

Drug policy and criminology synergies: theory, quants, and praxis

Multi-disciplinary presentations at the European Society of Criminology annual meeting

Budapest, September 2013
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Several sessions on drug related themes, combining about 15 separate presentations, at the European Society of Criminology Conference were an interesting mixture of normative theory and careful empirical studies. The empirical papers, most of which were comparative, time series and quantitative studies of enforcement and use prevalence, provided convincing evidence that current prohibition policies across all countries are both ineffective and harmful. Conversely, nations and municipalities that have decriminalized some substances for personal use are not seeing higher rates of drug use and are experiencing fewer social harms. Which begs the normative question, why do these ineffective, expensive policies continue in so many places in the face of convincing evidence that they don't reduce consumption, generate multiple human rights violations, and compromise public health? This report highlights a few of the panel presentations that addressed the question from different angles and provided new evidence for rational drug policy advocacy.

Dr. Alex Stevens, University of Kent criminologist and ISSDP* board member chaired the first panel on the first day, entitled "Drug Decriminalization rights, progress, and effects." My presentation, which addressed criminalization and the *clash* of rights, came first. Wearing my international political theory hat, I discussed the basic requirement that law be publicly debated and promulgated in order to be legitimate. Beginning with a quote from Michel Foucault, "Everything is dangerous...the ethical and political choice we have to make every day is to determine which is the main danger," I argued that the ethical and political policy choice on the agendas of many governments is between the harms of prohibiting "drug" use and the harms of the drugs themselves. The choice to prohibit has generated multiple human rights violations perpetuated in the name of an illegitimate "stealth" human right to be drug free, imposition of which results, by definition, in "despotism". The INCB † identified this unpromulgated so-called right that is the subtext of the drug control regime in its 1994 Annual Report:

Protecting the wellbeing of individual and society is the purpose of prohibiting the non-medical use of drugs, which is certainly not an attempt to limit human rights. . . The prevention of drug abuse problems by means of national and international control ... can be regarded as a basic human right of the individual and society."

* International Society for the Study of Drug Policy

† International Narcotics Control Board

Although the international community has never ratified a human right to be free from “drug abuse problems,” The Single Convention on Narcotic Drugs and transnational drug control “machinery” obliges States Parties to impose this human right on communities and individuals, illegitimately trumping both their own domestic law and the lawfully promulgated human rights in the UDHR[‡] and other covenants. I suggested that evidence based, committed *conversations* – the dynamic process of engaged dialogue –conducted at conferences, in meetings at all levels from community to transnational, journal publications, and public forums of all sorts – can alter the distorted *command* structures and policies created by the regime and subvert despotism.

What is really key is that this conversation about ethical life, and the ethics of our global world, be relentlessly participatory and open; polyphonous to the extent that when people are left out, the conversation falls short of what might be thought of as accurate attunement or alignment with the maximum public good. This can be roughly defined as the realization and protection of the inherent right of the individual to her freedom, not as the achievement of some utopic unrealizable communitarian end such as a “drug free world.” Such conversations demand that scholars as well as policy makers attend, in particular, to the voices of young people who are affected by the drug control regime, prisoners, injection drug users, sex workers, and law enforcement personnel, among many others.

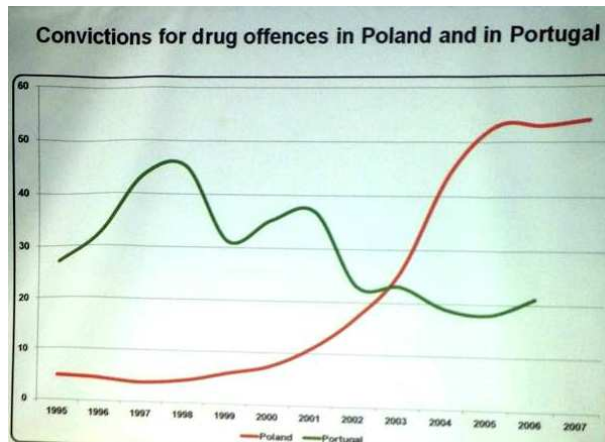
Empirical Studies

Niamh Eastwood, a non-practising barrister and Executive Director of Release, a UK drug policy NGO, discussed the implementation of drug decriminalisation models across the globe. In Eastwood’s words, implementation of decriminalization of possession in and of itself is not sufficient to reduce the harmful effects of restrictive drug policies. Governments have to ensure that the model applied is meaningful, and has the desired impact, which is to divert people away from the criminal justice system. This is achieved through the determination and application of realistic threshold quantities of a level that will incorporate most recreational use situations and also recognizes the increased consumption of problematic drug users. Anything just above that should not be immediately construed as trafficking. Quantities should be merely a factor in the decisionmaking process rather than determinant in their own right such that the process should depend less on strict liability and more on circumstantial evidence. And as she stressed, not all drug use is a public health issue.

Decriminalization should be implemented as part of a public health and educational approach involving administrative rather than criminal sanctions. Eastwood cited a Release study looking at prevalence rates in 21 UK jurisdictions that had decriminalized drug possession (“[A Quiet Revolution: Drug Decriminalization Policies in Practice Across the Globe](#) ”), which showed no significant increases in use. One of the major benefits of decriminalization is that individuals caught in possession will not have a criminal record,

[‡] Universal Declaration of Human Rights

which Australian studies show result in adverse employment, relationship and housing outcomes.



An interesting study from Russia revealed that increasing threshold levels for cannabis and heroin in 2004 resulted in 40,000 previously convicted people being released or their sentences reduced, and an estimated 60,000 people avoiding criminal prosecution. The poster child for decriminalization is, of course, Portugal, where enforcement has focused on traffickers rather than users. The Portuguese experience is showing that

drug use doesn't increase when possession is decriminalized in a policy context that is also committed to improving public health outcomes.[§] Another case in point is the Czech Republic, where a government cost-benefit analysis of drug control policy revealing that tough, expensive enforcement did not decrease use prevalence, resulted in an overhaul that produced the current rational policies.

Krzysztof Krajewski, Chair of Criminology at the Jagiellonian University in Krakow compared prevalence rates under the diametrically different Portuguese and Polish drug policies. He began by discussing the purposes of punishment, which are generally taken to be either retribution or deterrence, although in practice both are combined. In the case of drug policy, retribution is "completely senseless," meaning that the only purpose reason for punishing drug use is deterrence. In other words, the rationale of prohibitionist drug policies that use punishment as a tool, is to deter users and reduce consumption. Krajewski argued that it is of crucial importance for the legitimacy of these policies to check whether criminal law is able to perform this function efficiently when it comes to drug use. Politicians usually assume that enforcing drug laws has this "deterrent" effect and that prohibition impacts peoples' decisions to use or refrain, leading them to oppose legalisation or depenalization, which would "send the wrong message" and have a "negative effect", weakening the mechanisms that prevent people from using drugs.

A look at the data comparing arrests and prevalence rates under current Polish and Portuguese drug policies shows that tough enforcement not only does not depress prevalence rates but that prevalence rates in a country that has decriminalized drug use mirrors those in a country that has intensified prohibition. Since 2000, the Polish police have vigorously enforced criminalization of cannabis possession, whereas in 2001 Portugal depenalised possession in concert with a spectrum of public health measures that resulted in a drop in prevalence rates.

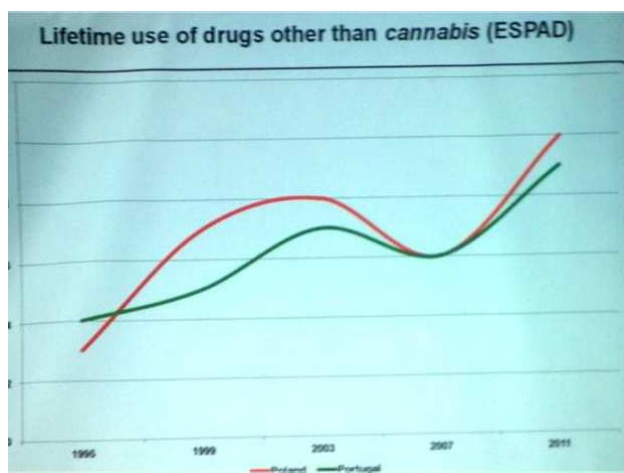
[§] See Stevens, A. (2011), *Drugs Crime and Public Health: The Political Economy of Drug Policy* [16], London: Routledge.

Krajewski's independent variable was intensity of drug law enforcement and his dependent variable was prevalence of drug use. Data sources were the registered drug offenses rate, including use related offenses and ESPAD data, which involves young people and measures drug use prevalence. As expected, convictions for use and possession, as opposed to trafficking offences went up in Poland by 90% after the introduction of vigorous enforcement policies. Although there was a "huge increase" in number of juveniles arrested in Poland, there was no corresponding decrease in consumption and the measure of perceived availability of cannabis in Poland actually rose.

Professor Krajewski concluded that the impact of changes in drug laws – decriminalization in Portugal and harsh enforcement in Poland – on consumption was insignificant, and that prevalence of drug use has its own logic that is independent of law and punishment.

<http://idpc.net/publications/2013/05/ithe-drug-policy-reform-in-the-americas>

In sum, there is no direct simple causal relation between restrictiveness of drug laws and intensity of law enforcement on the one hand and successful prevention of drug use on the other. The study is available in Krajewski, Krsysztof, "The Tale of Two Drug Policy Approaches: Polish and Portuguese Drug Policies During 2000s and Their Effects" in A. Kuhn et. al (eds) *Criminology, Criminal Policy, and Criminal Law in an International Perspective: Essays in Honor of Martin Killias on his 65th Birthday*, Stämpfli Verlag, Berne (2013)



Dr. Alex Stevens' presentation "Social bias in the policing of drug users in the UK and Australia? Findings from the Global Drug Use Survey" based on a study conducted with Martin Ridout, Adam Winstock, Monica Barratt and Simon Lenton also asked the basic questions, does criminalization work and does drug policing deter use? Is criminalization just, proportionate to the harms of drug use? Is it fairly and proportionally applied to drug users, and which drug users are most likely to experience police contact? Stevens' theoretical framework, which the study supported, was that criminalization persists because it reproduces inequalities in power.

Using the Global Drug Survey, a global, online self-selection survey, completed by over 11,000 people in the UK and Australia, Stevens et al concluded that, even among this sample of drug users, police contact is experienced by small minorities. And even when the police search these users while they are in possession, they find the drugs in only a

minority of cases. Moreover, there is clear disproportionality by income, age, sex (and ethnicity in Australia) in police contact rates, even when taking into account respondents' drug use patterns.

The more socially privileged groups of drug users consistently received *less* police attention in both countries, and the unemployed in Australia had more police contact. Drug dependence did not have a predictive impact on police behavior, but in the UK the numbers showed clearly that police were targeting people more often if they were low income, a pattern that was slightly less clear in Australia. Stevens concluded that it is not the offense that is being targeted, but the person, supporting the theory that criminalization persists because it reflects and reproduces unequal power relations.



This conclusion enriches Krajewski's premise that state punishment theories are *officially* legitimated by their retributive or deterrent utility, both of which are negative in the case of drug policy. If indeed harsh drug policies reproduce power relations rather than successfully inhibit drug use in service of the "stealth" human right to be drug *free*, only multi-layered inclusive conversations and praxis that reconfigure power relations themselves will bring about the policies' demise.

Praxis

Joanna Imad, a psychologist and psychotherapist at the Association Justice et Miséricorde** (AJEM), a Beirut NGO, gave an inspiring presentation on her harm reduction work in Lebanese prisons with a multidisciplinary team including criminologists, social workers, and clinicians led by AJEM founder Antonin priest Père Hody Aya. Founded 20 years ago to support and promote the rights of inmates, refugees and victims of torture, AJEM

** Association for Justice and Mercy

develops and implements rehab programs in the Central Prison, where 33% of inmates are in for drug crimes, mainly possession. Penal policy in Lebanon represents what Imad calls a “pro-harm” environment, generating high risks of transmitted and contagious diseases through shared needles, MSM^{††}, and unsanitary conditions. Through the work of AJEM, 560 prisoners have registered for OST^{‡‡}, guards are being trained, and inmates are given basic hygiene kits and condoms. Although there are no new HIV/AIDS cases, the HCV^{§§} prevalence rate is 33%. AJEM has managed to install a treatment center at the prison based on the Canadian model and does both pre- and post- prison interventions and support in the public schools and for families of inmates.

Working in the context of a government policy that believes the purpose of prison is punishment and security rather than rehabilitation, AJEM takes what Imad called an “ecological systems” approach to its work, the broadest context being the multiplicity of Lebanese religious and cultural values. Père Aya has founded a council (Ensemble pour l’Homme)^{***} representing all seventeen religious denominations in Lebanon to address issues of harm reduction and support for human rights violations both in and out of prison. These include Sunni and Shiite leaders, representatives of the Druze and Orthodox communities, as well as Christian and Jewish prelates and rabbis. Although there were initially many tensions among the members of this new NGO, they have settled on a strategy to register as a “secular” organization with the Ministry of the Interior and have agreed to confine their discussions to humanitarian issues, staying completely away from religion. Once they identify what their traditions say about justice and mercy in humanitarian situations, they find they have much in common and can work together to provide harm reduction services and advocate for vulnerable populations.

Space prevents more detailed exposition about some of the other informative panel presentations, such as Ian Hamilton’s (York University) talk on increased hospitalizations for “cannabis psychosis” following the drug’s reclassification from a class C to a class B drug, and Marianne van Ooyen Houben’s work on the effects of stricter coffee shop regulations in the Netherlands. Also noteworthy were Camille Stengel’s and Roos de Wildt’s works in progress on harm reduction and the ethics of conducting research with sex workers in Hungary and Kosovo respectively, and Bertrand Fincoeur’s research on doping in Belgian and French cycling. Julie Tieberghien’s presentation on public criminology and the science -drug policy debate, Ciska Wittouck’s work on the Ghent drug treatment courts, and Lina Beauchesne’s critical discussion of impaired driving penalties in Canada provided fascinating glimpses into other (largely ineffective) domestic attempts to manage the politics and harms of drug use.

The drug policy panels at the 2013 Eurcrim conference bore out Alex Stevens’ observation that criminology and drug policy researchers have great synergy and much to contribute to one another’s disciplines. Swedish criminologist Henrik Tham suggested to Alex Stevens after the first panel on Decriminalization that the Eurcrim board would

†† Men having sex with men

‡‡ Opioid substitution therapy

§§ Hepatitis C Virus

*** Together for Humanity

certainly entertain a suggestion for a plenary on drug policy at next year's conference. Stay tuned! Mutually informative normative and empirical studies such as those presented at the conference provide social movements with the evidence-based arguments they need to convince policy makers to engage in the transformative conversations necessary to dismantle the systems that stigmatize and marginalize the most vulnerable among us at our collective expense.

Resources

- The Eurcrim program can be found at:
http://www.eurocrim2013.com/pdf/eurocrim2013_finalprogram.pdf
- For more information on ISSDP, see their website at: <http://www.issdp.org>
- The call for papers at the 2014 ISSDP conference in Rome is at:
<http://www.cibb.uniroma2.it/index.php/ct-menu-item-28?id=32>