

LESSONS FOR DRUG POLICY SERIES

Drug Policy in Portugal

The Benefits of
Decriminalizing Drug Use



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Drug Policy in Portugal:

The Benefits of Decriminalizing Drug Use

Artur Domośławski

(Translated from Polish to English by Hanna Siemaszko)

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Global Drug Policy Program



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Preface

by Fernando Henrique Cardoso¹

Drug Policy in Portugal is a lucid, penetrating and timely study about the impact of drug decriminalization on people's health and public security.

I was introduced to the Portuguese experience during a visit to the country in January 2011. I met with political leaders, health professionals, social workers, researchers and experts on public security. I also visited the Taipas Center for Treatment and Rehabilitation, observed the proceedings of the Commission for the Dissuasion of Drug Addiction, and talked to youngsters in schools and people incarcerated for drug trafficking offenses.

It did not take long to grasp the national drug policy's innovation, balance and consistency. Such a progressive approach was all the more remarkable in a society known to be relatively conservative.

During my visit, I was highly impressed by the message I heard from Dr. João Goulão and other officials, who emphasized that the goal of the Portuguese drug policy is to fight the disease not the patients.

1. Former president of Brazil (1995–2002), co-president with César Gaviria and Ernesto Zedillo of the Latin-American Commission on Drugs and Democracy, and chair of the Global Commission on Drug Policy.

All the available evidence shows, beyond any doubt, that punitive measures alone, no matter how harsh, do not achieve the goal of reducing drug consumption. Worse, in many cases prohibition and punishment have disastrous consequences. The stigmatization of drug users, the fear of police repression and the risk of criminal prosecution make access to treatment much more difficult.

By decriminalizing the consumption of all drugs, Portugal broke with a global paradigm. Instead of insisting on repressive measures that are, at best ineffective, at worst counterproductive, it chose a bold approach that favors more humane and efficient policies.

In so doing, Portugal indeed reflects one of the core recommendations of the Global Commission on Drug Policy, which I chair—that is, to “End the criminalization, marginalization and stigmatization of people who use drugs but who do no harm to others... Replace the criminalization and punishment of people who use drugs with the offer of health and treatment services to those who need them.”

This paradigm shift is, at the same time, straightforward and far-reaching. It fully embraces the need to treat those suffering from health problems with help and support, rather than stigmatization and punishment.

This study about this ground-breaking experience, now translated to English, also shows convincingly that in Portugal, drug decriminalization is not seen as panacea or a magic solution capable of solving all problems. Quite the contrary, decriminalization of drug consumption is part and parcel of a balanced and comprehensive but still challenging set of policies aimed at reducing the harm that drugs cause to people and societies.

It is also a pragmatic, evidence-based public policy, devoid of intolerance and prejudice, which has the primary goal of safeguarding citizens' health and security. Accordingly, mandatory administrative measures may be used whenever necessary, but criminal punishment is no longer the policy's central component.

Portugal is wisely investing in harm reduction and in forms of social regulation to reduce drug consumption. That is why it puts so much emphasis on dissuasion and prevention.

For all these reasons, I do not hesitate to say that Portugal's national drug policy represents a desirable paradigm shift in global drug policy. The results of the Portuguese experience reveal it to be a successful alternative to the prohibitionist approach that has led to violations of basic human rights such as the rights to health and social integration.

The present study results from careful critical analysis of the outcomes achieved by the policy on levels of drug consumption since 2001. Statistics are prone to controversy, but in Portugal's case the evidence is incontrovertible: the feared 'explosion in drug consumption' did not materialize. Portugal did not become a 'drug paradise'.

Given all the positive outcomes generated by this innovative policy, the Global Commission on Drug Policy is deeply concerned by the economic and financial crisis that jeopardizes key components of the country's drug policy.

The Health Ministry developed the capacity to design drug policies (in partnership with other ministries and civil society) and had the necessary means to implement them in the field. This institutional framework ensured that Portugal benefited from a broad network dedicated to offering treatment, prevention, harm reduction and social reintegration to those who need it.

My fear is that Portugal's economic challenges may lead to an increase in drug consumption, which has been seen elsewhere to be linked to economic downturns. In addition, circumstances could tempt more people to engage in trafficking as a means of subsistence. An appropriate response to these challenges requires resources that may not be available in the context of budgetary restraint. It would be tragic if these constraints reduced the country's capacity to respond to drug-related challenges and weakened the efficiency of its national drug policy.

Even from a strict economic perspective, my sense is that backing away from the country's pioneering drug policy would be counterproductive. The weakening of the treatment and prevention network can only lead to an increase in drug consumption and other pernicious effects on people's health and well-being. Should this happen, Portugal would unfortunately be forced to spend much more on treatment for HIV and related services as the number of people living with HIV would rise again.

Portugal's landmark experience is a global reference as an innovative and successful approach, and it is too important to be jeopardized in a moment in which fear and uncertainty about the future affect not only Portugal but many other countries in the European Union.

There is a wide consensus in the world that the 'war on drugs' has failed and that it is time to open up a broad debate about viable alternatives and new solutions. We are hopeful that Portugal will preserve its position at the forefront of this global debate—earned by its boldness to innovate in favor of public health and human rights.

Foreword

Fifty years after the first UN Convention on Drugs, the debate over the enforcement-based approach that dominates drug policies worldwide is heating up. Confronted with the disastrous effects of these policies, many countries are rethinking the repressive strategies that have failed to limit the supply and use of drugs and have often devastated individuals and societies.

The United Nations Office on Drugs and Crime has repeatedly confirmed in its World Drug Reports that efforts to eradicate and control the production of illegal drugs have largely been futile. What is more important, there is mounting evidence that repressive drug policies fail to take into account the human factor. Prisons worldwide are filled with people incarcerated on drug-related charges, many of whom were driven to drugs or drug dealing due to addiction or poverty. High incarceration levels not only have a negative impact on those who are incarcerated, but also place huge economic burdens on their families and societies. Frequently, the punishment is vastly disproportionate, with lengthy prison stays handed out for minor offenses.

Responding to drug use and possession with the tools of law enforcement means that public health suffers. Drug dependencies largely go untreated; inside most prisons there is no access to needle exchange, opiate substitution or other treatments. HIV and Hepatitis C spread easily. Large numbers of inmates take up drug use in prison, and many overdose shortly after release. Prison is simply not the answer to drug use and minor drug-related offenses. We need to find a better, more humane response.

The basis for this response can be found in a growing international movement led by scientists, health practitioners, drug users, policymakers, and law enforcement officials

who are committed to effective, enduring, and humane solutions to the challenges of drug use. The Global Commission on Drug Policy, whose members include four past presidents, a former UN Secretary General, and a Nobel laureate, launched a report in June 2011 that condemns the war on drugs and calls for governments to seriously consider alternatives such as decriminalization. *The Lancet*, a renowned British medical journal published a special issue in July 2010 to address the problem of HIV among drug users. The 2010 Vienna Declaration, signed by the heads of UNAIDS and the Global Fund to Fight AIDS, Tuberculosis, and Malaria, bears 20,000 signatures in support of drug policies that are rooted in science. A global campaign led by AVAAZ—*End the War on Drugs*—gathered over 600,000 signatures.

Surprisingly, Portugal—a small country known for its conservative values, strong Catholic tradition, and recent emergence as a democracy—has become an international model for drug policy reform. In a dramatic departure from the norm, Portugal decriminalized drug possession in 2000. By moving the matter of personal possession entirely out of the realm of law enforcement and into that of public health, Portugal has given the world a powerful example of how a national drug policy can work to everyone’s benefit. In the past decade, Portugal has seen a significant drop in new HIV infections and drug-related deaths. Instead of languishing in prison cells, drug dependent individuals in Portugal now receive effective treatment and compassionate programs that integrate them back into society. Even law enforcement has benefited, as police officers are now free to focus on intercepting large-scale trafficking and uncovering international networks of smugglers. As a result, public safety has increased.

Portugal proves that decriminalization does not increase drug use. To the contrary, it has demonstrated that humanitarian and pragmatic strategies can, in fact, reduce drug consumption, addiction, recidivism, and HIV infection. Portugal gives us hope that we can overcome the fear-driven “war on drugs” propaganda that paralyzes societies and hinders reform. Portugal proves that strategies based on respect for human dignity and the right to health can increase public safety.

Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use is the second in a series of publications by the Open Society Foundation’s Global Drug Policy Program that seeks to document positive examples of drug policy reform around the world. We hope this publication will inspire policymakers, advocates, and drug users themselves to design policies that are guided by the principles of human rights, public health, and social development.

Kasia Malinowska-Sempruch
Director, Global Drug Policy Program
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Artur Domosławski

Executive Summary

Ten years ago, Portugal launched an experiment that few countries had dared to try: the decriminalization of drug possession and use, including for drugs labelled by some countries as “hard,” such as cocaine and heroin.

These changes to Portugal’s drug law and national policy have marked a turning point for the country and a milestone in international drug policy. Instead of seeking to diminish use by punishing users, the new measures consider drugs illegal but no longer treat drug consumption as a criminal offense. The changes are also particularly significant for Portugal, a conservative country marked by a history of fascistic governments and a Catholic Church that has a powerful influence on politics and social life.

Portugal’s reforms have not been limited to treating drug possession as an administrative offense; they also include a wide range of measures such as prevention and social education, discouraging people from further use of controlled substances, harm reduction, treatment for drug dependent people, and assistance in reintegrating them into society.

Contrary to initial concerns regarding Portugal’s new strategy, studies have shown that the number of drug users has not risen dramatically, and has even fallen in certain categories. In addition, the number of people with drug-related diseases (such as HIV and hepatitis B or C) has decreased overall.

According to Portuguese and international experts, these positive trends are rooted in a drug policy that offers treatment to people who are drug-dependent, instead of treating them like criminals. Levels of drug consumption in Portugal are currently among the lowest in the European Union.²

Although new policy activities are often subject to internal debates and disputes, mainly concerning economic costs, the policy of decriminalization and the philosophy behind it have not given rise to any real controversy. They are based on a consensus among politicians and Portuguese society as a whole.³

The effects of Portugal's experiment with drug policy have been corroborated by research, and the Portuguese people's reactions to it have been verified by reliable surveys; this experience can and should be a lesson for a world caught up in a failed "war on drugs." The innovative nature of the Portuguese approach proves that it is not generals, police officers, or criminal court judges, but rather doctors, social workers, and researchers who need to address drug-related issues.

2. The European Monitoring Centre for Drugs and Drug Addiction (hereafter, EMCDDA), *Statistical Bulletin 2010*, "Lifetime prevalence of drug use in nationwide surveys among the general population." Only 8 out of 28 surveyed countries have a lower cannabis consumption than Portugal, 10 out of 27—cocaine, 4 out of 27—amphetamine, 4 out of 27—ecstasy, 5 out of 23—LSD.

3. Interviews with Analia Torres, Casimiro Balsa, João Goulão, and Maria de Belem Roseira.

I. Introduction

The aim of this study is to show the circumstances that led to the current drug policy in Portugal, the mechanisms used to effect this change and, most importantly, to discuss the values and ideas behind Portuguese drug policy, how it works, and what the impact has been on drug use and drug harms within Portugal.

The study presents the results of the policy, measured by research on drug use and the evaluations of independent scientists and employees of government institutions who deal with drug-related issues.

The study and its findings are largely based on interviews with people working on different aspects of drug policy in Portugal. These groups and individuals range from those who created the policy to the decision-makers who debated and advocated the reforms; the people who are engaged on a daily basis in prevention and education, harm reduction, and treatment activities that help drug dependent people return to society; and those who enforce the laws against large-scale drug dealers.

Of the study's 20 interviews, 15 were conducted with Portuguese drugs specialists and 5 with drug users. The interviews were complemented by analysis of previous studies on drug policy in Portugal, examinations of the consumption of psychoactive substances, and documents from the police and the Portuguese Institute on Drugs and Drug Addiction.

Persons Interviewed

- ▶ João Goulão, President of the Institute on Drugs and Drug Addiction (IDT)
- ▶ Fernanda Feijao, Director of Research at the IDT
- ▶ Paula Marques, Director of the Community Intervention Department at the IDT
- ▶ Nuno Portugal Capaz, sociologist, member of the Lisbon Dissuasion Commission
- ▶ Paula Andrade, Director of the Harm Reduction Unit at the IDT
- ▶ Alcina Ló, Director of the Social Reintegration Unit at the IDT
- ▶ Ana Sofia Santos, Director of the International Relations Unit at the IDT
- ▶ Henrique Barros, HIV/AIDS National Coordinator
- ▶ Dr. Miguel Vasconcelos, Director of TAI PAS, a treatment center for drug users
- ▶ Maria de Belem Roseira, Member of Parliament, former Minister of Health
- ▶ Americo Nave and his team of street workers (The team distributes needles, syringes and other harm reduction items in the “Portuguese Kit”)
- ▶ Joao Fernandes Figueira, Chief Inspector of Judiciary Police (Policia Judiciaria)
- ▶ Analia Torres, Professor of Sociology, President of the European Association of Sociology
- ▶ Casimiro Balsa, Professor of Sociology, author of surveys on drugs and drug abuse
- ▶ Brendan Hughes, Senior Scientific Analyst at the European Monitoring Centre for Drugs and Drug Addiction

Also interviewed were five anonymous drug users on the streets and at the TAI PAS treatment center.

II. Portugal Before 2001

After the Second World War, Portugal, alongside Spain under General Franco, was the only European country where authoritarian power was still exercised by fascist-oriented political groups originating in the 1920s. Portugal was a firmly Catholic, traditional, conservative society governed by the authoritarian dictatorship of Antonio Salazar. Under the Salazar regime, the Catholic Church gained significant influence.

Salazar's Portugal was also an autarkic country, closed to new ideas, changes in Western societies, and new trends in culture and customs. The counterculture movements of the 1960s that celebrated drug use as a component of fashion and culture largely passed over Portugal. Drug use (mainly LSD) was accepted within Portugal's relatively small communities of artists and bohemians, but it was sporadic and had little cultural or social impact.

It was not until the late 1970s that drugs became a noticeable problem in Portugal. A number of factors potentially contributed to increased drug use in Portugal: the end of the colonial war in Africa and the return of people from the colonies (including soldiers of the Portuguese empire), and the fall of the Salazar dictatorship in 1974, which resulted in a very closed country quickly opening to the world.

A recurrent observation made by interviewees in this study was that drug use, or, to be precise, cannabis use, started to become more visible in Portugal when Portuguese citizens returned from colonies where marijuana was grown and used openly.

Others maintained that with Portugal's opening after 1974, drug use was simply part of a large "package" of issues that it began to share with other Western societies as the

country, pursuing more multilateral cooperation with other countries, became exposed to new ideas, trends, and fashions.

After a half century of isolation, the Portuguese were ill-prepared to confront the wave of changes that came with greater openness in the late 1970s. They possessed no common knowledge about drugs, especially the distinction between hard and soft drugs, what problems different drugs carried, what health risks they presented to individuals, or what kind of social problems they caused.

In the early 1980s, the most commonly used drugs in Portugal were hashish and marijuana, but heroin had already appeared by the late 1970s. Heroin smuggled from Pakistan and India through the former colony of Mozambique by Portuguese of Pakistani origin was sold on Portuguese streets in the late 1970s and early 1980s. Then, when two large gangs smuggling heroin through Mozambique were broken up, heroin started flowing from the Netherlands. Because heroin smuggling in Portugal consisted of so many small groups and individual smugglers, the authorities found it impossible to stop. Heroin use was also changing at this time, as consumers started to smoke as well as inject the drug.

In the late 1980s, and especially in the early 1990s, drug consumption in Portugal became a subject of social concern. Many people in Portuguese society concluded that the country had a serious drug problem and high drug consumption. At the time, this conviction was not based on any research on consumption, but simply general impressions and anecdotal evidence. A likely contributing factor to these impressions was that drug consumption in some districts of Lisbon and other bigger cities had become more open and visible.

A EuroBarometer survey conducted in 1997 showed that the Portuguese perceived drug-related issues as the country's main social problem. Four years later in 2001,⁴ when the new law decriminalizing drug possession and use was implemented, drugs occupied third place on the list of issues that gave rise to social concern among the Portuguese.

The first comprehensive study on drug use in Portugal conducted in 2001, however, showed that, contrary to popular belief, the level of drug consumption in the country was among the lowest in Europe at that time. Barely 8 percent of the Portuguese surveyed admitted to using drugs at some point in their lives.⁵

4. Joao Goulao, "Interdiction or Decriminalization—What Works with Drug Crime?" Speech given at the 12th International Criminal Law Congress 2010.

5. Inquerito Nacional ao Consumo de Substancias Psicoactivas na População Geral, Portugal 2001 (Nationwide Survey on Psychoactive Substances Consumption conducted by professor Casimiro Balsa et al. in 2001). Interview with Casimiro Balsa.

Why was there such a disconnect between the results of this study—not particularly alarming—and the public perception that drugs were a major problem? Although Portugal had one of Europe’s lowest levels of illicit drug consumption among the general population, experts agree that during the 1980s and 1990s, it was one of the highest prevalence countries for problematic drug use,⁶ particularly heroin use.⁷ The 2001 survey found that 0.7 percent of the population had used heroin at least once in their lives, the second highest rate in Europe after England and Wales (1 percent).⁸ A recent paper by the European Monitoring Centre for Drugs and Drug Addiction shows that drug use in the general population remains below the European average, however “problem drug use and drug-related harms are closer to, and sometimes above, the European average.”⁹ At the same time, it should be noted that the number of problematic drug use cases appears to have fallen in recent years.¹⁰ For example, the prevalence of heroin use among 16–18 year olds fell from 2.5 percent in 1999 to 1.8 percent in 2005.

Professor Casimiro Balsa¹¹ believes that social concern was also caused by the visibility of drug use in the public sphere (in streets, parks, and pubs). In a country where traditional morals had dominated for such a long time, such atypical behaviors were felt to be incompatible with public morality. This concern supported public perceptions about the seriousness of the drug problem in Portugal. The concern appeared to arise naturally in a general and widespread way among people, rather than being promoted from the pulpit. Indeed, the Church itself was not outspoken regarding drug policy, nor, in fact, has it been outspoken on other policy matters (except abortion) since the democratic revolution brought about the separation of church and state.

6. Problem drug use is considered as intravenous drug use (IDU) or long duration/regular drug use of opiates, cocaine and/or amphetamines. Ecstasy and cannabis are not included in this category (Definition from the EMCDDA).

7. Joao Goulou, quoted in: Beyrer, C. et al., “Time to act: a call for comprehensive responses to HIV in people who use drugs,” *The Lancet: HIV in People Who Use Drugs, Special Issue*, July 2010. Also see Hughes, C., Stevens, A. *The Effects of Decriminalization of Drug Use in Portugal*, The Beckley Foundation, December 2007.

8. Balsa et al.

9. Moreira, M., Hughes B., Costa, Storti C., Zobel F. (2011), *Drug Policy Profiles: Portugal*, EMCDDA, p. 17.

10. For example, the prevalence of heroin use among 16–18 year olds fell from 2.5 percent in 1999 to 1.8 percent in 2005. For more, see Greenwald, G. (2009), *Drug Decriminalization in Portugal; Lessons for Creating Fair and Successful Drug Policies*, The Cato Institute, p. 14.

11. A sociologist involved in the 2001 study.

The government first responded to the drug problems and social concerns of the late 1980s by establishing the TAIPAS treatment center in Lisbon.¹² The government effort was also matched by the creation of a number of private drug treatment clinics. Indeed, although the Church has been described by one interviewee as “under the radar” on drug policy issues, it did take on a very important role regarding the social aspects of treatment and at the re-entry stage for drug users. For example, Church leaders headed-up *Projecto Vida*, instituted in 1987 and viewed as a “seed” for the Institute on Drugs and Drug Addiction (IDT) by one interviewee, and it continues to run a number of therapeutic communities to this day.

Despite these efforts, however, consumption of all drugs continued to rise. Data about the number of heroin users among the HIV-positive population (60 percent) was particularly alarming.¹³

Simultaneously, fear of the police and being treated as a criminal dissuaded many drug users from seeking out treatment. Meanwhile, establishing syringe and needle exchange programs, as recommended by IDT staff, remained illegal. The legal system regarded using drugs as a level of crime similar to dealing drugs. Thus, according to the laws based on this perspective, syringe and needle exchange programs were viewed as aiding users in committing a crime.

A rise in users, a rise in patients, and a rise in social concern helped make drugs a political issue in 1998, with prominent debates and disputes about drugs taking place in parliament, government, the media, and the streets. Despite Portugal’s traditional, conservative, and authoritarian history, the government responded to the rising concerns and debates by developing a rather surprising and unconventional answer.

12. For details of the services provided by TAIPAS, see the discussion at p. 34.

13. Interview with Henrique Barros, National Coordinator for HIV/AIDS.

III. A New Philosophy Toward Drug Policy

Looking to other jurisdictions, if a social issue of special concern relating to criminal law arises, many governments react with an “emergency policy” or a “zero tolerance policy.” This does not mean introducing a state of emergency, but more often developing public awareness efforts, such as anti-speeding campaigns, and toughening the laws and sanctions that focus on the issue.

The Portuguese government’s actions in 1998 went precisely against all of the typical and expected “emergency” policy responses. Instead, the government appointed a committee of specialists—doctors, sociologists, psychologists, lawyers, and social activists—and asked the committee to analyze the drug issue in Portugal and formulate recommendations that could be turned into a national strategy.

After eight months, the committee presented the results of its work¹⁴ and recommended the decriminalization of drug possession and use for both “hard” and “soft” drugs as the most effective way of limiting drug consumption and reducing the number of drug dependent persons. The committee recommended that, along with the legal changes, the government should concentrate on prevention and education, harm reduction, broadening and improving treatment programs for drug dependent persons, and activities that helped

14. Results were presented in the content of the “Portuguese Drug Strategy,” 1999.

at-risk groups and current drug users maintain or restore their connections to family, work, and society.

Detailed recommendations for practical reform were considered secondary in importance to the formulation of the new philosophy to underpin them and this approach was key to drug policy change in Portugal.

Central to the new philosophy was the idea that while drug use is not good, drugs are not an absolute evil that require high levels of incarceration of drug users as is seen in various “war on drugs” policies elsewhere. Indeed, one interviewee, Nuno Portugal Capaz, a member of a Dissuasion Commission,¹⁵ noted that those who developed the policy assumed that trying to create a “drug-free” society was an illusion that would never become reality—like creating a society where drivers will not exceed the speed limit.

Behind the new philosophy was the recognition that people use drugs for a number of reasons: personal problems, social factors, and recreation and pleasure. The committee concluded that repressive punishment has no rational explanation and is disproportionate against an action that may be unhealthy for the user but is usually not directly harmful or hostile toward others.

The experts who developed Portugal’s drug reforms felt that treating drug consumption under criminal law hindered drug dependent persons from voluntarily seeking help. Criminalization made many drug users afraid to ask for medical help for fear of punishment, or, in the very least, for fear of a criminal record that would negatively impact their ability to get jobs and participate in society.

Based on these principles, the committee made decriminalization of drug use and possession one of their main recommendations to the government. With decriminalization the state would maintain the rule of prohibition but take sanctions for drug use outside the framework of criminal law.

Decriminalization in itself is neither an action nor a policy. “It does not have magical power as some claim,” noted IDT Chairman João Goulão, one of the key participants in the development of Portugal’s new approach and policy toward drug use. Decriminalization only creates a legal framework for implementing policies to reduce the harm caused by drug consumption and to socially reintegrate drug dependent persons. For drug users, decriminalization removes the reason why those with dependencies are afraid of undergoing treatment. It also allows people who help dependent users to provide assistance without being treated as the accomplices of criminal offenders. This approach is based both on humane considerations (i.e., a sick person needs help) as well as pragmatic ones (i.e., repressive measures have been ineffective at limiting consumption).

15. For details on the work of the Dissuasion Commissions, see the discussion on p. 29.

Portugal's new approach resulted in the creation of Dissuasion Commissions. These replaced the criminal courts as the state's forum for responding to drug use. The commissions seek to inform people and dissuade them from drug use. The commissions also have the power to impose civil sanctions for noncompliance and to refer consenting persons to treatment.

When the government developed the Dissuasion Commissions in 2002, it took an important symbolic step that reflected its new approach to drug policy by placing the commissions under the Ministry of Health, rather than the Ministry of Justice, as in other countries.¹⁶ Actions for decreasing drug demand as well as coping with dependence were to be part of health policy and not criminal justice. With this, the official response toward drug users shifted from viewing them as criminals to treating them as patients.

The development of the new approach to drugs did have some precedence in previous practice. Although the Portuguese law before 2001¹⁷ stipulated imprisonment of drug users for up to three years, it had rarely been exercised. When police stopped a drug user they usually tried to obtain information about dealers—sometimes successfully, sometimes not—before letting the user go. If the user “reoffended,” the case was often referred to a court that sentenced the user to a fine, community service, or a choice between prison and treatment. A criminal offense, however, was always marked in the person's records.

The new strategy decriminalizing drug possession and use required the government to pass a suitable law, which it did in 2000.¹⁸ The Government's acceptance of almost all of the committee's recommendations was a major departure from the normal law-making process in Portugal. Politicians usually accept some recommendations and reject others, making their decisions based on what will pay off in the next election without thinking about the long-term effects of a proposal.

When the new strategy and legislation that decriminalized drug possession and use came into effect, its supporters said that it was based on the fundamental notion of “fighting the disease, not the patients.” The strategy was comprehensive and included reasons for choosing decriminalization policy; necessary preventive and educational activities; ideas behind harm reduction policy; steps to be taken in order to improve and broaden treatment programs (financed by the state); and programs to socially reintegrate drug dependent persons.

16. Prior to this, two different structures coexisted: the Portuguese Institute on Drugs and Drug Addiction, under the Council of Ministers Presidency, and the Cabinet for Planning, Coordination and Fighting Against Drugs under the Ministry of Justice.

17. Decree-Law no. 15/93 published in 1993.

18. Law no. 30/2000 of November 29, 2000.

Passage of the new law and implementation of the strategy were accompanied by a series of information and education campaigns aimed at groups of potential drug users. According to one interviewee, unlike campaigns that target a broad audience but with relatively little effect, the Portuguese TV ads succeeded by focusing on specific groups (such as school and university students, immigrants, or the unemployed) and each campaign using a slightly different set of arguments and messages.

While the drug law and reforms were largely endorsed by the government, they did receive significant criticism, especially from right-wing politicians, traditional society sectors, and some mass media. It was claimed that decriminalization would cause a sudden increase in drug use and that Portugal would become a drug paradise, the number-one country for drug tourism, attracting crowds of foreigners who could use drugs without the risk of serious conflict with the law. However, although there was public debate prior to the passing of the law, its passage was never in doubt because the government had a simple majority at the time. Although the government sought to delegate responsibility for the new policy to the independent committee of experts, they also followed through with decisive legislative action, turning the policy into law less than three years after its conception.

The fact that there was opposition to the new law and reforms serves to underscore a constant and fundamental question about the process in Portugal: why did the government adopt the new policy so decisively? Some of those interviewed for this study explained it simply as the government having a fundamental conviction and the political will to have what it saw as the right path prevail. Another interviewee from the IDT noted that after years of living under a dictatorship, the Portuguese public was sensitive to the needs of the aggrieved and society's weaker members; bearing this in mind, the government could feel confident that the electorate would be able to see drug dependent persons as people who were ill, rather than as criminals, and would therefore react favourably to the new policy.

IV. Depenalization, Decriminalization, and Legalization

Portugal's 2000 drug law¹⁹ stipulates the exact amount of each drug that you can possess before you are treated as a drug dealer. Generally, this amount is thought to be enough for the consumption of one person over a 10-day period (the law stipulates the permissible amount in detail—in grams or pills—of each drug: cannabis, 25 grams; hashish, 5 grams; cocaine, 2 grams; heroin, 1 gram; LSD or ecstasy, 10 pills).

There was initially a disconnect between the thresholds laid down by statute and those followed by the courts. However, the courts in general were grateful to be relieved of some of their workload. Under the practice that now prevails, all parties view the threshold quantities as indicative rather than binding. For example, it should be stressed that the charts indicate what amount may be for personal use, but it is the task of the police to determine what a person intended to do with the substances they possess. If a person has an amount that may be considered for personal usage but he or she is caught selling it, this remains a crime.

Under the new strategy, the purchase, possession, and consumption of illicit drugs have been downgraded from criminal to administrative offenses.

19. Law no. 30/2000 of November 29, 2000.

Decriminalization differs from depenalization because the purchase, possession, and consumption of illicit drugs remain criminal offenses and carry criminal sanctions. However these will usually fall short of imprisonment.²⁰

When asked about reasons for introducing decriminalization and not legalization—a concept openly discussed today by other political and intellectual authorities, especially in Latin America—interviewees provided a number of different answers. Some focused on international commitments and treaties signed by Portugal, all of which oblige the signatory states to apply drug prohibition. Legalization goes against such an approach whereas decriminalization does not. Others pointed out that the new philosophy maintained a strong conviction that drug use remains harmful and undesired and should not be perceived simply as the private choice of an individual since it brings social consequences. It was said that the Portuguese policy was not about giving the green light to drug use, but rather about reducing harm, stopping senseless punishment, and achieving better control over the drug problem.

20. According to the EMCDDA: “Decriminalization” comprises removal of a conduct or activity from the sphere of criminal law. Prohibition remains the rule, but sanctions for use (and its preparatory acts) no longer fall within the framework of the criminal law. [By contrast], “depenalization” means relation of the penal sanction provided for by law. In the case of drugs, and cannabis in particular, depenalization generally signifies the elimination of custodial penalties. For a fuller discussion of the differences between decriminalization and depenalization, see Greenwald, G. (2009), *Drug Decriminalization in Portugal; Lessons for Creating Fair and Successful Drug Policies*, The Cato Institute, p. 2.

V. A New Philosophy in Action

Recognition of the need to respect human dignity, understand the life choices and social circumstances of others, and uphold the constitutional right to health lay behind the change of approach toward drug consumption.²¹ From the viewpoint of Portuguese policymakers, drug dependence was a disease that society must take efforts to prevent, and drug dependent persons were patients needing help, not dangerous criminals needing to be locked away from society.

A policy was formed which could, it was thought, bring positive results only when all its elements worked well and there were no “gaps.” It had to be comprehensive and include all the issues directly and indirectly related to drug use. These main issues could be divided as follows: prevention; Dissuasion Commissions; risk and harm reduction; treatment; and return to life in health and in society.

21. The Portuguese Drug Strategy, 1999, provides: “The guarantee of access to treatment for all drug addicts who seek treatment is an absolute priority of this national drug strategy. The humanistic principle on which the national strategy is based, the awareness that drug addiction is an illness and respect for the State’s responsibility to satisfy all citizen’s constitutional right to health, justify this fundamental strategic option and the consequent mobilisation of resources to comply with this right.”

Prevention

A key concept underlying Portugal's drug policy is prevention. This is carried out by the IDT in cooperation with other government agencies such as the Ministry of Education and the police, as well as NGOs funded by the state.

In 2005, the IDT undertook a nationwide diagnosis that identified areas and groups of people who were at the highest risk of developing drug problems and addiction. Based on the diagnosis, the IDT developed preventive measures that included both universal drug education activities and efforts that focused on high risk groups and areas. Young people were bombarded with information about the negative results of drug consumption from schools, health clinics, sports and recreational centers, and popular cultural events.

Cultural events, identified as areas where it was extremely easy for people to start using drugs, received special attention from the IDT prevention unit. The unit consists of teams of social workers who go to locations such as pubs and discos as well as cultural festivals, concerts, and various youth events and mingle with young people and talk to them about drug use. The prevention teams seek to dissuade those who already use drugs by providing them with information about the possible health and life consequences of drug use. The teams also seek to identify more long-term, heavy drug users and prompt them to undergo treatment.

The IDT has deliberately chosen such discrete and targeted activities over large-scale campaigns which, studies from the United States²² have shown, are capable of making people curious about drugs and prompting first-time use, rather than dissuading them from it.

"Preventive measures may only be effective when they are systematic and not one-time actions," said one Portuguese drug prevention worker. "One-time actions are a waste of time and money."

Outreach also consists of organizing sports events targeted at young people, such as a bike tour with the slogan "Pedal using just your own energy." The word "drugs" does not appear, but viewers and participants understand the meaning. This is an attempt to reach young people indirectly with a positive healthy lifestyle message; a conscious decision has been made not to focus on aggressively condemning and discouraging drug use.

22. Paula Marques from the IDT referred to the study by Lela S. Jacobson from the University of Pennsylvania, *Explaining the Boomerang Effect of the National Youth Anti-Drug Media Campaign*. The study was presented at the International Conference on the Evaluation of Public Policies and Programs on Drugs, organized by the IDT during Portugal's EU Presidency in 2007.

As a part of its prevention activities, the IDT has established special telephone lines for young people and their parents as well as an online service where you can find information or advice and a website called “Tu-Alinhas,” which has around 3,500 visits per month.

Preventive measures related to drug demand (i.e., users and potential users) are supported by the police through programs such as “Safe School,” which involves police patrolling school surroundings, mainly in high-risk areas. The aim of such measures is to scare off dealers. The program uses plainclothes officers who patrol in unmarked cars bearing only the inscription “safe school” (escola segura).

Drug users interviewed for this study indicated that the prevention message had reached them and they were aware of the different campaigns (e.g., in schools, on TV, and through street workers). However, their status as drug users suggests that at least for them, the campaigns had not been effective. Overall, however, there is strong evidence that measures aimed at preventing first-time drug use or even just delaying drug use have been relatively successful: drug use among 15 to 19-year-olds (perhaps the most important demographic in drug policy) has markedly decreased.²³

Dissuasion Commissions

The Commissions for the Dissuasion of Drug Abuse are Portugal’s second line of state intervention.

Each of the country’s 18 provinces has a Dissuasion Commission consisting of three people nominated by the Ministries of Health and Justice. The member appointed by the Ministry of Justice has to be a legal expert, the other two are usually a health professional and a social worker.²⁴ The commissions are supported by a team of psychologists, sociologists, and social workers.

When drug users are stopped, police write down their data, confiscate the illegal drug, and release the person subject to a requirement to attend a Dissuasion Commission. Sometimes a person may be taken to the police station in order to verify information and complete paperwork, but they will not be detained.

23. Degenhardt L. et al. (2008), “Toward a global view of alcohol, tobacco, cannabis, and cocaine use: findings from the WHO World Mental Health Surveys,” *Public Library of Science Medicine* 5, No. 7 (2008): e141 DOI, 10.1371/journal.pmed.0050141—as quoted in: Greenwald, G., 2009, *Drug Decriminalization in Portugal*, Cato Institute.

24. Moreira, M., Hughes B., Costa, Storti C., Zobel, F. (2011), *Drug Policy Profiles: Portugal*, EMCDDA, p. 17.

If a person fails to attend the Dissuasion Commission, an administrative sanction may be applied in their absence, such as a fine, revocation of a driving license or license to bear arms, community service, or a prohibition from being in a certain place.²⁵

At the Dissuasion Commission, the person's reasons for using drugs, their drug use history, addiction issues, family background, and work status are discussed.²⁶ The commission aims to facilitate an open discussion with members attempting to make the drug user aware of the harmfulness of drug use, including the consequences of further offenses, and to explain, recommend, and refer the user to various treatment options, where appropriate.

A meeting with a Dissuasion Commission is not supposed to carry the same trauma as a court trial and it seeks to avoid causing social stigma to those participating. Indeed, drug users interviewed for this study described being much less fearful of appearing before a commission than they had been when appearing in court under the old system. The meeting takes place in a normal room with a table at which commission members and the person who has been found in possession of illegal drugs are seated together. The person is allowed to be supported by a therapist or a lawyer; a lawyer is mandatory if the person is under 18 years of age. If a person is over 18, correspondence need not be sent to his or her home address if the person is worried about other people finding out about their case.

If a person comes before the commission for the first time, the commission almost always suspends the proceedings and does not issue a sanction. If an occasional user comes before the commission again, they are fined around 30 to 40 euros, and proportionally more on further occasions. Other administrative sanctions include social work, regular reporting to the commission, the withholding of social benefits, or six weeks of group therapy instead of a fine.

Similar sanctions may be applied to drug dependent persons at the first meeting if they do not voluntarily undergo treatment; however, such individuals are generally not sanctioned because the commission is trying to persuade them to go into treatment, not force them into doing so. By law, a financial fine can never be applied to a drug dependent person since it is thought that this could result in further crimes being committed in order to obtain money to pay the fine.

For those not ready to engage with treatment, the commissions take an individualized and flexible harm-reduction approach. They have the power to escalate sanctions, but rarely use it, unless the person is deemed to be a recreational user involved in small-time trafficking but against whom there is insufficient evidence to charge, or if the person is repeatedly caught in the vicinity of a school. Most commonly, written warnings are given for those

25. For a full list of available sanctions, see Law 30/2000.

26. Statistically, there are six to seven such interviews scheduled every day at the commission in Lisbon; but there are commissions outside big cities that treat ten times fewer cases annually.

not ready to be dissuaded, but the commission also can be more creative and, for example, extend the suspension period when further infractions arise; this usually happens when a person is engaging with treatment and interventions, but not yet ready to reduce their drug use or is doing well with regards to harder drugs, like heroin, but still smoking hashish on the side. An IDT member described taking a “lighter approach” for such individuals, saying “if we have in front of us a heroin addict who is successfully maintaining their treatment but still smoking some hashish on the side, quite frankly, that’s the least of their problems!”²⁷

Failure to comply with an administrative sanction constitutes the criminal offense of disobedience and can be referred to a court. However, an interviewee from the Lisbon Dissuasion Commission stressed that cases of noncompliance are very rare.²⁸ If a sanction is complied with, or a procedure is suspended, the case cannot be referred to a court.

A young recreational cannabis user, interviewed for this study, said that appearing before the commission made him think twice about his drug use. However, he also said that he was more afraid of his parents’ reaction (if they found out about his drug use) than the sanctions available to the commission. Indeed, a commission member in Lisbon, who was interviewed for this study, states that the commission does not have power to force anybody to do anything. He does not delude himself that a person will stop taking drugs after one talk about drug use. He hopes, however, that it will make drug users give more thought to their drug use. A commission meeting can also help drug users who do not have much information become more aware of the health risks that drug use can pose to both the user and to others, and where they can go for medical help if needed. The commission, he said, attempts to advise people so that they can develop a healthier relationship with drugs even if they decide to continue using them.

The central register of drug users, which is a spin-off of the commission’s work, shows the main reasons for drug use, what drugs are currently in use, in what proportions, and in which region. All of this information makes it possible to diagnose the market situation of drugs and their users and to adapt prevention methods to them. Access to the drug user register is only granted to the IDT. Theoretically access may also be granted to courts, but this has not been the practice to date. The central register also provides useful data that helps inform how the Dissuasion Commissions might deal with drug users, such as whether a person has been summoned by the commission for the first time or not. Interviews undertaken with drug users for this study suggest that while many remain preoccupied with the stigma of drug use, the efforts of the commissions to protect confidentiality are valued by them as off-setting such stigmatization.

27. Interview with Nuno Portugal Capaz, Dissuasion Commission member.

28. Ibid.

There are often cases that are difficult to categorize. For example, if the police catch somebody with a drug quantity that is well over the specified amount for 10 days of personal use, the case is referred to court and the person is treated as a drug dealing suspect. But, if the amount of drugs is slightly over the amount that the law treats as drug possession for personal use, the court may refer the suspect to the commission. If the judge keeps such a case, it is dealt with as the “crime of usage” and similar sanctions are applied to those available in the commissions. Indeed, it is for the judge to decide if the suspect only used drugs or was also selling them and if that person is drug dependent or not. The commission can also refer a person to a court in cases where, further to their inquiries, the members believe the person to be involved in supplying drugs but are in possession of an amount beneath the threshold.

There are also cases, such as ones involving user/dealers, in which the roles are blurred. Trafficking, even if at a low level, is still considered a crime so it has to be dealt with in a court of law. What is supposed to happen is that the procedure is split in two with the trafficking dealt with in court and the usage dealt with by the commission. Often times, however, perhaps because of insufficient evidence or other reasons, such individuals are only referred to the commission and not the court. In these cases, one interviewee described the commission’s view: “we deal with the individual as a normal user because we know that if the person solves the addiction issue, he will (eventually) have no further need to be trafficking.”

Risk and Harm Reduction

The state also pursues harm and risk reduction activities on the street through a unit within the IDT.²⁹

Before drug possession and use were decriminalized, the Portuguese government carried out intervention activities on a small scale based on risk reduction, but these efforts conflicted with the law and provided users with short-term aid only. The first support centers, which were not used by large numbers of people, aimed to provide users with information about treatment (although treatment was not easily available for many users). The government also helped establish the first night shelters for users living in the streets.

When the new scheme came into force in 2001, risk and harm reduction activity became systemic. The IDT now funds 69 projects throughout the country, along with 30

29. In addition to risk and harm reduction, there are also specific units at the IDT for prevention, treatment, and social re-integration.

teams of social workers who work in the streets and in centers that provide methadone for people dependent on heroin and night shelters for homeless drug users.

Ninety percent of these projects are carried out by NGOs funded by the state after winning a tender announced by the IDT. According to one IDT staff member, this solution was chosen because NGOs are more flexible than government agencies and have better access to people in the streets. NGOs have also been found to be better than state agencies at establishing mutual trust between service providers and users. Although the state does not aim to punish users, a person still has to appear before a Dissuasion Commission and/or face a sanction. Therefore, government agencies, although they try to help drug users as much as they can, can nevertheless arouse mistrust or at least hesitation among some drug users.

This reality was verified during the daily rounds of social workers in places around Lisbon where drug users gather. The social workers are well known to the drug users and trusted by them, but on an occasion when they were accompanied by a researcher, there was clearly a measure of distrust. Although the users agreed to talk to the researcher, they expressed concern to the social workers that the researcher may have been a plainclothes police officer.

The role of a street worker team, one of the most important activities of harm reduction, consists of a daily tour of places where drug users gather. A team of two or three people—one of whom has to have a professional background in psychology—gives out small kits to drug users. The most important components in these kits are clean syringes and needles for heroin-injecting users. The kit also contains hygiene agents, such as distilled water, gauze, and a condom.

In order to get a new kit, users have to give back used syringes and needles, which they tend to do. By prompting the return of used syringes and needles, the kit plays an additional, vital public health function by helping prevent the spread of HIV and other bloodborne diseases (such as hepatitis C) through injection drug use.³⁰

Other important street outreach worker functions are to talk with drug users about their history of dependence and inform them about treatment possibilities; mediate with treatment centers; and, help engage the professional psychological and medical help needed to address the problems that have prompted the drug use. Heroin users are also informed

30. Needle exchange is a well-documented intervention and is supported by major health institutions, such as the World Health Organization and the National Institutes for Health (United States). In a recent review of needle exchange in Australia between 2000 and 2009, it was estimated that around 27–31 million needles were given out, avoiding an estimated 32,050 HIV infections. For every dollar spent, the government saved four dollars in short-term health care costs. See: National Centre in HIV Epidemiology and Clinical Research, *Evaluating the Cost Effectiveness of Needle and Syringe Programs in Australia*, 2009.

about the option of exchanging heroin for methadone that can be obtained for free in special centers.³¹

Outreach teams focus on districts where many drug users gather and places where people may be introduced to drugs, such as large youth events and music festivals. Outreach workers also canvass university areas by handing out leaflets and single-use breathalyzers. Teams go to these locations and events with information about the consequences of drug use and about treatment options.

Interviews with street workers and drug policy experts for this report revealed that harm reduction activities in Portugal are supported by an underlying ethical conviction that if drug dependent people are not able to overcome their dependence, the state should nevertheless help these people save and improve the quality of their lives. Instead of abandoning or marginalizing drug users, society should try to reduce the harms that drug users may bring upon themselves, the people around them, and the places where they live.

Treatment

Patients who are dependent on drugs can be treated in medical centers specializing in drug-related treatment. One of the Lisbon treatment centers, TAIPAS, provides comprehensive care at different stages and levels of treatment.

TAIPAS has three teams of psychiatrists, psychologists, and social workers, and offers consultation, treatment, psychotherapy, and methadone. The seriously ill can stay for two weeks during which time they undergo detoxification and initial treatment, which is intended to be continued. Miguel Vasconcelos, a psychiatrist and TAIPAS deputy director, stated that about half of those who come to the clinic for treatment continue it, while the other half abandon it. He noted that people who initially give up treatment often come back later.

Alongside strictly medical treatment, patients at TAIPAS can participate in physiotherapy sessions (to become “conscious of their bodies”), and take art and information technology classes.

Every year, the number of people entering treatment programs in Portugal increases (5,124 in 2008, 7,019 in 2008, and 7,643 in 2009). In 2010, around 40,000 drug dependent people underwent treatment, a record-breaking number. This was not thought by interviewees to signify an increase in drug use, however, but rather that the prevention schemes are reaching more and more drug dependent people.³²

31. There are two such centers in Lisbon; as well as a number of outreach centers.

32. Interview with João Goulão, IDT Chairman.

Return to Life: In Health and Society

The final “link” of drug policy is the assistance given to drug dependent individuals in their return to society. Teams taking care of social reintegration usually cooperate with treatment centers.

Reintegration teams first prepare a diagnosis of the patient’s condition and then, together with the patient, they draft an action plan that may include goals such as returning to higher education, work, or both. Members of the reintegration team also help the patient in finding a job or advise the patient on how to look for one.

While preserving the confidentiality of the individual drug user, the teams also raise awareness in schools, businesses, and residential areas in the drug user’s neighborhood. Their aim is to overcome general prejudices against drug dependent persons and so lay the ground work for patients to return to the community where they once lived and worked.

The IDT cooperates with companies that employ drug users undergoing treatment—usually in the service sector. The IDT is able to fund a limited number of nine-month internships at these companies which can, in some cases, be extended to two-year contracts.

Those who implement this policy state that one of the greatest difficulties of integration for former drug users is the lack of housing. Many drug users emerge from treatment with nowhere to go. Depending on their family situation, such individuals may be entitled to live in apartment blocks owned by the IDT for 6–12 months. IDT apartments are generally shared with another person undergoing treatment. During this time, people who are returning to society have to look for a job that would allow them to rent an apartment with their own money.

Costs

The IDT’s annual budget in 2010 was 75 million euros, but this is not the total sum spent on drug policy in Portugal. Other ministries provide some resources as well, such as the ministries of internal affairs (police) and justice and education. It is difficult, therefore, to provide an accurate estimate. The annual cost of this policy is the IDT budget and additional costs from these other ministries.

VI. The Attitude of the Police

Initially, police forces had a negative attitude toward the new policy and the decriminalization of drug possession and use. A number of reasons exist as to why. First, many police officers, especially those from older generations and those working on the frontline considered drugs as evil; they were less ready to accept the huge philosophical shift in perspective required by the new drugs policy than others who were less hardened by daily confrontations with problematic drug use.

Second, many police foresaw a loss of potentially valuable informants. Previous to 2001, people detained for drug possession were often interrogated and questioned about their suppliers. However, under decriminalization, without any penal sanction with which to threaten a drug user, the police were concerned that they would not hold much bargaining power that they could use to compel users to divulge their suppliers. According to one senior police officer, however, such concerns were specious as arrested users had never, in practice, been a key source of information about dealers. Occasionally, thanks to a user's information, it had been possible to establish the place where the drugs were stored or to pick up the trail of a dealing network but this was neither common nor particularly important in addressing drug trafficking on a large scale. Indeed, in hindsight, this is a concern no longer aired by officers.

Third, many police were concerned about the impact of the new policy on their financial and human resources. As earlier discussed, prior to 2001, there had been a type of *de facto* decriminalization with the police arresting users usually only to get information about suppliers, and rarely referring such individuals to a court. Accordingly, when the policy was brought in, some police wondered how they would find the resources or time to fill in all the paperwork every time they caught someone with drugs in their possession and that this would distract them from more important work. Certainly, however, the latest figures show that these fears did not materialize as more people are referred to the commissions than were referred to courts of law prior to 2001.

Indeed, the results of decriminalization are rated positively today by police forces.

Now, instead of running after drug users, wasting time and money interrogating and detaining them, and taking their fingerprints and photos, the police are freed up to focus on combating organized crime and drug dealing. The most recent figures demonstrate that the police are making fewer arrests but are seizing larger quantities of drugs. In particular, there has been an increase in international cooperation since the introduction of the new policy in 2001, which has been hugely worthwhile since Portugal is one of the gateways to Europe, through which hashish from Morocco and cocaine from Colombia, Bolivia, Brazil, and Venezuela are imported.

In conclusion, it seems that both the police and the wider society have come to realize that the police have more important and more difficult tasks to do than catching drug users. Rather their main aim should be intercepting large cargos of drugs and uncovering international networks of smugglers and, indeed, the new approach to drug policy has enabled them to do this.

VII. Advantages and Drawbacks

One of the noted consequences—or perhaps coincidences—of decriminalization has been the fall in the rate of ordinary crimes related to drug consumption, especially petty thefts by users in order to obtain money for their next dose. As one IDT official noted, users going through withdrawal do not have to steal because they can go to a center where they will receive methadone treatment. Indeed, the effect that the availability of methadone treatment has on crime rates is well-documented by many other countries and consistent with Portuguese experience.³³

Also, according to interviewees, the openness and visibility of drug consumption in urban areas—one of the major causes of social concern regarding the drug problem in the 1980s and 1990s that prompted Portugal’s drug policy changes—has decreased since 2001. Drug use is still visible, of course, in a few places, particularly in Lisbon, but even this open consumption is now controlled and monitored with groups of street workers, who are paid by the state, circulating each day through these areas to provide harm reduction supplies, including needle exchange.

33. See e.g. Lind, B., et al., “The effectiveness of methadone maintenance treatment in controlling crime: an Australian aggregate level analysis,” *Br J Criminol* (2005) 45 (2): 201–211.

Another extremely positive consequence—and one which it was felt by interviewees was unlikely to be only a coincidence—is the decrease in the percentage of drug users (mostly heroin) among people infected with HIV in Portugal. In 2000, there were 2,758 newly diagnosed cases of HIV-infected persons, of which 1,430 were drug users (52 percent). In 2008, the total number of newly diagnosed cases was 1,774, of which 352 were drug users (20 percent). This trend also continued into 2009, although the data from that year has yet to be updated: as of March 2010, the total number of newly diagnosed cases stands at 1,107, of which 164 were drug users (15 percent).³⁴

An alarming sign, however, noted by João Goulão, chairman of the IDT, is an increase in the number of deaths that are a direct or indirect result of drug use. According to the EMCDDA criteria in 2009, there were 27 cases of drug-related deaths, representing an increase from the previous year when there were only 20 cases. The numbers registered in 2009 were the highest since 2003, but less than those registered in 2002.

João Goulão and other interviewees also claim that these deaths are not necessarily drug-related but may simply encompass deaths of individuals who had previously used drugs. The problem, they said, is that two entities, the Special Registry of the National Institute of Forensic Medicine and the General Mortality Registry of the National Statistics Institute, report on the same data using different formulae. For example, if a person dies in a car accident and the coroner, testing the body for drugs, finds cannabis in their system—even though the person had not smoked marijuana for two weeks and there was no evidence to suggest that the accident was caused by the person being under the influence of drugs—the National Institute of Forensic Medicine would cite this as a drug-related death, whereas the National Statistics Institute would not. Henrique Barros, HIV and AIDS coordinator at the Portuguese Ministry of Health, has a more pessimistic view and does not rule out the fact that overdoses may be “responsible” for at least some of this trend. However, another respondent, Nuno Capaz, provides the sociologist’s perspective as follows: as there has been an increase in figures coming from both institutes and a huge increase in drug testing by coroners in general, for comparison purposes year to year one should view drug-related deaths in terms of the average percentage of all those tested, rather than an absolute number. Undertaking such an exercise, Capaz asserts that the increase is due to the greater amount of testing and nothing more sinister; likewise, he says, Portugal’s higher rates of HIV transmission compared to other EU countries in recent years can be attributed to an increased number of screening programs.

34. These are official statistics provided by the IDT.

A drawback to the policy is one that is common to almost all drug control efforts: The policy has an inequitable impact upon the young and the poor. The people referred to the commissions are those who are not able to use drugs in the home, such as youngsters, or those whom police often target, usually poor people from problematic neighborhoods. As an illustration, the following table highlights the age distribution of people who recently appeared before the Lisbon Dissuasion Commission:

Age	Notifications	Percentage
16-19	461	10.99
20-24	1,318	31.42
25-29	913	21.76
30-34	613	14.61
35-39	408	9.72
40-44	243	5.79
45-59	144	3.43
50-54	74	1.76
55+	20	0.47

It is notable that over 50 percent of those who presented at the commission were under the age of 29. However, it was also felt by interviewees that this was not a problem inherent to Portuguese drug policy. Rather, the young age of those appearing before the commission was the result of policing practices and the fact that the most illicit drug users are young. One positive indication from these statistics is that the drug policy is doing a fairly good job of reaching young people, a core and important demographic.

A further potential drawback of the policy is the preponderance of those coming before the commissions only for cannabis use. For example, over the last two and a half years, 73.9 percent of those referred to the Lisbon Dissuasion Commission were referred for cannabis, hashish or marijuana use. This raises concerns about whether the policing and commission efforts are proportionate and cost effective, but the interviewees felt that it was much better that the commissions, rather than the courts, deal with cases involving cannabis. The commissions were a good halfway house, one interviewee suggested. On the other hand, there are more people being referred to commissions for drug use than before 2001, which would appear to mitigate the benefit of the commissions' lighter touch.

VIII. Drug Use and the Current Policy

Key to assessing Portugal's current drug policy is tracking what has happened to the prevalence of drug use since 2001.

According to a study from 2001,³⁵ 7.8 percent of the Portuguese population had tried an illicit drug in their lifetime, whereas according to a study from 2007³⁶ (the most recent), the number has increased to 12 percent. When the study was conducted in 2001, it turned out that older Portuguese had generally not tried drugs, with the percentage of “experimenters” among people over 55 amounting to almost zero. Drugs were mainly consumed by younger people. The 2007 study included a new generation that had not been surveyed in 2001; therefore, it seemed that drug use had sharply increased. Each following study, in 5, 10 or 20 years, regardless of the policy, may well show an “increase” in consumption as younger people who have tried a drug, at least once, enter the study and answer “yes” to the question about consuming drugs.

In order to understand what has happened with drug use since 2001 in real terms, therefore, it is important to analyse the different age groups and how drug use changes within these groups.

35. IDT study (Nucleo de Estudos e Investigacao), *Portugal—Drug Research and Trends in Drug Use since 2001*.

36. IDT Annual Report 2007.

Drug consumption, especially cocaine, has increased in all age groups, but there is an exception and it has a special meaning. According to the analysis of the 15–24 age group, drug consumption from 2001 to 2007 has risen from 12.4 percent to 15.4 percent with a substantial increase among 20- to 24-year-olds. However, the level of drug use in the most “sensitive” group (15–19) has decreased from 10.8 percent to 8.6 percent. This result gives hope to Portuguese practitioners and specialists,³⁷ as the late period of adolescence, between 15 and 19, determines if a person will use drugs later or not. Moreover, studies conducted among two age groups of school pupils (13–15 and 16–18) have also shown that drug consumption decreased after 2001.

From other research³⁸ we also know that school pupils think that access to drugs is easy, but at the same time most claim that drug consumption is a “high risk” decision—a probable result of information and education campaigns. More school students also believe that it is difficult to stop regular drug use even if it is “only” cannabis, which is considered by many to be a weak drug.

Success can also be claimed in the sense that recidivism rates are low, suggesting that the systemic approach works. Particularly, of those individuals brought before the Lisbon Dissuasion Commission in the last two and a half years, only 395 out of 4,981 were recidivists, a mere 7.9 percent.

Another positive phenomenon in Portugal is the fact that the consumption of heroin, the most problematic drug, has not increased and remains more or less at the same level as it was when the new policy was introduced. Indeed, IDT employees say that heroin consumption is “under control,” meaning that there are no new epidemics and the number of users is not increasing. How much this trend can be attributed to policy reforms is unclear, as across Western Europe in general demand for heroin has been equally stabilized or declining since 2001.³⁹ Certainly, however, it can be said that the terrible increase in prevalence foreseen by

37. This conclusion originates from the following international study conducted in 17 countries on 5 continents—Degenhardt, L., et al. (2008), “Toward a global view of alcohol, tobacco, cannabis, and cocaine use: findings from the WHO World Mental Health Surveys,” *Public Library of Science Medicine* 5, No. 7 (2008): e141 DOI, 10.1371/journal.pmed.0050141—as quoted in: Greenwald, G., *Drug Decriminalization in Portugal*, Cato Institute.

38. ESPAD / ECATD, “Drug use in the Portuguese school population according to the 2003 and 2007 school survey” (Unpublished materials of the Nucleo de Estudos e Investigacao of the IDT).

39. UNODC, 2010, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, Vienna. p. 120: “Since 2000 ... demand in Western and Central Europe has been stable or declining, as have prices.”

detractors of the reforms has not materialized. On the other hand, heroin users in Lisbon report that the supply of heroin is much lower than the demand; this could suggest that policing operations have been equally or more effective than the prevention and dissuasion measures. The outcome either way is positive.

An unquestioned achievement is the change in how heroin is used. Currently, it is more often smoked than injected. This development has contributed to a positive “side effect:” a decrease in the percentage of drug consumers who are HIV-positive. Such success may be attributed to the policy of prevention and harm reduction, and, above all, to information about the risk of injecting heroin and to the increased availability of needle and syringe exchange programs.

Portuguese Drug Policy in the European Union and the Broader International Context

An EMCDDA official interviewed for this study noted that the trend toward depenalization, and even decriminalization, is rising in many EU countries (e.g., Austria, Germany, Luxembourg, the Netherlands, and Spain). However, only Portugal (and since 2010, the Czech Republic) has changed its approach toward drug use in a systemic way, that is by revising all relevant legislation, policy, and practice; other countries, meanwhile, have merely made adjustments.

Harm reduction policy is also gaining support. As one EMCDDA document states:⁴⁰

Historically, the topic of harm reduction has been more controversial. This is changing, and harm reduction as a part of a comprehensive package of demand reduction measures now appears to have become a more explicit part of the European approach. This is evident in the fact that both opioid substitution treatment and needle and syringe exchange programmes are now found in virtually all EU Member States.

Likewise, in *Drug Decriminalization in Portugal*⁴¹, Glen Greenwald notes that “In 10 years, the availability of harm-reduction measures, such as opioid substitution treatment, has increased tenfold across the EU.”

Many interviewees referred to examples of repressive policies abroad, such as in

40. EMCDDA, 2007, *The State of the Drug Problem in Europe*, p. 12.

41. Greenwald, G. (2009), *Drug Decriminalization in Portugal. Lessons for Creating Fair and Successful Drug Policies*, Cato Institute, p. 11.

the United States, where drug availability and consumption increase and decrease independently of the systemic government repression and punishment,⁴² and argued that criminalizing drug use does not decrease the availability of drugs. This belief was supported by the experience of Portugal where decriminalization has not led to the availability of more drugs. As for consumption, while it has increased for certain drugs in certain age groups in Portugal, a comparable increase has occurred in countries where drug use is criminalized. Indeed, it may be said that there has been a Europe-wide tendency for a slight increase in the consumption of certain drugs (cocaine, amphetamine, ecstasy) as well as a stabilization or decrease of cannabis consumption.⁴³

With the exception of its relatively high “problematic” heroin consumption, Portugal has the lowest drug use levels in the European Union. As far as cannabis consumption is concerned, Portugal is “behind” Belgium, Denmark, Finland, France, Germany, Great Britain, Greece, Ireland, Luxembourg, the Netherlands, Norway, Spain, and Sweden, according to a study covering the years 2001–2005. In the case of cocaine consumption, Portugal is only “ahead” of Greece, Lithuania, Luxembourg, Poland, and Romania; other EU countries have a higher or much greater consumption of this drug.⁴⁴

This trend did not decrease in subsequent years as the studies published by EMCDDA confirm. The 2010 statistical bulletin shows that only 8 out of 28 European countries studied have a lower cannabis consumption than Portugal, 10 of 27 countries studied have a lower cocaine consumption, 4 of 27 a lower amphetamine consumption, 4 of 27 a lower ecstasy consumption, and 5 of 23 a lower LSD consumption.⁴⁵

42. Reference is made to the discussion in the *Cato Handbook for Policymakers* published by the Cato Institute at p. 338, and the National Survey on Drug Use and Health (report 2009), published by the National Institute of Drug Abuse, pp. 20–21. The survey presented on p. 93 demonstrates that increases and decreases of marijuana use are independent from the permanently repressive policy conducted in the United States.

43. Interview with Brendan Hughes (EMCDDA official). Also see analyses at the EMCDDA Statistical Bulletin 2010: <http://www.emcdda.europa.eu/situation/cocaine/1>, <http://www.emcdda.europa.eu/situation/amphetamines/1>, <http://www.emcdda.europa.eu/situation/cannabis/1>

44. IDT, *Annual Report 2007*, as quoted in: Greenwald, G. (2009), *Drug Decriminalization in Portugal*, Cato Institute.

45. EMCDDA, 2010, *Statistical Bulletin 2010, Lifetime Prevalence of Drug Use in Nationwide Surveys among the General Population*, available at: <http://www.emcdda.europa.eu/stats10/gpstab1b>.

Finally, the success of the Portuguese model has been recognized at the international level. At first concerns were raised by the International Narcotics Control Board⁴⁶ and others (e.g., the United States) that Portugal was in breach of UN drug conventions in adopting the decriminalization policy. In Portugal, however, proponents of the reforms maintained that the policy complied with Portugal's international obligations. UN drug policy bodies, impressed by Portugal's results, have now come around and have praised the Portuguese model as falling "within the Convention Parameters."⁴⁷ A number of delegations, both official (from Norway) and unofficial (e.g., from Brazil, England, France, and the United States), have come to Portugal to evaluate the model with a view to replicating it in other jurisdictions.

46. See INCB, 2001, *Report of the International Narcotics Control Board for 2001*, pp. 167–169 E/INCB/2001/1.

47. See UNODC, 2009, *World Drug Report for 2009*, pp. 167–169 and footnote 24, p. 183: "The International Narcotics Control Board was initially apprehensive when Portugal changed its law in 2001 (see their annual report for that year), but after a mission to Portugal in 2004, it 'noted that the acquisition, possession and abuse of drugs had remained prohibited,' and said 'the practice of exempting small quantities of drugs from criminal prosecution is consistent with the international drug control treaties.'"

IX. Conclusions

After 10 years of decriminalization, the subject of drugs has ceased to be controversial in Portugal. While a few lone voices continue to criticize the policy for political ends,⁴⁸ their arguments have little traction with the general public or the legislature. Even though the IDT may be facing a cut in its budget at the present time, this is the consequence of the general economic crisis only, and not a reflection on support for the policy.

The evidence of the last decade has quelled even the fiercest opposition. Fears have not materialized. Portugal has not become, even to the smallest extent, a destination for drug tourists and decriminalization has not caused a sharp rise in consumption. João Goulão, the chairman of the IDT and main proponent of the Portuguese drug policy, believes that one of the greatest achievements of the policy is in fact the decrease in consumption among the most at-risk age group of 15- to 19-year-olds. Although this is not direct proof of the effectiveness of Portuguese policy, it is certainly, as the policymakers argue with satisfaction, a promising coincidence.

The government can be commended for both its patience and its decisiveness: refusing emergency policy options when the drug problems first arose in favor of a substantive inquiry into what would make for an effective strategy; articulating the philosophy behind

48. See, for example, Manuel Pinto Coelho, “Decriminalization of Drugs in Portugal—the Real Facts,” February 2, 2010, speaking at the World Forum Against Drugs as President of the Association for a Drug Free Portugal.

the strategy so that the country could understand the approach but pushing it through decisively nevertheless, despite opposition; creating the necessary infrastructure and making the required financial investment to enable the policy to be put into practice; and, finally, having the patience to allow the years to pass so that the impact of the policy could be properly monitored and an evidence base developed.

It is vital to properly understand the drug policy phenomenon in Portugal. Decriminalization is not treated as a magical solution. In order to reduce drug use, legal solutions must be supported by a comprehensive policy that helps drug consumers to reduce harm, undergo treatment, and return to life in health and in society.

Governments worldwide can learn a lot from Portugal's experience. The Global Commission on Drug Policy's report points to Portugal as proof that decriminalization does not result in significant increases in drug use or dependencies, and urges governments to "replace the criminalization and punishment of people who use drugs with the offer of health and treatment services to those who need them."⁴⁹ A special issue of the British medical journal *The Lancet* has also showcased Portugal as proof that humanitarianism and pragmatism can work in achieving a decline in HIV infections, drug consumption, and addictions.⁵⁰

Perhaps the greatest lesson of the Portuguese decriminalization policy is that it demonstrates that there are ways to overcome the lack of will among political elites and societies made afraid by the fear-mongering propaganda of the "war on drugs" and, in doing so, to constructively build rational and humanitarian drug policies.

49. Global Commission on Drug Policy, *War on Drugs: Report of the Global Commission on Drug Policy*, June 2011.

50. Joao Goulou, quoted in: Beyrer C. et al., "Time to Act: a call for comprehensive responses to HIV in people who use drugs," in *The Lancet: HIV in people who use drugs*, special issue, July 2010.

Annex

Ten Days Maximum Amount Illicit Substance Chart, Portugal

Illicit Substance	Grams
Heroin	1
Methadone	1
Morphine	2
Opium	10
Cocaine (hydrochloride)	2
Cocaine (methyl ester benzoilegonine)	0.3
Cannabis (leaves and flowers or fruited dons)	25
Cannabis (resin)	5
Cannabis (oil)	2.5
LSD	0.1
MDMA	1
Amphetamine	1

Source: http://www.idt.pt/PT/Legislacao/Legislao%20Ficheiros/Controle_da_Oferta_e_da_Procura/portaria_94_96.pdf

About the Author

Artur Domosławski is the author of several books on Latin America (*Gorączka latynoamerykańska* [*Latin American Fever*]) as well as alter-global movements (*Świat nie na sprzedaż* [*The World Is Not for Sale*]). He has also conducted interviews with prominent intellectual dissidents in the United States (*Ameryka zbuntowana* [*Rebellious America*]), and recently completed a widely discussed biography of Ryszard Kapuściński (*Kapuściński Non-Fiction*), for which he received the 2010 Grand Press Journalist of the Year Award. Domosławski worked for Poland's leading daily, *Gazeta Wyborcza*, for 20 years before taking his current position as an international reporter and columnist for the weekly magazine *Polityka*. In 2005, he was a Knight Fellow at Stanford University, and in 2009 he received a scholarship from the Remarque Institute at New York University.

Global Drug Policy Program

Launched in 2008, the Global Drug Policy Program aims to shift the paradigm away from today's punitive approach to international drug policy, to one which is rooted in public health and human rights. The program strives to broaden, diversify, and consolidate the network of like-minded organizations that are actively challenging the current state of international drug policy. The program's two main activities consist of grant-giving and, to a lesser extent, direct advocacy work.

At present, global drug policy is characterized by heavy-handed law enforcement strategies which not only fail to attain their targets of reducing drug use, production, and trafficking, but also result in a documented escalation of drug-related violence, public health crises, and human rights abuses.

Open Society Foundations

Active in more than 70 countries, the Open Society Foundations work to build vibrant and tolerant democracies whose governments are accountable to their citizens. Working with local communities, the Open Society Foundations support justice and human rights, freedom of expression, and access to public health and education.

Drug policies that are based on human rights and promote public health are a priority for the Open Society Foundations. Our efforts focus on developing new drug policy organizations, promoting collaboration and expanding the range of stakeholders committed to drug policy reform, empowering drug users to advocate for their rights at the national and international level, and supporting research into the economic and social costs of current drug policies.

Drug Policy in Portugal: The Benefits of Decriminalizing Drug Use is the second in a series of publications by the Open Society Foundation's Global Drug Policy Program that seeks to document positive examples of drug policy reform around the world. We hope *Drug Policy in Portugal* will inspire policymakers, advocates, and drug users themselves to design policies that are guided by the principles of human rights, public health, and social development.

In addition to drug policy reform, the Open Society Foundations work in over 70 countries to advance health, rights and equality, education and youth, governance and accountability, and media and arts. We seek to build vibrant and tolerant democracies whose governments are accountable to their citizens.



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