

The decriminalization of drugs leads to the reduction of drug consumption

Iara Sebastián & Lucía González

Student paper for Ethical dilemmas in Human Rights Interdisciplinary at Hanze University of Applied Sciences

ABSTRACT

The reduction of drug consumption is wanted. Prevailing the actual consumption of drugs is undesirable because of the risk that it supposes towards the health and well-being of individuals that are surrounded by that reality. The decrease of substance use is supported by the principles regarding Human Rights, such as the right to autonomy, health, safety, or freedom. The decriminalization of drugs is necessary to achieve a successful and healthy process of reduction of drug consumption. This is why Decriminalization must be implemented.

Justification

‘Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity’ (WHO, 1946) This statement refers to the basis of the intention to promote Decriminalization as the hypothesis for the Reduction of Drug Consumption, which is supported by the Human Rights, such as health, social dignity, autonomy, etc. To begin with, decriminalization is a concept that addresses the eradication of the penalty for substance possession for consumption; maintaining the prohibition of distribution, sale, importation and levels of possession of drugs in a higher quantity as permitted. The search for a consumption reduction ought to lead to health and, therefore, an improved well-being socially; individually and collectively.

Description of the issue

To begin with, substance use is widespread in most of the cultures of the world, so it is a universal issue that ought to be addressed. Currently, the prohibitive system is the procedure that is applied the most, although it is observable that the issue of the relationship towards drugs persists. The Decriminalization measures addressed in the hypothesis should lead to the Reduction of Drug Consumption, as they are supported by facts.

Garzon Ardila (2014) investigates the use of decriminalization and palliative measures in Portugal. Since 2001, consumption stopped being criminalized which led to a decrease of the use of drugs, as well as the deaths and crime related with substances; making an improvement in the speed of the process in the justice system. It also decongested the penal system, being below the average of the countries of the European Union. With this appliance, substance users stopped

being treated like criminals and a wide range of programs of attention started working. Moreover, medical assistance was implemented in order to treat their health issues, such as the substitution of substances like heroin with methadone. In addition, Portugal reduced the spread of HIV and AIDS disease that happened because of needle-sharing, and now has the leader in least overdose mortality (as it is observable on the European Monitoring Centre for Drugs and Drug Addiction). This was a consequence of focusing on the health treatment instead of the penal one. Artur Domoslawski (2012) mentions that the palliative measure with drugs in Portugal is based on five pillars: the guarantee of access to a mitigating drug (and equipment), the comprehension that dependence is an illness, and the respect and the assurance of health attention. This country has not been a tourism center for drugs in spite of its laws because of politics. Moreover, prevalence rates for the youth have decreased in absolute terms since decriminalization, as we can see in the Figure 1 attached in the annex.

Furthermore, it is pertinent to mention other countries to also apply this kind of measure and one of them is the Netherlands. Uprimny Yepes (1995) expresses that the politic applied in the Netherlands, which is also palliative, reduces the harms and even has positive effects. The consumption did not increase and since 1977 marihuana and hash consumption has decreased, as well as the number of people who consume heroin which still prevails. To compare, it is perceivable that the example of prohibitive measures in Spain could be optimal for representing the failure, given the fact that it is the country of Europe with the most consumption of drugs per capita (according to the European Observatory of Drugs and Toxicomanies).

To sum up, alternative reforms do not cause as much harm as criminalization politics do. It is presented as an opportunity to face up the issue of the relationships towards drugs in an improved process. That is why the Public Health focus should lead so that Risk Reduction

Measures can accompany the transformation process. Nevertheless, it is essential to emphasize that, while the policies share specific Ends such as controlling consumption, preventing addiction, and reducing the link between crime and drug; they respond to unique realities. It would be needed to strike a balance between two imperatives: being simultaneously flexible enough (in terms of pricing and distribution rules) to prevent the spread of a parallel illegal market, yet severe enough to discourage abuses (Garzón Ardila, 2014).

Legal articles

The Universal Declaration of Human Rights reflects in its first article that all humans are born free and equal in dignity and rights. In addition, the declaration of Human Rights also expresses in the 3rd and 5th articles that everyone has the right to life, liberty, and security of person, as well as no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. It means that the fact of consumption doesn't mean that any person can be affected by criminalized measures in case it violates their Human Rights. In Portugal, the consumption and possession of drugs for own use has been decriminalized since 2001. It is based on Lei n° 30/2000 de 29 de Novembro.

The single convention of Narcotic Drugs of 1961 established a legal framework for the international control of psychotropic and narcotic substances, focusing on the regulation, production, and traffic of drugs.

Moreover, in 2009 a serial session of the Substances Commission took place to reduce the issue generated by drugs, they also defined the priorities and areas that required new measures, as well as the aims and objectives that should have been established.

Reasons

The use of palliative measures addresses the issues arising from drug-related problematics from a Public Health perspective rather than a criminal one, implying the treatment of addiction as a disease. It can be observed that prohibitionist measures did not result in a reduction in substance use. According to Hidalgo (2010), the prohibition of alcohol in the United States in 1993 led to a high level of smuggling, resulting in scarce quality controls and unsanitary conditions that caused the deaths of thousands of Americans due to intoxication and poisoning. Moreover, a 2008 survey regarding substance use among Americans brought up the fact that it is the country with the highest level of illegal cannabis and cocaine use in the world (Greenwald, 2009). Non-penalization safeguards Human Rights, as criminalization constitutes a violation of these, and all individuals must be protected and treated with respect regardless of the decisions they make as individuals.

Additionally, palliative measures encompass prevention and education programs aimed at addressing the underlying causes of the issue. Likewise, it has been contrasted that the primary obstacle to providing treatment to individuals struggling with addiction stemmed from the apprehension among addicts about potential arrest. The individuals' concern about the stigma associated with such allegations was significant, even without the prospect of imprisonment. For instance, the example of Colombia explains the issue in an illustrative way. Every young person can access drugs with penalization or without it, so the issue rests in the relationship with the conditions of illegality (threats, blackmails...) The punishment system lacks legitimacy, as Uprimny Yepes implies in 1995, as it came with corruption and abuse because of being unequal. That is why the intended purpose of the suggested hypothesis would be the defense of individual autonomy, to experience it according to the principle of equality and free personal development.

Ethics

Firstly, the reduction of drug consumption ought to be desirable given the fact that the Categorical Imperative is based on good will; which refers to a universalized intention of preservation for all individuals. It should also be a moral requirement to approach human dignity, appealing to Kant's work, as it is a duty based on reason and rightness of actions. Moreover, the maxim of the main affirmation relies on the following desirable universal law: reducing drug consumption to assure a better well-being of the population.

In regard to morality, it is observable that the basis of achieving wellness follows the Golden Rule of treating people as one would like to be treated. Thus, substance use should not affect the otherness, as it is privative, which makes the End morally permissible. The values are based on Human Rights; such as the assurance of autonomy, self-determination, dignity, freedom, or well-being of individuals, and also as a collective.

Subsequently, it is pertinent to bring up the fact that the Means appear to be contradictory with the End of the argument, supposing that the measures appear to promote consumption. Notwithstanding, Jeremy Bentham brought up the concept of Utilitarianism which expresses the Result of an Act as the real measure; emphasizing End over Means. Ensuring the well-being of the population addresses the Total Utility in every action of the process. The evidence, in addition, was previously contrasted in order to enlighten the intention of rightness as the Most Moral regarding the use of palliative methods for the reduction of drug use following a healthier (and happier) path. The Utility Principle supports this process, as it is observable, for instance; with the usefulness of the experiment in Portugal that had a positive effect collectively, as a consequence.

Henceforth, it is assumed that the argument is Normative, as it seeks to justify values and norms as much as it is relevant in the context of actuality in the society. Furthermore, the acts of depenalization are based on spreading wellness, for instance, by all the palliative methods that come with it, and the inherent eradication of the criminalization towards the individuals that use substances; which is a discrimination that causes risk. The social acceptance that is sought is based on reason and equality values, which are also prescriptive and can be addressed by the deontology of the laws that affect the state of the norms regarding drug consumption.

Dilemmas

The main moral dilemma may appeal to the possibility of the measures to lead to the unwanted effect ‘not reducing drug consumption.’ As Gamella affirms, drugs are an abstract topic, so none of the measures are guaranteed to work for every individual in the same way. Thereby, there are no dogmas applicable to the procedure of the reduction of substance use. Indeed, the most plausible evidence is basing the evidence on the positivist method, and the facts state that the effective feasible way leads to decriminalization. Still, the majority of countries use prohibition as the preferred system of control, even though Gamella (n.d) expresses the lack of logic in establishing penal laws, coercion, vigilance, persecution, and punishment as the regulation process regarding drug use, being in a democratic society.

Of course, the End can be achieved by other paths, such as the legalization of drugs in a certain state, which eliminates the corruption, crime and violence associated with the prohibitive system. (Hidalgo, 2010) The method includes the controlled dispensation of demanded or therapeutic substances by the state. Nevertheless, none of the options are perfect due to the fact that society is a changing concept forged by changing individuals, as it is reflected in the work ‘Inventing Human Rights’ by Lynn Hunt. Accordingly, some factors could emphasize the value

of the End by choosing decriminalization. For instance, measures of prevention, risk and harm reduction, treatment, reintegration to life in health and society or even commissions of dissuasion could be part of the alternative methods to accelerate the positive result that is searched, being based on Ejemplius (2022). Furthermore, programs of substitution of drugs would be crucial in the process. Anyway, the general intention of the population to improve and take care of themselves by achieving mutual agreements ought to be essential for the desired maxim (in regard to laws, social issues, relationships, education, systematic conducts...) The economy of the country should also participate in offering resources to improve the effectiveness. Conflict resolution ought to be effectuated through empathy and reciprocity.

Potential solution and a critical

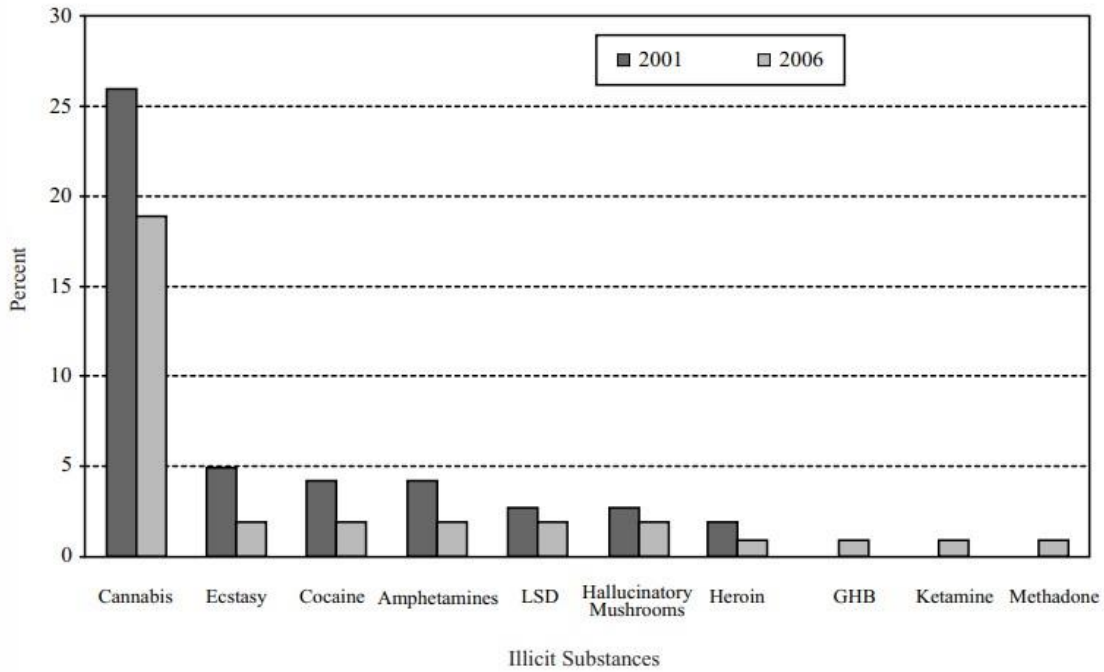
Foremost, it is convenient to address the modernist fallacy of the magic solution, as history shows the belief of a perfect status in regard to social relationships towards drugs; which has not been recorded to be achieved ever. Even so, the potential solution should consist of the implementation of decriminalization measures towards drug consumption being supported by palliative structures for a better relationship between the individual and the substance; such as primary prevention, healthcare networking, the guarantee for voluntary treatments and mechanisms for alternatives to the prison system, etc. The action of executing these measures that lead towards the intended End of reducing the risks in regard to production, sale, and consumption of substances, have to be supported by the state. Herewith, devices to discourage drug use may be adopted, as long as they are not punitive (Husak, 2003).

To conclude, it is observable that the hypothesis ought to be the most morally permissible given the facts that were previously exposed, for instance, the increase of safety by reducing the risks linked to the issue, the improvement of health by preventing the spread of illnesses or the dignification of life that comes with the harm reduction measures. It is equally supported by the fact that ‘The need for new laws [in regard to drug consumption] is a matter of correcting a social injustice.’ (Hakique, 2019), which refers to the SDGs of Reducing Inequality, as well as Good Health and Well-Being. Of course, the issue which would still persist would be the one of the structural gaps of the sociopolitical system of basis, which is why some questions ought to be brought up in order to be able to eradicate the issue of the relationship with substances that the society has. For instance, there could be critics about the penal system and the way it is structured, as the punitive system does not seem to be reintegrating people successfully and, instead, it is observable that there is a major exclusion alluding to the ‘punished’. It would be needed to rethink the measures of power and repression in order to achieve a recovery of the individuals and a successful insertion in society.

APPENDIX

Figure 1:

National Investigation in School Environment, 2001 and 2006, Secondary (10th, 11th, and 12th years), Portugal, Prevalence Over Entire Life



Source: Instituto da Droga e da Toxicoddependência de Portugal, Draft 2007 Annual Report, slide 14.

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