

Decriminalization of illicit drugs in the philippines



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From the year 2002 to the year 2012, reports of illegal drug use and addiction to illegal drugs have risen in the Philippines, as explained by Tom Banas the Task Force Commander of the Anti-Illegal Drug and Special Operation Task Force or AIDSOFT. The Philippine government in response to these reports sanctioned the formation of agencies specializing in dealing with cases concerning illegal drugs.

Though these agencies are funded by the government to fight in the war against illegal drugs, the power amassed by the syndicates has restricted the efficiency of these agencies as illegal drug abuse and trade still remains prominent in the Philippines (Banas). The consistency of drug use and trade has resulted in the rise of drug dependents, and this problem is not an isolated one, as other countries such as Thailand, Vietnam, Laos, Burma, and United States according to Banas and nations such as Spain and Italy according to Hughes, Elizabeth and Stevens are also experiencing this increase.

As observed from other nations, the rising influence of drug use and abuse on societies has stemmed the creation of different drug policies, from Portugal's decriminalization approach to Thailand's zero-tolerance for drugs. Though with careful implementation and education, albeit through different approaches, these policies have been found efficient at dealing with each nation's respective drug problems.

But in the case of the Philippines for a more efficient war on drugs and to help the victims of drug dependency at the root, a decriminalization-oriented drug policy should applied, one that combines an aspect of Thailand's stern

drug policy with the free-choice of decriminalization applied by Portugal. In 2002, in response to the rise of drug use and trafficking, former President Arroyo signed into law the Republic Act No. 9165 otherwise known as the “Comprehensive Dangerous Drug Act of 2002” which abolished the Republic Act No. 6425, or the Dangerous Drugs Act of 1972, to further penalize the offenders of drug use and possession.

The R. A. 9165 was enacted to reconstruct the Philippine drug law enforcement system, by setting up higher fines and developing definite procedures for dealing with cases involving illegal drugs. It also sanctioned the creation of the PDEA or the Philippine Drug Enforcement Agency as the lead anti-drugs law enforcement agency (Republic Act 9165). Furthermore in 2003, the former President through Executive Order 218, created the PNP AIDSOF and anti-illegal drugs taskforces of the NBI and Customs Bureau to support the PDEA in the anti-drugs campaign (Banas).

One aspect of the R. A. 9165 is the criminalization of possession of illegal drugs with the penalty of imprisonment ranging from 12 years and 1 day to life and fines that would amount from PHP 300, 000 to PHP 10, 000, 000, dependant on the type and quantity of the illegal drugs possessed (Republic Act 9165). Through the PDEA and its supporting agencies, the R. A. 9165 has been implemented across the Philippines, and reports of arrests for illegal drug possession have gradually risen; many of these cases are for drug possession amounting to just a small amount, more for personal use rather than major distribution (Banas).

With this in mind, the Bureau of Jail and Management Penology or BJMP on September 2012 released their report on indexed and non-indexed crimes for which inmates are incarcerated in public jails. When calculated, it could be found that nearly 35% of their inmate population is locked up because of violating the R. A. 9165, which numbers to 25, 790 of the 75, 015 prisoners locked up here in the Philippines (BJMP). The alarming percentage of drug users, pushers, and traffickers has implications for the Filipino jails.

According to a 2011 statistic report by Dr Virola, Secretary General of the National Statistical Coordination Board, “ In 2010, there were 59, 289 inmates in BJMP jails, an increase of 2. 9% from 2009” (Virola). When he adds that, “ The national jail congestion rate in December 2010 was 446. 1%” (Virola) this further signifies how overpopulated the Philippines’ jails are, and given that these statistics only amount for the BJMP-controlled jails, we can safely assume that the figures discussed here are actually larger when everything is accounted for nationally.

The Philippine government has not sat idly by to these reports, and in response has approved budget raises gradually from 2002 to 2012, with the original overall budget of PHP 1, 862, 472, 000 increased to PHP 5, 574, 644, 000 (DBM). Though overcrowding is still an issue, these budget increases for the BJMP in the General Appropriations Act have improved the situation as by 2012 the national congestion rate of BJMP facilities has lowered to 318% (BJMP).

The GAA budget allocations have also increased the daily subsistence and medicine allowance for prisoners from PHP 30 per day or PHP 10, 950 per

year in 2002 to PHP 53 per day or PHP 19, 345 per year by 2012 (DBM). And considering all costs, the news website for ABS-CBN published an article that states that the Philippine government “ spends almost P64, 000 a year feeding, guarding and housing one prisoner a year” (Gov’t spending P64K/year per prisoner). Though these subsistence and medical provisions have made life more bearable for the prisoners, overpopulation still has dire effects for the prisoners incarcerated in overpopulated jails.

In a journal article by Ethics in Action, it is said that due to the overcrowding, “ detainees die from tuberculosis, which is shocking; tuberculosis is no longer the dreaded affliction that killed millions in past decades” (Prison Visits in the Philippines). Furthermore, diseases are not the only thing prisoners have to tread water against, as the threat of death still looms from the on-going gang wars that prison jails experience every day, with the guards not able to stop the murder of prisoners, due to not being able to manage and monitor the jails efficiently due to overcrowding.

As for minor drug users and abusers another implication is the possibility of recidivism and being pulled into the drug business stated by the data taken from Thai prisons by the organization Thai Prison Life: Previously, both drug dealers and drug users were thrown in prisons together, serving sentences side by side. This changed, however, when government officials began to notice not only high rates of recidivism, but also that drug users were returning to prison as drug dealers.

They realized that throwing these populations in prison together was aggravating the drug trade problem: while in prison, drug dealers were

networking with drug users, often recruiting them to help with the drug trade. (Hayes et al.) After understanding the status of most Filipino prisons, and the repercussions those have for the inmates, the Philippines should try to improve the situation by looking for other more efficient means rather than incarceration, and to do this, the Philippines must focus first on those guilty of violating the R. A. 9165 as they are a majority of prisoners confined in BJMP prisons.

And with the state of the prisons in the Philippines and given the former President Gloria Macapagal Arroyo acknowledged, “ You know, given our conditions in jail, [being imprisoned] is a fate worse than death” (Paddock) the humane thing to do is give them other alternatives rather than imprisonment. When dealing with cases related to drug use and abuse, one growing alternative that nations chose is the option of rehabilitation.

Numerous studies have acknowledged that rehabilitation can be more efficient than incarceration due to multiple reasons. Mainly, because it is found to be cheaper and more cost-effective than incarceration and that also it reduces substance abuse among the population and helps to improve communities (Hughes). Looking at the approximate values that the representatives have given, this can translate to approximately PHP 120, 000/year or PHP 600, 000/year which is significantly greater than the PHP 64, 000/year in expenses that the Philippines allocates for each prisoner.

Though when put into the context of the Philippines laws, where the minimum years that one charged with the possession or use of illegal drugs is 12 years to one day, the amount of money that the Philippines spends to

incarcerate an offender of the R. A. 9165 would be a minimum PHP 768, 000. This figure could be found by multiplying the amount the Philippines spends to lock up a single inmate with the minimum time an offender of the R. A. 9165 would be incarcerated for. Judging from the approximation above, it is clearly cheaper to rehabilitate than to incarcerate.

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And these treated patients who been diverted from prison have been found 67% less likely to return to prison than the comparison group leaving prison

(McVay et. al). Furthermore according to the same report, “ The results show substantial, and statistically significant, reductions in both criminal behavior and arrests . . . the percentage of clients arrested for drug possession declined by 51 percent while the percentage arrested for any charge declined by 64 percent after treatment” (McVay et. al).

This report clearly shows how the probability of a drug dependant receding back is decreased by addressing the root instead of the crime. In turn the drug user would be helped not only from recovering from his disease of addiction and dependency, but be gifted with other benefits like as being able to find work easier, improve their livelihood and develop their family relationships as stated in the same report: Brooklyn’s Drug Treatment Alternative to Prison graduates are three-and-one-half times more likely to be employed than they were before arrest—92% were working after they completed the program.

People treated in Maryland’s ADAA funded programs in Baltimore were more likely to be employed during the year following treatment than the year before entering treatment, and completers had a 25% greater likelihood of becoming employed, and significantly higher wages than people who did not complete the program. ADAA funded programs reduced homelessness and increased independent living while in treatment programs, and many of the treatment plans involved rebuilding family relationships. (Mcvay et. al)

And coupled with this information that the rates of recidivism is significantly decreased due to undergoing treatment and completing, the chances of relapse of drug addiction which may lead to imprisonment or rehabilitation

and the subsequent expenses by the government that may occur for imprisoning or rehabilitating is reduced. It should be understood though, that for this to succeed the patient must be determined to follow through and finish his treatment, as he alone can determine the success or failure of the treatment (Mcvay et. al).

As drug treatment is found to be more beneficial to the economy and the betterment of the community, it would be reasonable to suggest that the Philippines should approach cases pertaining to drug use and abuse with this conservative way. Though this kind of approach is not in want in the Philippines though, as the R. A. 9165 allows the user and possessor of illegal drugs the possibility of voluntary submission to the drug rehabilitation program.

This has not been very efficient as a huge number of drug users are still locked up for minor offenses of drug possession and use (Banas). This can be solved by the decriminalization of illegal drugs. Decriminalization is not supportive of drug use and possession, but rather than reprimand it with criminal liability, it would be penalized as an administrative offense. To understand how this may work in a nation, we look to the Drug Policy of Portugal where a majority of this proposal stems its conception from.

As reported in a journal article in July 2001, in response to rising drug use, the nation of Portugal issued a number of laws implementing a strong harm-reductionistic orientation. The flagship of these laws is the decriminalization of the use and possession of all illegal drugs. Decriminalization refers only to possession of drugs for personal use and not for drug trafficking. “

Trafficking” for purposes of the law is possession of more than the average dose for ten days of use.

Criminal penalties are still given for drug manufacturers, dealers and traffickers (Van Het Loo et al.). The decriminalization of illegal drugs means that use and possession for use are subject to administrative sanctions instead of criminal proceedings; the criminal record is the stigmatization that the Portuguese policy explicitly aims to prevent. Illegal drugs are not at all legalized, but as stated above use possession for personal use is now an administrative offense rather than a criminal offense.

One reason for the creation of these laws was that the Commission for a National Drug Strategy, shortened to CNDS, and the government recognized that that imprisonment or fines have so far not provided an adequate response to the problem of mere drug use and that it has not been demonstrated that subjecting a user to criminal proceedings constitutes the most appropriate and effective means of intervention (Van Het Loo et al.).

Portugal’s process when dealing with cases of drug use and possession for personal use is now different due to the decriminalization. If a person is caught with the use or possession of illegal drugs, instead of being sent to a criminal court to be tried, they are brought to an administrative panel consisting generally of three people, a social worker, one from the medical sector and another with a legal background. These regional panels are called Commissions for the Dissuasion of Drug Addiction or CDTs.

This explanation will sum up the purpose and proceedings of the panel:

Alleged offenders are referred by the police to the CDTs, who then discuss

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with the offender the motivations for and circumstances surrounding their offence and are able to provide a range of sanctions, including community service, fines, suspensions on professional licenses and bans on attending designated places. However, their primary aim is to dissuade drug use and to encourage dependent drug users into treatment. Towards this end, they determine whether individuals are dependent or not.

For dependent users, they can recommend that a person enters a treatment or education programme instead of receiving a sanction. For non-dependent users, they can order a provisional suspension of proceedings, attendance at a police station, psychological or educational service, or impose a fine.

(Hughes) As the option of rehabilitation is existent to escape fines and other sanctions, it should be noted that the CDTs acts only to induce addicts to enter treatment, they cannot mandate compulsory treatment.

After the Portuguese drug policy was approved, according to Cato Publications, during its pre-enactment, nightmare scenarios were touted by decriminalization opponents; scenarios from rampant increases in drug usage among the young to the transformation of Lisbon into a haven for “drug tourists” due to not being pursued with criminal liability (Greenwald). But in 2009 a study published by Cato Publications stated, after 8 years, none of these situations came to pass, but rather those beneficial to the nation were realized.

As reported, drug use has decreased in absolute terms; the removal of stigmatization has improved the nation’s ability to encourage drug addicts to avail of treatment; resources for prosecution and imprisonment were able to

be allocated to a cheaper treatment programs for addicts, and the harm-reduction approach has dramatically improved drug related social ills, including drug-caused mortalities and drug-related disease transmission (Greenwald).

A British Journal of Criminology entry in 2010 also cited other different benefits from those stated above such as the reduced burden of drug offenders on the criminal justice system, thereby allowing the system to focus on other cases; the increased uptake of drug treatment; the increase in the amounts of drugs seized by the authorities and reduction in the retail prices of drugs.

It may be interesting to note that these changes may not be a direct result of the decriminalization policy but rather as an indirect one, as it “ remains unclear whether the observed impacts were influenced more by the policy or its implementation” (Hughes). Though whether it was all accomplished through the implementation of the policy or the decriminalization policy itself, with all of the government’s and society’s fears not coming to fruition, but the benefits predicted by drug policymakers being realized, decriminalization has become increasingly popular in Portugal since 2001.

But even though bureaucratic changes need to be made to Portugal’s decriminalization framework to make it more efficient and effective, very few domestic political factions are pushing for a repeal of the law (Greenwald). While Thailand’s zero tolerance “ war on drugs” policy is also being included for it was effective at reducing drug use and supply, only one aspect of it is

worthwhile to incorporate in the adaptation of Portugal's decriminalization drug policy for the Philippines.

This would be the compulsory treatment that the Thai government mandates for drug dependents (Hayes et al.). As efficient as it is at reducing drug use, the policy has been criticized for it allowing extreme lethal force when dealing with criminals, the unlawful killings that stem from it, also the lack of fair trial for those accused as the court can mandate a closed trial with no jury. Which lead to lawyers and defendants having no access to evidence prior to the trial and finally the trial itself being subject to corruption and outside influences (Hayes et al.).

By observing the zero-tolerance drug policy that Thailand uses, it would seem that this policy would not be the best for the Philippines, as this policy is aimed at the high amounts of Injecting Drug Users or IDUs in Thailand. Furthermore some outcomes of emulating this type of policy would not be towards the humanitarian side that the decriminalization is trying to promote which is the side which the Philippines should support.

Though this policy may be better implemented as these results may be a product of how it is implemented rather than the policy. It would be better for the Philippines to follow in the steps of Portugal instead, as the benefits from its decriminalization laws are some that Philippines would want to replicate. This decriminalization policy can be adapted to the Philippine's laws for many benefits.

As with the costs of maintaining a rehabilitation program have been found to be more economically efficient, by decriminalizing minor illegal drug use and <https://assignbuster.com/decriminalization-of-illicit-drugs-in-the-philippines/>

possession and converting it into an administrative offense, the Philippines could deduct a huge number of the non-violent drug dependent prisoners imprisoned in Filipino prisons and divert them to cost-efficient government-run rehabilitation facilities. When implementing this process, the cost-efficiency of rehabilitation would not be immediately evident and funds saved from rehabilitation instead of incarceration would take a while to be reallocated.

This though would be still possible to undertake, as the budget allowances in the 2013 GAA under “ Unprogrammed Funds”, funds allotted for pro-active measures in urgent situations involving priority projects and/or programs, which amount to about 117 billion Philippine pesos (DBM), would soften the transition of diverting prisoners from jails to rehabilitation centers until the cost-efficiency is realized in the long run.