Reconsidering the Decriminalization of Drugs in Portugal

Portugal's Drug Law Changes: In July 2001, Portugal adopted Law 30/2000 decriminalizing the use, and acquisition or possession for use, of all illicit drugs. Before then, illicit drug possession, acquisition, and use were considered criminal offenses punishable by fines or up to 3 months in prison. Possession of more than 3 daily doses of an illicit drug increased the maximum prison term up to 1 year.[1] After July 2001, the possession of illicit drugs remained prohibited and the cultivation or trafficking of illicit drugs remained a criminal offense. However the consumption, purchase, and possession of illicit drugs for personal use – defined as the quantity sufficient for 10 days' usage for one person – became administrative offenses to be referred to Commissions for the Dissuasion of Drug Addiction instead of the Portuguese criminal justice system.[2]

Advocated by Drug Legalization Proponents: Drug legalization proponents have cited Portugal's decriminalized drug policy as proof that softening drug laws does not have any detrimental impact with regard to illicit drug use. Their contention is primarily based on the findings published in a 2009 Cato Institute report.[3] It is difficult, however, to draw any clear conclusions regarding the impact of Portugal's drug policy changes.

Supporting Analysis Is Not Definitive: The analysis in the Cato Institute report does not discuss the statistical significance of the data shifts that it highlights, despite highlighting prevalence rate changes as small as .8 percent.[4] Often, the report does not consider factors other than decriminalization which could explain favorable data trends, even when those trends, such as declining drug-related deaths, begun prior to decriminalization.[5] Moreover, adverse data trends – such as the increase in drug-related deaths in Portugal between 2004 and 2006 – are sometimes not addressed.[6] More generally, less-favorable evidence is downplayed or minimized without substantial explanation, as in one passage where the report's author draws attention to a favorable decrease in prevalence which appears to be of lower magnitude than an unfavorable increase in prevalence characterized in the same sentence as "only very" slight.[7]

Core Drug Use Claims Are Not Conclusive: The passage mentioned above is key to the report's claims of Portuguese drug legalization success, however it trumpets a decline in the lifetime prevalence rate for the 15-19 age group from 2001 to 2007, while discounting a larger lifetime prevalence increase in the 15-24 age group and ignoring the substantially larger lifetime prevalence increase in the 20-24 age group over the same period.[8] Furthermore, the report

[1] Laurence Allen, Mike Trace, and Axel Klein, "Decriminalisation of Drugs in Portugal: A Current Overview," Briefing Paper no. 6, a DrugScope Briefing Paper for the Beckley Foundation Drug Policy Programme, 2004, p. 1.
[2] Assembly of the Republic of Portugal, "Law No. 30/2000, of 29 November," accessed via the Instituto da Droga e da Toxicodependencia de Portugal website, www.idt.pt/EN.
[3] Glenn Greenwald, "Drug Decriminalization in Portugal: Lessons for Creating Fair and Successful Drug Policies," Cato Institute, 2009.
[4] Greenwald, p. 12.
[5] Greenwald, pp. 17-20.
[6] Greenwald, pp. 17-20.
[7] Greenwald, p. 14.
[8] Greenwald, p. 14.

emphasizes decreases in lifetime prevalence rates for the 13-18 age group from 2001 to 2006 and for heroin use in the 16-18 age group from 1999 to 2005, but once again downplays increases in the lifetime prevalence rates for the 15-24 age group between 2001 and 2006, and for the 16-18 age group between 1999 and 2005.[9] Perhaps most importantly, the Cato Institute's analysis relies heavily on lifetime prevalence data which can be problematic when analyzing the impact of policy changes over time periods as short as the 5-6 years captured in most of the studies cited in the report. This difficulty is caused by a cohort effect similar to the one presented in the report as an explanation for rising prevalence rates for the Portuguese general population.[10]

Additional Studies Offer More Contradictory Evidence: Statistics compiled by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) indicate that between 2001 and 2007, lifetime prevalence rates for cannabis, cocaine, amphetamines, ecstasy, and LSD have risen for the Portuguese general population (ages 15-64) and for the 15-34 age group as well.[11] Lifetime prevalence rates for the 15-24 age group also increase over this period for cannabis, cocaine, amphetamines, and ecstasy.[12] Yet, despite an assertion in the Cato Institute report that increases in lifetime prevalence rates for a general population are "virtually inevitable in every nation," EMCDDA data indicate that countries have been able to achieve decreases in lifetime prevalence rates, including Spain, for cannabis and ecstasy use between 2003 and 2008.[13] Focusing on past-year prevalence data that present less problems for policy analysis results in increases between 2001 and 2007 for cannabis, cocaine, and amphetamines for the general population, and in increases in cannabis, cocaine, amphetamines, ecstasy, and LSD for the 15-34 age group in Portugal.[14] Past-month prevalence figures show increases in cocaine and LSD use in the Portuguese general population and increases in cannabis, cocaine, and amphetamine use in the 15-34 age group from 2001 to 2007.[15] Finally, Drug-induced deaths in Portugal that decreased from 369 in 1999 to 152 in 2003, climbed to 314 in 2007 – significantly more than the 280 deaths recorded when decriminalization started in 2001.[16]

Drug Legalizers' Claims Exceed Supporting Science: In addition to the complications associated with using lifetime prevalence data to assess the impact of drug policies, and to the challenges presented by evidence that is not fully considered in the Cato Institute report, it is generally difficult to be certain whether shifts in drug-related outcomes in Portugal and other countries are due to changes in drug policy or to other factors.[17] More data is required before drawing any firm conclusions, and ultimately these conclusions may only apply to Portugal and its unique circumstances, such as its history of disproportionately large heroin use.[18] For now,

[9] Greenwald, pp. 12-14.
[10] Greenwald, p. 12.
[11] EMCDDA, Statistical Bulletin 2009, Tables GPS-1 and GPS-2, accessed via www.emcdda.europa.eu/stats09/.
[12] EMCDDA, Statistical Bulletin 2009, Table GPS-14.
[13] EMCDDA, Statistical Bulletin 2009, Table GPS-1.
[14] EMCDDA, Statistical Bulletin 2009, Tables GPS-3 and GPS-4.
[15] EMCDDA, Statistical Bulletin 2009, Tables GPS-5 and GPS-6.
[16] EMCDDS, Statistical Bulletin 2009, Table DRD-2.
[17] Peter Reuter and Alex Stevens, "An Analysis of UK Drug Policy," UK Drug Policy Commission, April 2007, pp.10-11, accessed via www.ukdpc.org.uk.; Reuter reportedly proposes that the cyclical nature of drug epidemics may explain drops in heroin use and heroin-related deaths apart from changes in Portuguese drug policies. See Maia Szalavitz, "Drugs in Portugal: Did Decriminalization Work?," *Time*, April 26, 2009, accessed via www.time.com.
[18] Allen, Trace, and Klein, p. 1.

this much can be said – drug legalization advocates' claims regarding the impact of Portugal's drug policy have significantly exceeded the existing scientific basis.