to come from a constructionist paradigm’ (Braun & Clarke 2006:84), which is an accurate description of my own approach, whereby the representation of a phenomenon may be as important to its impact as the phenomenon itself. The approach I took was deductive, as I approached the political discourse specifically seeking themes relating to harm or the media. When I conducted the thematic analysis on the media data, I came to it with the intention of seeking similar themes as I had used in the political analysis, thus again my approach was deductive.

3.4- Research Process

To explore policy discourse, I:

-Sampled parliamentary debates from 1st reading in the House of Lords 28th May 2015 through to 3rd reading in the House of Commons 20th January 2016. I used Hansard transcripts, available through the Parliament website (HC 2015a). The debates numbered ten in total, and given the length and detail within the debates, there would be scope to undertake a thematic analysis on each debate individually, but my timescale made it necessary to select only a few

debates. I selected debates covering the full time span of the Bill's passage, ensuring I selected from both chambers: 2nd reading: House of Lords 9 June, 2015 (HL 2015b); 2nd reading House of Commons 19 October, 2015 (HC 2015b); 3rd reading House of Commons 29 October, 2015 (HC 2015e).

To explore media discourse, I:

-Sampled media coverage on 9 June 2015, 19 October 2015 and 20 January 2016, to coincide with the selected dates of parliamentary sample. This produced a total of 28 news stories from both local and national press. I chose to focus on the national press stories due to their extended reach and therefore likelihood of impacting or influencing parliamentary debate.

3.4.1- Parliamentary sample and analysis process

I started with reading and re-reading the parliamentary debates relating to the PSB. Appendix 2 shows the coding strategy, from original codes I picked out whilst reading all the documents, through to the themes I have used for the final thematic analysis. Although looking for specific discussion of harm and the media, my original coding strategy involved searching the texts more broadly for codes that may relate to other themes outwith these. From all of the debates I selected three to analyse more in-depth, each debate containing examples of the themes I had chosen. On re-reading, I was able to narrow the 16 codes to 8, then these codes were able to come under the umbrella of three themes. The dominant themes that ultimately emerged for analysis were: the PSB as a means of framing the illegitimacy of NPS (relating to their legal status); PSB as a means of minimising harms of new substances; and personal/media stories related by parliamentarians. The process I followed is as described by Braun & Clarke (2006), with a quick-guide table provided in Appendix 3.

Thematic analysis is a flexible tool, which faces the criticism that 'anything goes' as it is not as defined and specified as critical discourse analysis for example (Braun & Clarke 2006). To this end, I have supplied appendices charting the process of my coding strategy, exemplifying the structured approach I have taken. A potential hindrance of studying the text documentation of debates is that the debates are not intended as written documents, but rather the texts are written recordings of live debates. For certain types of analysis, attention to cadence, tone and body language may be crucial, thus studying transcriptions would omit vital information, however thematic analysis 'is broadly based on the semantic content' (Clarke & Kitzinger 2004:198) so the Hansard transcriptions are suitable for analysis purposes.

3.4.2- Media sample and analysis process

For the media analysis, I looked at newspaper reports of NPS at the time of the selected parliamentary debates. I did a Google news search for articles containing the phrase ‘legal highs’ on the day of each parliamentary debate that I included in my policy discourse analysis. The reason for not selecting the day after each debate was in case there was an increase in media output as coverage of debates. This was not entirely successful due to the increased immediacy of news reporting. Parliamentary debates were covered directly by two articles, and protests about the PSB also in two articles. All were posted in the afternoon or evening of the debates, exemplifying the immediacy of reporting, and to an extent undermining my reasoning for selecting these dates. If a story relating to ‘legal highs’ appeared the day before parliamentary debate, it would seem more likely to be raised in the chamber, therefore I did not want to risk skewing the data by using reports from the day prior to debates as part of my sample.

On 9 June 2015 there were ten articles in the UK press relating to ‘legal highs’ from publications ranging from local news such as the *Swindon Advertiser*, to mainstream press such as the *Mirror*. On 19th October 2015, there were eight news stories, mainly from mainstream media including the *Mirror* and the *Telegraph*, but again with local reporting including the *Newry Times*. On 20th January there were 10 articles relating to ‘legal highs’, again spanning local and national media, including *Wigan Today* and the *Independent*. Following this sampling approach of selecting the dates of publications to coincide with parliamentary debates, the next stage was to focus on mainstream newspapers with national circulations for the media analysis of this research (Hollander 2013). On the 9th June, there were two articles from the *Mirror* and one from the *Independent*, on 19th October there were again two articles in the *Mirror* and one from the *Telegraph*, and on 20th January there was one article from the *Telegraph* and one from the *Independent*. As I had worked on the thematic analysis of the parliamentary sample prior to undertaking the media analysis, I used these themes to guide analysis of the media articles in order to address a key query of my research about the relationship between parliamentary and media forms of discourse. However, I also took the opportunity to search for new themes (Appendix 4). The publications selected are both broadsheet and tabloid, with a diverse array of readers, so I was aware that I may locate themes within articles that do not run across them.

In order to carry out a methodical, in-depth analysis within my given timeframe, it was necessary to limit the number of articles analysed. The downside to this approach is the

inevitability of missing out on a range of stories from a wide range of publications. The *Daily Mail* did not feature a relevant story on any of the selected dates, thus I was unable to analyse reporting from the UK's most-read newspaper (Hollander 2013). The *Guardian*, where DrugScience expert and former ACMD Chair David Nutt is an occasional columnist also did not feature a story on any of these dates. It is my presumption that given their affiliation with David Nutt, the *Guardian*'s reporting of NPS may differ to other mainstream media, but this analysis did not allow for enlightenment. The Telegraph is a centre-right, Conservative-supporting broadsheet, The Independent is a centre-left, Liberal broadsheet, and The *Mirror* is a left-leaning Labour tabloid. Although extremes of the spectrum were unable to be analysed, the available dataset covered a satisfactory variation in political stance and type of publication. Restricting the dates for media analysis also led to a limitation on the contents of the stories. News stories are published according to the occurrence of news events, leading to a dependency on 'events' having occurred within the relative timeframe. Choosing a wider timeframe to search within for articles would have allowed me to select articles reporting NPS-related deaths or harms for example. However, this felt like a false basis from which to start, as I would have been selecting the worst-case scenarios from the press, giving a potentially skewed example of reportage. Instead, the stories selected systematically according to designated time frames (tied to Parliamentary activity) were less sensationalist or dramatic than I had anticipated, requiring my analysis to be deeper and more attentive to subtleties.

Chapter 4- Political Discourse Thematic Analysis

4.1- Legitimacy Retraction

There is an over-riding theme throughout the parliamentary sample of a need for legislation in order to deny ‘legitimacy’ to NPS. This is not an unexpected response to the fact that NPS at the time of debate had a legal status despite widespread perception that they were harmful, reflected in the common parlance of referring to these substances as ‘legal highs’. In the parliamentary discourse sample, the word most often linked to ‘legal’ in this context was ‘safe’, whereby politicians surmise that members of the public believe ‘that because the substances are available to buy in a high street shop, they are somehow regulated and therefore safe’ (Lord Farmer, HL2015b, HC 2015b & e). MP Mike Penning stated that NPS: ‘were not safe and we have made sure that everybody knows that now’ (HC 2015e) as if imparting that message is as important as actually reducing dangers related to NPS. According to MP Andrew Gwynne, in spite of the fact that ‘many critics of the legislation say that it is incredibly difficult to enforce, it is as much about the public health messages that are sent out that this behaviour is no longer acceptable’ (HC 2015b). Thus, whether enforcement is feasible or not, just stamping products with ‘not condoned by HM Government’ is seen to be an important role of legislation. Although criminalising the sale and supply of NPS would likely put a percentage of people off buying them, what must be assessed is whether the harms done will also decrease, or whether it might displace sale of NPS to an underground market leading to a greater number of deaths. Closely associated with this is the issue of ‘head shops’, where NPS were previously bought without regulation. The parliamentary sample showed that many legislators argued that by not legislating on ‘legal highs’, or their open sale at head shops, the government is complicit in promoting NPS as ‘legal and safe’. It is my argument that the desire to legislate on NPS has some grounding in the government’s desire to be seen to be acting to retract ‘permission’ for their sale. The subject of head shops is repeatedly raised in this discourse corpus, with one MP asking ‘if this Bill is passed, how quickly will Bing Bong, the outlet in Worksop, be closed down?’ (John Mann, HC 2015b) indicating focus not on the bigger legislative impacts, but on the perceived threat the issue of NPS presented in his constituency. When arguing for enacting legislation similar to the blanket ban approach taken in the Republic of Ireland in 2010, Mike Penning (Minister for Policing, Crime and Criminal Justice) describes how ‘the head shops closed literally overnight in the Republic of Ireland, and the problem with that type of sale fell through the floor’ (HC 2015b) evaluating this as a success, without considering the potential negative repercussions of closing outlets, such as driving the market underground as suggested

by many parliamentarians during the debates (HC 2015b, HL 2015b). ‘Anti-social behaviour’ is given as one of the harms of NPS (HCHASC 2015, HL 2015b), particularly linked to head shops and their surroundings. The argument running through the parliamentary sample is that head shops therefore need to be closed down in order to ‘clean up’ neighbourhoods and keep problem drug users out of the sight of ‘hard-working citizens’.

There are opposing opinions on the success of the NPS ban in Ireland, upon which the PSB was based, with some suggestions that NPS use has gone up in that jurisdiction since the ban (HC 2015b, HCHASC 2015, HL 2015b). Supporters of the PSB reject the need for a full impact assessment of the Irish legislation, ‘because I do not want more deaths, which will happen if we hold back now and wait for more studies’ (Mike Penning HC 2015b). The logic of MP Penning focuses on preventing people from dying, which creates a sense of an urgent crisis that cannot wait for evidence to inform policy. However implementing legislation without undertaking a full impact assessment could lead to greater damage in the long run. The desire for the government to distance themselves from any NPS-related deaths could be a motivating factor as much as concern to prevent deaths: If deaths occur after the ban is in place, the government is ‘blame-free’, given that they have legislated against NPS. However, simply rendering a substance illegal does not in itself prevent deaths as the parliamentary sample shows awareness of, with some parliamentarians noting that mephedrone use increased by up to 300% since its 2009 ban (Paul Flynn HC 2015b, HCHASC 2015). By removing head shops from high streets, the PSB does not necessarily reduce demand, but rather displaces the market to the criminal world, where repercussions for serious harms are likely greater. This was a concern raised in the NPSRREP (NPSREP 2014), the guidance document for the PSB that ‘no formal evaluation of the impact of the legislation [in ROI] has been undertaken but there is ongoing research in this area with concerns expressed by drugs workers about displacement to heroin and prescription drugs, as well as the development of an illegal street market in NPS’ (NPSREP 2014:35). MP Penning’s defence of an outright ban based on ROI’s ‘success’ is that ‘the vast majority of products that were sold to people who thought they were safe are no longer being sold’ (HC 2015b). Here he again underlines the importance of de-linking safety from public perception of NPS. It is a sweeping statement, given that there has been no formal assessment of the NPS legislation in ROI to establish if this is in fact true, or whether an underground market has stepped in as suggested by Lord Patel (HL 2015b). Subsequent to enactment of the PSA, according to Daly (2016) ‘the upshot was that while the authorities claimed a scalp in their very public war against psychoactive drugs being so freely available in

a high street shop, the sale of the bulk of Blackburn's legal highs- especially to the most problematic users- was transferred into the hands of the local heroin and crack-selling gang.'

4.2- Harm

'The Bill represents a radical departure from previous attempts to control drugs, because it legally decouples controlled substances from an independent and objective assessment of the harm they cause' (MP Lyn Brown HC 2015b), meaning that a substance is not legislated upon subsequent to an assessment of its potential to harm, but rather harm is assumed on a precautionary principle. There is much debate over the success of the MDA in reducing drug use in the UK since its enactment in 1971 (Boland 2008, Eastwood *et al.* 2016, Nutt *et al.* 2007, Nutt 2012, Silverman 2012, Stevens 2011, Stevenson 2011). As described in the introduction to this research, the approach of the MDA associates punishment with the potential for harm attributed to a substance unlike the approach of the PSA. The definition given to a psychoactive substance in the PSA is:

2 Meaning of "psychoactive substance" etc

(1) In this Act "psychoactive substance" means any substance which—

(a) is capable of producing a psychoactive effect in a person who consumes it, and

(b) is not an exempted substance (see section 3).

(2) For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state; and references to a substance's psychoactive effects are to be read accordingly.

(3) For the purposes of this Act a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person's body in any way

(Home Office 2016a)

In spite of this omission, the parliamentary sample refer to 'harm' frequently (HC 2015b, c, d, e, HL 2015b, c, d, e). Both those supporting and opposing the Bill refer to their desire to reduce harm, as MP Norman Lamb states, 'those people who have concerns about this legislation have the same purpose in mind: to try to address the substances that are causing harm' (HC 2015b). However not only are the approaches to harm reduction different, but likely are the perceived harms different too. The physical harms associated with NPS are not disputed throughout the parliamentary sample, 'paranoia, psychosis and seizures' (Lord Bates HL 2015b), 'we have no statistics... on the amount of long-term damage to mental health and on other health damages that may be caused' (Lord Howarth HL 2015b), 'some of the substances can cause severe

adverse effects such as heart palpitations, panic attacks, hallucinations and even psychotic episodes’ (Lyn Brown HC 2015b), however other harms associated with NPS are more pertinent to supporters of the PSB, such as ‘anti-social behaviour in the vicinity of retail outlets selling these products’ (Lord Bates HL 2015b). Although all sides can agree on their desire to reduce harms, exactly what harms are being reduced is rarely clarified. For example, MP Lamb raises the concern that ‘if the effect of the legislation is to hand the entire industry over to organised crime, we may end up with unintended consequences’ (HC 2015b) *i.e.* greater harms than exist pre-legislation. MP Brown states that ‘it is difficult to introduce the concept of harm to the Bill without denying the Home Office the tools it needs to deal with that central problem’ (HC 2015b) implying that it is worth the sacrifice of harm as a concept to allow the Home Office to legislate, as opposed to looking for other means of legislating with a focus on preventing harm. The forefronting of harm would be more in line with the desire approach of RSPH and WHO, who both promote a health-based approach to drugs legislation (RSPH 2016, WHO 2016).

On the one hand, the PSB appears to attempt to minimise criminalisation of drug *users* by not penalising *possession* of psychoactive substances, unlike drugs legislated under the MDA, instead focusing on ‘making it an offence to supply, import or export a psychoactive substance’ (Lord Bates HL 2015b). However, it appears as though this does not create a clear delineation, as although possession is not criminalised, purchase is. As stated by Lord Paddick (HL 2015b) ‘we are likely to criminalise many more people as a consequence. If you order psychoactive substances online... you will be guilty of the criminal offence. If you buy a few tablets to share with your mates on a night out, again you will be guilty of a criminal offence.’ The PSB can therefore be seen as intending to prevent excessive criminalisation of young people, however in reality its contents allow for prosecution of ‘social supply’, a ‘crime’ prevalent amongst young people (HL 2015b). As explicitly outlined by supporter of the PSB, MP Penning, ‘if a person purchases these products, we will try to ensure that they are convicted. It does not matter whether they purchase them from a head shop, *a friend*, or online, it is an offence’ (italics added, HC 2015b). This interpretation of the PSB apparently seeks to criminalise as many people as take NPS, given that ‘these substances do not come free’ (Anne McLaughlin HC 2015b).

Another area of the PSB’s focus on harm reduction to consider, is harm to whom? As mentioned above, ‘protecting young people from harm’ is a recurrent theme amongst parliamentary debates (Lyn Brown HC 2015b, c, d, HL 2015b, c, d). However, as also stated

by MP Brown, a supporter of the Bill, ‘ultimately, the ban may have the effect of reducing the number of users of NPS, but of increasing the risk to those who use them’ (HC 2015b), thus suggesting that the Bill is aimed at protecting a certain section of society potentially at the expense of another, *i.e.* first-time experimental users are to be protected, whilst problem drug users are not. MP Christian Matheson underlines this point when he says that ‘we may be forcing the supply of legal highs underground, but we are certainly making it a whole lot harder and a whole lot less normal for *ordinary people* to become involved with these drugs’ (italics added, HC 2015b), the implication being that preventing *normal* people from seeking out NPS is more important than making them safer for *all* who consume them, addicts and problem drug users included.

4.3- Personal/media stories

The parliamentary sample reveals less of a dependence on media stories than I had expected; when media stories appeared in the debate they were often combined with stories from MPs’ own constituencies or from parliamentarians’ own personal lives. The over-riding theme of all the stories is one of loss or tragedy. Lord Paddick tells the story of the death of his former partner to GBH, which he relates in order to oppose the ban, whilst other stories tell of tragic incidents in order to support the ban, showing how each incident can be appropriated for the relevant cause. Lord Paddick states that the Bill ‘is not just a professional interest of mine; it is a very personal one’ (HL 2015b), as does Baroness Hollins, who speaks ‘as the mother of two adult children who were assaulted in separate incidents by assailants who had been using psychoactive substances’ (HL 2015b). This type of personal experience might be expected to resonate more closely with listeners through the powerful, emotional connection related as opposed to an impersonal use of statistics. This is the effect as discussed in the literature review that led to Leah Betts’ parents being treated as ‘experts’ on ecstasy use, or Sarah Payne’s on paedophile legislation. It is hard to argue with a grieving parent or family member without disrespecting their loss, allowing their personal experience to perhaps outweigh their knowledge or expertise.

In this appeal to the personal, debaters refer to other people’s personal stories in lieu of their own, for example Baroness Browning has ‘spoken to parents who have lost their children and young people through legal highs’ (HL 2015b). Lady Hermon speaks as ‘a Member of Parliament for a mother who grieves for her son’ who died after taking NPS (HC 2015b). The name of Maryon Stewart is repeated often in the parliamentary sample, due to her role at the

Angelus Foundation, which she founded after the loss of her daughter to NPS in 2009. MP Steve Brine even refers to the death of a young girl at a festival due to ketamine, which was not a legal high, but rather a class C drug, yet he uses the story to promote the ban on NPS. This story should be a counterpoint, given that ketamine was already legislated under the MDA, therefore not being sold openly or legally. However, telling the story with such emotion and with the focus on the loss of a young life, MP Brine appropriates it to the cause of the PSB. MP McLaughlin tells the tale of a ‘hauntingly beautiful, extremely intelligent young woman with a bright future ahead of her (HC 2015b) who ended up in a psychiatric ward, not because of a ‘legal high’, but, ‘because she had taken something. *No one knew exactly what it was*’ (italics added, HC 2015b), again appropriating a story to make it fit the desired legislative intention, using extreme emotive language to obscure the fact that NPS were not necessarily anything to do with the tragedy of the young woman in question.

The other theme of personal experiences related in the parliamentary sample is that of politicians having ‘seen the harm that drugs do’ in their constituencies, including ‘the victims of crime’ (David Burrowes HC 2015b). These tend to refer to a certain type of drug use, or drug use among certain sections of society, *i.e.* problematic drug use. Crime in this context is a negative consequence of drug use itself, ignoring the fact that it may in fact be created by criminalisation of drugs. MP Mann states that ‘when I look at statistics, I do not look at those for the prevalence of drug use, which are unreliable, but at crime statistics, burglary statistics and hospital statistics on overdoses’ (HC 2015b), thus he explicitly associates drug use with acquisitive crime, not just the drug-related crimes created by the MDA. MP Andrew Stephenson has ‘seen with my own eyes the effects of drug addiction’ (HC 2015b), again focusing on the extreme end of drug use.

Lord Rosser feels the need to ‘address concerns already expressed in the media’ (HL 2015b) relating to what would and would not be covered by the ban. Given that the ‘blanket’ element of the ban is arguably its most contentious area, it is not surprising that the media has questioned what substances qualify as psychoactive. That the media are being directly addressed however alerts us to the potential influence media discourse has on political. Baroness Hamwee also refers to ‘the press coverage that has been given to this Bill’ (HL 2015b), exemplifying her awareness of media reporting of the PSB, thus again its potential for impact within political debate. Other references to media throughout debates are scarce, and united in their being used to underline the ‘suffering’ and ‘horrendous situations’ associated with NPS (HL 2015b). There are few elements of the parliamentary sample that discuss government over-extending its reach

or that discuss explicitly whether a health strategy and education strategy might be alternatives to criminalisation.

4.4- Discussion

A key theme to me throughout the parliamentary debates is whether the PSB can be seen to effectively ‘prevent these substances causing harm’ (Lord Patel HL 2015b). There is a desire to ‘debunk the notion that these substances are safe’ (Lord Bates, HL 2015b) by issuing a blanket ban on NPS. Other means of conveying a precautionary message would be feasible, for example regulating NPS as opposed to criminalising and prohibiting. However, supporters of the PSB have strongly linked the notions of safety and legality in their interpretation of the public’s view. That the ban is proposed becomes the only means of informing the public that NPS are not safe. A consequence of the blanket ban approach could be to convey the message that all banned substances are equally harmful. The PSB treats all NPS as equally harmful; this is not only illogical and unevidenced, but conceivably could lead to greater harm if users also treat all NPS as equally harmful (presuming that some people will continue to purchase NPS in spite of their illegal status which is the case with other illegal substances such as heroin or ecstasy). Prior to the PSA, when NPS were unregulated, one of the implicit dangers was the lack of information regarding the strength and contents of any packet, meaning that a consumer could easily take a dangerous quantity of a substance unaware its potency. If NPS were to be decriminalised and regulated, their conditions of sale could relate to their potential for harm, as with alcohol being prohibited below the age of 18 for example, or the measures for sale depending on strength of the beverage. This would allow users to accurately dose, minimising unintended overdosing. Although making NPS explicitly illegal will likely dissuade some people from trying them, it also has the potential to make them less safe for those who do.

The theme of harm has informed my approach to analyse drugs legislation, and it is an apparent theme of the PSB debates. Despite frequent reference to harm and *the prevention of harm* throughout, there is little insight into what is actually meant. There is much discussion of harms to young people in particular, with MP Brown exemplifying PSB supporters’ attitude that ‘by more quickly containing production and supply upstream, we will hopefully reduce the harms to young people downstream’ (HC 2015b). Thus ‘harms’ are the direct harms to NPS users, not the harms to wider society that may increase dramatically with the criminalisation of drugs, as has arguably been the case since the MDA. Not only are the harms not specified, but the focus on young people indicates that this law is intended to protect first-time and inexperienced

users only. Although the desire to prevent people trying potentially dangerous substances is commendable, this ban comes with the risk of making NPS more dangerous to more seasoned users, both problem drug users and those who enjoy NPS recreationally without problem.

The driving force behind politicians' desire to legislate appears to come from their own personal experience and that of their constituents. Although media stories are referred to, the vast majority of NPS narratives come from real life experience. This is a positive factor in some respects, as politicians can be seen to be addressing real problems as opposed to problems they have only read about at a distance. What must be taken into consideration however is that the type of experience related is often from the extreme end of the scale. For example, MPs talk about people who have died (which is obviously the worst-case scenario, and still a very rare occurrence); people who have ended up in psychiatric care (whether due to NPS specifically or otherwise); and 'those in the communities that suffer the most' (John Mann HC 2015b). Thus their information is skewed, as they are only relating experiences whose impacts have been negative. By nature, the problems associated with drug use are more likely to be apparent than the positives, as positive NPS experiences do not end up as crime or hospital statistics. When politicians go out 'on the streets... to see at first hand the impact of drugs on young people in my area' (Andrew Stephenson HC 2015b), they go with substance misuse agencies, or homeless charities, thus the experiences they see are at the problem use end of the spectrum, giving the impression that any drug use is necessarily problem drug use.

Chapter 5- Media Thematic Analysis

The media analysis, which I conducted after the parliamentary analysis offered up a distinct set of themes, though with some interesting overlap (especially given media data were collected on days of legislative debate so there is often explicit mention of this). The key themes of the media sample that I draw out for analysis are: the legal status of NPS; NPS-related harms; and definitions of and responses to the PSB which I will now discuss in order.

5.1- Legal status of NPS

A dominant theme running across the media sample is the legality of the substances in question. All eight articles refer to ‘legal highs’, most commonly without use of quotation marks, indicating it is a phrase used without question. MPs’ preoccupation with the public believing NPS are legal is understandable when they are referred to as ‘legal highs’ without pause across mainstream media. Two of the articles cover a report into NPS use in HMP Stocken. In spite of the fact that both the articles quote the report as referring to ‘Novel Psychoactive Substances (NPS)’ (*Mirror* 19/10/15, *Telegraph* 19/10/15), the surrounding texts use only the phrase ‘legal highs’, never ‘NPS’. The impact of this on the reader could be instilling the awareness of their legality, thus potentially implicating the government in harms associated. However the language used may simply be that of the most commonly-used phrase in the vernacular with no latent intention. Whether intention exists or not, the effect would likely be similar. By portraying NPS across the board as ‘legal highs’, this feeds into how they become thought of as such in the public consciousness, despite a high rate of NPS already being illegal at the time of writing (Barber 2015).

Six of the media sample refer to the PSB and its intentions, of which four articles are specifically reporting on the Bill, or Bill-related activities (again, unsurprising given the sample collection was timed to coincide with parliamentary debates on the Bill). Whilst reporting on a protest against the PSB, the *Mirror* seeks to alert the reader to its ‘*Sunday People* campaign [that] exposed how the drugs are sold openly on Britain’s streets’ (*Mirror* 09/06/15). ‘Exposed’ seems a strong use of the word, given that NPS were indeed openly on sale, referred to as ‘legal highs’, and sold not only in dedicated head shops, but garages and local shops alike. NPS may not have needed ‘exposed’ as such, however a media campaign is not necessarily aimed at informing the public, but often at government themselves to influence a decision about pursuing legislation/action (Pratt 2006). By campaigning about NPS use, the *Sunday People* were not only informing the public, but also putting pressure on government to act. Laughing

gas (nitrous oxide) is a psychoactive substance that has been available in Britain for a long time, whose harms were not thought dangerous enough to be included in the MDA- an example of one of the substances that may not be included in the legislation if it were to refer to *synthetic* or *novel* psychoactive substances (Nutt 2016). In spite of laughing gas being relatively low risk, the *Mirror* uses this article to report on ‘the murky trade in unknown, untested substances which have claimed tragic users’ lives’ (*Mirror* 09/06/15), encompassing all types of psychoactive substances. This links to a theme in the parliamentary sample, whereby a blanket ban approach with no reference to harm, does not clearly signal to users the disparity in potential dangers from different substances (HC 2015b, c, d, HL 2015, c, d). Reference to extremely harmful NPS in a report on laughing gas indicates the unwillingness or inability to distinguish NPS by their potential to harm, instead grouping them all together as if all equally dangerous. This attitude may dissuade new users through fear and scaremongering, however it may also lead to consumers not distinguishing between products of different potency, putting them in harm’s way. Protesters highlight a fear also referred to repeatedly in parliamentary debates, as well as highlighted by the NPSRREP, that ‘prohibiting these things is going to do nothing to help. It’s just going to drive the whole thing underground’ (*Mirror* 09/06/15). The reporting does not take this view further, but it is an angle that is voiced in two of the articles, raising potential shortcomings of the PSB.

Three of the articles report on NPS-related problems within prisons, both HMP Stocken and Strangeways (*Mirror* 19/10/15, *Telegraph* 19/10/15, *Mirror* 19/10/15b), ranging from ‘behavioural problems directly attributable to these substances’ to the fact that ‘NPS generates debt problems and increases the potential and indeed the actuality of violence between prisoners and of prisoners on staff’ (*Mirror* 19/10/15). Although the articles refer to ‘legal highs’ throughout, even prior to the PSA a “zero tolerance approach” to drugs in prison’ (*Telegraph* 19/10/15), means that all drugs, legal and illegal and NPS included were already regulated and criminalised within a prison setting.

5.2- NPS-related Harms

A second dominant theme is about the harms specifically to users of NPS. Only one of the articles does not refer to the direct, potential, harm-to-user of taking NPS, referring to their role as ‘a factor resulting in an increase in violence’ in HMP Strangeways (*Mirror* 19/10/15b). All other articles address NPS-related harms, ranging from paranoia to death, with six of the eight articles specifically referring to death. Despite two of the articles being about laughing gas, and

two about poppers- both comparatively low risk psychoactive substances (DrugScience 2015) - all these articles refer to death, which is an example of extreme case formulation (Clarke & Kitzing 2004) as it is the most extreme form of harm that could occur. One of the articles discussing poppers gives a breakdown of ‘what are poppers?’ (*Telegraph* 20/01/16), relating one of the ‘key effects’ as ‘death- if swallowed; or if used by individuals with heart problems’ (*Telegraph* 20/01/16), *i.e.* if used inappropriately, which could be said of a vast number of unregulated products such as bleach, as raised in the *Independent* article (20/01/16). This is an indication of an inability to approach the topic of drugs with a rational or proportional response, instead seeking to promote the worst possible case scenario. This article (*Independent* 20/01/16) mentions bleach in a quote from an MP who is commenting on the disproportionality of the PSB, however his point is undermined by the author, who states that, ‘anyone who drinks bleach in search of a good time and ends up surprised to be having a bad one may not find themselves widely mourned by the nation’ (*Independent* 20/01/16). The majority of these articles treat death as a not-unexpected side effect of NPS. Hence, the message conveyed to readers is that death is a likely or typical outcome of NPS use, despite the fact that actual research on the number of people killed by NPS shows the number is very low, with dispute over the role of NPS in many cases (Meacher 2015b, c, Nutt 2016, 2016b). For example, the *Independent* (09/06/15) reported that laughing gas ‘was linked to 17 deaths between 2006 and 2012’. In a high number of NPS-related deaths, other substances including alcohol were also present in the system (Meacher HL 2015b, c), making pinpointing the cause of death difficult.

At the end of this *Independent* article (09/06/15) article, there are links to other articles about laughing gas, all with the word ‘dangerous’ or ‘danger’ in the titles (*Independent* 09/06/15), again underlining the persistent explicit association between NPS and danger. This is an angle more likely to excite and entice the reader, engaging those interested in reading about danger. The *Telegraph* article (19/10/15) ends with a picture of four packets of NPS and a list of (presumably) popular NPS. Each description speaks of only the harmful effects of the drug, such as ‘Herbal Haze: a legal synthetic cannabinoid recently linked to several hospitalisations’ or ‘Clockwork Orange: a cannabinoid marketed as “herbal incense” which has led to the hospitalisation of numerous users’ (*Telegraph* 19/10/15). Although they are not necessarily exaggerating or distorting facts, they are certainly distorting the portrayal of NPS to only convey the message of their dangers, which could fit the role accorded to the media by moral panic theory (Cohen 1973). The use of ‘hippy crack’ as an alias for laughing gas (*Mirror* 09/06/15) emphasises (misleadingly so given available research evidence on effects) the

addictiveness and harms associated with laughing gas, thus potentially feeding into a moral panic around NPS. Given newspapers are businesses whose sustainability is based on income through readership, their desire to excite and entice, and not only to inform, readers must be taken into consideration when analysing coverage of any subject. ‘Young has shown how, in the case of drug-taking, the media play on the normative concerns of the public’ (Cohen 2002:10), exemplifying that this has been in effect for a number of years, long prior to the arrival of NPS on the market.

Although the *Independent* article (09/06/15) reports on protesters to the PSB, its focus is on laughing gas specifically and the individual’s right to choose, as opposed to the harms that may come with a blanket ban approach. Two articles raise the issue that ‘prohibiting these things is going to do nothing to help. It’s just going to drive the whole thing underground’ (*Mirror* 09/06/15, *Telegraph* 20/01/16), whilst the other articles report on the specific ‘unintended consequences’ of banning poppers (*Independent* 20/01/16). It is key that the potential harms of legislation should be raised in the media as a point of discussion. If NPS have become symbolised as dangerous, then a rational response would be to ask how to minimise the dangers, a question lacking in the media sample analysed.

5.3 Definitions of and Responses to PSB

The final theme, referred to in four of the media sample, is about definitions and responses. The difficulty of the definition of psychoactive substances, with two of the articles stating that legislation has been delayed ‘over legally secure definitions’ (*Telegraph* 19/10/15), referring to the difficulty in creating a satisfactory definition for the legislation. Neither of these articles goes into further detail to examine what these issues may be, perhaps as the discussion would be too long. This is a simplification of the issue for readers, understandable in these contexts where the PSB itself is not the focus of either piece.

Some of the media sample did talk about the broad definition: ‘Some eyebrows were raised after it emerged the new Bill’s wording is so general it’s having to specifically exclude alcohol and coffee’ (*Mirror* 09/06/15). This quote exemplifies the generally moderate reaction of the press to definitions, and no stories explored the risks implicit with how NPS are defined. The decision to work with the broadest possible definition of psychoactive substances has raised concerns from not only those who oppose the Bill in general, but also those who agree with its concept but fear for the impact of this broad strokes definition (Academy of Medical Sciences 2015, ACMD 2015a, b, c, Drugwise 2016, Reuter & Pardo 2017a), so to suggest that people

merely raised eyebrows in response is to undermine the distinct opposition to the PSB's definition of psychoactive substances. Pairing alcohol with coffee also raises a particular issue discussed repeatedly in the debates (HC 2015b, HL 2015b, c) - the exemption of alcohol under the PSB. Although it is referred to flippantly, next to coffee as an 'everyday' psychoactive substance, alcohol is arguably the 'most harmful drug in the UK' (Nutt 2016, HC 2015b, HL 2015b, c), leading to around 20,000 deaths per year (Baroness Bakewell HL 2015b). Not only is this important as a comparator of scale of harm for NPS, but it also raises the question of what really drives the government to legislate. The reference to alcohol in this way suggests the journalist sees alcohol as an everyday, relatively harm-free substance, an attitude that may be applicable to society as a whole. The societal acceptance of alcohol compared with a disapproval of drug use is notable, in spite of the evidence that alcohol causes much greater harm in society.

The use of 'legal highs crackdown' to describe the PSB (*Mirror* 09/06/15) uses language exactly described by Lord Kirkwood (HL 2015b) that makes the public 'think that the issue is being taken seriously' by government, when in fact a health-based approach could be more successful in minimising harms from drug use. By reporting on the PSB in these terms, not only does reporting validate the government's 'tough stance' on drugs, but it also suggests to the reader that a 'crackdown' is a necessary response.

Although the *Independent* (20/01/16) article documents parliamentary responses to the PSB, its focus is narrowed on the inclusion of poppers in the ban, with a derisory tone, 'Crispin Blunt 'outs himself' as amyl nitrate sniffer, and an hour later, parliament bans it.' People have argued for the exemption of poppers in the PSB due to their common use by men who have sex with men, and low level of associated harm (ACMD 2011, 2016). This article however undermines the potential for harm of 'poppers being sold "under the counter"' as a consequence of the PSB (*Telegraph* 20/01/16) by focusing on the puerile humour of MPs talking about anal sex. Although this comment piece covers opposition to aspects of the PSB, its main priority is humour, with the last third of the article building to a punchline.

5.4- Discussion

A deductive approach was also taken in the thematic analysis of newspaper reporting on NPS, informed by my analysis on the parliamentary sample. I started with two themes in mind to apply to the media sample, and both themes of legality and harms indeed ran through all the samples. As highlighted by MPs and Lords, all stories in the media sample refer to NPS

consistently as ‘legal highs’. Sometimes there is reinforcement of the dubious legal status through use of quotation marks around the phrase. Since the blanket ban has been in place, there remains a commitment to use of the phrase ‘legal highs’ by mainstream media, with broadsheet newspapers including the *Independent* and the *Guardian* and tabloids such as the *Daily Record* all continuing to report on ‘legal highs’ (Google 2017d). This ties in with the evidence that over 85% of main groups of NPS seen in EU were already illegal prior to the PSA (Barber 2015) despite being continually referred to as ‘legal highs’.

All the articles from the media sample report on NPS, and consider some of the same themes as in the parliamentary sample, but a striking aspect of the media sample was the very different narratives and angles. Three articles refer to specific prison-related issues; one documents a man’s court case after threatening behaviour under the influence of alcohol and NPS; two report on a protest against the inclusion of laughing gas in the PSB; and two report on parliamentary debate over the inclusion of poppers in the PSB. Although all refer to the same broad topic, their focus and framing is very different. A number of codes were apparent to me on initial readings of the texts, which I was then able to gather under the umbrella theme of ‘Responses to the PSB’ (Appendix 4). There is no over-arching cohesion in stories about responses to the PSB. If there is any shared theme, the variation between article focus, style and tone collectively illustrate the breadth of impact NPS have had. The number of people who have tried NPS is unknown, although it is estimated that whilst legal, head shops created a £82m per year turnover (*Independent* 09/06/15), yet this breadth of reportage ensures that a vast majority of the public will become familiar with certain consequences of NPS without direct experience of them. The articles outlining opinions contrary to the PSB do so without necessarily making a strong case for NPS, but rather conflate the NPS in question with other more dangerous substances, or highlight worst case scenarios such as death. If a large number of people are relying on media stories for information about NPS, then it seems natural they may associate NPS with death given that it is raised in six of the eight articles. As I have already raised in this thesis, a blanket ban does not help the general public distinguish levels of risk between different NPS substances. The evidence from the media analysis suggests that media reporting does little to make a distinction either.

As explained in the methodology, this dataset does not contain the full breadth of NPS reporting but focuses on news coverage during the time of debate over the PSB. To supplement this limited number of stories generated by this sampling approach, I also conducted internet searches, not as part of the media analysis but to gain a sense of the coverage over a longer

time period. A Google news search for “legal highs” sees the third story in the search entitled 'Zombie Spice addicts plague' caused by everything we warned you about, claim legal highs ban critics (Google 2017d) indicating the propensity for sensationalist reporting on NPS with the language of ‘Zombie Spice addicts plague’. Again, not only are NPS referred to as ‘legal highs’, but the ban is referred to as ‘legal highs ban’, thus driving home the misguided message that all NPS were legal prior to the PSA. Even whilst acknowledging the ban, NPS are still oxymoronicly referred to as ‘legal highs’. Comparatively, the articles selected for analysis are tame in their choice of language, which was an unexpected side effect of my approach to sampling by dates of parliamentary debates.

Chapter 6- Conclusion

This research sought to consider the implications and motivations of legislation on psychoactive substances by exploring the links between media and political discourse on these substances. This was done by examining whether media representations of drugs and drug users were reflected in parliamentary debate, and by examining the core concerns expressed by parliamentarians. From the samples selected, there were undoubtedly converging themes, but explicit references in the parliamentary sample to media representations were minimal, with parliamentarians referencing personal or ‘real life’ narratives in support of their convictions. Likewise, examples of media sensationalising drug-related stories, somewhat surprisingly, were not found within this sample. That is not to say they do not exist, as distorting and exaggerating news coverage was found given wider time parameters for searching, they just did not fall within the search parameters of this research. As described in the literature review of this thesis, drugs have been the subject of moral panics over many decades. This suggested that NPS would be an ideal topic to raise a moral panic, but the data analysed did not bring this to bear. NPS did however become the subject of legislation through the PSA, which would be the end point of a moral panic, which raises the question of whether a moral panic may have occurred months or years prior to the PSA, or not at all. Further research would be required to investigate whether a moral panic could be seen to have taken place within a broader timeframe. This is significant, however, because the media sampling period covered key moments in time in the political drive to regulate substances seen as a major threat to wellbeing.

This research is also important in looking at the themes of parliamentary debate relating to drug use, as it outlines what parliamentarians see as the greatest harms caused by drugs; what harms they are intending to minimise or prevent; and who they are seeking to protect through legislation. It also reveals some of the justification behind a policy standpoint, in this case largely personal or ‘real life’ narratives. Practically speaking, this cannot be the case for all policies, therefore how differently is drugs legislation approached to other policy areas? What can be seen from this analysis is that contrary to the social harm approach outlined in the literature review, the UK government continues with a criminal justice, abstinence-based approach to drug use. That the ban is a blanket ban criticised by many in the narcotics field indicates how strict the approach is as opposed to any softening through increased understanding of societal drug use and awareness of different policy approaches globally. It indicates that the government continue to see drugs as the problem, ignoring the societal inequalities that arguably severely exacerbate problematic drug use. The MDA has not been successful in reducing harms from drugs, yet this opportunity to modernise or radicalise Britain’s approach to drug use comprehensively was not taken, as the MDA remains in place alongside the PSA. The preventative intention of the blanket ban may also be impactful across wide-ranging future legislation. It allows for the banning of a substance without the need for an assessment of harm, contrasting with the previous legislative approach requiring evidence of harm. This precautionary legislation could become increasingly prevalent, and be applied to human behaviours, which would lead to big questions about risk, harm prevention and the ethics thereof. Specifically within the drugs trade, the ban necessitates a move to the criminal market for anyone intending to buy or supply NPS. Producers no longer need to create new compounds to maintain a legal status and can sell products whose contents are not answerable to any trading standards regulations. Future research will investigate whether NPS use decreases subsequent to the enactment of the PSA. More importantly however, will be the research into whether it has reduced NPS-related harms, assessing for acute damage to users alongside the wider societal harms created by criminalisation of drug use. As the impacts of the PSA naturally unfold, media coverage can also be analysed. A new moral panic may arise from the use of these now completely illegal (therefore even more ‘immoral’) drugs. The success or otherwise of the PSA in reducing use and harms will likely be judged and exploited across media headlines for consumption by the public, potentially creating pressure for parliament in spite of an ‘end goal’ of legislation already being reached.

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Sample dataset

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Newsprint Media Sample

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The *Mirror* 09/06/15b *See moment cops wrestle 'legally high' man to ground after he 'threatens petrol station fire'* (Available at <http://www.mirror.co.uk/news/uk-news/see-moment-cops-wrestle-legally-5854691> [Accessed 27/04/17]).

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Appendix 1

Source: Nutt 2012, p33

Criteria of harm

Harms to users

- 1- *Drug-specific mortality*
- 2- *Drug-related mortality (chronic illness for example)*
- 3- *Drug-specific harm*
- 4- *Drug-related harm (viruses, infections)*
- 5- *Dependence*
- 6- *Drug-specific impairment of mental functioning*
- 7- *Drug-related impairment (e.g. depression)*
- 8- *Loss of tangibles (job, income)*
- 9- *Loss of relationships*

Harms to others

- 10- *Injury (accidental or intentional)*
- 11- *Crime- to fund habit or occurring whilst impaired*
- 12- *Economic cost- work days lost, NHS, police*
- 13- *Family life- neglect, abuse*
- 14- *International damage- war on drugs, crimes of drug barons*
- 15- *Environmental damage- toxic waste*
- 16- *Decline in reputation of communities- creating 'no-go zones' for example*

Appendix 2

Themes arising from reading parliamentary debates- original coding strategy, 16 codes

1. Deaths & other badness associated with NPS
2. Legality of NPS
3. Blanket ban & why blanket ban
4. Downsides of blanket ban approach
5. Headshops
6. Legislation & effects in other legislatures
7. Organised crime
8. Criminalisation of users
9. Speed of the PSB
10. Harm
11. Intentions of PSB
12. Politics
13. Misinformation/education
14. Hyperbole?
15. Defining NPS
16. Reference to media

Secondary coding strategy- 8 codes

- a) Timing/speed of PSB- 9
- b) Use of 'legal highs'/ legitimisation through legality-1, 2, 14
- c) Definition of NPS & related problems, provability- 15
- d) Intention of PSB/justification- 4, 11
- e) Media/personal stories- 13, 14, 16
- f) Harm/criminalisation/treatment/MDA- 7, 8, 10, 14
- g) Other legislatures- 6
- h) Politics/ACMD- 12

Codes translated into 3 themes

- i. PSB as a means of taking away legitimacy of drugs through their 'legal' status- a, b, c, d, g, h
- ii. Intention of PSB to minimise harm- a, c, d, f, g, h
- iii. Personal/media stories that inspired politicians' views on PSB- d, e, f, g

Appendix 3

Table from Braun & Clarke (2006:87)

Table 1 Phases of thematic analysis

Phase	Description of the process
1. Familiarizing yourself with your data:	Transcribing data (if necessary), reading and re-reading the data, noting down initial ideas.
2. Generating initial codes:	Coding interesting features of the data in a systematic fashion across the entire data set, collating data relevant to each code.
3. Searching for themes:	Collating codes into potential themes, gathering all data relevant to each potential theme.
4. Reviewing themes:	Checking if the themes work in relation to the coded extracts (Level 1) and the entire data set (Level 2), generating a thematic 'map' of the analysis.
5. Defining and naming themes:	Ongoing analysis to refine the specifics of each theme, and the overall story the analysis tells, generating clear definitions and names for each theme.
6. Producing the report:	The final opportunity for analysis. Selection of vivid, compelling extract examples, final analysis of selected extracts, relating back of the analysis to the research question and literature, producing a scholarly report of the analysis.

Appendix 4

Themes arising from newspaper reports

(Aside from 2 existing themes of *Legal status of NPS & NPS-related harms*, as derived from media analysis)

Original codes

1. Positives of NPS
2. Proportionality of PSA
3. Protests
4. NPS-related violence
5. 'Danger'
6. Language used

Themes

- i. Legal status of NPS- 6
- ii. NPS-related harms- 4, 5, 6
- iii. Responses to PSB- 1, 2, 3, 6