

Criminalization of Drugs

Gracyn Troupe, Jeff Gates, Zane Moore, Raegan Smith

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Dr. Virginia Beard

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The War on Drugs

The “War on Drugs” is a phrase that is frequently used to explain the policies and initiatives that were put into practice by the government and state legislators in an attempt to end the production, distribution, and use of illegal drugs. President Richard Nixon declared the “War on Drugs” in the United States in the early 1970s (Coyne & Hall, 2017). This resulted in the United States military, state and local law enforcement, and the government widening their efforts to put an end to illicit drug use (Coyne & Hall, 2017). In 1980, 580,900 people were arrested for drug-related charges in the United States. Thirty-four years later, the number of arrests increased to 1,561,231. Nearly half of the people serving jail time in the United States are there because of drug-related charges. The goal of the War on Drugs was clear; to identify drug abuse and those abusing, the individuals were considered to be a threat to society. In order to defeat this, military-like tactics were put into place (Exum, 2021, p.1685).

War on Drug Policies and how that Contributed to Mass Incarceration

The Anti-Drug Abuse Act was passed in 1986 under President Reagan in an effort to stop drug abuse. This act consisted of a mandatory minimum sentencing approach which mandated jail time for drug offenses, this has been put in place for the last four decades (Exum, 2021, p. 1686). This war has failed to eradicate drug use, it has only increased the number of individuals the United States has put into correctional facilities which then contributes to the issue in the United States of mass incarceration (Exum, 2021, p. 1687). Like any other war, the War on Drugs has had widespread casualties among communities, families, and individuals (Exum, 2021, p. 1686).

Racialized Sentencing in the War on Drugs

“This revelation shows that the War on Drugs was a political strategy rooted in centuries-old prejudices against Blacks. Though there were concerns about drug use at the time,

there was no evidence that African Americans were a driving force behind the country's increased drug use." (Exum, 2021, p. 1691). A study conducted in 2016 revealed that African Americans are 5.1 times more likely to be incarcerated than whites in the United States (Exum, 2021, p. 1697). Blacks account for thirteen percent of the United States population yet comprise thirty-eight percent of the United States prison population. In more than twelve states Blacks make up the majority of prison populations (Exum, 2021, p. 1697). Mass incarceration is just one of the consequences that has had an effect on American society and minorities, such as Blacks, in the United States (Exum, 2021, p. 1697).

Political Analysis of the Criminalization of Drugs

The criminalization of drug use has been a highly controversial and political topic throughout history. President Nixon's administration in the early 1970s declared a War on Drugs. President Nixon told Congress that drugs were a national emergency and he considered it to be public enemy number one (Alexander, 2020). On the surface, it was viewed as a way to protect society from drug abuse which resulted in addiction, death, and crimes. However, it was politically and racially motivated. President Nixon's White House had two enemies, people who were antiwar and people who were Black. These two groups were challenging the status quo in America during these years. Many Americans were watching and listening to these views. Nixon's administration feared these groups could become successful and bring many changes to life in America. The administration knew they could not make it illegal to be against the war or Black people, so they worked to disrupt those communities with drug criminalization (Sirin, 2011). The White House got the public to associate Blacks with heroin and hippies with marijuana which resulted in criminalizing these drugs heavily and a disruption of their communities. Their leaders were arrested, homes were raided, meetings were dismantled, and it was negatively

publicized nightly to damage the hippies' and Blacks' reputations in society. This was a well-devised plan to discredit the hippies and Blacks in America which gave Nixon's policy on criminalization of drugs the support he needed from the American people.

Nixon signed the Controlled Substance Act (CSA) in 1970. He created an agency that became the Drug Enforcement Agency (DEA) (Niesen, 2011). The United States government proposed that any drug and its use should be a criminal offense. African Americans are 11 times more likely than white people to get arrested for drug possession. There are more people in jail for drugs than any other crime nationwide. In addition, drug law enforcement consumes more than half of police resources. The government has made possession of controlled substances, trafficking, and manufacturing major categories of drug crimes. They believe they are protecting society's mental and physical health by passing severe drug laws (Niesen, 2021).

Along with the War on Drugs, Nixon implemented his "Southern Strategy". This strategy was planned to bring white southerner voters to the Republican party at the expense of the Democrats. He planned to create an element of fear of Black power in the southern whites which would also damage the civil rights movement. The "Southern Strategy" was successful in transforming the Republican Party's image from the country club group to the defender of working-class whites. Together, Nixon's Southern Strategy and the War on Drugs damaged the civil rights movement and targeted his enemies: Blacks and war protesters. The strategy pitted rural white Americans against minorities and protesters politically by portraying them as criminals, drug addicts, and receivers of welfare funds at the expense of rural Whites (Cummings & Ramirez, 2022).

The War on Drugs was continued by Reagan's administration. His campaign platform was "Tough on Crime" due to the crumbling economy and high crime rates. He focused on drugs in the inner Black communities rather than the real structural issues that led to crime such as unemployment, inflation, and poverty without social support systems. The Reagan administration portrayed drug abuse as a cause of social problems in the United States. Reagan considered illegal drugs to be a threat to national security so he promised during the election to continue the fight against drugs that was started by Nixon (Johns, 1991).

President Reagan was the first to make actual changes to the sentencing guidelines on drugs. It is believed he focused on the drug problems to deflect attention away from the social problems of unemployment, inflation, and poverty that were plaguing the nation during that time. The Anti-Drug Abuse Act resulted in the mass incarceration of Black people in prisons with little change in the number of white people incarcerated in federal prisons. There was an increased disparity in prison sentencing between races (Alexander, 2020). Black people were sentenced to long drug-related crimes for the same offense committed by white people. The Anti-Drug Abuse Act of 1988, offered more amendments that only addressed crack cocaine, or substances with a cocaine base but did not affect people who were caught with pure cocaine. There was an increase in the criminal penalties for a person convicted for the possession of a mixture or substance containing cocaine base. Crack cocaine and cocaine mixtures were more widely distributed and accessible in Black communities whereas pure cocaine was more likely to be possessed by white people. This amendment suggests clear prejudice against specifically crack users and dealers which consequently increases penalties for the Black community (Verheul & van de Bunt, 2018). This allowed for the unemployed Black men in inner city areas to be locked up in prison and not be counted in the unemployment statistics. Two of Reagan's political issues were being resolved

with the Anti-Drug Abuse Act. The first was Reagan's high unemployment statistics. Unemployed Black males were in prison and no longer counted in the unemployment statistics. The second was the drug problem, mainly crack cocaine, seeping into suburban America. The media's sensationalism of America's drug problems and the passing of severe penalties for drug-related crimes helped the public approve of President Reagan and his administration's agenda for a drug-free society (Alexander, 2020).

Cultural Impact

American culture has little sympathy for drug use and views it in a negative manner. The general public holds significantly more negative attitudes towards drug addicts than those with mental illnesses. These less sympathetic views result from socially mixed feelings on whether to view substance abuse as a medical condition to be treated or a personal failure to overcome. Addiction is viewed as a "moral shortcoming" and the illegality of drug use supports this perspective. Additionally, socially unacceptable behaviors, such as driving while impaired and criminal activities, paired with drug use increase society's negative feelings (Barry et al., 2014). There is a call for more punitive action towards drug use and society generally assumes that the average American is more punitive towards drug users than themselves individually. They believe drug use to be more deserving of moral condemnation. Furthermore, the American justice system is harsher towards drug use and distributes longer sentences as compared to other cultures. There are greater abstract punishments and longer concrete sentences for drug use (Kugler et al., 2013). In recent years, opioid use has been prevalent in the United States. In a quote from Donald Trump, he states, "If they (users) don't start, they won't have a problem" (Sylvester et al., 2022). A large portion of Americans view Opioid Use Disorder (OUD) as a severe health and social issue, yet there is not much discourse about the policies needed to solve

the epidemic. However, personal connection to someone with OUD influences public attitudes. Attributes of blame can influence how individuals view opioid addiction. Internal attributions (i.e. personal choices) focus on the individuals themselves, while external attributions (i.e. situational factors outside the individual's control) focus on the environment. A third dimension is how balance can be assigned to controllability. Individuals are less willing to support (more willing to punish) when the cause of an addiction is by an individual's own decisions and less willing to punish when the addiction is out of an individual's control. People with Substance Use Disorder (SUD) are perceived to be personally blamed for their addiction and have a lack of self-discipline to properly use drugs without developing SUD (Sylvester et al., 2022). The opioid epidemic has been prevalent since the 1990s, however, society continues to have negative attitudes toward addiction. The United States has experienced issues with the criminalization of drugs. Taking a global comparative approach allows for lessons to be learned about how other cultures approach and respond to drug use.

Criminalization of Drugs: The Outcome of Mass Incarceration

The criminalization of drugs from the early 20th century onwards has contributed significantly to mass incarceration in the United States. For example, in the years 1990-2002 there was a 450,000 increase in drug arrests 95% of which were marijuana offenses (Dorsey, 2019). The policies of the War on Drugs were meant to "Get Tough on crime" through mandatory sentencing and lowered discretion for police officers with the goal of reducing drug use. Instead, it only increased the prison population and had no impact on drug addiction, drug use, and drug availability. For example, by 2007, 1,561,000, or 13% of state and local arrests were related to drug offenses. Nearly half of the people serving jail time in the United States were there for drug-related offenses. This has had a significant impact on a large section of

American society. For those affected it changed countless lives with long-lasting sentencing, being labeled as criminals, and significant discrimination in the use of the laws against minority groups. Through the effects of mass incarceration, even the most motivated offenders will suffer consequences for having a criminal record even for a minor drug offense. Though most of these crimes might have been misdemeanors, they are connected to serious personal, social, and financial costs for the government and defendants. (Joe, 2021) Those who were sentenced were seen to have lasting effects in their opportunities to get jobs, it was found that, even the most motivated offenders will suffer consequences for having a criminal record even for a minor drug offense. This could include wage penalties, overtime, and a decrease in the likelihood of employment. (Beckett & Goldberg, 2022) and that people who served prison time faced a 40% reduction in their earnings, opportunity to hours, higher wages, and employment. (Beckett & Goldberg, 2022). This had a dramatic effect on the recidivism rate. While victims of the War on Drugs movement received criminal records and prevented them from employment and/or income, which drove them to go back to criminal means to have financial stability and eventually find themselves getting arrested again creating a recycling effect for individuals who have a criminal record.

Global Analysis

Drug Criminalization in Mexico

The criminalization of drug use in Mexico is a very complex issue. In this country, there is significant corruption in the political apparatus and in the police force as well which allows the drug cartels to operate with little impunity in the country. This corruption has led to significant difficulty in criminalizing drug use in Mexico. It is often referred to as a “failed state” because

of the breakdown of political, economic, and social institutions which are essential for enforcing laws and the security of Mexico and the United States (Morton, 2012).

Beginning in the nineteenth century, drugs such as marijuana, opiates, and cocaine were commonly used for medical reasons in Mexico. They were prescribed by doctors and easily obtained in pharmacies, markets, and even hardware stores (Puyana et al., 2017). The authorities felt it was necessary to put in regulations to ensure improved production quality to protect the consumers due to the increased consumption. However, the Mexican government did not deem it necessary to prohibit the production and use of these drugs. This led to an increase in drug usage, drug addiction, and drug wars among gangs. In 1917, the Mexican Congress passed an amendment that prohibited the trade of opium, morphine, ether, cocaine, and marijuana under pressure from the U.S. government. The implementation of drug prohibition in the United States in the 1920s led to drug trafficking on the Mexican border and legal commerce on the United States border. Mexico and the United States had to increase the security along the borders to reduce drug-related trade and criminal activities (Puyana et al., 2017).

Despite the area being economically poor, the illicit drug trade continued to grow along with drug smuggling into the United States. This area was important for central production and transit routes for the drug trade. In 1947, the Mexican government created the Federal Security Agency which was a police force with the power to intervene in drug-related issues. The initial investigation revealed several politicians within the border areas who were directly involved and often in control of the drug trafficking and smuggling that was taking place at the borders (Puyana et al., 2017). Corruption in the top political officials created a difficult task for the Mexican government in their effort to regulate and control drugs in their country

The United States “War on Drugs” attempted to tackle the trafficking problems within Mexico. By the 1970s, drug trafficking and associated violence had grown dramatically due to the collaboration of cartels. The cartels smuggled large shipments of heroin, crystal meth, cannabis, and cocaine on trucks crossing the border. The trade of marijuana from Mexico to the United States was further enhanced by the demands of some soldier’s addiction to drugs upon returning from war in the Far East (Puyana et al., 2017). President Nixon launched a plan to rigorously inspect vehicles crossing the border. At the same time, the Mexican government initiated military operations against the drug traffickers and their plantations. Despite these actions, drugs continued to flow into the country from other areas and the cartels’ businesses continued to flourish. The corruption of police and government officials in addition to a total disregard for authority has led to a country that is being dominated and controlled by drugs and the cartels. The high rate of drug addiction due to easy accessibility and profit from drugs has also contributed to the severe drug problem in Mexico (Mercille, 2011).

In Mexico, the War on Drugs has primarily been focused on drug cartels and the inability to bring these groups to justice. Beyond this, many of those incarcerated in Mexico on drug charges are not part of the trade but are users who have been brought into the system during recent raids. Those detained have been mainly consumers and/or small-scale dealers. The sentences for many drug crimes are harsher than those for rape, possession of army weapons, and violent robbery (Shirk & Wallman, 2015). Most drug law enforcement is dedicated to the investigation, prosecution, and conviction of minor drug-related cases in which the offenders are young consumers or small-time dealers of cocaine or marijuana. This has resulted in limited resources to investigate and punish the violent crimes that are devastating Mexico (Shirk & Wallman, 2015). Furthermore, the criminalization of consumers and small-time dealers

devastates already poor socioeconomic areas in Mexico. The people residing in these communities are already living in poverty. They are living on dirt floors, unemployed, and without health coverage. The incarceration of the male in a household for small-time drug offenses results in female-headed households which leads to a disruption of family dynamics and a struggle to survive (Arredondo et al., 2019).

The Mexican federal congress, in 2009, adopted a new set of policies called “narcomenudeo” reforms. These reforms shifted the legal prosecution of small-scale drug possession to the state rather than the federal level. The goal of the reforms was to reserve federal resources for high-level drug traffickers, while state and local governments would focus on small-scale dealers. Additionally, these reforms promoted drug treatment which would reduce incarceration harm by decriminalizing the possession of drugs in a designated small amount. Individuals possessing drugs above the designated amounts were processed and referred to substance use treatment programs through the justice system (Arredondo et al., 2019). The ‘narcomenudeo’ reforms hope to provide treatment programs for people with drug addictions and hold small-time drug dealers or users in local or state prisons rather than federal prisons. In federal prison, they are housed with members of drug cartels which results in gang recruitment for their drug business. These reforms are designed to help overcrowding of prisons and protect the small-time drug dealers or drug users.

The United States has partnered closely with Mexico in the drug fight. They have provided Mexico with billions of dollars to modernize its security forces, reform its judicial system, and increase security and monitoring operations along its border to Mexico to reduce the flow of illegal drugs into the United States. They continue to fight the drug war but have had very little success as this has resulted in safety issues for their residents and tourists, high drug

addiction, high crime rate, violence among drug cartels and against the community, and a very unstable government with little to no control over their country (Shirk & Wallman, 2015).

In Mexico, their War on Drugs is complicated by many barriers that need to be overcome before they can effectively run their criminal justice system. These barriers consist of corruption within the political and government offices, many powerful and violent drug cartels, drug addiction, and overcrowding in their prisons (Nevárez-Sida et al., 2012). The United States and Mexican governments will drive the drug cartels from various locations only to have them move to another area or across the border (Valenzuela, 2013). The 40-year-old War on Drugs has failed to defeat “public enemy number one” in its entirety. Illegal drugs still have millions of Mexico consumers with drug addictions, poverty, and in prison. In 2016, the last year for which data is available, Mexico had more than 64,000 people incarcerated in 338 prisons (Roth, 2022).

Drug Criminalization in Japan

The History of Japan's Drug Policies

In Japan, drugs and drug use are controlled by six different laws and they are as follows: The Cannabis Control Act (1948): Possession/use of cannabis is punished by up to five years in prison, The Poisonous and Deleterious Substances Control Act (1950): Possession/use of organic solvents such as paint thinner is punished by up to one year in prison or a fine of ¥500,000 (or a combination of both), The Stimulants Control Act (1951): Possession/use of amphetamine-type stimulants including methamphetamine is punished by up to ten years in prison, The Narcotics and Psychotropics Control Act (1953): Possession/use of heroin is punished by up to ten years in prison. Other narcotics and narcotic plants (cocaine, MDMA, magic mushrooms, etc.) are punished by up to seven years in prison, The Opium Act (1954): Possession/use of opium is punished by up to seven years in prison, and The Act on Securing Quality, Efficacy, and Safety

of Products Including Pharmaceuticals and Medical Devices (1960): Possession/use of designer drugs is punished by up to three years in prison or a fine of ¥3,000,000 (or a combination of both).

These laws, with the exception of the Cannabis Control Act, apply to both drug use and possession for personal use. There is no distinction between penalties for personal use or intent to distribute. The most severe punishment regarding drugs is life imprisonment for the production, importation, or exportation of amphetamine-type stimulants and heroin with the intent to profit. The death penalty is not imposed upon drug-related crimes in Japan (Koto et al, 2020). These policies were enacted into place to combat the already-growing drug abuse problem.

Past and Present of Drug Abuse

Unlike other eastern countries, Japan has never experienced an opioid epidemic. It was the first Asian country to enact legislation to control opioid use (Greberman & Wada, 1994). Instead, the history of drug abuse in Japan began after World War II and had three different methamphetamine abuse epidemics. The third epidemic is still a major issue within Japan's society today. These epidemics shaped the way Japan made its drug policies in order to combat this problem.

The first epidemic was between 1945 and 1957 when methamphetamines were mostly used by military personnel from the United States, Great Britain, and Germany rather than the general population. After the conclusion of World War II, large quantities of methamphetamines were released by pharmaceutical companies and the military into the Japanese market under the name Philopon. Due to high rates of methamphetamine use among juveniles, the Stimulant Control Act was passed in 1951. After the murder of Kyoko Chan and the tragedy at the Nakatsu Canal, crimes committed by Philopon users, the penalties associated with the Stimulant Control

Act were strengthened. In the first half of this epidemic, methamphetamine was mainly used in pill form, then it shifted to injections during the second half. Near the end of the first epidemic, there was a period called the “heroin rampage” (1955-1962), when methamphetamine users switched to heroin (Wada, 2011). This era was short-lived, however, it sparked the second epidemic of methamphetamines.

The second methamphetamine epidemic occurred between 1970 and 1994. From the end of the first epidemic until 1970, Japan experienced steady economic development until there was a sudden decline due to organized gangs selling methamphetamines. Supply sources came from Korea in the 1970s and Taiwan in the 1980s. Injection was the most common form of using at this time. Street murders committed by perpetrators who abused methamphetamine exemplified the violent crimes of that epidemic. The peak number of arrests was 24,372 in 1984 but decreased annually due to more severe punishments enacted by the Stimulant Control Act. Regarding arrests, abuse of organic solvents, like paint thinner and adhesive substances, exceeded methamphetamine abuse. This abuse began among the Futen-Zoku, which was Japan’s “hippie culture”. The number of arrests declined in 1990, they began to increase in 1995, which was when the third epidemic began (Wada, 2011).

The third and final methamphetamine epidemic was from 1995 to the present day. In the 1980s, Japan’s economy was booming due to pagers becoming popular; however, forged telephone cards became an issue. Japan’s economy began to collapse in 1991, and those who lost their jobs became smugglers of forged telephone cards and sold cannabis and methamphetamine through their sales channels. Organized gangs caught wind of this and began doing the same thing, which is what started methamphetamine street sales. In addition, evasive drugs, which are manufactured, sold, and used in large quantities and are not controlled by law, have become a major social issue. Magic mushrooms emerged in 1988 and were labeled as narcotic substances

in 2002. Designer drugs also became prevalent, which led to a large number of arrests. In 2006, cannabis-related arrests (2,423) outnumbered solvent-related arrests (2,398) (Wada, 2011).

The evasive drug problem emerged in 2011, with many health accidents involving the drugs discussed in the later portion of the third epidemic. “Evasive herbs”, which are synthetic cannabinoids, expanded in Japan. However, in 2012, cannabis rates skyrocketed from 10% in 2000 to 40% for those in mental institutions. Cannabis abuse was becoming a much larger problem than anticipated. Japan’s drug abuse changed from a “Solvent Dominant Type”, which is a Japanese model of drug abuse, to a “Cannabis Dominant Type”, which is a Western model (Wada et al., 2013). However, current drug policies and programs have helped decrease arrest numbers.

Current Drug Policy and Future Recommendations

Current drug policy in Japan is the Fifth Five-Year Strategy for Substance Abuse Prevention led by the Ministry of Health, Labor, and Welfare. The prevalence of Substance Abuse Preventive Classes (SAPC) in schools and public relations strengthens awareness. SAPC is provided in schools through health and physical education classes from elementary to high school (Takuya et al., 2021). There are five goals this strategy strives to achieve: to prevent drug abuse by promoting respect for social norms across Japan through outreach and awareness efforts focused on young people, to prevent relapse into drug abuse by providing drug abusers with appropriate treatment and effective support for reintegration into society, to eliminate drug trafficking organizations, thorough controls over end-users and prevent the distribution of drugs by promptly responding to new drugs, etc., to prevent smuggling of drugs into Japan with thorough border protections, and to prevent drug abuse through international collaboration as a member of the international community.

This strategy aims for psychiatric care and social rehabilitation as compared to previous policies. There are several recommendations given for responding to drug use in Japan. Promoting drug use as a health issue, increasing budgets for community-based programs, providing support that focuses on the user's health and well-being instead of punitive measures, listening to users' voices when developing new measures that can affect them, providing counseling services for open discussion, provide gendered support which also concerns violence and poverty, conduct a fact-finding investigation into non-medical prescription and over the counter use, consider alternatives to punishment for users and those in possession, evaluate impacts of current policies and implement ones that have factual effectiveness, and abide by international standards (Koto et al., 2020). These are just some suggestions made, however, there is still much to do moving forward in assessing drug criminalization, abuse, and effective rehabilitation methods. Countries like Australia are working towards complete decriminalization of drug-related instances in their entirety.

Decriminalization of Drugs in Australia

Issues in Australia that led to Decriminalization of Drugs

In the early 1970s, Australia noticed that the country was becoming a victim of high incarceration rates due to the high use of cannabis within its states/territories. The high cannabis use rates started to spread within the country and citizens were serving time in prison for minor drug possessions for suspected personal use. The country recognized that punishment was not the answer to deal with this problem. Australia shifted to a harm-reduction approach in the 1970s that would combat the spread of effects of injectable drugs and prevent the spread of the HIV/AIDS epidemic in Australia UNODC, Drug Policy, and Results in Australia 2008 (United Nations Publication, 2008, p. 5). Furthermore, the Australian convention amended a protocol in 1970 alongside the Narcotics Drugs Act of 1967 which started the decriminalization of cannabis

for medical uses only in the country. This act required a “licensing and permitting scheme that regulated the cultivation of cannabis plants, the production of cannabis and cannabis resin, the manufacture of cannabis drugs, and activities relating to such cultivation, production, and manufacture.” However, separate licensing and permits were required to manufacture narcotic drugs covered by the Convention (Narcotic Drugs Act 1967, 2022). Meanwhile, in 1998, it was found that 22% of Australia's population had taken drugs at least once that year. Australia recognized a tough-on-drug strategy in efforts to reduce the drug supply, trafficking, and demand as well as harm. This strategy includes strengthening “the supply control aspects without weakening demand-side interventions or giving up harm-reduction approaches. In the case of heroin, the strategy focused clearly on a reduction of supply. There followed higher heroin prices, lower heroin purity, and ultimately substantially lower levels of heroin consumption. Drug-related deaths declined, as well as drug-related crime. Use of other drugs also declined, both among the general population and among secondary school students- mainly due to improved prevention and treatment activities and more funds made available by the authorities to drug control in general.” UNODC, Drug Policy and Results in Australia 2008 (United Nations Publication, 2008, p. 5)

The Australian National Council of Drugs (ANCD) future drug policies focused on supply reduction, demand reduction, and harm reduction upon its citizens. Australia has conducted thorough research on this country's problem and created various strategies and programs to ensure the safety of drugs in their country and has demonstrated large numbers of effectiveness through this process. Drug policies within Australia are bi-partisan due to the country being split into various States and territories while being governed by different political parties. However, it is seen that close to all have the same perspective on how to combat this problem by improving opportunities for treatment and harm reduction strategies for people who

struggle with drug use. UNODC, Drug Policy and Results in Australia 2008 (United Nations Publication, 2008, p. 5)

Policies Implemented to Solve Drug Issues

When the decriminalization of cannabis first started, states/territories of Australia started to adopt the idea. One study in South Australia evaluated if the change from criminal to civil penalties would lead to greater numbers of cannabis use, their results showed that it had no significant effect (Hall, 2008). A second study focuses on how this policy would change the incarceration rate. In South Australia the incarceration for cannabis-related offenses dropped by 50% however, since the civil penalties were reduced to a fine, some offenders couldn't afford the fine which would later make them serve short prison sentences. (Hall, 2008)

In 2004 Western Australia became the fourth Australian jurisdiction to adopt the cannabis policy that decriminalizes cannabis for civil penalties for minor cannabis offenses. With this new policy in place, citizens would face a non-criminal penalty by a fine if found with small amounts of cannabis. Fetherston & Lenton (2005) conducted a telephone survey of 809 members of the Western Australian population to see their views on this new law being passed. They found that though cannabis was viewed negatively by the majority of the interviewees they found that the same citizens believed that criminal charges for personal use amounts of cannabis were “inappropriate and ineffective” (Fetherston & Lenton, 2005) out of their sample nearly 80% of people found that this civil penalty scheme was a ‘good idea’. This idea showed that the new policy was highly acceptable among the WA people.

Crystal Meth or ‘Ice’ addiction rates were at an all-time high in Australia and one of the highest of all developed nations. Moreover, their healthcare and Law enforcement were not equipped to combat this epidemic. With the number of opioid-induced deaths nearly doubling in 2005, health officials and first responders battled this problem on the front line and tried to find a

solution but failed to slow down this issue. (White, 2020) One of the biggest locations or hot spots for this problem was at musical festivals where the drug culture was most prevalent. The Australian Bureau of Statistics reported an all-time high of related opioid overdose deaths in 2016 and 2017 setting off an alarm of real concern for this country's continuous drug problem. Experts in Australian communities communicated their concerns to the Australian government expressing their concern as to how they can't arrest their way through this problem (White, 2020). Historically the focus to combat this problem was to increase law enforcement arrest and sentencing longevity. Unfortunately, this action only made the problem worse. This rise in opioid-related deaths has started to worry the citizens of the country's ability to respond to this growing trend. Even with the increase of policy making and treatment programs, they have not been shown to slow the problem.

As of October 2023, Australia has decriminalized drugs including Crystal Meth and Heroin. These drugs however are still illegal, and they still attract a penalty or fine however this penalty will not be a criminal penalty, and not serve jail time as long as they are found with small amounts that fall into the personal use category (Gore & Nowroozi, 2022). This is a big reform for the country of Australia because they are moving people out of the criminal justice system while using the money, they used on their incarceration to focus it now on pushing these addicts to the health system instead (Gore & Nowroozi, 2022). Australia has recognized that just because drugs are illegal doesn't mean people are going to stop using them. Australia Capital Territory Health Minister Stephen-Smith says that this is "a health response, not a criminal one" (ABC News: Jim Campbell in Gore & Nowroozi, 2022, p. 15). She continues to announce how they recognize that the drug use problem is a health issue rather than a criminal one, doing so will reduce harm and promote a safer community for their citizens (Gore & Nowroozi, 2022).

According to Dr. Nicole Lee (member of the Nation Drug Research Institute from Curtin University) in an interview with Channel 9 New Australia Network says that the ideology that people will move to countries that decriminalize drugs for personal use, such as the Australian Capital Territory, to abuse this new decriminalization has no evidence to support this idea (9 New Australia, 2023). In fact, she goes on to say how South Australia, ACT, and the Northern Territory have all decriminalized the use of cannabis for the past 30 years and the ACT and South Australia have the lowest rate of cannabis use of all Australia. They also looked to compare to other countries that have started to view this problem as a health issue rather than a drug issue and choose to decriminalize drug use which has shown a positive rate of reducing the number of drug use (9 New Australia, 2023).

Finally, in Queensland, the territory has been aware of the opioid problem that is present at events like concerts or festivals. With the historical problem of opioid deaths and overdoses regarding the drug, Queensland has started to use pill testing or drug-checking services to ensure drug safety. With the decriminalization of personal amounts of drugs, this policy/strategy will allow citizens to check the contents and purity of their party drug to see if it is harmful before they partake in the Alcohol and Drug Foundation. (2023). This method has mixed reviews due to people seeing this as an invitation to take drugs, however, others view it as a positive to ensure that doing to the users is safe and will prevent overdoses and deaths.

Outcomes of Australian Drug Policy

Another program that is shown to be helpful for the recidivism rate is Vocational Education Training (VET). The VET program is used to demonstrate that work opportunities and skills training in prisons combined with post-release services and employment strategies significantly impact recidivism rates (Bahn, 2011). It was discussed that individuals who are incarcerated will be trained in the skills needed in order to reintegrate into society after serving

time in prison. For individuals who are serving time for not being able to pay their fines related to their drug offenses, this program will offer them an allowance to keep them motivated and let them pay off the dues they might have been served (Bahn, 2011). Additionally, prisoners who took part in VET saw positive effects on their recidivism rate compared to those who didn't. With access to an allowance found that financial independence of reformed prisoners provides strong protective effects against recidivism (Bahn, 2011).

The increased efforts to decriminalize drugs and the creation of civil penalties for drug offenses have affected the incarceration rate and recidivism rate in all of Australia. A study was done by the Queensland Drug and Alcohol Court (QDAC) which focuses on adult offenders and puts them on a path of treatment to address their drug and/or alcohol abuse (Payne, 2008). This study was directed to the recidivism rates among drug crime offenders. Part of the QDAC is that offenders who enter the court will be put into programs to target their current or potential drug habits, helping offenders stay clean, get jobs, and reintegrate into society. (Payne, 2008). It was found that individuals who succeed in this program are 80% likely to stay clean within a year of being out compared to those who failed the study were 20- 40% likely to stay clean within a year (Payne, 2008).

Australia started decriminalizing drugs just recently in hopes that it would reduce all drug offenses including their current opioid epidemic. However, they are not the only ones who have chosen to decriminalize all drugs; Portugal has its own innovative and alternative strategies for handling their own drug problem in the past and has shown to be quite successful which has a similar purpose to what Australia wants to do for their country.

Decriminalization of Drugs in Portugal

Issues in Portugal Prior to the Decriminalization of Drugs

Prior to decriminalization, drug use was examined as a social issue that was unmanageable and the consequences for drug use imposed by the criminalization regime were a drain of resources; it was not lessening drug use (Greenwald, 2009, p. 6). To rephrase this: “...decriminalization was driven not by the perception that drug use was an insignificant problem, but rather by the consensus view that it was a highly significant problem, that criminalization was exacerbating the problem, and that only decriminalization could enable an effective government response” (Greenwald, 2009, p. 6). Statistics show that in 1991, 4,667 people were arrested for drug offenses, increasing in 1995 to 6,380, and in 1998 increased to 11,395. Sixty-one percent of all arrests in 1998 were for possession or use. Forty-five percent of the sixty-one percent of arrests were heroin-related (Van et al., 2002, p. 52). Due to a rapidly rising drug problem in the 1990s, an elite commission, Comissão para a Estratégia Nacional de Combate à Droga (Commission for a National Anti-Drug Strategy) suggested a framework that would decriminalize the use of drugs. Years later, in 1998, after looking at the report regarding drug use and offenses, the numbers were only rising and so were drug abuse and addictions. The Portuguese Commission strongly advised that the decriminalization of drugs be passed to battle this growing issue (Greenwald, 2009, p. 6). The high rates of drug use can be referred to as an opioid epidemic. Lisbon was known to be the “heroin capital” of Europe. Rates of HIV, AIDS, tuberculosis, and hepatitis C were on the rise with the rapid use of heroin (Pombo et al., 2016, p. 51). During this epidemic, Portugal was known to have the highest rates of drug-related AIDS and overdose deaths across the European Union; 1% of Portugal’s population was addicted to heroin across different economic classes. Prior to decriminalizing drugs, harsh punishments were implemented by the criminal justice system and this led to half of the prison population being incarcerated for drug-related offenses and half of the prison population being addicted to drugs (Ashton, 2019, p. 41).

Policies implemented to Solve this Issue

“The first official call to change Portugal’s drug laws came from a former constitutional court judge who found the practice of jailing people for taking drugs to be counterproductive and unethical” (Ashton, 2019, p. 41). Portugal's government considered this and appointed a committee of experts in law, health care, mental health, and social issues; they studied the problem and came up with recommendations on how to respond. The committee recommended ending the criminalization of all drugs, they also utilized prevention and education on drug use and treatment programs (Ashton, 2019, p. 43). On July 1st, 2001, a nationwide law took effect in Portugal that decriminalized drugs. This did not make drugs legal, but it decriminalized the purchasing of drugs, the use of drugs, and the possession. Portugal is the only European Union state to decriminalize drugs. Drug usage and possession still remain prohibited, but the act of decriminalizing drugs has removed the infractions related to drugs from the framework of criminal law and the criminal justice system. Instead of putting individuals in jail or prison for drug offenses, drug offenses are treated as administrative violations that will be processed in a noncriminal proceeding. In this new framework, drugs may be “depenalized” but the usage of drugs still remains a criminal offense (Greenwald, 2009, p. 2). “Portugal’s reformed drug policy emphasizes two key principles: practicality and a humanistic approach. It takes a pragmatic view of addiction - realizing that there is not one solution to a multi-faceted issue, but a triage of interventions based on scientific evidence and not ideology alone” (Ashton, 2019, p.42). A core belief behind the policy is that there is no difference between a “hard” or “soft” drug, it’s that someone either has a healthy or unhealthy relationship with drugs and drug use. “This shift in mindset reduces the stigma attached to drugs and the people that use them” (Ashton, 2019, p.42). Rather than focusing on punishing those who use drugs, they focus on the individual and their well-being to better understand how to treat their drug use problem (Ashton, 2019, p.42). “In

addition to its treatment centers, the Government funds social work agencies that engage with people who use drugs in the street by distributing sterile syringes, hygiene materials, and condoms, while offering information about treatment and harm reduction services” (Ashton, 2019, p.42).

Outcome of Decriminalizing Drugs

Portugal’s decriminalization of illegal drug use and possession has proved that alleviating drug policy does not increase the use of illicit drug use (Office of National Drug Control Policy, 2010, p.1). “...Drug decriminalization in Portugal was not harmful and, if anything, it contributed to the reduction in the number of seizures of heroin and cocaine, the reduction in the number of drug-law offenses and drug-related deaths, and the reduction in the incidence of drug addicts among HIV positive individuals” (Félix et al., 2017, p.21). In the five years following the decriminalization policy, drug deaths dropped greatly. In 2011, there were only 10 drug overdose deaths. Since 2011, the deaths related to drug overdose have increased but never to 2001 levels which had 76 deaths. Data pre-decriminalization estimated that there were roughly 100,000 drug addicts (*DRUG DECRIMINALISATION IN PORTUGAL: SETTING THE RECORD STRAIGHT*, 2021).

One key benefit of the decriminalization of drugs is that it is infinitely cheaper to treat people than to keep them in jail. The country spends less than 10 USD on each citizen as a result of the new drug policy; the leftover money can be spent on healthcare goals rather than law enforcement to fight drugs. In 2012, there were an estimated 27,000 and 34,000 people addicted to opioids and roughly half of them were participating in a treatment program (Ashton, 2019, p.42). Portugal went from having the highest rates of drug use to having one of the lowest drug rates among other European countries. Not accounting for marijuana and psychoactive substances, drug use rates for all other drugs fell below the rates that they were in 2001. (Ashton, 2019, p.43). “Drug-related HIV infections have decreased by 95% and overdose rates dropped

from 80 in 2001 to only 16 in 2012,” this has made Portugal’s drug mortality rate the lowest among all Western Europe countries (Ashton, 2019, p.43). “Portugal proves that decriminalization does not increase drug use. It has demonstrated that humanitarian and rational strategies can reduce drug usage, recidivism rates, and HIV infection and increase public safety. Portugal gives us hope that we can overcome the fear-driven ideologies around drugs that have gripped many societies worldwide and adopt policies more in alignment with respect and dignity.” (Ashton, 2019, p.43).

Comparative Analysis

The ‘War on Drugs’ resulted in the United States military, state and local law enforcement, and the government widening their efforts to put an end to illicit drug use (Coyne & Hall, 2017). In addition, the ‘War on Drugs’ in the United States caused a dramatic increase in the incarceration rate for drug offenses. In 1970, there were less than 450,000 people incarcerated for drug offenses alone. Meanwhile, in 1980, 580,000, or 7.4% of the total of all arrests (according to the FBI) were for drug-related crimes in the United States. By 2007, 1,561,000, or 13% of state and local arrests were related to drug offenses. Nearly half of the people serving jail time in the United States were there for drug-related offenses. However, we see that today incarceration for drug-related offenses has decreased. Comparatively in Mexico, Mexico had approximately 209,000 prisoners as of 2022. The volume of imprisoned people in the country has been increasing since 2018. The main reason for the rapid growth in Mexico’s prison population is due to pretrial detentions for drug-related offenses (Statista, 2023). Comparatively in Japan, the promotion of anti-drug measures, like the Fifth Five-Year Strategy, have gradually decreased drug arrests. As of 2016, arrests have decreased to around 10,000 (Nakamura, 2016). Comparatively in Australia, the country met an all time high of their incarceration rate at 15.8% in 2015 but has decreased to 13.6% as of 2022 (Australian Bureau of

Statistics, 2023). Comparatively in Portugal, drug-related arrests have fallen from 40% in 2001 to just 15% in 2019 (Transform Drug Policy Foundation, 2021).

Mexico is focusing on drug cartels to reduce drug issues however few cartel members are actually punished (Hernandez, 2011). The corruption of police and government officials in addition to a total disregard for authority has led to a country that is being dominated and controlled by drugs and the cartels. It is happening because the drug cartels are powerful and wealthy in Mexico. Mexico's drug cartel's overt display of brutality is to create fear in authority, their enemies, and the Mexican people. The high rate of drug addiction due to easy accessibility and profit from drugs has also contributed to the severe drug problem in Mexico (Mercille, 2011). The 2008 Addiction Survey, reported the number of people addicted to illegal drugs increased 51 percent to nearly half a million between 2002 and 2008 (Narconon, 2008). A large number of persons imprisoned for drug-related offenses are not members of drug cartels or traffickers. The prison population consists of inmates serving time for minor drug offenses (Hernandez, 2011). Mexico prisons are extremely overcrowded due to drug convictions with 46 percent of prisoners sharing their cell with at least five other inmates (Felbab-Brown, 2020).

Most drug law enforcement is dedicated to the investigation, prosecution, and conviction of minor drug-related cases in which the offenders are young consumers or small-time dealers of cocaine or marijuana. This has resulted in limited resources to investigate and punish the drug cartels and violent crimes that are devastating Mexico (Shirk & Wallman, 2015). In most cases, the small-time offender receives the minimum sentence. The sentence for possession is ten months to a year. The sentence for possession with the intent to sell is five years, and the

sentence for supply and transporting into the country is ten years (Hernandez, 2011).

Furthermore, the criminalization of consumers and small-time dealers devastates already poor socioeconomic areas in Mexico. The people residing in these communities are already living in poverty. They are living on dirt floors, unemployed, and without health coverage. The incarceration of the male in a household for small-time drug offenses results in female-headed households which leads to a disruption of family dynamics and a struggle to survive (Arredondo et al., 2019).

Japan has six laws that control drug use and possession. Penalties for both drug use and possession can range from one to ten years in prison depending on which type of drug, fines, or a combination of both. When looking at drug-related arrests in Japan, it's evident there has been a shift in what type of drug is used by the population and how those rates have increased. In 2006, cannabis arrests (2,423) outnumbered solvent arrests (2,398) (Wada, 2011). In addition, cannabis rates increased from 10% in 2000 to 40% in 2012 (Wada et al., 2013). In addition to this, Japan has created several methods of rehabilitation which have begun to be implemented in schools. Comparatively to Japan, the United States takes a more punitive approach when criminalizing drugs, often handing out lengthy punishments and few rehabilitation treatment options.

Examining Australia's drug policy today we see they have undergone a dramatic shift in decriminalizing drugs as a nation and promoting harm reduction strategies to reduce the rate of use and incarceration of drugs, meanwhile creating treatment programs for drug users throughout the country. Over the past 40-50 years the Australian government has recognized that their previous agenda on a tough-on-crime approach towards drug users was not effective and resulted in high/mass incarceration rates. The mass incarceration caused the Australian government to reopen closed prisons in order to fit the rapidly increasing population. The problem with this is

that the harmful drug policies did not solve the problem and led to increased overdoses and deaths throughout the country. Comparatively, Australia also went through a tough-on drugs/crime era to reduce the mass use of drugs within their country. As of 2022, 14% of prisoners are incarcerated for illicit drug offenses. As of October 2023, some of the country's states/territories started to decriminalize drugs and increase treatment/purity testing to combat mass incarceration and escalating deaths to ensure citizen safety. The data for this policy will be reviewed once it has been in effect for a longer time.

Comparatively looking at the outcomes of the approach Portugal has used in response to drugs, the decriminalization of drugs, has worked greatly when compared to the United States' approach. The decriminalization of drugs in Portugal has decreased the rates of drug use, drug possession, and drug overdose deaths overall. In 2001, right before the decriminalization, there were 76 deaths due to drugs while in 2010 there were only 10 (*DRUG DECRIMINALISATION IN PORTUGAL: SETTING THE RECORD STRAIGHT*, 2021). The United States' approach consists of policies that were implemented in an effort to end the production, distribution, and use of illegal drugs (Coyne & Hall, 2017). In 1980, there were 580,900 people incarcerated for drug-related charges and this increased to 1,561,231 in 2014. The approach that the United States took did not result in fewer drug use, it resulted in mass incarceration in United States prisons (Coyne & Hall, 2017).

Comparative Socio-Cultural Analysis

The growing and distribution of drugs in Mexico is a way of life. It provides job opportunities for the poor through plantations or the distribution and selling of drugs. The easy access to drugs, through the years, has resulted in many Mexicans being addicted to drugs. They rely on these drugs for their drug habit (Moreno et al., 2010). The three methamphetamine

epidemics and the evasive drug problem emerging in 2011 have shaped drug abuse and drug criminalization in Japan. These epidemics have been a part of Japan's society and culture since the end of World War II in 1945 and are still ongoing battles today. Socioculturally in Australia, young adults are the largest drug using demographic and use drugs as a social activity. Festivals and concerts are a large part of Australian culture which has become very prevalent for the drug use scene. Australia saw that it was crucial to limit criminalizing citizens for small amounts of drug possessions by improving the health and safety quality for citizens in comparison to the U.S., where the country saw drugs as a threat to society. In comparison, prior to decriminalizing drugs in Portugal, punishing people for drug use did not decrease the use. Socioculturally in Portugal, it is believed that rehabilitating people is more humane than sentencing people to harsh sentences in prison for many years.

Comparative Political Analysis

In Mexico, their War on Drugs is complicated by many barriers that need to be overcome before they can effectively run their criminal justice system. These barriers consist of corruption within the political and government offices, many powerful and violent drug cartels, drug addiction, and overcrowding in their prisons (Nevárez-Sida et al., 2012). Mexico's criminalization of drugs is essential for the protection of Mexico's people and governmental control of the country. Currently, drug cartels dominate and control the country. Japan's political system lacks strict laws and adequate rehabilitation methods, resulting in more drug crimes. In contrast, however, more anti-drug measures, such as the Fifth Five-Year Strategy for Substance Abuse Prevention, have aided in decreasing arrest numbers. Politically Australia is divided between various states/territories and governed by different political agendas, however, they all have similar ideas of reducing punishment and promoting treatment to help rehabilitate their

citizens' drug use. Politically, Portugal put forth a nationwide law that would decriminalize the purchase, use, and possession of all drugs in hopes of decreasing the high rates of drug offenses. While one could still obtain an offense, they can no longer serve jail time for such offenses, they offer rehabilitative services and this has decreased their numbers tremendously.

Comparative Economics Analysis

Mexico is a poor country however the drug cartels have provided a means of survival for the Mexicans and the drug cartels have become wealthy. It is a very lucrative business for the cartels. Mexico has suffered tremendous economic loss in the tourism industry. Tourists do not feel it is safe to travel to Mexico due to the violence imposed by the drug cartels (Shirk & Wallman, 2015). This crisis is imposing significant financial costs on the Mexican government. The three different methamphetamine epidemics have caused Japan's economy to crash. Japan's economy has not recovered from the 1991 collapse during the third methamphetamine epidemic. Australia's push for decriminalizing drugs was done for economic reasons as well. While some states/territories made criminal penalties for civil penalties, this reduced the money spent on prisoners and provided income to create treatment programs and job opportunities. Meanwhile, Portugal sentenced people to many years in prison for drug use and this results in a lot of money being spent and the amount of drug use not decreasing (Ashton, 2019, p. 41). Instead, Portugal rehabilitates people who use drugs and economically this is a lot cheaper.

Who Do We Think The United States Could Learn the Most From?

When comparing each individual country to the United States' approach to high rates of drug use, we believe that the United States could learn the most from Portugal. Portugal had very high rates of drug use, drug possession, and drug-related deaths but once they decriminalized

drugs nationwide and started focusing on rehabilitation rather than punishment, illicit drug use rates dropped tremendously. Moreover, Australia would be beneficial for the United States to look at because they had similar drug issues and strategies, like the War on Drugs in both countries. Australia became aware that arresting citizens would not fix the problem and focused on more harm reduction strategies while weaning their citizens off the drug slowly while creating outlets for them to receive treatment. UNODC, *Drug Policy and Results in Australia 2008* (United Nations Publication, 2008, p. 5). Meanwhile, the United States continues to sentence their citizens for minor drug offenses which relates to the mass incarceration and mass amounts of money being spent.

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