



Commentary

Shaping drug policy in Poland[☆]Kasia Malinowska-Sempruch^{*}

Global Drug Policy Program, Open Society Foundations, 224 West 57th Street, New York, NY 10019, United States



ARTICLE INFO

Article history:

Received 20 August 2015

Received in revised form 4 February 2016

Accepted 15 February 2016

Keywords:

Poland

Drug policy

Drug treatment

Criminal justice

ABSTRACT

Poland, a post-socialist democracy with a high interest in successful integration with the European Union and a strong catholic tradition, currently has some of the most restrictive anti-drug laws in Europe. Structural violence towards drug users has intensified as a result of decades of shifting drug policies and, surprisingly, the more recent process of political and economic liberalization.

This commentary considers the contextual and historical dynamics of drug policy-making in Poland. It traces transitions in Poland's drug control policy, throughout Poland's history as a soviet satellite state, under martial law, and in the democracy that it is today. This case study draws on an analysis of interviews with key actors and participant observations in combination with documents and archival records.

This paper follows the changes in Poland's drug control policy, throughout Poland's history as a soviet satellite state, under martial law, and in the democracy that it is today.

Factors contributing to the enactment of restrictive drug laws have occurred in a highly politicized context during a series of dramatic political transitions. Current drug policies are woefully inadequate for treating those in need of drug treatment and care as well as for preventing HIV and other harms linked to drug injecting.

© 2016 Elsevier B.V. All rights reserved.

Introduction

Poland, a post-socialist democracy with a high interest in successful integration into the European Union (EU) and a strong Catholic tradition, currently has some of the most restrictive drug laws in Europe. Since 2000, when Article 62 was introduced, any drug possession is criminalized. In 2011, Article 62a, gave the prosecution service and courts the option to discontinue a criminal procedure against those in possession of small amounts of illicit substances for personal use, however this option has yet to be fully implemented.

In order to democratize, introduce capitalism, and join the well-established and bureaucratically developed EU, many Polish policies and institutions have tried to mimic those of Western Europe without the decades of discussion, debate and consensus-building that the West has gone through. A prominent sociologist, Jadwiga Staniszkis, termed this phenomenon an “institutional

mix” – a process through which various inspirations for institution-building are absorbed from external sources, but without proper reflection and integration (Staniszki, 2004). Historically, this process of “adaptation” was familiar to the Polish administration. For forty-five years, during the socialist system, Polish bureaucracy received instructions from Moscow on many matters and these were integrated into the political system, national policy, and public life. Because of the familiarity of integration by adaptation and the lack of an engaged civil society that represents all segments of Polish society, including people who use drugs (Grover, 2010), the integration process into the EU has left little room for Poland to discover its own way. Thus far, no provisions have been made to encourage such reflection.

In fact, structural violence towards drug users has intensified as a result of decades of shifting drug policies and the process of political, social, and economic liberalization. Polish prevention efforts have persistently emphasized personal responsibility. Without acknowledging the structural risks, the inadvertent assumption is that every citizen has the knowledge and resources to opt for a drug-free lifestyle. The criminalization of personal possession that removed drug users from public view, a phenomenon proven throughout the world to hinder the delivery of harm reduction services, was never addressed. Furthermore, no efforts were made to track the prevalence of HIV infection among

[☆] An earlier version of this paper was prepared for “HIV among Drug Users in Poland: The Paradoxes of an Epidemic” a dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Public Health in Columbia University's School of Public Health, 2013.

^{*} Tel.: +1 212 548 0600.

E-mail address: Kasia.Malinowska@opensocietyfoundations.org

injecting drug users since they make up a diminishing percentage of those people tested for HIV (ECDC, 2014).

The intention of this commentary is to assess the ideological foundations and implications of modern Poland's drug policies. The resulting analysis will provide an account of the relationship between drug use, drug policy, the systemic disempowerment of drug users, and how all these factors result in policies and practices that are woefully inadequate for treating those in need of care.

This was done by exploring the complexities of drug use and drug policy making in Poland as a single, holistic case study that encompasses the contextual conditions, as they are highly pertinent to the subject. It is based on five of the six sources of evidence defined by Yin (2009): documentation, archival records, interviews, participant observation, and physical artifacts. Findings are informed by primary sources that include transcripts of Polish Parliamentary debates, liberal and conservative media coverage of debates on the quality of drug treatment, and legislative amendments. Sources also include interviews with key actors such as city and national officials, legislators, advocates in the area of drug policy and HIV, and drug treatment provider.

The internal and annual reports of government departments responsible for drugs and HIV and parliamentary records were essential to establishing how policies were developed and implemented. They demonstrate, for example, how various officials responded to public perceptions of drug use as well as how they assessed their progress in providing services and HIV and drug prevention efforts. At the same time some reports were highly political, as can be seen when comparing the published accounts of meetings with the verbal reports of participants. In some instances published reports were “cleaned up” of any controversy. The documents of international organizations such as the United Nations Office on Drugs and Crime (UNODC), the Joint United Nations Programme on HIV/AIDS (UNAIDS), and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), as well as professional journals, serve as important forums for assessment and discussion of policy making on drugs, HIV and treatment provision. *Alkoholizm i Narkomania* is the only Polish journal where the practice of drug treatment is discussed. The scarcity of peer-reviewed literature indigenous to Poland poses a serious limitation to any work specific to drugs and HIV in Poland, thus the reliance on international journals for policy-related, peer-reviewed publications.

To avoid bias, attempts were made to engage with proponents of all sides of the debate. However, the author is professionally and publically engaged with advocacy for drug policy reform and harm reduction, and a few people who were affiliated with the abstinence movement declined to be interviewed. In order to compensate for this, special attention was given to the publications and public statements of these individuals and the groups they represented. My employer, the Open Society Foundations, has been funding civil society work in the area of drug policy reform and harm reduction programs in Poland for the past 15 years. As evidenced by the methods described here, every effort has been made to maintain objectivity.

Polish drug legislation

The Act on Prevention of Drug Addiction, the first modern legislation fully dedicated to drug related matters, was adopted on January 31, 1985, a time when the country was negotiating various political freedoms. The legislation put Poland in the vanguard of progressive thinking about drugs in Europe, as it did not consider personal possession of illicit substances to be a criminal offense and addiction was viewed as an illness that required medical treatment.

As Poland changed its political and economic system in 1989, legislative changes followed. The United States was the most significant and respected supporter of the Polish quest for democracy and the purging of socialism (Baker, 1991; Bush, 1991a, 1991b). A 1992 U.S.-funded report criticized the 1985 Act as antiquated. Clearly alarmed by increasing drug use in the region, but also by the laws and relaxed attitudes that were significantly different from the “War on Drugs” style rhetoric prevalent in the United States, the report concluded:

Police and public health officials everywhere from Warsaw to Bishkek desperately crave large infusions of anti-drug assistance from Western nations, especially the United States ... When the United States signs an aid agreement, such assistance should depend on the prospective recipient documenting legal and law enforcement reforms. ... The United States also could influence conditions on multilateral aid by using its leverage with institutions such as the International Monetary Fund and the World Bank. (Lee, 1992)

If there were any differences in the Polish approach to drug policy, as compared to that of its West European neighbors, it would have been the concept of drug users' rights. This discussion, while ongoing in Western Europe, was not part of the Polish discourse. Rather, the socialist state viewed people who used drugs as infirm and requiring the care of the state apparatus. The treatment model of MONAR, an NGO and Poland's largest treatment provider, was consistent with the state's paternalistic view of drug users. MONAR's philosophy is based on the premise that while addiction is a disease, it is a disease of the soul (Kotanski, 2003). To provide an effective cure, patients require clear structures, a daily routine filled with physical labor, and a non-negotiable set of rules. Those who do not comply are punished in various ways and those who break their abstinence are immediately expelled. Services were only available to those who sought full abstinence treatment. This crucial difference in perspective may be responsible for the ease with which, only a few years later, Polish drug policy shifted to criminalizing drug use, without regard for lessons learned from its earlier approach.

In 1997, Poland began the process of accession to the EU and in 1999, Poland joined the North Atlantic Treaty Organization (NATO). Drug law came under scrutiny at this time. In April 1997 a new Act on Countering Drug Addiction was adopted, bringing with it significant changes. While the 1985 Act focused on production and sales, it did not comment on personal possession of illicit substances. Parliamentary debate of the 1997 Act was pervaded by a moralistic tone as many were concerned that the law was too permissive. Though the 1997 Act made personal possession illegal, a compromise was reached with the introduction of Article 48(4), which stated that the possession of small amounts of drugs for personal use was not to be subject to criminal sanction. Since the amount considered “for personal possession” was left undefined, each case was assessed at the discretion of the courts. The vote was almost split in half, with a small margin in favor of continued decriminalization. In practice, the police and the prosecutor's office avoided prosecuting petty consumers, and the courts were reluctant to punish them.

Just three years later, with a noticeable shift toward the political right, a new legislative amendment overturned Article 48(4). In 2000, Article 62 introduced criminal charges for possession of any amount of illicit substance. Three punishments were instated; the first and most favored was incarceration for up to three years; the second was incarceration for six months to eight years for cases involving considerable quantities of drugs; and the third was the “privileged” penalty that included a fine, the limitation of liberty, or incarceration for up to one year in cases of “lesser gravity.” (Kuzmicz, 2010)

Download English Version:

<https://daneshyari.com/en/article/1074938>

Download Persian Version:

<https://daneshyari.com/article/1074938>

[Daneshyari.com](https://daneshyari.com)