

The Relationship Between Drug Policy and Drug Use within the Populations of the United States and Portugal:

A Comparative Analysis

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Historically, drug policy in the United States has taken the approach of criminalization, relying on laws, law enforcement, and the judicial system, to handle matters pertaining to drug manufacturing, trafficking, and personal use. This approach has gained steam since the inception of the War on Drugs in 1971, and the beginning of the drug scheduling system implemented during the Nixon Administration. Since, federal funding has exponentially increased, while various laws have been put in place to thwart the use of drugs, consequently criminalizing, and often incarcerating those who use them. These laws, as a result, turn every citizen who uses these drugs into a criminal by definition, leaving the judicial system to handle drug users within the population. Rather than acknowledging the failure of the War on Drugs, and accepting the current medical science that suggests the benefits of a medical approach to treating drug abuse, the United States continues its system of mass incarceration, essentially sweeping the problem under the rug like the dirt in ones' home that nobody can be bothered with.

As a result, drug abuse remains a costly problem in America today, particularly as the Opioid epidemic shows no signs of slowing down, while other countries are taking new approaches to address their population's problematic drug use. In Portugal, drug policy has been successfully aligned with the current medical science that recognizes addiction as a disease by decriminalizing the personal use of all drugs, and opening pathways for better education, harm-

reduction, treatment, and reintegration programs. Through this article, it will become evident that the American drug war is a failure, and money is being wasted in epic proportions without much to show for it in regards to addressing the population's drug use. Furthermore, because of the current laws, addicts struggle to find the help they need, and are often caught in a never-ending criminal cycle. This research will show how America's hard stance of criminalization has negatively impacted society, while failing to address the initial concern of drug use and abuse. Additionally, this article will also analyze the general policy approach in Portugal, both before and after their 2001 policy that decriminalized all drugs, and the effects it has had within their population. This comparative analysis will help provide insight into the relationship between a country's drug policy, and their population's drug use, in order to determine what kinds of policies and approaches may better suit America in addressing internal issues pertaining to drug use within the population.

First and foremost, it is important to look at the medical side of addiction to explain why a medical approach is the most effective. Ultimately, it boils down to whether or not there is something biologically or chemically different in the addict that separates them from a normal human being. The American Psychiatric Association, which now recognizes addiction as a psychiatric disorder, defines addiction as "the persistence of drug use despite aversive consequences," and includes "substance use disorder," along with "addictive disorders," in the DSM V.¹ This, however, has not always been the case, and a great deal of people still view addiction as nothing more than a moral weakness and criminal behavior.

Roughly a century ago, something called "the disease model," entered the medical world. In the simplest terms, this model shows how an ailment within the human body will lead to

¹ Diagnostic and Statistical Manual of Mental Disorders: DSM V. 2013.

symptoms. Initially, doctors could find no way to fit addiction into the disease model, so it fell to the wayside, leaving only the criminal justice system to handle the symptoms exhibited by addicts. Recently, however, there have been massive strides in neuroscience research, and how brain chemistry and addiction are related. Essentially, people who develop addictions handle stress differently, and the release of dopamine from drugs eliminates this stress. The brain then recognizes the drug and its effects as a survival mechanism.² This new discovery allows for the application of addiction into the disease model, as the addict's brain is recognizably different from that of a normal person, causing symptoms of repeated drug use despite bad consequences (since the drug is recognized as being necessary for survival and prioritized over everything else).³ This brief explanation helps set the foundation for the argument that problematic drug use within a population is better handled within the medical community, then it is within the criminal justice system, since addiction is a medical illness. The emerging science behind addiction and drug use, as noted earlier, suggests that, while still not fully understood, addicts are not bad people lacking moral fiber who need the criminal justice system to reprimand them, but sick people who need medical treatment to get well in order to reenter society as productive, law abiding citizens.

Having established the known medical side of addiction and drug use, attention can be focused on the historical repercussions of America's drug policies over the years. Recent research from the pro-reform Drug Policy Alliance "estimates that when you combine state and local spending on everything from drug-related arrests to prison, the total cost adds up to at least \$51 billion per year. Over four decades... American taxpayers have dished out [over] \$1 trillion

² McVay, Doug, Vincent Schiraldi, and Jason Ziedenberg. "Treatment or Incarceration." Justice Policy Institute. January 2004.

³ McCauley, Kevin T. "Is Addiction Really a Disease." Texas Bar Journal. July 2004.

on the drug war.”⁴ A simple search on the internet will show that keeping an inmate in jail for one year generally costs anywhere between \$30,000-\$65,000, depending on the state.⁵ The costs of rehabs are difficult to average at this time, given the disparity between private, and even state funded, facilities. Currently, most are private rehabilitation centers, which can cater to any demographic. In turn, rehabs can range from relatively inexpensive, to luxurious centers most cannot afford. Even still, rehabilitation can already be more affordable than incarceration. A study published in the *Journal of Substance Abuse Treatment* showed that methadone maintenance costs between \$87-\$112 a week (\$4,524-\$5,824 a year).⁶ Though many feel medically assisted treatment isn’t the best route, it is still a recognized treatment option. However, the preferred inpatient treatment centers can be affordable as well, with their study estimating average costs between \$607 and \$918 a week⁷. Additionally, “every \$1 invested in

⁴ Sledge, Matt. "The Drug War And Mass Incarceration By The Numbers." The Huffington Post. December 07, 2017. https://www.huffingtonpost.com/2013/04/08/drug-war-mass-incarceration_n_3034310.html.

⁵ Henrichson, Christian, and Ruth Delaney. "The Price of Prisons: What Incarceration Costs Taxpayers." Vera Institute of Justice. February 2012. Rough figures were given because of the disparity between state prisons. The Vera study found that, over a 40 state analysis, the average cost per inmate for one year was \$31,286. New York State was the highest, at \$60,000 per inmate, with New York City’s jails costing as much as \$167,731.

⁶ French, Michael T., Ioana Popovici, and Lauren Tapsell. "The Economic Costs of Substance Abuse Treatment: Updated Estimates and Cost Bands for Program Assessment and Reimbursement." *Journal of Substance Abuse Treatment* 35, no. 4 (2008): 462-69. doi:10.1016/j.jsat.2007.12.008.

⁷ Ibid. This breaks down to an average of \$31,564 to \$47,736, which is roughly in the range of the yearly cost per incarcerated inmate. What is more important, however, is that, while one year stays aren’t unheard of, most effective inpatient programs typically do 1, 3 or 6 month stays, drastically cutting the costs per client in comparison to housing an inmate for a year in prison. This demonstrates that comprehensive federal, or state run, programs are already at least *as* cost effective, and could be made even more affordable with proper reform.

addiction treatment programs yields a return of between \$4 and \$7 in reduced drug-related crime, criminal justice costs, and theft alone.”⁸

Today, over fifty percent of the inmates in American jail systems are there for non-violent drug offenses.⁹ This doesn't even include those who are there for associated crimes that were driven by their addiction (i.e. Stealing to get money for drugs, etc.). The population of these jail systems has also gone up over 700% since 1980, which is right around the time the war on drugs went into full effect.¹⁰ As a result, our jails are overcrowded, and more and more tax money is being spent housing inmates. The problem is, over half of these people are only criminals because of current laws that can make small possession for personal use of any scheduled narcotic (ranging from marijuana, cocaine, to heroin) a felony carrying a prison sentence. Were they decriminalized, as in Portugal, they would be classified not as criminals, but as people with substance use disorders in need medical help. Incriminating them is no different then the lobotomies performed on alcoholics who were kicked away from society a hundred years ago. It is avoiding the problem rather than addressing and correcting it. Once alcohol become legal, it opened up the doors to treat alcoholics, rather than imprison them. Similarly, with tobacco being legal, smokers don't have to fear the law. If they were to want help quitting this addictive substance, it is readily and legally available. This also allows proper education and scientific research, which is likely to explain the global decline in cigarette smoking over the years, despite the drug being legal. The only thing that separates an addict from an alcoholic, or

⁸ "6: Cost Effectiveness of Drug Treatment." National Institute on Drug Abuse. February 2016. <https://www.drugabuse.gov/publications/teaching-packets/understanding-drug-abuse-addiction/section-iv/6-cost-effectiveness-drug-treatment>.

⁹ Henrichson, Delaney,. “The Price of Prisons.”

¹⁰ Ibid.

tobacco smoker, is the law, and there should be no laws in place that would prevent someone with a psychiatric disorder from getting the help they need for a treatable condition.

This also leads to the taxpayers, who are often the first ones to decry a policy that centers on rehabilitation, as they are under the impression it is more expensive, and they shouldn't have to foot the bill for someone they feel made decisions that got them addicted¹¹. As a result, tax money is being spent enforcing criminal laws, running addicts through the criminal justice system, and paying for their time as incarcerated persons; when instead, they could get treatment, which is generally cheaper, and more effective. When an addict is released from prison, they are no better off than when they first entered it. It is reasonable to argue that, with a newfound criminal-record, they are actually worse off, and less fit to rejoin society as productive members. If the money were instead spent on their rehabilitation, they could get well and rejoin society, becoming working, taxpaying citizens themselves. This simple graph (Figure 1, shown at end) comparing the amount of money spent on drug control in the United States versus the overall addiction rate clearly demonstrates the inefficacy of the drug war, and displays that funneling money into a system that uses criminalization to discourage drug use has ultimately had, at best, marginal results in affecting overall drug use. Ultimately, the efforts were failing, as prison populations skyrocketed, federal and state funding increased in epic proportions, and yet, drug use and addiction rates stayed, generally, in the same channel.

In 2001, Portugal came to this realization, recognizing that overall drug use typically remained relatively constant over time regardless of efforts to seize illegal narcotics, and

¹¹ Interestingly enough, plenty of treatable diseases, which generally have no attached stigma, are brought on by a combination of lifestyle choices, and genetics, just like addiction. I.e. Heart disease, diabetes, obesity, HIV/AIDS, STDs, etc. which are all treatable diseases that are brought on, in part, by lifestyle choices, but very few people think we should deny them treatment in favor of punishment.

incarcerating all those associated (from users to traffickers). Acknowledging that drug use, and addiction, appeared to be a constant issue that affected nearly all societies to some extent throughout history, they decided to instead focus on how to best minimize the negative social and economic effects of drug use and rehabilitate users, rather than formulate an elusive policy that would eradicate, or drastically reduce drug use. The policy shift came in 2001, after Portugal suffered a rise in problematic heroin use in their country in the nineties. While overall use was relatively similar to the rest of other European Union nations, they had a significant “problem population,” of IV heroin users, resulting in an exponential increase in overdose deaths, and spread of HIV and AIDS, among other issues. In the nineties, recognizing this problem, they decided to take an even more American-centric approach, further criminalizing their users. Ultimately, overdose rates and other related metrics continues to worsen.¹² Ultimately, they assembled a panel of experts, largely medical professionals, to come up with a plan to resolve the matter. They determined the best method would be to decriminalize the personal use of all drugs, and focus on treatment, and reintegration programs, to help addicts recover, and reenter society as productive members.

“Five years after abolishing criminal penalties for personal possession of drugs, more Portuguese are seeking treatment for their addictions, rates of HIV infections from shared needles have decreased and drug use overall has declined.”¹³ This isn’t exclusive to Portugal, either. Other programs, like drug courts in the United States, where offenders plead guilty but enter residential rehab instead of a prison sentence, have also proven successful. In Brooklyn,

¹² Hughes, Caitlin Elizabeth, and Alex Stevens. "WHAT CAN WE LEARN FROM THE PORTUGUESE DECRIMINALIZATION OF ILLICIT DRUGS?" *The British Journal of Criminology* 50, no. 6 (2010): 999-1022.

¹³ McCray, Rebecca. "Treating Addiction as a Disease, Not a Crime." American Civil Liberties Union. April 26, 2015. <https://www.aclu.org/blog/mass-incarceration/treating-addiction-disease-not-crime>.

those who entered and completed the long-term program have an arrest rate that is twenty-six percent lower than those who served a same length prison sentence.¹⁴ These programs, however, are not widespread, and operate on a state-by-state case. Federally, the United States government is still largely reliant on the policies that came about during the formative years of the Drug War. This evidence proves that punishing addicts for their actions is not nearly as effective as proper treatment that actually addresses the root cause of why addicts use. More importantly, in Portugal, it doesn't end after the patient is physically not addicted. They remain in programs, particularly reintegration programs, which help them get established back into society, building personal connections, finding work, going back to school, and generally, participating in things that bring back meaning and purpose to the recovering addicts life.¹⁵ It can be seen in Portugal, as well as in the limited cases in the United States.

A study published in the *British Journal of Criminology*, found that while, “Decriminalization of illicit drug use and possession does not appear to lead automatically to an increase in drug-related harms [which was an initial concern]... [nor] does it eliminate all drug-related problems... it may offer a model for other nations that wish to provide less punitive, more integrated and effective responses to drug use.”¹⁶ Their study found that, since 2001, Portugal's policy has resulted in a reduced illicit drug use among problematic users, reduced the burden on the criminal justice system, increased those looking to enter drug treatment, reduction in opiate-related disease as well as fatal overdose rates, along with an increase in the amount of

¹⁴ McVay, Doug, Vincent Schiraldi, and Jason Ziedenberg. "Treatment or Incarceration." Justice Policy Institute. January 2004.

¹⁵ Murkin, George. “Drug Decriminalisation in Portugal: setting the record straight.” Transform: Getting drugs under control. June 2014.

¹⁶ Hughes, Caitlin Elizabeth, and Alex Stevens. "WHAT CAN WE LEARN...

drugs seized by authorities, largely by focusing on large-volume traffickers.¹⁷ Furthermore, a study done in 2017 by the European Monitoring Centre for Drugs and Drug Addiction, found similar improvements. Portugal reported 1497 new HIV cases in 2000, at the height of the epidemic.¹⁸ This fell to about 500 in 2006, and continued to fall, reaching 44 by 2015.¹⁹ Further, overdose deaths dropped from over 90 in 2008 (which already marked a significant decline), to 40 in 2015.²⁰ These statistics should lessen the concerns of critics, like Timothy Hickman, who stated that “Tobacco delivers the legal drug nicotine and it is used by 30% of the global population. Alcohol is more popular still. These two relatively de-regulated drugs together cause around 7 million deaths per year, while illicit drugs cause only about 200,000”²¹ His argument, relying on a link between correlation and causation to show that legalizing and regulating substances correlates to more widespread use, is not only disproved by the results of Portugal’s relatively new policies, but fails to account for the fact that consumption of substances like alcohol and tobacco have been on a consistent decline over the years -- this has been attributed to the very fact that they are legal and regulated, allowing for proper implementation of scientific studies, publications on the known risks, proper education, and programs focused on harm-reduction and helping those addicted.²² The higher use of alcohol and tobacco compared to other illicit substances can be explained less by policies associated with the substances, and more by the cultural acceptance of alcohol and tobacco compared to illicit drugs. It also appears the

¹⁷ Ibid. 1017.

¹⁸ "Portugal Drug Report 2017." European Monitoring Centre for Drugs and Drug Addiction. 2017. http://www.emcdda.europa.eu/countries/drug-reports/2017/portugal_en.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Hickman, Timothy A. "Why Strict Drug Laws Work (and Why They Do Not)." Amsterdam Law Forum. <http://amsterdamlawforum.org/article/view/160/328>.

²² Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health. Substance Abuse and Mental Health Services Administration (SAMHSA). 2014.

methods of statistical analysis he employed greatly exaggerated the picture. The CDC reports that, on average, alcohol use leads to approximately 88,000 deaths annually in the United States, and tobacco leads to roughly 480,000 deaths per year, compared to roughly 63,000 deaths per year from illegal drug use.²³

One of the best approaches they've taken has been their focus on reintegrating addicts into society, and helping to curb the associated stigma. Portugal, since 2001, has been developing reintegration programs for addicts following successful completing of treatment. These programs vary in services, though some include offering small personal loans to addicts who may want to start a small business, or subsidizing the salary of an addict in recovery to any company that may hire them.²⁴ This helps keep addicts from being formally labeled as criminals, provides them effective medical treatment to overcome their addiction, and most importantly, reintegrate them into society, providing them with a sense of purpose and self worth, as productive members of society.

Ultimately, all of humanity will benefit when the standard approach becomes treating addiction medically, instead of punishing addicts through the criminal justice system. This will remain impossible until we can change the conversation in America, and minimize the stigma and ignorance that surrounds the issue. Since it is statistically evident that rehabilitation is far more effective and less expensive than incarceration, one can only speculate as to why America is so slow moving in this area. Many believe it has to do with the efforts of lobbyists, particularly

²³ "Alcohol and Public Health." Centers for Disease Control and Prevention. January 03, 2018.
<https://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>.

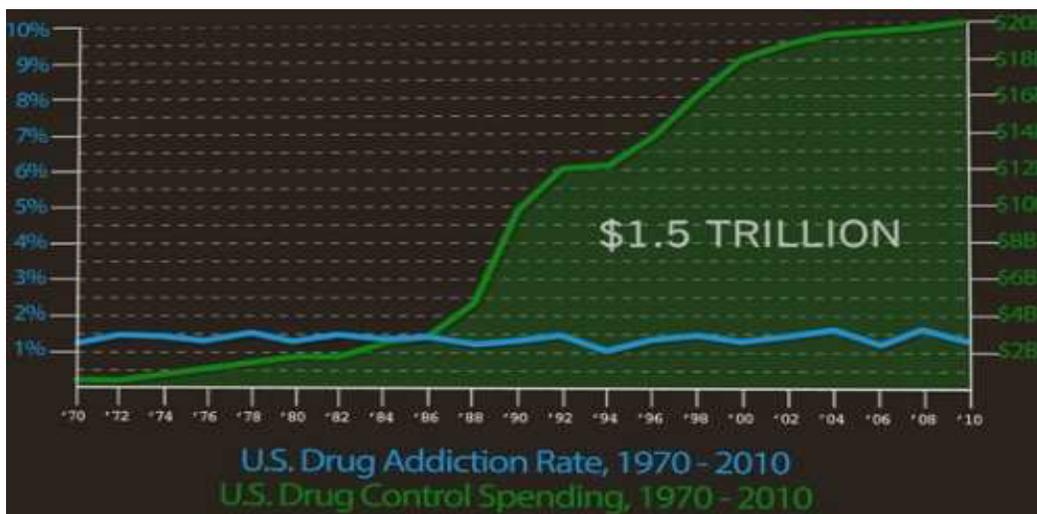
"Smoking & Tobacco Use." Centers for Disease Control and Prevention. February 20, 2018.
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm.

"Opioid Overdose." Centers for Disease Control and Prevention. December 19, 2017.
<https://www.cdc.gov/drugoverdose/data/statedeaths.html>.

²⁴ Hughes, Caitlin Elizabeth, and Alex Stevens. "WHAT CAN WE LEARN..."

from the private prison industry, general ignorance within the population and the stigmas associated with addiction, or the complex operations being funded, primarily through organizations like the DEA. Skeptics also have concerns, largely fearing a policy that may rely on some form of decriminalization or legalization for the potential effects it may have on increasing drug use (though Portugal has been a good example that decriminalization doesn't lead to massive surges in drug use), along with the effects it may have on cartels, organized crime, and associated violence.

This last note is an extremely important matter that was admittedly out of the scope of this research. However, many feel that similar policies, including universal legalization, would effectively address the issues surrounding organized crime and the black market (after all, alcohol prohibition lead to similar problems with violent, organized crime, only to be resolved after repealing prohibition and focusing on regulations and safety).²⁵ This comparative study between countries demonstrates that prohibition and criminalization is a costly and ineffective



²⁵ Jenner, Matthew S. "International Drug Trafficking: A Global Problem with a Domestic Solution." *Indiana Journal of Global Legal Studies* 18, no. 2 (2011): 901-27. doi:10.2979/indjglolegstu.18.2.901.

(Figure 1) 1.5 Trillion refers to the total sum of costs over the years, while the y-axis refers to yearly expenses

policy approach that not only fails to address a population's problematic drug use, but creates even more problems than those it failed to solve; while more liberal policies, like those seen in Portugal, are highly effective and more affordable, relying on decriminalization of the personal use of all drugs, with a focus on education, harm reduction, treatment, and reintegration programs to address the issues that come along with substance abuse.

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