



Research paper

Drug decriminalization and the price of illicit drugs[☆]Sónia Félix^{a,b}, Pedro Portugal^{a,b,*}^a Nova School of Business and Economics, Universidade Nova de Lisboa, Campus de Campolide, 1099-032 Lisbon, Portugal^b Banco de Portugal, Portugal

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ABSTRACT

Background: This study is an empirical assessment of the impact of the drug decriminalization policy followed by Portugal in July 2001, on the price of illicit drugs.**Methods:** The analysis is performed using a difference-in-differences approach and the Synthetic Control Method in order to construct a synthetic control unit from a convex combination of countries.**Results:** The results suggest that the prices of opiates and cocaine in the post-treatment period did not decrease in the sequence of the policy change.**Conclusion:** We conclude that the drug decriminalization policy seems to have caused no harm through lower illicit drugs prices, which would lead to higher drug usage and dependence.

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One moderate alternative to the war on drugs is to follow Portugal's lead and decriminalize all drug use while maintaining the illegality of drug trafficking.

by Gary S. Becker and Kevin M. Murphy (2013)

Introduction

The United Nations Office on Drug and Crime (UNODC) estimates that in 2009 between 172 million and 250 million people used illicit drugs and between 18 million and 38 million were drug dependent, worldwide. In fact, drug use and dependence is a major threat to global health, representing one of the top ten risk factors in the developed countries. The risk of contracting infectious diseases such as HIV, AIDS, Hepatitis, and Tuberculosis is higher for drug users than for nonusers.

The relevance of the social and economic costs implied by drug use and dependence contributes to the current hot debate on drug policy in many countries such as the United Kingdom, Australia, and the United States. Policymakers and economists have been discussing a comprehensive response to drug use and trafficking for decades but the solution is far from being unanimous. Furthermore, policymakers have been reluctant to reform drug laws.

The alternative law enforcement schemes that have been at the center of the debate are the illicit drugs legalization, decriminalization, and depenalization. Those terms are often misused. According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), “decriminalization” comprises removal of a conduct or activity from the sphere of criminal law. Prohibition remains the rule, but sanctions for use (and its preparatory acts) no longer fall within the framework of the criminal law; “depenalization” means relation of the penal sanction provided for by the law. In the case of drugs, and cannabis in particular, depenalization generally signifies the elimination of custodial penalties.¹ This means that under the decriminalization framework, drug use and possession are still illegal but infractions to these prohibitions are to be treated in a noncriminal framework rather than through the criminal justice system. In contrast, in the depenalization framework, imprisonment is no longer imposed for drug usage and possession even though these remain a criminal offense, as other criminal sanctions such as police record, probation, or fines are still available. In this paper legalization is defined as the amendment of law to eliminate any sanction, criminal or administrative, associated with the possession, use, or distribution of any controlled drugs.

In the late 1980s and 1990s a growing population of intravenous heroin users became a major threat to public health in Portugal, where rates of heroin users were among the highest in Europe. During this period, the number of HIV infections and drug related deaths rose dramatically. In the mid-90s Portugal engaged

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¹ European Monitoring Centre for Drugs and Drug Addiction, “Illicit drug use in the EU: Legislative Approaches”, 2005.

in an intensive debate on alternative enforcement policies to deal with drug use and, in 1998, a panel of leading scholars and medical professionals presented a report with recommendations rooted in understanding drug dependency as a disease rather than a crime, proposing prevention, treatment, and reintegration programs as an alternative to prison. The recommendations of this panel of experts led to the adoption of the National Strategy for the Fight Against Drugs (NSFAD) in 1999 and encompass a new legal framework with the end of criminal sanctions for drugs users, the enforcement of law to reduce drug production and trafficking, and the expansion of policies and resources for the reintegration of drug users and treatment.²

This process culminated with the approval of the law decriminalizing the personal use and possession of illicit drugs on July 1, 2001 (Law 30/2000).³ The new law applies to the use, possession, or acquisition of all drugs, including “hard” drugs, in quantities up to a ten day supply.⁴ This policy change was also intended to reduce demand by promoting a health-driven drug policy and eliminating the stigma related to the criminal prosecution of drug users. In the Portuguese decriminalization framework, police can no longer arrest drug users but must refer them to the local Commissions for the Dissuasion of Drug Use (*Comissões para a Dissuasão da Toxicoddependência*) (CDT) that decide the administrative or public order sanction to apply.⁵ Severe criminal penalties are still applied to drug traffickers.

The discussion on the alternative legislative approaches to deal with the illicit drug economy presumes that drug decriminalization leads to an increase in the prevalence of drug use. However, the impact of the drug decriminalization policy on drug markets is not clear. Critics advocate that decriminalization leads to a perception of acceptability of illicit drug use and lowers costs of drug use as drug users face no criminal sanctions. In this case, if the supply side remains constant, meaning that traffickers and sellers face the same risks associated with drug trafficking, this would lead to higher prices.⁶ On the supply side, and to the extent that demand remains constant, an effective enforcement of the drug law with the objective of fighting production and sale of drugs would also lead prices to increase. In the Portuguese case, the NSFAD comprised both the end of criminal sanctions for drug use and increased resources to fight drug trafficking. Therefore, the impact of the drug decriminalization policy on the market equilibrium depends both on demand and supply effects.

In this paper we shed further light on the impact of drug decriminalization on the illicit drug market by studying its impact on the price of illicit drugs. A primary reason to focus on the impact of the policy change on the price of drugs is the presumed effect of prices on use and consumption. From an economic viewpoint, the study of prices may provide insights on the impact of the drug decriminalization policy as a market clearing equilibrium results from the combination of prices and quantities. In fact, availability and prices of illicit drugs are often pointed as the main determinants of drug consumption.

The fear of increased usage and dependence due to softer law enforcement has been a critical argument in the discussion, but these concerns are to a large extent speculative as no unambiguous empirical evidence on the impacts of decriminalization on drug markets can be found in the literature. The current paper examines the dynamics of the illicit drugs market, focusing on the supply side of the market. To evaluate the impact of the policy change on prices we follow two empirical research routes. The first, is a standard difference-in-differences analysis which accommodates the presence of observed and unobserved heterogeneity and time effects. The second approach is the application of the Synthetic Control Method, which has the advantage of providing a systematic way of constructing a comparison group that best resembles the characteristics of the treated unit.

The results suggest that (retail) prices of cocaine and opiates did not decrease following the drug decriminalization policy which is in contradiction with the commonly held belief that softer drug law enforcement necessarily leads to lower prices. Empirical evidence regarding the Portuguese case suggests that the demand effect did not materialize in the post-decriminalization period and, therefore, this failure of prices to decrease may be explained by the boost in resources available to fight drug trafficking.

This paper is organized as follows: the second section presents related literature. The third section describes the data and the empirical methodology and discusses the results. The final section provides the conclusions.

Related literature

The discussion of policy toward illicit drugs commonly uses the metaphor of markets to explain the dynamics of use. Even though prices play a crucial role in the metaphor they have been overlooked in the empirical analysis and data collection. In fact, prices constitute a prominent indicator for understanding the effects of a policy change such as drug decriminalization. The sharp decline of the retail prices of hard drugs like cocaine and heroin in the last 20 years (see [Costa Storti & De Grauwe, 2009a, 2009b](#)) highlights the importance of studying the mechanisms beyond public policies aimed at reducing the supply of illicit drugs.

[Becker and Murphy \(1988\)](#) present a model of rational addiction which implies that the consumption of addictive substances is likely to respond considerably to prices. Over the last decades some studies have focused on the price elasticity of demand of addictive licit substances, namely alcohol and tobacco. [Becker, Grossman, and Murphy \(1994\)](#) find substantial elasticity of demand for cigarettes in the short and long run (−0.4 and between −0.7 and −0.8, respectively). Similar elasticities of demand for alcohol are reported by [Coate and Grossman \(1988\)](#).

Subsequently, this research was extended to the illicit drugs market. Economists have been focused on the price sensitivity of drug use, often using the prevalence as dependent variable. [van Ours \(1995\)](#) uses data from the early twentieth century and estimates noticeable short- and long-run elasticities of demand for pre-World War II opium consumption in the Dutch East Indies (−0.7 and −1.0, respectively). [Caulkins \(1995\)](#) finds an elasticity of demand for cocaine between −1.5 and −2.0 for a very specific group of people, the arrestees. [Saffer and Chaloupka \(1999\)](#) find a price elasticity for the prevalence of heroin of −0.9 and for the prevalence of cocaine of −0.55. [Grossman and Chaloupka \(1998\)](#) find that cocaine consumption by American youth is very responsive to changes in its price. Also, the different legal approach to alcohol and marijuana is likely to explain different cocaine consumption among the U.S. states.

[DiNardo \(1993\)](#) investigates the relationship between law enforcement and the price of cocaine using U.S. data from the System to Retrieve Information from Drug Evidence (STRIDE)

² The NSFAD comprises a set of measures which includes the extension of the healthcare services network and the needles exchange programme, the increase in scientific research and specialist training, and the significant increase in the financial budget to deal with the drug problem.

³ Until this legislative change, the use, possession, or production of illicit drugs for personal use were criminally punishable by up to 1 year in prison or a fine, even though drug users rarely faced criminal sanctions, in practice.

⁴ According to Decreto-Lei no. 15/93, January 22, 1993 and Portaria no. 94/96, March 26, 1996, this amounts to 0.1 g heroin, 0.1 g ecstasy, 0.1 g amphetamines, 0.2 g cocaine or 2.5 g cannabis.

⁵ Those commissions are three-member panels comprising social workers, lawyers, and medical professionals.

⁶ An anonymous referee points to the complex dynamic nature of demand and supply as softer law enforcement on the demand side may lead supply to increase as a result of increased demand and, consequently, prices may fall.

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