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European Drug Policy: The Cases of Portugal, Germany, and The Netherlands

Steve Anderson

Abstract

Drug abuse is a problem that reaches all corners of the globe. In Europe, the case is no different. With a single currency, open borders, and no central European Union policy to deal with drug addiction, it is up to each member's national government to deal with illicit drug use and addiction. Policies have ranged from strict enforcement in Sweden to outright decriminalization in Portugal. With many different avenues pursuing the same goal, the European Union serves as an example of different approaches to drug policies. These different policies can cause conflict among members who may consider their neighbors policies to be a possible negative influence. I will examine how incorporation of these different methods affects illicit drug use in Portugal, Germany, and The Netherlands. By comparing the use of treatment programs and drug courts, policies regarding possession of certain drugs, and the use of illicit drugs by population one can determine which group of policies has had the largest impact on drug use.

Introduction

Europe is not isolated from the rest of the world when it comes to drug abuse. While most states in European Union have laws that criminalize the possession and distribution of narcotics, their policies set in place regard drug use as a public health issue versus a criminal offense. The use of drug courts and treatment programs are widespread to help combat drug addiction. Portugal in the year 2000 decriminalized all drug possession and put its focus on treating addiction. The Netherlands are famous for their tolerance of cannabis in coffee shops, but it

recent years have cracked down on “drug tourism” and the amounts of cannabis these coffee shops can sell. With so many policies ranging across the entire the continent, determining which polices have the greatest effect on drug usage requires extensive analysis of usage in different countries with different laws and justice systems.

However, these countries have programs to combat addiction, overseen by either the corrections or public health departments. The way certain countries administer these programs may in fact have a profound impact on drug abuse. This paper will analyze the use of these programs in different countries in Europe and its relation to drug use and the severity of punishment. This can measured in percentage of offenders that go to court, how often the offender is sentenced to treatment, and the rate of use. The dependent variable is the rate of drug usage/addiction in one country, with the independent variables including the drugs used, the countries being discussed and the policies that each particular country that are currently enforced.

Literature Review

Using research over different areas of drug policy, I plan to examine how incorporation of these different methods affects illicit drug use in Portugal, Germany, and The Netherlands. By comparing the use of treatment programs and drug courts, policies regarding possession of certain drugs, and the use of illicit drugs by population one can determine which group of policies has had the largest impact on drug use.

Marianne Wade (2009) examined six different countries and how drug offenders are prosecuted; comparing how each country measures the crime in terms of public health. Caroline Chatwin (2004) studied how adding new members to the European Union complicates issues of

controlling drug trafficking. John Gilberbloom (2009) put primary focus on the city of Amsterdam, citing the city's low drug use rate as a model for urban areas around the world to use. The Dagmar Hendrich et al. piece (2008) on harm reduction involving heroin, focused on procedures used to combat diseases associated with heroin use. With such a wide spectrum, this paper will primarily focus on drugs such as cannabis, cocaine, and opioids. I will examine different European countries policies towards rehabilitating offenders, the strictness of enforcement, and the rate of usage.

Countries in Europe, like other developed nations across the globe, must deal with drug usage and addiction along with problems that both create and sustain those habits. Researchers have looked at many different nations to determine how effective each particular country has been in attempting to curb illicit drug usage. Considering the impact drug use has on public health and crime, members of the European Union helped established the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) an agency keeps detailed data on drug use in member states, providing information to policy makers, scientists and professionals working in the drugs field as to what effect different policies have on curbing illicit drug abuse. The agency is located in Lisbon, the capital of Portugal.

Portugal itself has been the focus of many researchers considering the path it has taken to curb the use of illicit drugs. In the 1990s, many believed that Portugal experienced a rapid increase in non-medical drug use. This centered principally, but not exclusively, on heroin (McCaffrey, 782). However, this rapid increase took place without much collection of data, yet this was a factor in the decision to decriminalize, since it would allow treatment and researchers to collect data on those in treatment programs (Mirjam, Beusekom, Kahn, 2002). Portugal decriminalized all drugs effective 2001, meaning that there were no criminal penalties attached

to possessing and using illicit drugs, unless there was suspicion of trafficking. This applied both to hard (cocaine, heroin) and soft (cannabis) drugs. It was considered a bold attempt to reduce drug use, and very different from the policies of other Western European nations.

Germany was also dealing with the program of increased drug use. Yet until recently, Germany dealt with drugs with a strict prohibition policy, sending those convicted of possession into the prison system (Fischer, 390). As Germany has shifted its focus from treating drug use as a criminal issue to a public health issue, more focus has been put on sending offenders to court approved treatment programs. However, more serious offenders, like in Portugal, can be sent through the court system (Wade, 174). Germany has developed what is known as their “Action Plan on Drugs and Addiction” from the German Federal Ministry of Health. This lays out the German governments plan do deal with drug addiction both for legal and illicit drug use. It specifically calls for treatment and therapy for those addicted and are willing to get help (Caspers-Merk, 17).

The Netherlands is famous for its tolerance of cannabis, with coffee shops often selling cannabis filled foods, drinks, and in smokeable forms. Amsterdam has been known as a spot for “drug tourism” when foreigners travel to take advantage of lenient laws to use drugs not available legally in their countries of origin. The Netherlands current policy for dealing with illicit drugs comes from The Opium Law of 1976. This law essentially places more focus on hard drugs (cocaine, heroin) than soft drugs such as cannabis.

This distinction results in the de facto decriminalization of cannabis and other soft drugs. There are only prosecutions for serious offenses, including such as the selling of large amounts to a single user, to a child, or creating a public disturbance. This is combined with treatment for

addiction while cracking down on drug trafficking and organized crime. While other nations were suffering from increasing use of drugs during the 1990's, it was reported that the Netherlands had some of the lowest rates of both hard and soft illicit drug use in Europe (Gilderbloom, 478). Drug law reformers often point to the Netherlands as a model example as the best to handle drug usage and addiction.

Taken together, the Netherlands, Portugal, and Germany all focus on the ability of drug addicts to seek treatment, while at the same time enforcing laws to prevent drug trafficking. The difference in policies often relate to the rate of enforcement and level of attention to soft and hard drugs. The three come across different parts along the prohibitionist and the anti-prohibitionist sides of the policy spectrum. Considering that the EMCDDA keeps records of arrests and rates of use for all three countries, comparing and contrasting the policies effectiveness will require quantitative analysis of arrests and prosecutions rates, rehabilitation and relapse rates, along with the use of illicit drugs in general.

Methodology

Drug use rates in these three separate countries will be the dependent variable. The independent variables include the drugs used, which will consist of cannabis, cocaine, and heroin. These three drugs represent different levels of narcotic strength and potential for addiction, not to mention are the most commonly used illicit narcotics. Another independent variable will be the specific administrative role played by the state in dealing with violations involving possession and use of the three aforementioned narcotics. The differences indicate whether the particular state leans more towards a prohibitionist or an anti-prohibitionist stance on narcotics.

Information on the drug laws of EU Member States and statistics on drug law offences have been collected and published by the EMCDDA for over ten years. Since 1995, member states have been reporting the number of drug law offences and the stage at which an offense for possession or trafficking is first registered by the police or prosecution. The most recent report, the 2009 report “Drug Offenses: Sentencing and other Outcomes” has the most recent numbers detailing the sentences of those convicted of possession of illicit substances. Germany, Portugal, and the Netherlands all have data showing how often arrests lead to treatment or a sentence to a correctional facility. Often, data is collected from all four stages of the criminal justice process including: the police arrest, prosecutions, the trial, and either the prison or probation sentence.

The United Nations spends a great deal of time analyzing the trafficking and use of illicit drugs round the globe. The United Nations Office of Drugs and Crime released a report on world drug use, but for the purposes of this paper only the areas relating to Europe will be examined. The most recent report from 2011 details the current drug trends in Europe. The market for cocaine in Europe used to be only one-fourth the size as North America, but today the two Europe’s market has become nearly equal in size, with a 37 billion dollar market in North America and a 33 billion dollar market in Europe (World Drug Report, 8). With the growing drug markets in parts of Europe, it is very important for researchers to understand which policies are in place and how effective said policies are in combating demand for illicit drugs.

Findings

Portugal’s decision to decriminalize drug possession for both soft and hard drugs came as a result of their Commission for a National Drug Strategy, which issued a report in 1998 determining that the best method to deal with the growing drug problem meant pursuing a harm

reduction strategy (Loo, 50). The need for strategy was added by the urgency that one of the fastest growing drugs of choice happened to be heroin. In 1999, there were between 60,000 and 100,000 people were reported to be addicted, while, the arrest rate for heroin possession increased 250% between 1991 and 1998 (Loo, 52). Despite the report calling for decriminalization, Portugal's legislature approved of the report and crafted legislation to match the report's recommendations in full.

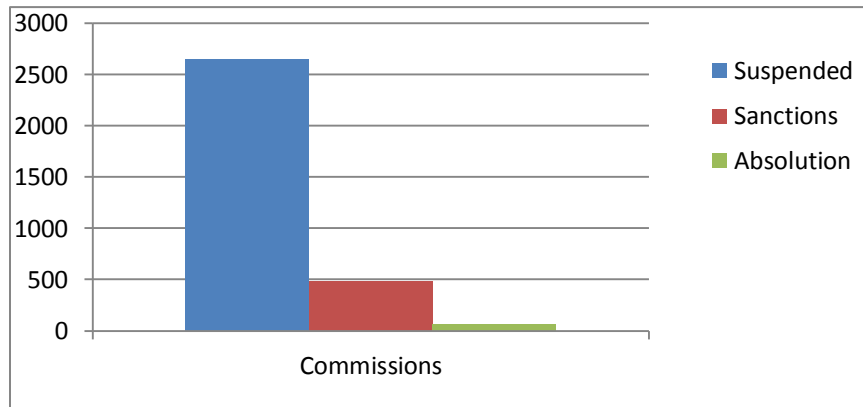
One of the central tenets of Portugal's National Drug Strategy is to treat drug addicts not as criminals, but more like patients suffering from a disease. It should be clarified that trafficking and manufacturing illicit drugs are still punishable by criminal sanctions. For those who are caught with illegal substances, they are brought before a panel consisting of medical and legal experts to determine if the person shows signs of addiction. If not, and the offender has no prior convictions, the hearing is suspended. If there is a prior conviction, it can result in a verbal warning, a fine, or in some cases loss of professional licenses among other administrative actions (McCaffrey, 785). The hearing is suspended if the offender agrees to seek treatment.

Part of this approach involves a great emphasis on prevention, or keeping potential users away from the influence of illicit drugs. This involves educating children in schools, with families, or the entire community getting involved and understanding the situations that may result in drug use (Loo, 57). Along with needle exchange, safe houses and motivational speakers, the idea to treat drug addicts as patients who are in need of care is a far cry from the policies of the past.

The first part of the National Drug Strategy was implemented between 2001 and 2004. The commission systems were given yearly funding increases to deal with the expected rise in

those who would most likely seek treatment for addiction. In 2005, there were 3,192 commission hearings (McCaffrey, 785).

Figure 1



Source: Institute for Drugs and Drug Addiction Portugal

As figure 1 above shows, 83% of commissions were suspended, while 15% ended some form of a sanction, and the remaining 2.5% were absolved, or found not guilty or responsible. This trend reflects the commissions pushing individuals toward treatment for drug use instead of criminal sanctions. Of all the major drugs, cannabis was the most common cited for offenders. In terms of decriminalization's effect on usage rates, most of the age groups cited have seen a decrease in usage, with some seeing stagnant or only slight increases (Greenwald, 14). Arrest rates for users, predictably, dropped to zero, as there were no longer any criminal penalties attached to possession. In turn, the numbers of those seeking treatment have increased dramatically, due in part to more access and less stigma as part of the National Drug Strategy. Despite fears and criticisms that the decriminalization strategy would lead to massive increases in drug use, drug tourism and other drug related problems, researchers have found Portugal's programs to have been successful in curbing the use of illicit drugs.

The Netherlands, an area of Europe more well known for its tolerance of the use of soft drugs, differs in that by the law, the Opium Act of 1976 still criminalizes the possession of hard illicit substances (EMCDDA). However, in practice, possession of cannabis ranks far lower on the police's list of drugs that cause substantial harm, with hard drugs such as cocaine and heroin the major focus of law enforcement. Possession of cannabis is considered an "offense against order" and is subject to non-criminal proceedings (Wade, 154). Often, there is the misconception that cannabis is legal, leading to drug tourism, which has become a source of concern for the Netherlands. The government has responded by limiting how much cannabis shops can sell, and has stricter enforcement near certain areas such as schools and hospitals. As a major center of trade, the Netherlands has taken steps to crack down on smuggling, particularly of opium and heroin from Afghanistan. In 1994, only 50% of drug related cases were taken to court, but by 2002 the number had risen steadily, and the government cracked down on those who were trafficking through the massive trade areas (Wade, 164).

This policy of essentially ignoring cannabis while focusing efforts on harder drugs has been in force since 1976, with slight increases in the use of cannabis among the lifespan of the total population while other hard drug use has decreased. As a result of this policy, the Netherlands has some of the lowest levels of drug use, for both soft and hard drugs, across all age groups.

Germany, compared to Portugal and the Netherlands, has the strictest of the drug related enforcement policies. Germany did begin to pursue a harm reduction strategy during the 1980s, after years of increasing drug use, drug related deaths and crime. (Fischer, 389). While possession of any illicit substance is a criminal offense under the Act to Regulate the Trade in Narcotics, otherwise known as the Narcotics Act, pursuing a harm reduction strategy has given

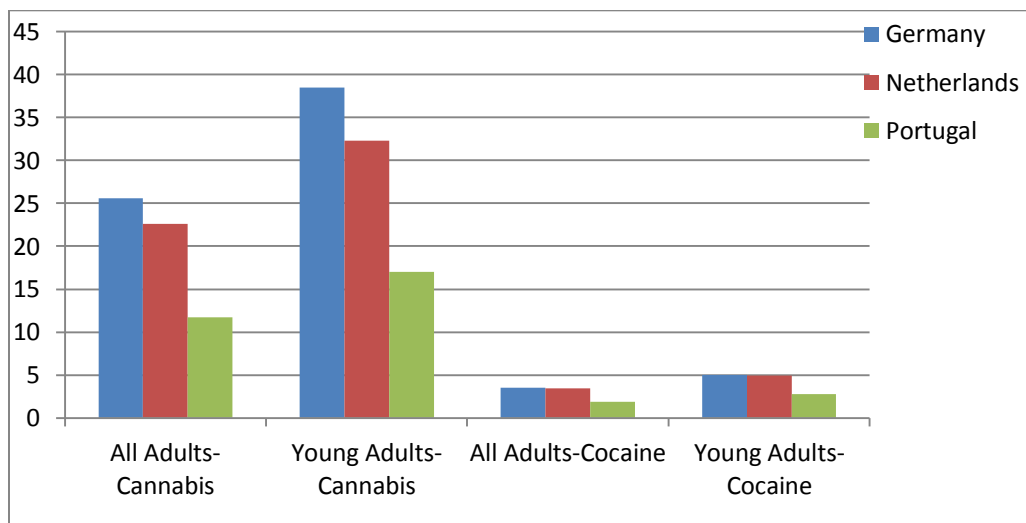
prosecutors more discretion is sending offenders to treatment as opposed to prison. The Federal Constitutional Court of Germany ruled in 1994 that criminalization of controlled substances was constitutional, but set out new standards in charging those with possession. Prosecutors have discretion, with court approval, as to whether an offender can have charges dropped in cases of possession of small amounts of illicit drugs (EMCDDA). This is essentially Germany's form of making sure the punishment fits the crime. The most abused illicit drug is cannabis, with up to two million people using regularly, with some 200,000 suffering from addiction (Caspers-Merk, 12).

In the 30 years since the Narcotics Act was passed, Germany has invested heavily in prevention and addiction treatment, borrowing ideas from neighboring countries to continually improve on its own harm reduction strategy. Yet, other aspects embraced by neighboring countries have been slow to take hold. Consumption rooms, areas that users, particularly heroin addicts, can inject drugs under the eye of a medical professional and counselors, were only recently added as an option 2009, leaving up to local governments to decide if consumption rooms served the best interest of local law enforcement and health professionals. Germany does keep track of the number of drug related cases that are dropped, handled in an administrative form, or taken to court on a formal charge. However, these statistics have been unavailable to other researchers since the German parliament has not authorized a statistical register to keep track of all the possible outcomes (Wade, 166).

Between Portugal, The Netherlands and Germany, there exist three different models for policies designed to curb the rate of illicit drug use. Although all three have embraced the principle of harm reduction, Portugal leans closer towards the anti-prohibitionist model, while Germany still leans in the direction of the prohibitionist model. To determine the effects of these

policy stances on drug use, the statistics from the EMCDDA measures the lifetime prevalence of cannabis and cocaine use among the entire adult population (15-64) and the young adult population (15-34). These are measured as percentages of the population that have had an experience with cannabis or cocaine from general population surveys of drug use.

Figure 2



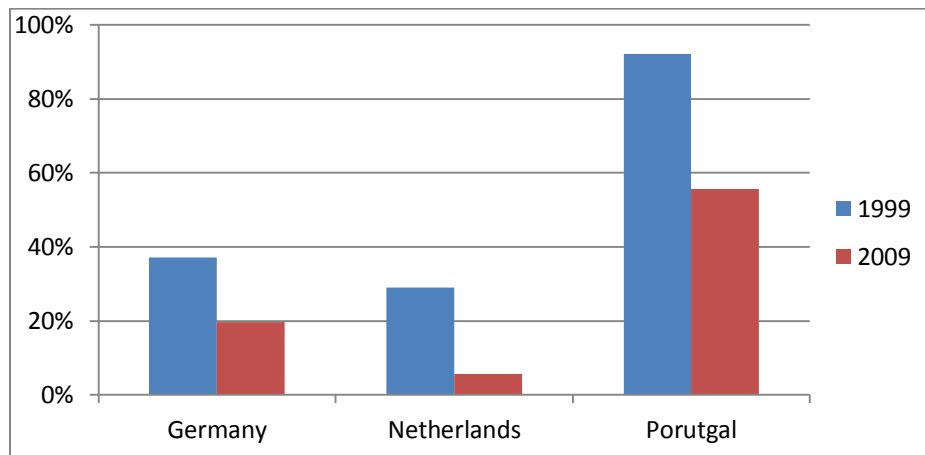
Source: European Monitoring Centre for Drugs and Drug Addiction

Portugal has the lowest rate of cannabis and cocaine use in for both all adults and the more venerable young adult group. Germany and the Netherlands both reported that lifetime prevalence among young adults for cannabis was 38.5% and 32.3% respectively. However, in Portugal, that rate drops to 17%. Even when the total adult population is taken into account, Germany and the Netherlands measure 25.6% and 22.6% respectively, while Portugal's drops down to 11.7%.

In terms of dealing with heroin users, considering the drug is considered the most addictive and negative in terms of health problems, all three of the countries in this paper place

emphasis on placing users into treatment. In terms of sending first time users into treatment, Portugal has seen massive decreases since initial stages of decriminalization. The EMCDDA has records of the rates of new heroin clients (patients) by country and year of treatment. In 1999, Portugal had 92.2% new clients for heroin use in treatment, and by 2009 that number had dropped to 55.7%. In that same time frame, Germany has dropped from 37.1% to 19.6% first time users entering treatment. The Netherlands, again in the same time frame, dropped from 29% to 5.6%. These numbers indicate that increased investment in treatment instead of criminal sanctions has resulted in large drops of heroin use in all three countries.

Figure 3



Source: European Monitoring Centre for Drugs and Drug Addiction

As presented above in figure 3, dealing with heroin with harm reduction strategies, including strong emphasis on prevention at an early age, has resulted in lower amounts of first time heroin users entering treatment. As a key part of curbing the use of illicit drugs, particularly heroin abuse, Germany, Portugal and the Netherlands have been successful in placing offenders in treatment instead of facing criminal sanctions.

Conclusion

The problem that is illicit drug use has been on the minds of governments since the very early days of urbanization. After years of placing heavy criminal penalties on simple possession, members of the European Union began a shift towards removing the criminal attachments to drug use and focused efforts on prevention and treatment for drug users. In the years since such policies have taken place, countries such as Portugal have seen astounding success in lowering the amount the illicit drug users and related social ills that follow.

Portugal's model in particular has received much praise from researchers as a bold solution to dealing with an age old problem. Although the Netherlands has had problems related to trafficking through major ports and drug tourism, the focus on hard drugs while essentially leaving possession of cannabis a low priority of law enforcement has resulted in gains curbing the use of hard illicit substances. Germany, while still criminalizing possession, has gradually moved towards greater discretion of prosecutors to not press charges while placing more emphasis on treatment for drug users.

Despite differences in population, governments and local conditions, these three countries have embraced harm reduction strategies, with support with the European Union to monitor specific policies and their effect on illicit drug usage. In time, more research will be required to see if Portugal's policy of decriminalization will continue to be successful, and whether or not their model will be embraced by the other members of the European Union. Even in the face of potential austerity in the wake of the European financial crisis, the successful results of harm reduction strategies are worth the initial investment, and will most likely be continued well into the future.

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