

What would it look like if Canada decriminalized all the drugs?

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Toronto, Montreal and Vancouver have now united in their call for Ottawa to decriminalize all hard drugs. They join a growing chorus of activists and health agencies, including the Canadian Public Health Association.

Among this pro-decriminalization camp, there is one word that is mentioned constantly: Portugal, the country that pioneered across-the-board drug decriminalization in 2001.

So what does life look like in Portugal, the new poster boy for global drug reform? Below, a quick guide to what decriminalization has done for Portugal, and what it hasn't.

The Portuguese black market remains, drug traffickers are still jailed

Portugal has not legalized drugs. Far from it. In fact, selling marijuana, a soon-to-be-legal activity in Canada, can still result in a lengthy term in a Portuguese jail. When the country decriminalized drug possession in 2001, it only did so for drugs intended for “individual consumption.” Anyone caught with more than a 10 days’ supply of drugs is still regarded as a trafficker and criminally prosecuted. In 2010, roughly one fifth of the country’s prison population was put there by a trafficking conviction. Portugal also has a blanket ban on the cultivation of drugs, even if it’s merely a personal cannabis plant. “A drug consumer must necessarily rely on the illicit market to obtain drugs,” noted a 2015 report in the journal Law & Social Inquiry. The country has also lagged considerably behind much of the western world in approving medical marijuana. It was only two months ago, in fact, that Portugal passed its first-ever bill authorizing cannabis for medical use.

Drug use did not skyrocket after decriminalization

This is easily the Portuguese fact most cited by drug reform advocates: Despite fears that decriminalization would enshrine Portugal as a needle-strewn haven for drug tourism, this worst case scenario has not come to pass. In fact, recorded drug use has gone down in certain key categories, including among young people and injection drug users. “There is essentially no relationship between the punitiveness of a country’s drug laws and its rates of drug use,” wrote the drug reform think tank Transform in an analysis of Portuguese drug use data. Another pre-reform charge was that decriminalization would cause drug prices to drop and consumption to increase. Nevertheless, a recent Portuguese analysis concluded that, if anything, drug prices had gone up following the 2001 reform. “This failure of prices to decrease may be explained by the boost in resources available to fight drug trafficking,” it wrote.

Portuguese addicts still face strict legal sanctions

In Canada, most forms of motor vehicle violations are technically decriminalized. Speeding or running a stop sign will get you in trouble with the law, but it usually won't get you arrested or jailed. Drug use is treated much the same in Portugal. If a police officer catches someone shooting heroin, that drug user is given 72 hours to appear before something known as the "Commission for Dissuasion of Drug Addicts." Consisting of two medical professionals and one person with a legal background, this commission then interrogates the drug user to determine the extent of their addiction and to recommend treatment. The committee can even impose penalties, such as fines, community service, denial of public benefits or even orders to avoid certain people and places. Meanwhile, Portuguese police are still authorized to seize drugs, and even to detain addicts to ensure their appearance before a dissuasion committee.

Deaths and infection rates are down

Portugal hasn't done a stellar job of keeping statistics on overdose deaths, particularly in the years prior to 2001. Nevertheless, experts are generally in agreement that their drug policy has kept more people alive and prevented many others from getting bloodborne infections such as HIV. In 2001, 80 people died in Portugal from what physicians determined to be a drug-related death. By 2012, that number was down to 16. New HIV cases recorded among injection drug users are also way down, from 1,016 in 2001 to 56 in 2012. With fewer drug users in jail, there has also been a measurable reduction in pressure on the Portuguese justice system. To be sure, Portugal's rate of "problem drug users" (essentially; heroin, cocaine and meth addicts) is still about average for Europe, but it's shown modest declines from where it was.

Even Portugal doesn't know how much to credit decriminalization

"I have no magical insight for it," Portuguese drug reform czar João Goulão said in 2017 when asked about Canada's fentanyl crisis. Portuguese officials have been pretty consistent in claiming that while decriminalization has been good for them, it won't "solve every problem." The country has a much better handle on drug addiction than it did in 2001, but it's impossible to tell how much is specifically because of decriminalization. The country's rate of new HIV cases were already trending downwards before 2001, and, most notably, decriminalization coincided with a massive increase in accessible drug treatment. A detailed 2012 analysis in the journal Harm Reduction Digest argued that it was "more plausible" that Portuguese drug deaths had gone down thanks to improved treatment options rather than decriminalization. That same report also strongly pooh-poohed Portugal's newfound status as a role model for international drug reform, with authors arguing that many foreign boosters of decriminalization had "clear misconceptions about the reform." Often portrayed as a place that has "solved" its drug problem, the paper instead argued that "Portugal is performing—longitudinally—similarly or slightly better than most European countries."

Decriminalization has not been a silver bullet

In 2010, the White House of Barack Obama firmly rejected the idea that Portugal could serve as a model for U.S. drug reform. "More data are required before drawing any firm conclusions, and ultimately these conclusions may only apply to Portugal and its unique circumstances, such as its history of disproportionately high rates of heroin use," wrote a White House statement in 2010. Global perceptions about Portuguese drug policy have often been warped by biased reports on its effectiveness. One of the most cited reports on the Portuguese drug experiment, a 2009 paper by the libertarian Cato Institute, contends that Portuguese drug policy has been a "resounding success" on "virtually every metric." A subsequent report by the group Association

for a Drug Free Portugal, meanwhile, claimed decriminalization was a “disastrous failure” that had spiked drug use. In 2010, a study in the British Journal of Criminology assessed all the Portuguese data they could find in an attempt to strike a middle ground. Their conclusion? Decriminalization won’t “automatically” increase drug-related harm, it doesn’t eliminate all drug problems but it’s probably a good idea. “It may offer a model for other nations that wish to provide less punitive, more integrated and effective responses to drug use,” concluded the authors.

In some parts of Canada, de facto decriminalization is already here

Portugal remains the only country that has explicitly decriminalized drug use. They even called their 2001 law the “Decriminalization of Drug Use Act.” But plenty of other countries have taken steps in that direction, such as Mexico’s decriminalization of cannabis and cocaine for personal use. In Canada, the Criminal Code still makes hard drug possession a crime. Still, select police forces have been able to back off on who they decide to charge with possession. This is most notably the case in Vancouver, the epicenter of Canada’s current overdose crisis. The Vancouver Police have explicitly endorsed a “public health” approach to addiction and rarely if ever pursue possession charges against drug addicts, unless the charge is in connection with a more serious offence. To quote João Goulão once more, he has said that the biggest effect of Portuguese decriminalization was to “allow the stigma of drug addiction to fall.” Portugal was still recovering from five decades of fascism at the time their 2001 decriminalization law was passed. The reform brought addicts out of the shadows and allowed them to seek treatment “without fear,” Goulão told the British Medical Journal. But in places where drug use is already destigmatized, the immediate benefits of decriminalization may be blunted.