



*A Policy Research Partnership
to Reduce Youth Substance Use*

Framing of News Coverage about the Marlene Sharp Legal Judgement: A Tipping Point for Smoke-Free Public Places in Australia?

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Abstract

Objective: To review newspaper coverage of the outcome of Marlene Sharp vs Port Kembla RSL Club, where a nonsmoking bar worker was awarded damages for laryngeal cancer caused by passive smoking.

Method: All Australian and Victorian rural newspaper coverage of the case was obtained from a commercial media monitoring agency for the month of May, 2001, yielding 100 articles for analysis. We applied content and frame analysis to the newspaper articles.

Results: Coverage of the outcome of the Marlene Sharp case was predominantly positive for tobacco control, with positive coverage (45% of articles) outweighing negative coverage (13% of articles) by a factor of 3 to 1. The most commonly occurring frame (27% of articles) advanced the view that legislation to protect workers from secondhand smoke is appropriate, even overdue, and encouraged the government to create smoke-free policies to protect workers. Other common frames positive for tobacco control included “smoking as socially unacceptable” (9%) and “smoking as a societal problem” (9%). Of articles framed negatively for tobacco control, “individual rights” (5%) and “system cynicism” were most common.

Implications: In addition to its potential for changing institutional practices, litigation brings with it an ability to give a human face to the need for smoke-free policies. The generally positive news reception accorded to the large news story of the Marlene Sharp trial may stand in time for many as “the face” or personification of the need to extend smoke-free policies to all workplaces.

Keywords

Smoking/legislation and jurisprudence; tobacco smoke pollution; media advocacy;
qualitative analysis

Introduction

On May 1, 2001, a jury in the New South Wales Supreme Court awarded 62 year old non-smoking barworker, Marlene Sharp, A\$466,000 in compensatory damages for laryngeal cancer that she claimed had been caused by her 15 years of occupational exposure to secondhand smoke (SHS) in two licensed clubs. [1] No appeal was lodged by the returned servicemen's club nor the government Workcover insurance scheme which had funded the club's defense against a charge of negligence. [2] The case had been quietly making its way through the courts, with a low level of local media interest in its progress. However, when the judgment for the plaintiff was handed down, it immediately became a significant national media story.

The history of smokefree air legislation in Australia has been characterized by incremental changes. [3] Legislation has been introduced in inverse proportion to the potential for harm: those most chronically exposed (bar workers and casino croupiers) still remain unprotected by law, while those least exposed (for example, passengers in building elevators, traveling in public transport, and restaurant patrons) were protected by legislation sometimes very early in the history of controls. Bars have been popularly described as the "last bastions" of public smoking after smoking has been banned incrementally by law in all forms of public transport, restaurants, [4,5] and in some sports stadia. This regulatory paradox -- the obverse of the way a risk-based public policy should have been introduced -- invites analysis as to why political regulators have now taken more than 20 years to introduce comprehensive indoor air legislation that would protect those most exposed.

The case also invites consideration of the potential for particular individuals and incidents to be interpreted as pivotal or “tipping points” [6] that can both transform on-going policy debates and reignite news media interest in subjects considered to be “stale” news. Passive smoking has been a dominant topic in news reportage about smoking in Australia since the early 1980s, due to advocacy efforts following the initial epidemiological reports about secondhand smoke being harmful rather than simply unpleasant to many non-smokers. [7] Over the following two decades, journalists have interpreted numerous legal episodes as major news events. Examples include the reporting of cases in which several employees took action for damages against their employers, [8,9], a case brought by a consumer organisation successfully alleging misleading and deceptive conduct by the Tobacco Institute of Australia in making a public claim that “there was little evidence and nothing which proved scientifically” that passive smoking was harmful [10,11], an unsuccessful case brought by a non-smoking passenger forced to sit in a smoking section on a Qantas international flight [12] and a case of discrimination brought by a woman with cystic fibrosis against the Sydney Hilton hotel for not providing a smoke-free nightclub. [13]

We have argued previously that news reportage and commentary is often neglected as a significant “background”, and that news coverage needs to be brought into the foreground of explanations about how community and political attitudes change toward supporting tobacco control legislation and program support. [14,15] Frame analysis is being increasingly incorporated into tobacco control research as a means of explaining the ways that dominant news discourses evolve and come to define the meaning of a problem. [16-18] Framing

involves selection of particular aspects of a wider reality in the effort to make these selected emphases more salient so as to promote problem definition, causal interpretation, moral evaluation and preferred courses of action. [19,20]

In relation to news coverage, frames diagnose, evaluate and prescribe solutions to social problems. Reportage of the Sharp case struck us as both a large and important story about tobacco control, but also as one that was reported in a qualitatively different way to many that we had lived through in our public health careers. This paper analyses newspaper reportage of the Marlene Sharp verdict and its implications using a thematic framing analysis.

Methods

All Australian metropolitan and Victorian country newspaper coverage of the Marlene Sharp case was obtained from a commercial media monitoring service for the month of May, 2001. A tally of radio and television coverage was also obtained, although tapes or transcripts were not obtained because of the costs involved. Others have noted that newspaper and electronic news tend to be highly correlated, [21,22] so that newspaper reporting would tend to reflect the broader debate in the news media.

We applied coding of articles from a coding protocol developed as part of a larger project which involves tracking newspaper coverage on tobacco issues in the United States [23], and

more recently, in Australia. The coding protocol for the larger study was developed inductively by a team of researchers from the experience of reading thousands of news articles on tobacco issues over a period of six months and included a standardized protocol for the identification of type of article, as well as its content and dominant frame.

For the present study, for each article, the coders (MW and KCS) first noted whether or not the article appeared on the front page of the newspaper. Next, the type of article was coded, with options being hard news, column, editorial, letter to the editor, or other. A content analysis was then conducted whereby each article was assigned up to three topics from a pre-set list of 50 possible topics. [23] In order for a topic code to be assigned, at least one entire paragraph had to deal exclusively with the topic. Paragraphs were coded consecutively from the beginning of the article until a maximum of three topics had been coded. Thus, content codes in part reflected the primacy given in an article to the topic.

Finally, frame analysis was undertaken by the same two coders, with frames being drawn from a comprehensive set of 14 frames developed by coding thousands of news articles on tobacco issues in United States newspapers over a one year period, [23] for which inter-rater agreement was 85%. One dominant frame was coded for each article, this being determined from an overall assessment of each article, but particularly from the headline and lead paragraphs. Where a dominant frame could not be identified, the article was coded as not having a frame. Overall, eight of the 14 frames appeared in the Marlene Sharp news coverage and these are summarized in Table 1.

Insert Table 1 about here

To gain an overall impression of the slant of the articles, we grouped them according to whether the frame was generally positive or negative for tobacco control from the perspective of someone who would wish to see greater controls introduced on factors that promoted tobacco use and exposure. As Table 1 indicates, articles were interpreted to be positive for tobacco control when they had a dominant frame of “Smoking as a societal problem”, “Formal intervention as appropriate”, “Smoking as socially unacceptable” or “Tobacco industry as evil”. Articles were coded as negative for tobacco control if they had a dominant frame of “Individual rights”, “System cynicism” or “Tobacco as the underdog”. A frame of “Tobacco as a dinosaur” was coded as mixed slant, since these articles tended sometimes to reflect nostalgia for smoking, and other times to suggest that the fight for tobacco control was all but won. Articles without a dominant frame were designated as neutral for slant.

RESULTS

Over the monitoring period of May 2001, 100 newspaper articles were identified for analysis, 75 of which were from Australian capital city or national newspapers and 25 from regional newspapers in the state of Victoria. Seven of the articles were located on the front page of a newspaper, all in the week immediately following the verdict and all of these were hard news articles. Overall, 74 were hard news articles, 7 were columns, 3 were editorials, 13 were

letters to the editor and 3 were other (two captioned photos and a newspaper-commissioned survey of bar patrons). Thus, 23% of the coverage was clearly opinionated (letters, columns, editorials).

From the content analysis, we ascertained that 15 topics appeared in the coverage. As shown in Table 2, the most common topics were lawsuits, restaurant/bar/casino smoking bans, SHS health and comfort issues, and workplace smoking bans. The central substantive issue of the trial - SHS as a causal factor in Marlene Sharp's throat cancer - did not receive particularly extensive coverage. In most articles, the SHS element was mentioned in passing, rather than being discussed in any detail. Only 27% of the articles were coded for the SHS Health and Comfort topic, indicating at least one paragraph devoted to the issue. Most of the content of the articles, once they reported the trial outcome (accounting for the Lawsuits topic code), were concerned with the implications of the trial for more extensive smoking bans in public places, as indicated by the coverage given to Restaurant/Bar/Casino Smoking Bans; Workplace Bans; General Bans (meaning bans in unspecified places); and Bans in Other Indoor Public Places.

Insert Table 2 about here

Frame analysis

Frames positive for tobacco control

Coverage of the outcome of the Marlene Sharp case was predominantly positive for tobacco control (Table 3). Of the 100 articles, 42 were coded with a frame that was overtly positive for tobacco control, whereas 13 articles were coded with a frame that was negative for tobacco control. Three articles were coded with a frame that was mixed for tobacco control. Thus, positive coverage outweighed negative coverage by nearly 3 to 1. In addition, of the 100 articles, 42 were coded as being neutral, in that they largely featured a simple report about the outcome of the case without presenting an underlying opinion or position about the possible implications.

Insert Table 3 about here

Overall, 43 articles were framed positively for tobacco control. In order of occurrence, these articles predominantly advanced the position that “Formal intervention is appropriate”, “Smoking is socially unacceptable”, “Smoking is a societal problem”, or “Tobacco industry is evil”.

Formal intervention as appropriate

“Formal intervention” was the most commonly occurring frame in the news coverage. This frame advocates the use of formal channels to pursue tobacco control objectives, rather than educational approaches, both through lawsuits in relation to previous or ongoing

wrongdoings, and by passing laws to prevent harm occurring in the future. Articles with such a frame suggest that there should be laws in place to protect people from their own ill-considered decisions, from the behaviour of others, and from the actions of the tobacco industry. In the formal intervention frame, the collective good is given priority over individual rights.

In total, 27 of the 100 articles were framed in this way, as opposed to only 5 articles coded for the opposite frame of “Individual rights”. Statements such as *‘The government and business must work together to make all public venues smoke-free’* [24] and *‘The decision put immediate pressure on employers and governments to protect workers from passive smoking’* [25] clearly indicate support for further legislation. Several articles urged government to regulate, so as to prevent further legal action from employees, for example: *“The Government and individual employers should look carefully at the implications of this decision and take some immediate action to make licensed premises smoke-free and safe for both employees and customers, otherwise they will undoubtedly face a barrage of legal action.”* [26]

Similarly, many of those quoted in the articles espoused support for further regulation: *“Ms Davies said people were not allowed to smoke in the workplace and the same consideration should be given to bar and hospitality workers. ‘At the moment, apparently bar and hospitality workers don’t quite count to the same extent and I think that’s unfair.’ she said.”* [27] This notion of unfairness that some were protected while others were not also underlined more direct appeals for government regulation. *‘Governments can no longer*

discriminate in terms of allowing smoking in some places while banning it in others. A total ban on smoking in public is the only way to go.’ [28]

Overall, these articles made a clear and direct case for further regulation or legislation and conveyed a sense of urgency to the cause.

Smoking as socially unacceptable

In total, 9 of the 100 articles were coded with “Socially unacceptable” as the dominant frame. This frame challenges the idea that smoking is a choice that individuals are free to make without considering the impact that this has on other people. The Socially Unacceptable frame often takes on an overtly moral stance – smoking is depicted as wrong, irresponsible or deviant. It suggests that smokers are in the minority and their ‘selfish’ behavior should not be allowed to affect those around them. Negative opinions about smoking often become attributed to smokers themselves, such that being a smoker is a stigmatized identity.

One writer pointed out rather clinically that *‘The places where it is acceptable to smoke in public have diminished as inexorably as the medical evidence about the harmful effects of smoking has mounted.’ [29]* A non-smoker who applauded the legal decision on the case wrote emphatically in a letter to the editor that *“Smoking is not only offensive, it is also stupid!... Cool? Seeing someone puff away on a cigarette is downright ugly and a real turn-off. The smell is disgusting.” [30]*

Non-smokers often described their own difficulties in avoiding smoke or in having to deal with the effects of inhaling it. For example, another letter-writer ventured *“I have endured numerous passive smoking injuries - beyond the obvious ones to my lungs – from burns to my hands and arms, to annoying singe holes in my clothes. And you don’t have to be drinking to wake up the morning after a night at a pub or club to feel like you’ve had a big night out. It’s that unmistakable raspy throat you get from inhaling other people’s smoke. Lovely!”* [31] Sometimes, these descriptions reflected a sense of injustice on the part of nonsmokers, for having been forced to endure exposure to passive smoking for so long. In an editorial on the subject (letter to the editor), one writer argued that *“By all means you have all the right in the world to smoke and you have shown that you will defend this right at all costs – risking cancer, birth defects and \$450,000 payouts to passive smoking victims. Yet how dare you force that ‘habit’ on me, making my daily routine a constant gauntlet through your polluted, disgusting, not to mention unhealthy clouds of filth.”* [30]

Other writers used the issue as a platform to reflect more broadly on their concerns about smoking and smokers, and drug use more generally. For example, one letter writer espoused that *“It’s prohibition that causes the crime from illegal drugs. Why not legalise them? Then the only ‘dirty druggies’ would be the tobacco and alcohol users and we’d all be better off.”* [32]

Overall, the authors of the articles within this frame appear to accept unquestionably the evidence that passive smoking is harmful and sought or reinforced the notion of greater

regulatory intervention to protect nonsmokers. Emphasis was placed upon change being overdue, supported by accounts of past inconvenience and discomfort from enduring exposure to passive smoking.

Smoking as a societal problem

“Smoking as a societal problem” applied to 5 articles in total. This frame essentially entails the idea that ‘we need to do something about smoking’. This draws upon scientific evidence that smoking is prevalent and is damaging both to individuals (through its effects on their health) and society in general (through the impact of the effects of smoking on individuals’ health). The Societal Problem frame seeks to argue that controlling smoking should be high in the priorities of governments and the community. It depends on developing a groundswell of public opinion, demonstrating that smoking is more important than other social problems. Education efforts are seen as key. Smokers are often portrayed as needing help and support in order to quit, and as being deserving of such help. Unlike the “formal intervention” frame, articles within this frame reflect on the problem of smoking, rather than articulating a solution.

A clear example of this frame was articulated by one writer *“I think that with regard to smoking being the single most preventable cause of disease in Australia, that we should constantly re-look at what we are doing and see if we can do it better. ... We will continue to wind the pressure on to discourage people from smoking.”* [33] Another writer mused, *What*

would you think if you found out that an employer had knowingly exposed its employees to at least 60 carcinogens, which was linked to throat cancer, lung cancer, breast cancer.....

Most reasonable people would say that this was unacceptable.” [34]

Tobacco industry as evil

Only one article in the news coverage on the case gave voice to the frame that the “tobacco industry is evil”. This frame attributes blame to the tobacco industry for smoking related harm. The industry is presented as overly ruthless, dishonest and predatory and a cunning behind-the-scenes manipulator. Thus, in this quote, the spokesman seeks to distance the employer insurance organisation from the tobacco industry: “*Mr Della Bosca’s spokesman denied the tobacco industry had pressured WorkCover not to settle the Sharp case. ‘There is no such [unholy] alliance at all’ between WorkCover and the tobacco industry, Mr Della Bosca’s spokesman said.*” [35] It was notable that the use of this frame was infrequent, possibly because the tobacco industry was not named as a defendant in the Sharp case, and thus did not have a legitimate voice in the reportage. Rather, most of the coverage resulting from the case was focused upon the tension between employers and employees.

Frames negative for tobacco control

Only 13 articles were framed negatively for tobacco control. Articles were coded as negative for tobacco control if they had a dominant frame of “Individual rights”, “System cynicism” or “Tobacco as the underdog”.

Individual rights

Five of the articles were framed in relation to individuals’ right to smoke. This frame reflects issues of “smokers’ rights” and the interests of the tobacco industry, suggesting that the government has little or no right to interfere in what people do to their own bodies, or in how businesses operate. *“At the other end of the room, Moira Stone is having a quiet drink with husband Derrick, something she has done for 20 years. She says that the Supreme Court’s decision is “hogwash”. “I won’t come in here if you can’t have a smoke,” she says. “ We come in for a couple of drinks and a smoke before going home to cook tea.”* [36] The impression given by the collective voices that make up this frame is that smokers are being unfairly victimized and inconvenienced by the government and by extremist health lobby groups. *“Mate, the worst thing about a ban on cigs would be it’s a bloody victory for the bloody wowsers– and this time they can say they’re right. God help us!”* [37]

Questions about when and where government interference might end are often raised. The notion that businesses should be able to make their own decisions about smoking restrictions are characteristic of this frame. As one bar owner indicated *“A lot of our patrons like to have a cigarette so this area caters for them”* and in the same article an elderly nonsmoker puzzled *“I like the non-smoking area here” he said “I do tolerate other people smoking.”*

[38] This anti-intervention frame often rests on the idea that the government is wasting its time by focusing on the issue of smoking. There are other ‘real’ issues with which the government should be more concerned.

System cynicism

Another 5 articles were characteristic of the system cynicism frame. This frame is primarily espoused in order to undermine regulation and policy efforts, and actions against the tobacco industry. The regulatory system is presented as flawed, dominated by greedy lawyers, fanatic activists and corrupt politicians. It is a frame of distrust, and the idea that there is an ulterior motive behind anti-tobacco initiatives is key. At the same time, however, notions of naivety are often suggested. *“From what I have read it seems the best medical and scientific researchers from around the world have yet to agree there is conclusive evidence that passive smoking causes cancer.....There are strong arguments for both points of view but no conclusive proof and I do not wish to argue either point of view. But what concerns me is that now we have a group of everyday people (a jury), of average intelligence and scientific knowledge, who decide they know better than the experts.”* [39]

This frame is employed to cast doubt on anti-tobacco evidence, particularly statistics – e.g. that smoking is harmful, that the industry has manipulated the public, and that SHS is dangerous to health. It draws upon the general feeling of ‘lawsuit fatigue’ to suggest that anti-industry initiatives are excessive, unreasonable and will have little effect except to make rich lawyers richer. *“Congratulations, Australia. With our latest smoking court battle we*

have once again gone down the path of our big brother across the pond, where greed, senseless lawsuits and ridiculous payouts have destroyed all commonsense.” [40]

The system cynicism frame is often associated with claims that tobacco or smoking is a minor issue that power-hungry individuals and groups have picked out because it serves their personal agendas to do so. The public has a responsibility to recognize that the regulatory system is corrupt, and to stand up to these ‘carpet baggers’ who are making an issue out of nothing. For example, one letter writer warned that *“the recent case of the barmaid who received substantial damages from the RSL Club where she had worked for passively contracting cancer in the workplace is a sinister warning of things to come”*. [41] In one article in which lay people were interviewed in the street about the trial, one person cautioned that *“You can take things too far in terms of jumping on the law suit bandwagon.”* [42]

Another letter to the editor suggested that although a mandated smoke-free policy might logically be the outcome, doubt was expressed about the likelihood of the Victorian government taking that step unless they received some kind of financial sweetener. *“One would hope that the landmark payout to barmaid Marlene Sharpe would ensure a smoking ban in gambling venues. Don’t hold your breath unless the insurance industry makes a substantial donation to the state Labor Party.”* [43] These kind of views illustrate a deep-seated distrust of government

Some writers directed their cynicism towards Marlene Sharp herself, speculating that her role as a bar worker might have resulted in her playing a role in making others sick from the

alcohol she served them. For example: *“A woman has been awarded \$460,000 because she got throat cancer from cigarette smoke while working as a barmaid. One can only wonder how many of the smokers and others who were served drinks by the unfortunate ex-barmaid suffered ill health from the massive amount of alcohol and spirits she served over the bar to them during her time of employment at the RSL Club at Port Kembla.”* Another writer wondered similarly, *“Don’t some of these victims of alcohol abuse have a counter claim against the barmaid who blames some of these drinkers for her throat cancer?”* [44]

Tobacco as the Underdog

Three more articles were sympathetic to the tobacco industry through a portrayal of both tobacco companies and smokers as “Underdogs” in the battle with a supposedly powerful coalition of neo-puritans and the government. This frame is closely related to the system cynicism frame. It rests on the idea that smoking is not an important problem, but rather that this has become the ‘whipping boy’ for multiple actors with different agendas. *“Smokers: Last of the defiant heroes (headline)...If you ever wondered whether the holy war against smoking had gone too far, one look at the gleeful faces of anti-smoking activists last week should have banished any doubt.”* [45]

This frame is called upon in relation to the issue of smokers’ rights – often inferring that such rights are invalidly overlooked or ignored. It presents both the tobacco industry and smokers as the ‘David’ in a David and Goliath struggle against an overly interventionist government

and political activists. *“I would like NSW Anti-Discrimination Commissioner Chris Puplick to explain how I am not being discriminated against just because I like to have a cigarette with a beer occasionally in a pub and how it is okay for everyone to have a free kick at me and thousands like me and turn me into a social leper.”* [46]

In direct opposition to the Socially Unacceptable frame, voices within this frame are often those of smokers who feel persecuted or victimized.

Frames mixed for tobacco control

Tobacco as a dinosaur

Three articles were coded with Dinosaur as a dominant frame. The Dinosaur frame conceptualizes a post-tobacco era where the fight against tobacco has been fought and won and the tobacco industry is no longer a real threat. This frame underlines the inevitability of more restrictions and regulations about smoking. Thus, *“The trend seems clear. Perhaps it may take another generation and a few dozen more dramatic increases in the price of a packet of cigarettes, but smoking in public places seems destined to go up in a puff of smoke.”* [47]

Often articles within this frame demonstrate a degree of nostalgia for good things past, although are accepting of change. *“Come July 1, a peculiar silence will fall across many*

bars in many pubs throughout Australia...It'll not stop, this move to extinguish smokes in pubs. This week, in the wake of a passive-smoking court case, the idea of banning smoking in bars completely has been floated. And maybe that's a good thing. Too many of us are dying, after all. But before that, perhaps a mourning ritual is needed, Perhaps on June 30th, we should all go to our favorite pub, grab a drink, and make a gentle toast to the memory of conversations that will never be." [48] In this excerpt, the writer conveys a sense of resignation that smoking does need to be restricted for everyone's good, but nonetheless reminisces about the perceived positive aspects of permitting smoking in these kinds of establishments.

Articles that reflect wistfully on smoking can be seen to be less positive for tobacco control than other more overtly positive positions, yet at the same time, they convey a sense that it is for the best. This, articles within this frame have both positive and negative elements, and were deemed to ventured a position that had mixed opinions regarding tobacco control.

DISCUSSION

Newspaper coverage of the Marlene Sharp case was predominantly positive for tobacco control, with approximately three times as many articles favorably disposed to tobacco control objectives, compared with those against tobacco control objectives. This is contrary to the pattern of newspaper coverage of a proposed smoke-free bar law in California, [49] where tobacco industry framed arguments against legislative intervention dominated the

debate. It is also quite different to the pattern of news coverage of articles pertaining to the health effects of passive smoking, as reported in the US press between 1981 and 1994. [50] In that study, tobacco industry representatives were often quoted as being critical of research methods and findings, with quotes of this nature appearing in 52% of articles. This pattern of coverage lent weight to an argument that passive smoking research was 'controversial'. By contrast, coverage of the Sharp case conveyed a sense that further legislative action was justified and inevitable.

The journalists covering the outcome of the Marlene Sharp trial spent little time discussing the actual merits of the case. Only 27 of the 100 articles spent at least one paragraph outlining the health effects of secondhand smoke. This is particularly pertinent because the jury's finding for the plaintiff rests on somewhat controversial epidemiological evidence regarding secondhand smoke as a causal factor in laryngeal cancer. [51-53] News coverage of the case tended to take the medical basis for the plaintiff's claim as an established one, and coverage was dominated by articles that clearly endorsed the need for legislation to protect people, especially employees, from the adverse health effects of passive smoking. The content analysis indicated that 58% of articles gave early primacy to smoking restrictions in restaurant or bars and 24% did so in respect of workplace bans. In the frame analysis, over one-quarter of all articles were dominated by the frame of "Formal intervention as appropriate". Unlike previous news coverage of passive smoking issues, the nature of the coverage in the Marlene Sharp case pertained to the implications of the trial for policy change, rather than summarizing or questioning the evidence about the link between passive smoking and the plaintiff's condition. In the months following the Sharp verdict, several

clubs voluntarily announced smoke-free policies, the NSW Clubs Association made the issue the major topic of their 2001 annual conference and the Australian Cancer Society wrote to all insurance companies urging them to increase their workers' compensation premiums for those workplaces that still permitted indoor smoking. Early in 2002, the state of Victoria announced its intention to extend smoke-free policies successfully implemented in restaurants in July 2001, to cover hospitality venues such as gaming venues and bars [54,55] and this law was implemented on 1 September 2002.

Some tobacco control advocates may be heartened by the fact that 9% of all coverage advanced the position that smoking is "socially unacceptable", often with a considerable amount of vitriol directed towards smokers. A further 9% indicated that something needs to be done about the problem of smoking, through the "societal problem" frame. This indicates that there is probably a considerable reservoir of support for change for tobacco control objectives more generally, in addition to specific support for smoke-free policies to adequately protect workers and the public.

Significantly, the tobacco industry was barely mentioned throughout the coverage. As they were not the defendants in the case, the industry had no platform for comment. This lack of any legitimate voice for the industry in relation to the Marlene Sharp outcome may have provided a greater opportunity for tobacco control advocates to frame the discourse favourably for tobacco control. In fact, one tobacco company explicitly removed itself from the debate "*The cigarette manufacturer Philip Morris Ltd said 'as we're not a party, we're not providing a comment'.*" [35]

The most frequently appearing frames that were deemed negative for tobacco control, (although they each appeared only 5% of the time) were “individual rights” and “system cynicism”. Analysis of the coverage of the California smoke-fee bar law also found a frame of individual rights (named “freedom of choice”) to be most common in the coverage against legislative intervention. [49]

News events such as this lawsuit unleash unparalleled opportunities for those contacted by the media to frame tobacco control events in terms that the public can understand and with which they may identify. Issue framing is thought to play a central role in the process of policy formation, and the news media are a prime vehicle for disseminating. [56,57]

Tobacco control advocates need to be aware that, at least in Australia, there is considerable community support for more pervasive smoke-free policies.

Court cases provide special opportunities for policy advocates. Litigants, being identifiable people as opposed to “statistical cases” provide news value in the form of interview potential, personalization of what otherwise can be rather abstract and arid news material and a person with whom audiences might identify. Marlene Sharp was routinely described in terms that framed her as an ordinary, “decent” citizen rather than as a rapacious, “gold-digging” litigant, a common news frame regarding court cases. In addition to its potential for changing institutional practices, litigation thus always brings with it this ability to give a human face to what otherwise risks being dismissed by newsroom staff as a depersonalized story about policy advocates’ efforts to yet again breathe life into their cause.

Because litigation often takes months and sometimes years to run its course, this allows advocates opportunities to explore the potential of particular litigants to be cast as significant news actors in unfolding developments in the advance of policy. The generally positive news reception accorded to the large news story of Marlene Sharp may stand in time for many as “the face” or personification of the need to change laws on workplace smoking. Some litigants are cast by news media as symbols of “lawyers on the loose”, with their claims trivialized and ridiculed as instances of society going soft and everyday minor insults being elevated into absurdly dramatized incidents. Advocates need to carefully explore the potential for each litigant to be cast either favorably or unfavorably by journalists, but above all, to recognize that the personalization that litigation can bring may frame social issues more powerfully than the epidemiological and scientific preoccupations of different parties in policy debates.

Table 1:

Frames identified in newspaper coverage of the Marlene Sharp trial

| Frame | Slant | Key concepts | Links |
|------------------------------------|----------|--|---|
| Smoking as a societal problem | Positive | Smoking is damaging to all of us Smoking should be a top priority Solutions will be collective People need help to quit | Vulnerability of certain social groups/actors Power of the tobacco industry Public health approach Society is stronger than the individual |
| Formal intervention as appropriate | Positive | Only laws/ordinances will stop the tobacco industry People need to be protected | The collective good is prioritized over individual rights |
| Smoking as socially unacceptable | Positive | Smoking as irresponsible, weak Smoking is a vice Smoking puts others at risk Smokers are physically unattractive | Deviancy Rights of others are paramount Cost to society of caring for smokers |
| Tobacco industry as evil | Positive | 'Big Tobacco' Ruthless, greedy industry Killer product Victim customers Power hungry industry | Corporate greed Lobbying |
| Tobacco as a Dinosaur | Mixed | Dying industry The tobacco fight has been won Post-tobacco era Nostalgia for tobacco | Alternatives to tobacco farming |
| Individual rights | Negative | Big Brother Anti-government The land of the free Control of one's own body Victimization of smokers | Smokers' rights Laissez-faire American liberty |
| System cynicism | Negative | Health nazis Greedy lawyers Regulation will never work Lawsuit fatigue Carpet-baggers | Regulation is excessive Science is flawed/corruptible |
| Tobacco/smokers as the underdog | Negative | David and Goliath Tobacco industry or smokers are the 'whipping boy' | Power hungry government/ public health advocates Legitimate business Victim-blaming |

Table 2: Topics covered by Marlene Sharp news articles

| Topic | % of articles (n=100 articles) |
|---------------------------------------|---|
| Lawsuits | 77 |
| Restaurant/bar/casino smoking bans | 58 |
| SHS health and comfort issues | 27 |
| Workplace bans | 24 |
| Social/economic effects of regulation | 17 |
| General bans | 13 |
| Smoker's rights | 5 |
| Smoking in other indoor places | 2 |
| Tobacco industry lobbying | 2 |
| Other damaging effects of smoking | 1 |
| Anti-tobacco events and programs | 1 |
| Smoking in the home/car | 1 |
| Societal costs of smoking | 1 |
| Nicotine | 1 |
| Quitting | 1 |

Table 3: Dominant frames in Marlene Sharp newspaper articles

| Frames | % of articles |
|---|----------------------|
| Positive for tobacco control: | 45 |
| <i>Formal intervention as appropriate</i> | 27 |
| <i>Smoking as socially unacceptable</i> | 9 |
| <i>Smoking as a societal problem</i> | 5 |
| <i>Tobacco industry as evil and deceptive</i> | 1 |
| Negative for tobacco control | 13 |
| <i>Individual rights</i> | 5 |
| <i>System cynicism</i> | 5 |
| <i>Smokers as underdogs</i> | 3 |
| Mixed for tobacco control | 3 |
| <i>Tobacco as a dinosaur</i> |3 |
| Neutral | 42 |

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