Case Study 5
Changing drugs laws in Portugal to prioritise public health

What was the issue?
Intravenous heroin use rose continually in Portugal throughout the 1980s and 90s. The incidence of those seeking treatment for drug problems increased fivefold across the 1990s, but nothing seemed to be working to stem the rise of people injecting drugs and the accompanying epidemic of HIV. In 2001, following an inquiry into drugs policy by a Special Commission, the Portuguese Government decriminalised possession of drugs and injecting equipment alongside introducing public health policies based on harm minimisation and opioid substitution treatment for people injecting drugs.

Why was change needed?
At the end of the 20th century, Portugal had the highest rate of drugs-related AIDS cases in the EU. General drug use was no worse than in neighbouring countries, but rates of problematic drug use were much higher. A 2001 survey found that 0.7 percent of the population had used heroin; this was the second highest rate in Western Europe, after England and Wales.

How could access be improved?
A socialist Government suspected that criminalisation of drug use was deterring people from seeking help, including HIV testing and treatment. The depth of the problems they faced made them willing to listen to scientific evidence rather than accepted policy wisdom and to try a new approach which incorporated support and harm reduction rather than punishment. In 1998 they set up a Special Commission (a common way of creating new laws in Portugal) to assess the problem and propose policy recommendations.

What/who were the barriers to change?
Prevailing wisdom in the 1980s was to follow the US approach of "A War on Drugs" and their "Just Say No" campaign. Prof. Alexandre Quintanilha, who was appointed to head the Commission, was a Professor of Biophysics who had worked in the US for twenty years and was aware this was not working; "*It was not producing any results at all*". The greatest opposition to decriminalisation came internationally, at the UN and especially from the US, who predicted that Portugal would become "*a global mecca for drugs*" (Prof. Quintanilha). Right wing politicians and the police also predicted a catastrophe.

How long did change take and who was involved in making the change?
The Commission was set up in 1998 and given five months to report. It included doctors and experts in psychology, street drug use and rehabilitation, clinical and social care and research. Members were appointed by the Health Minister. The Chair, Prof. Quintanilha, was newly returned to Portugal from the US and had little drug-related experience, but was respected as independent.

In less than a year they produced a comprehensive National Strategy for the Fight Against Drugs (Resolution 46/99) which took a pragmatic and health-centred approach, decriminalising drug possession but not supply. It covered prevention, treatment, harm reduction and social reintegration and had 13 key principles including doubling public investment, better

interdepartmental governmental co-operation and a greater emphasis in tackling trafficking and money laundering.

The Decriminalisation of Drug Use Act (Decree Law 30/2000) became law in 2001 and was the flagship of a group of laws and policies created at the same time to combat problematic drug use. Before the new law was enacted, drug-related HIV diagnoses were running at 60% of all new HIV diagnoses, whereas they are now less than 18%.

How was change made?

***Identifying a prevailing mood**:* Portugal had emerged from military dictatorship in the 1970s and was still in a liberal, questioning mode, wanting to modernise. *"having recently got rid of a dictatorship, we wanted to test our new freedoms... as a small country, we were willing to experiment*" (Prof. Quintanilha).

***Independence of thought**:* Prof. Quintanilha had no links to existing "experts" in the field, but had 20 years' experience of observing how the US model worked (or rather, didn't). He was also an out gay man (then not that common in Portugal) and, as he puts it, "*I was clearly not someone who was concerned with being popular*". The failure of US-led abstinence and punitive methods to tackle drug use successfully was clear to the Commission members, despite their international promotion. The Commission were willing to listen to Portugal's internal experience and people's personal experiences rather than theoretical policies based in moral judgements.

***Engagement with the public**:* Unusually for such Commissions, they toured the country, holding open meetings in cinemas and public places and listening to people's stories. This brought the public and other politicians much more on board and enabled local activists and people with personal or family experience of drugs to have some involvement.

***Using expert evidence**:* The Commission met weekly, with each member tasked with gathering evidence for group review. Most experienced clinicians thus supported their recommendations once they were made. Every recommendation was backed up with proof and the Government responded by accepting the report in its entirety.

***Recognition of the role of prison in HIV transmission**:* Criminalising possession meant that many people were incarcerated in prisons, which acted as a vector of infection for several transmissible conditions including HIV. The percentage of drug-related offenders in Portuguese prisons decreased from 44% in 1999 to below 21% in 2012. Ending new jail sentences for people on simple possession charges effectively acted as another form of harm reduction.

***Provision of effective support**:* Addiction became treated as a medical condition rather than a crime. Decriminalisation made it an administrative issue, whereby the drug user was seen by a panel of a lawyer, a doctor, and a psychologist. The panel had only three options: prescribe treatment, fine the user, or do nothing. Portugal also invested heavily in widespread prevention and education efforts, as well as providing rehabilitation programmes, needle exchanges, and hospitals.

Are there any ongoing issues?

Levels of drug consumption in Portugal are now among the lowest in the European Union. However, a subsequent more conservative Government cut back on support services and new

problems are being seen, not so much with heroin but with "smart drugs", including HIV transmissions. There are hopes that a recently elected, more socialist Government may restore some support but "*it is easy to destroy things but harder to reconstruct them*" (Prof. Quintanilha).

The decriminalisation of possession but not supply continues to create some tensions for law enforcement in the border between the two, but this is considered the best compromise possible in the circumstances.

Despite clear proof that the strategy adopted by Portugal has largely worked, few other countries have adopted it, preferring to cling to punitive models. Drug use continues, like sex work and gay sex, to be an area where many governments are content to put moralistic policies before evidence-based proof.

What lessons have been learnt?

"*We went forward because the status quo could not hold, we had to do something and we decided to use the evidence and test it*" (Prof. Quintanilha).

"*About two years after the law changes, I met with Interpol and the two Portuguese police forces. (They accepted that) the new law was a positive step and that none of the bad predictions had taken place*" (Prof. Quintanilha).

Links
http://www.attn.com/stories/995/portugal-drug-policy
https://www.law.berkeley.edu/files/Laqueur_(2014)_-_Uses_and_Abuses_of_Drug_Decriminalization_in_Portugal_-_LSI.pdf
https://www.drugpolicy.org/sites/default/files/DPA_Fact_Sheet_Portugal_Decriminalization_Feb2015.pdf

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