



WORKING TO DECRIMINALISE PEOPLE WHO USE DRUGS:

LEARNING FROM
DECRIMINALISATION EFFORTS IN 5
INTERNATIONAL JURISDICTIONS

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INTRODUCTION

BACKGROUND

Drug use remains a global issue and, in most countries worldwide, possession of unauthorised substances is a criminal offence, punishable with prison or other penalties. In *Global Prison Trends 2021* by Penal Reform International, they note that 2.5 million people are in prison for drug-related offenses, and 22% of them for drug-use. That equates to 550,000 people globally for “drug use” (Penal Reform International, 2021). Global policymakers are addressing rising pressure to consider alternative ways to handle drug-related crimes, particularly relating to possession for personal use (EMCDDA, 2015). The United Nation Chief Executive Board (UNCEB) now endorses decriminalisation as the policy position of the UN (Transform, 2019).

Scottish Drug Forum (SDF) were commissioned by Ana Liffey Drug Project in Ireland to conduct an evaluation of the recent decriminalisation and advocacy efforts, in five international jurisdictions. The work was funded by the Global Drug Policy Program of Open Society Foundations (OSF).

The project evaluated efforts to decriminalise possession of small amounts of drugs for personal use in 5 jurisdictions where advocacy work had been funded by OSF:

- Ireland
- Scotland
- Norway
- Poland
- Maine (USA)

AIMS AND OBJECTIVES

The evaluation key aims were:

1. Scope the current situation in each jurisdiction
2. Identify emerging themes across the jurisdictions and the key lessons learnt
3. Identify recommendations to ensure learning is shared

This was achieved by the following objectives:

- Qualitative interviews with key informants in each jurisdiction
- A desktop review of relevant national and international literature
- A media analysis
- Analysis and collation of findings to identify learning



METHODOLOGY

METHODS

The project involved a mixed methods approach to data collection. This included a desktop review of relevant literature, qualitative interviews and a media analysis.

Twenty-five in-depth qualitative interviews using a semi structured format were completed, with representatives from each jurisdiction as well as global representatives. Participants included a range of stakeholders, experts and staff working across the substance use, health, justice, research, and policy fields.

A media analysis was performed across the 5 jurisdictions across print, digital and social media platforms representing a broad range of media coverage and opinion to give insight into the general media coverage of decriminalisation advocacy.

ANALYSIS

Data from both the interviews and the media analysis was then triangulated to identify key themes. Grey literature and key policy reports and government documents identified from the desktop review and recommended from interview participants was also included. Discourse and sentiment analysis was applied to understand the general attitude towards decriminalisation including the language used in the media and general literature as well as looking at this in the context of each jurisdiction's social, cultural and political backgrounds.

A thematic analysis was then conducted using NVivo software to identify key themes at both an individual jurisdiction and whole sample level.



TERMINOLOGY

When discussing decriminalisation, it is important to take account of the range of terminology and definitions that may be included. Included below are some example definitions adapted from international bodies which help frame the exploration of decriminalisation in this report (EMCDDA, 2001, 2015; UKDPC, 2016; Transform Drugs, 2017; Stevens, et al, 2019; Scottish Government, 2021):

- **Decriminalisation** – most commonly understood to refer to the removal of criminal penalties for possession of drugs for personal use. Possession can still remain an offence subject to a civil or administrative sanction, such as a fine or mandatory treatment assessment. Implementation can vary significantly between jurisdictions, in details including, but not limited to, quantity thresholds of substances, the nature of the sanction and who enforces them. Decriminalisation is not a clearly defined legal term in drug policy discourse and is often mistakenly confused for legalisation (see definition below). There are two key forms of decriminalisation:
- **De facto** - where drug laws exist but are not enforced, for example, in the case of depenalisation, where criminal penalties are not applied for possession of drugs, whilst it remains a criminal offence.
- **De jure** - where possession of drugs is no longer a criminal offence in law and therefore criminal penalties are removed for possession of drugs. Countries may stipulate threshold amounts which are deemed as possession.
- **Diversion** – programmes that divert people away from the criminal justice system to other measures. Diversion usually applies to the possession of illegal drugs for personal use but sometimes to minor supply or cultivation offences. Implementation of diversionary measures vary across and within jurisdictions, in terms of whether they are mandatory, the criteria e.g., under a set number of offences, who enforces them and their nature. Diversion measures generally involve either:
 - **Alternatives to punishment** - measures that are rehabilitative, such as referral to drug treatment, education or rehabilitation programmes. In order to ensure such measures are rehabilitative, voluntary referral to such measures are key, otherwise they are coercive.
 - **Alternatives to prison** - measures that take place outside prison, which may be retributive or rehabilitative. Measures include community punishments, civil or administrative sanctions such as recorded police warnings or monetary fines.

Whilst distinct from decriminalisation, other drug policy reforms which are commonly encountered within the decriminalisation debate are the following terms:

- **Abolitionist** – there is a key distinction between reforms that aim to reduce funding and power for the police, and those which aim to change the policing approach. Abolitionists aim to abolish all systems of punishment, imprisonment, policing, and surveillance that are used to uphold the War on Drugs, and as a tool of racial and social control against people who do and do not use drugs.
- **Legalisation** - the process by which the prohibition of a substance is ended, allowing for its production, availability and use to be legally regulated. Legalisation is not a policy model in itself, but merely the process of legal reform.
- **Regulation** - the way in which government authorities intervene to control a particular legal drug product, or activities related to it. This control can take the form of regulations on, for example, a drug's price, potency, and packaging, as well as various aspects of its production, transit, availability, marketing and use. There is no single regulation model; there are a range of regulatory tools that can be deployed in a variety of ways, depending on the product, and the context of its availability and use.



JURISDICTION SITUATION

International progress

There has been substantial progress in the direction of decriminalisation in the past 10 years. In particular, international experts highlighted the acceptability of the discussion has become much greater, far less controversial, or marginal in policy discussions. Various examples of international progression in this area were cited in the interviews such as the joint statement by the World Health Organisation and United Nations which recommended the removal of punitive laws which criminalised possession of drugs for personal use (WHO, 2017), the United Nations General Assembly Special Session in 2016 where several countries supported a move away from criminalisation (IDPC, 2016), the European Monitoring Centre on Drugs and Drug Addiction report on Alternatives to Punishment (EMCDDA, 2015). As recently as 2018 the UN's Chief Executive Board for Coordination endorsed the decriminalization of personal possession in their common UN position on drug policy (CEB/2018/2).

All of the jurisdictions involved in this evaluation had made some form of progress towards de facto decriminalisation and this is described in more detail below.

Ireland

Ireland made progress towards decriminalisation in 2015, when the Minister for drugs declared himself in favour of decriminalisation. This generated a shift in the public debates and a lot of momentum towards the idea that drug use should not be treated as a criminal issue. In 2017, following consultation with stakeholders, a new National Drug Strategy was launched which included an action to consider the approaches taken in other jurisdictions to the possession of small quantities of drugs for personal use and to make recommendations on policy options to the relevant Minister within 12 months. In 2019, a Health Diversion Program was announced, meaning, as an alternative to criminal prosecution, an individual found in possession of drugs for personal use for the first time will be referred to health services for assessment and may be offered treatment, harm reduction and/or social service intervention; on a second possession offense individuals could be given an official caution; and on the third time they will face criminal penalty as before (CityWide, 2022). The adult cautioning scheme was extended to cover cannabis possession in December 2020, which does not involve a healthcare diversion but allows a caution to be issued instead of prosecution, which does not show up on criminal record checks (An Garda Síochána, 2020). However, the idea of the caution is that it should only be applied once to an offender, reducing the likelihood the adult caution scheme being used for cannabis possession, for example if someone has already received one for a previous offence (Citizens Information, 2020).

In 2017, the Misuse of Drugs (Supervised Injecting Facilities) Act 2017 was enacted, however, due to planning bureaucracy a Supervised Injecting Facility has yet to be established.

A Citizens' Assembly has been agreed to be established; which will involve gathering 100 people, comprising a Chairperson and 99 citizens, to discuss the issue of drug policy and make recommendations for changes. This is seen as a positive step as similar approaches were instrumental for issues around LGBTQ issues and abortion rights. The Citizens' Assembly was anticipated to be established in 2022, but has recently been delayed to 2023 (Irish Legal News, 2022).

Maine

In 2016 Maine voters approved the legalisation of cannabis for recreational, as well as medical, use; legal commercial sale began in 2020. A legislative bill for general decriminalisation of drugs was attempted in 2018 and again in 2020 where a historic win in the house was achieved but it failed in the senate, meaning possession and use of all other drugs remains criminalised. Progress has been made in other areas relating to prosecution and harm reduction, for example in 2019, a 'Good Samaritan' law was passed, protecting people from possession charges if they are seeking medical assistance for somebody experiencing an overdose. In 2021, a law was passed to decriminalise drug paraphernalia, such as syringes and testing strips.

Norway

In 2016, the Health Minister advocated for the Portuguese-model of decriminalisation and was successful in persuading his party to advocate for the model too. They were the ruling party at the time and managed to gain cross-party support for decriminalisation.

In December 2019, a thorough assessment and proposed decriminalisation model was submitted to government by a specialist policy reform committee. Due to Covid-19 impact, this was not brought to a public hearing in parliament until Spring 2021; then it went to a general assembly of the government, where it was voted against by two thirds. In June 2021, decriminalisation based on this report was officially voted down. However, it emerged that the public do not support punishment of people who experience dependent drug use and various changes did result from the original proposal. For example, courts applied amendments to sentencing practices e.g. dependent users with less than 5 grams of heroin have their punishment waived and are convicted without punishment. There was also the approval of the establishment of municipal drug counselling units that people will be required to attend in order to have fines suspended and non-disclosure of criminal records for consumption and possession offences three years after the last offence (Safer Drug Policies, 2021).

Poland

Since 2001, possession has been criminalised and can lead to up to 3 years in prison. In 2011 an amendment was added to the law which de-penalised small amounts for dependent users, meaning that, even though possession is still a crime, if someone is caught with a small amount of drugs regarded as being for personal use, prosecutors can decide to drop the case. It is felt this does not happen often in practice, with only 12% of relevant cases being handled in this way by prosecutors and judges in the first year of implementation (EMCDDA, 2014). There are ongoing advocacy efforts seeking fuller decriminalisation measures, but there is more focus on cannabis specifically from mainstream media and the public.

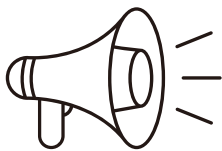
In 2017, a medical cannabis programme was also introduced. Recreational cannabis is still criminalised, although since 2011, prosecutors have the option of not charging people for personal possession in circumstances such as, small amounts, first offences or where the person is dependent on cannabis.

Scotland

The Scottish Government are restricted by the UK Misuse of Drugs Act 1971 as drug law is not devolved from the UK Government in London. The Misuse of Drugs Act categorises drugs as Class A, B, or C, depending on their assumed level of harm. However, the First Minister for Scotland and the ruling Scottish National Party support a policy of decriminalisation and have called for the devolution of powers to enable the “decriminalisation of possession and consumption of controlled drugs”.

In 2019, the previous Lord Advocate, the Government director of criminal investigation and prosecutions and legal advisor to the Government, “directed that diversion should be considered for all individuals reported to Crown Office and Procurator Fiscal Service where there is an identifiable need which has contributed to the offending which can best be met through a diversion scheme” (COPFS, 2021). An individual found in possession by police may be issued with a recorded warning, without any referral to a prosecutor. Others still may be referred to a prosecutor, who can decide whether to prosecute or divert. Prosecution for any offences is then generally deferred until completion of the diversion programme which generally involves support for underlying issues e.g., drug rehabilitation or stabilisation units. In 2021, the Lord Advocate, Scotland's senior law officer announced all substances would be included in the minor offences policy (COPFS, 2021) which had previously been utilised for cannabis possession. This means police have discretion on whether they want to prosecute for possession or issue a recorded police warning as an alternative to prosecution for all substances.

In relation to UK law, following Ireland's lead, it is important to note that with the introduction of the Psychoactive Substances Act in 2016, this effectively decriminalised possession of New Psychoactive Substances known previously as 'legal highs', removing police powers to search for simple possession. This highlighted a disparity in the legislation between legalisation centred around a framework of drug harms or simply psychoactivity.



INTERVIEW FINDINGS

DEMOGRAPHICS

Twenty-one participants from across Scotland, Poland, Norway, Ireland and Maine (USA), and 4 international experts took part in qualitative interviews. Participants were experts on decriminalisation, drawn from a range of settings including academia, policy, legal, law enforcement, activism, non-profit organisations, and government. Participants were asked about the current situation in their countries, social attitudes, media attitudes, and significant changes in the past ten years. They were also asked about what has worked well in achieving steps towards decriminalisation, and limitations in achieving decriminalisation.

All the countries involved in the evaluation had made some steps towards decriminalisation in recent years, although none had achieved full decriminalisation of all substances. Participants provided valuable expert insight into the progress and barriers to decriminalisation in each jurisdiction.

FORMS OF DECRIMINALISATION

Decriminalisation was not a straightforward concept to define for interview participants, even as experts in their fields. A recurring theme in the interviews was that the term 'decriminalisation' may be difficult to define, defined differently in different places, and in fact consists of several different components. Therefore, what each country referred to as decriminalisation was often a unique mix of these components.

A variety of permissive responses and other harm reduction interventions were referred to as part of a suite of policy change which, participants explained, required a level of 'decriminalisation'. These included:

- non-enforcement of drug possession laws
- diversion from criminal to health systems
- use of recorded police warnings and fines for possession of substances
- development of safe consumption facilities
- drug checking
- decriminalising possession for people who use drugs dependently

Many of these may be considered distinct forms of decriminalisation, but decriminalisation in the wider sense may also require several of these components to be implemented in order to make progress towards *de jure* decriminalisation.

“The million dollar question ... the answer then affects all the other answers, is what does one mean by decriminalisation, and I've been trying to define it for 10 years, and I gave up ... it's not necessarily defining decriminalisation, it's setting out a criteria of decriminalisation where you can objectively walk into a country and say has it decriminalised, yes or no, and because different countries have very different legal systems, and because then you have to interpret things within those legal systems”

(Participant 22, International)

An important point made in the interviews was that the harmful impacts of criminalisation are experienced by the individual subject to enforcement of these laws and therefore focusing on decriminalisation of individual substances risks taking the focus off the person.

“When I say decriminalisation, one person will say ... oh that's legalisation, right, and I say well no, and they say, yeah, well decriminalisation, well that means cannabis, right ... and I say, well I'm actually not talking about substances, I'm talking about the person, I'm talking about decriminalisation of the person”

(Participant 19, Ireland)

'DE FACTO' DECRIMINALISATION

De facto decriminalisation occurs when there is an understanding that police and prosecuting authorities may exercise discretion by not pursuing charges for drug possession, despite no actual changes to the law. Although no countries in the study had decriminalised drugs through legislative changes, many of the countries did engage in various forms of *de facto* decriminalisation. For example, Ireland has a scheme where individuals may be cautioned for possession of cannabis, which is 'technically a non-criminal record' (Participant 10, Ireland).

Similarly, in Poland, there have been efforts to encourage prosecutors to discontinue criminal proceedings against people with small amounts of drugs for personal use, through a legal amendment to drug possession penalties, known as Article 62a.

"There is the Article 62, which criminalises possession and in 2011, a sub point was added to this Article, so Article 62a, which said, that even though possession is still a crime, if you are caught with a small amount for your own personal use, before the social harm is very limited, then the case can be just simply dropped"

(Participant 4, Poland)

However, lack of clarity over what is defined as personal use, combined with a lack of willingness of prosecutors to drop charges, has meant it is not used as much as it could be. One participant indicated it is 'used quite rarely' (Participant 16, Poland) but another suggested that 'around one third or sometimes even slightly more of all possession cases registered by the police, are dropped by public prosecutors' (Participant 17, Poland). In the context of Poland's very strict laws on drugs, this was a form of progress, however, it was still recognised that people would still be stopped by the police and to avoid this 'we need the full decrim', which would also abolish police search powers (Participant 4, Poland).

Scotland was also reported as having a form of *de facto* decriminalisation, in which all drugs were now included in a 'minor offences policy', giving police discretion on whether they want to prosecute for possession or issue a recorded policy warning instead (Participant 5, Scotland). Although this was seen as a positive step and 'massive significant change', there were concerns that it had made no difference to communities most affected by drug laws, as it still involved confiscation of drugs from dependent users and issuing of fines to people living in poverty, as fines may still be issued if people refuse the warning or are a persistent offender.

"...the recorded police warnings, were fine for your average Joe, middle class, somebody that's been caught with a bit of cannabis, or a bit of ecstasy or you know, something like that, but it's not going to be fine for the people who are entrenched."

(Participant 5, Scotland)

Norway was also reported as moving towards a form of depenalisation, or *de facto* decriminalisation, framed as 'local drug policy reform', implemented in Oslo.

"Now the pressure is more about the local, local authorities to, to have the police on board, to do trials for like 3 or 5 years, and, and then the police cannot press charges, you know, and just take personal, like information, and give it to the municipality; municipality can invite to a meeting and that would be basically the drug policy reform that we proposed without legal; you don't have to necessarily actually change the law to change the practice."

(Participant 6, Norway)

Where *de facto* decriminalisation had been achieved, this was often in relation to specific substances or specific demographic of people. For example, Norway created a rule where people under the age of 18 who committed minor drug offences would have this cleared from their criminal record when they turned 18, as a strategy to 'lessen the extent of criminal registration of youth' (Participant 1, Norway).

DIVERSION TO HEALTHCARE SYSTEMS

Portugal is often cited as one of the most successful examples of decriminalisation. However, participants emphasised that their model is not simply decriminalisation; but also includes an effective health diversion programme.

"You could talk about decriminalisation being wonderful in Portugal, Portugal is not wonderful for decriminalisation, it's wonderful for its diversion programme, going to a health, health measure instead of a punitive measure, so all of those things are just really crucial in understanding just what is this decriminalisation that everybody is talking about."

(Participant 22, International)

This diversion is offered via panels made up of justice, health and social work professionals called 'Commissions for the Dissuasion of Drug Addiction' who whilst aim to encourage people who experience problematic use towards treatment, do not make it a mandatory condition of the diversion. It is crucial to consider that the Portuguese model also invested heavily in healthcare infrastructure for addiction treatment. However, it is equally important to consider this in the context of treatment quality, as some jurisdictions may already have a quality treatment infrastructure while others may need to develop this before diversion to healthcare is viable. As one participant noted, 'decriminalisation will only work if you have good services alongside it' (Participant 7, Scotland).

Conversely, diversion systems can also exist within a criminalisation framework or have a coercive aspect to them if treatment is mandatory. For example, although efforts to introduce decriminalisation in Poland were not successful, 'municipal counselling units' based on the Portuguese model, which were part of the decriminalisation proposals, are being set up for use within the criminalised framework, 'as a condition for punishment being waived' (Participant 1, Poland).

In Maine, the campaign for decriminalisation was closely aligned with diversion to healthcare, to the extent that campaign opponents highlighted the lack of detox beds and argued that the prison system was more adequately equipped to manage people who use drugs (Participant 11, Maine). In fact, the association with healthcare often underpinned more regressive measures that were not in keeping with the principles of decriminalisation and a human rights-based approach to substance use.

“The conversation that we’re having is fentanyl is bad, it kills everybody, and therefore we should put everybody in treatment, or we might even, like we’re even having conversations, there’s a bill called LD2008, which is a forced treatment bill, which would create a court process for family members to petition the court and put people into treatment against their will, so there is definitely still, you know, no we’re not anywhere near this idea that people have the right to use drugs.”*

(Participant 11, Maine)

*LD2008 passed in April 2022, which established a court process for involuntary substance use disorder treatment

One consequence of the focus on healthcare was that it kept the focus of decriminalisation on dependent users only, rather than the broader philosophy that all forms of drug use should be a human right. Decriminalisation is presented and made acceptable to the public by framing it as a way of getting people who use drugs into treatment. Furthermore, it is more acceptable to promote drug-free treatment, using the healthcare framing as an argument to stop people taking drugs, further reinforcing the idea that the aim of treatment is to prevent drug use.

“Usually it’s this approach like, yeah, okay, it’s not good to punish them, but they have to get into the treatment, so and this is quite common headline with it, so if you ask about the public approach to, to drug laws, it’s more like, we don’t want to punish people but they should do something about it, you know, like stop, stop using drugs, and go for treatment, and also the, you know the approach to treatment is like more popular from this perspective it’s drug free treatment, you know, if you would like to give the public money for treatment, it should be, it should be drug free treatment.”

(Participant 14/15, Poland)

Through this lens, criminalisation could therefore be seen as having some positive benefits, for example as a route into treatment that would be lost if drugs were decriminalised.

“I know a substantial amount of people who have been criminalised for drug use, and it’s led them into harm reduction, if you’re not being criminalised for that, are you taking that route away from them?”

(Participant 8, Scotland)

LEGALISATION

As highlighted earlier, one of the challenges with decriminalisation advocacy is the conflation with legalisation. Whilst legalisation was understood as distinct from decriminalisation of drugs by interview participants, the benefits of a regulated market and legalisation of substances such as cannabis for commercial sale were discussed and seen as relevant to the issue of decriminalisation by some participants.

Progress on drug legalisation had been achieved for cannabis in Maine and was seen as a potential development elsewhere due to its social acceptability, bipartisan political support, medical benefits, and potential to generate large volumes of tax revenue. It is important to note that legal cannabis was usually considered very distinct from decriminalisation of drugs such as opioids and stimulants. Therefore, participants felt it was important to ensure that arguments for decriminalisation were not conflated by the public as arguments for full legalisation of these drugs.

In Maine, the successful legalisation of cannabis had required cannabis law reform advocates to state that the same was not being proposed for other drugs, because ‘when I say decriminalisation, people hear legalisation, like they instantly think that I’m, I’m talking about like mass-producing heroin’ (Participant 11, Maine). This distinction was also reflected in countries who had not legalised cannabis.

“The argument needs to be clear; decriminalisation is one argument, and that’s about vulnerable people in, caught up in a system, who through sometimes no fault of their own, has just slipped into that, that’s one; legalisation is a different argument and a different perspective, legalisation is about big capital funds, making lots of money, supporting another source of income for government.”

(Participant 10, Ireland)

Whilst some participants were clear that advocating for decriminalisation was a separate issue to legalisation, there was also an understanding amongst some that decriminalisation of drugs alone, without the safer supply provided by legalisation, would not be sufficient to achieve the full range of outcomes hoped for by decriminalisation advocates. Some participants argued decriminalisation alone would prevent people from being punished for using drugs, and potentially create a framework to support people with drug problems towards treatment, but, they would still be dependent on an illegal, unregulated black market, where the drug supply is controlled by organised crime. As a result, some participants argued, decriminalisation does not remove the harms associated with using drugs that are adulterated with various other harmful substances and sold in inconsistent strengths and quantities. A regulated, legal market was seen as an important element of removing drug related harms to both people who use drugs and wider society as described by one participant below.

“You begin to realise that the only way to regulate drugs, is through a safe legal supply. Decriminalisation, all decriminalisation does, is handing more power to, to the underworld.”

(Participant 5, Scotland)

BARRIERS IN RECENT PROGRESS

Despite the trend of various forms of progress being made, efforts to achieve decriminalisation have been impeded by legislative barriers across all five jurisdictions. In particular, there have been many instances of amendments and bills almost being passed but falling through in the final stages, as in Norway and Maine.

Norway

In Norway, the proposed bill for full decriminalisation introduced by the government in 2019 failed to progress due to a change of government, which led to the bill being replaced by a more criminalised model which only removes sanctions for people who use drugs dependently: 'One of the parties in the government exited the government, turning the government from the majority government into a minority government, so all of a sudden the government did not have a guarantee for being able to pass this law' (Participant 1, Norway).

Poland

In Poland, the main barrier to decriminalisation was that the right-wing government are more interested in restricting than relaxing drug laws: 'we have quite a conservative right-wing government ... the current minister of justice also has been the one who is rather strict when it comes to drugs crimes and so whenever conversations we are having actually about changing the criminal law ... this is all rather around making it more strict' (Participant 4, Poland).

Scotland

A significant barrier to decriminalisation has been the fact that drug laws are not fully devolved to the Scottish Parliament, meaning that the UK Government must approve any changes to the Misuse of Drugs Act. This barrier is due to the governance structure of the United Kingdom (Participant 7, Scotland). This notably limited efforts to create drug consumption rooms. A further barrier was identified as the lack of political will in the Scottish Government to be creative within the legislative powers they do have and to take risks. Additionally, the issue in Scotland was very closely linked to the issue of high drug related deaths, which kept decriminalisation debates framed in terms of healthcare rather than wider issues around human rights, even though these are not necessarily mutually exclusive.

Ireland

Although there had been success in Ireland in reframing drug use as a health issue, one barrier identified was a lack of political will to implement more radical solutions such as drug consumption rooms, which had failed to gain planning permission then subsequently been 'kicked into the long grass' by the majority party because there is not much political capital in advocating for decriminalisation and it can potentially create negative capital, criticism from opposition parties and media (Participant 13, Ireland).

Maine

The primary barrier to decriminalisation in Maine was the failure to have the decriminalisation bill passed by the Senate. This was largely due to conservative attitudes amongst officials in government offices. One specific individual with a lot of influence in the Senate was a specific barrier. The cross-party support for cannabis legalisation has not extended to substances considered as 'hard' drugs (Participant 18, Maine).

"Our governor is ... a former attorney general, so the highest level of law enforcement in the state and that really informs her, her ethos around drug use, around criminalisation, and she is very, when she makes a decision, she really digs, digs in and is very difficult to move, and so that combined with her influence in, in the senate ... ultimately, is what informed how the decrim bill ended up." (Participant 12, Maine)

Internationally

Despite significant progress internationally, in the reframing of drug use from a crime to a health issue, a growing international evidence base for decriminalisation, and the increased acceptability of decriminalisation globally, there are still countries where decriminalisation is not considered feasible and drug laws continue to be very regressive. International participants highlighted the lack of progress in countries such as the Philippines where people who use drugs face extrajudicial killings as part of an extreme ongoing war on drugs and the people who use them. Similarly, in Russia, many people who are living with HIV do not have access to effective treatment. These anti-drugs policies are popular in these countries: '...that's one of the things that we forget is that, is that in their country, you know, this is a popular policy' (Participant 24, International) and show that there is still substantial progress to be made globally.

FACTORS INFLUENCING PROGRESS

Interview participants shared a variety of factors which had influence on progress towards decriminalisation. The key factors were:

The wider social and cultural context: Representing the issue of decriminalisation of drug use through the wider lens of decriminalisation for other health issues and human rights was seen as an important strategy. This included areas such as LGBTQI+ rights, abortion and sex work.

Cannabis exceptionalism and medicinal use: The rapid and substantial global progress on cannabis decriminalisation and particularly for medicinal use was observed in often stark contrast to other drugs but progress in this area often provided an opportunity to display evidence for the benefits of decriminalisation and offered momentum for decriminalisation campaigns to build on.

The role of the media: There was evidence that media coverage could be both supportive and oppositional to decriminalisation, depending on the political perspective of the media outlet. The general sense was that whilst media coverage was mixed, there was a trend of becoming more progressive over time. However, there were still issues with media stories that increased stigma towards people who use drugs or promoted misinformation. Engaging with media productively was an important strategy for decriminalisation advocates.

The role of law enforcement: It was noted that law enforcement organisations had an important role in decriminalisation efforts; from their ability to influence policy and the media, to their role in practical implementation of measures such as diversion or *de facto* decriminalisation.

Political leadership: Change in leadership and shifts in political will, perhaps resulting from perceptions of greater acceptability or unacceptability for reform within public opinion could have a dramatic effect on decriminalisation progress. This ranged from a complete block on legislation being implemented to loss of support for evidence based harm reduction measures.

These themes are explored in further detail below.

THE WIDER SOCIAL AND CULTURAL CONTEXT

Progress in decriminalisation was made possible or limited by the wider social and cultural context in each of the countries. Social progress on comparable human rights issues such as LGBTQI+ rights provided momentum for decriminalisation campaigns and paved the way in terms of the activism strategies and democratic mechanisms that could be used to make progress.

As such, progress towards decriminalisation was more prevalent in countries where there was a general atmosphere of socially progressive change. Liberal social attitudes also made it less politically risky for politicians to publicly support decriminalisation, and less likely for opposition politicians to use it for political capital. Social support for decriminalisation was often described as being high, particularly when the details of what would be involved are clearly explained. Drug use in general was often viewed as more acceptable to the current generation than it had been in the past, which helped decriminalisation efforts.

In Scotland and Ireland, progress on LGBTQI+ rights were highlighted as providing a context in which decriminalisation was also seen as acceptable. Ireland in particular had experienced a substantial social change from social conservatism (associated with the Catholic Church) to becoming more socially progressive, a shift reflected in policies such as legalising access to abortion.

“There was a general good feeling in Ireland around social progress, we were the first country in the world to change our constitution to permit, you know, access to abortions, and stuff like that, so there was a great, you know, a sense of Ireland being pioneering in some way, that I think was possibly fed, fed into it as well, to a certain extent.”

(Participant 3, Ireland)

Conversely, the lack of progress in Poland was associated with continued conservative social attitudes and the ongoing influence of the church over politics and society. This was reflected in the persistent attitudes in policy and law that drug use is something that must be punished.

“I think that there is an important role of like Catholic church, religion and, and morality, as such, it's not often like attributed so openly to the religion, but there are so many concepts in the Polish society that really are rooted generations and generations back, it's like you know, starting from, that suffering is something that you deserve in a way, and then so you know, you did something wrong, taking drugs is wrong, immoral, whatever, so now you need to get punished for that”

(Participant 4, Poland)

CANNABIS EXCEPTIONALISM AND MEDICINAL USE

Cannabis decriminalisation and legalisation was one area where rapid, substantial progress had been made in some jurisdictions in the past ten years. At the same time, cannabis was often treated very differently from other drugs and progress with cannabis did not necessarily lead to policy change for other drugs. In some jurisdictions there has been a ‘cannabis exceptionalism’ (Participant 12, Maine) which has meant a separation between campaigning for cannabis reform and campaigning for wider decriminalisation of other drugs.

The main benefit of treating cannabis as an exceptional case was that the higher social acceptability and cross-party support meant that it had been possible to make radical gains, including full legalisation in Maine, and medical cannabis in Poland.

Cannabis could uniquely be framed for its health benefits and benefit to the economy.

Some participants also felt that cannabis progress created momentum for the discussion of decriminalising other drugs.

“I think, you know, in general, there’s a view towards liberalisation of drug policy, more generally, so like if we look at, for example, cannabis in Malta or Netherlands or Germany or wherever it is, we can see the shifts happening there”

(Participant 3, Ireland)

Medical cannabis was seen by some as a good first step towards decriminalisation. and linked in well with the shift from a criminal to health model, which was a significant step in Ireland.

“The whole concept of people with certain conditions would benefit from cannabis, and you know, or the use of medical grade cannabis, and all the rest of it, you know, so I suppose that’s one of the, that’s one of the arguments that has started, that helped to start that shift.”

(Participant 10, Ireland)

Medical cannabis was also achieved in Poland by framing in terms of the health benefits for sick children (Participant 14 & 15, Poland).

However, there were clear limitations to the broader decriminalisation effort caused by cannabis exceptionalism. For example, in Poland, legalisation of medical cannabis had not led to any momentum for decriminalisation of other drugs. In fact, it had only been possible to make progress on medical cannabis by very clearly asserting that the arguments for progress did not apply to recreational drug use.

“A couple of years ago when there was the conversation about the need to finally allow those to use cannabis for medical purposes, that was, that was well covered, but the, the strategy at that time was really to separate the two conversations, there was, at the time, that everyone will see the medical cannabis legalised, then we very clearly need to show this is different from the recreational use, and, and at that time, the media were mainly interviewing and that was also the part of the strategy, the patients, their families, their physicians, the doctors, they are the ones who speak with the media ... we just needed to clearly say this is really not about, about recreational use.”

(Participant 4, Poland)

Several participants made the point that current forms of decriminalisation of cannabis, e.g. *de facto*, was more likely to benefit middle class communities, they made the argument that people out with these classes would still be punished and therefore felt a model which removed police discretion, e.g. *de jure* decriminalisation, would be more effective. It was also noted that legal medical cannabis was still very expensive and benefited people who could most afford it, with people using illicit supply still being punished (Participant 4, Poland).

Furthermore, that this benefit would therefore not reach the communities most affected by drug deaths (Participant 5, Scotland).

In Maine, the legalisation of cannabis is so normalised that even conservatives support it (Participant 11, Maine). This shows that a unique benefit of separating cannabis from other drugs is that it can benefit from bi-partisan cross-party support, which makes legal progress possible.

However, there was even a clear separation between groups who campaigned for cannabis and those who campaigned for wider decriminalisation, often leading to a separation of the advocacy movements.

“There’s super strong, like across the board bipartisan support, but we don’t see that with other, other drug policy, and also what’s interesting here is decriminalisation efforts, never had anything to do with the cannabis people, we separate them completely, like the legalisation of cannabis and decriminalisation ... when I was in my role ... one of my things was like, why aren’t the cannabis people here, like what are we doing, like they led this incredible campaign around legalisation, but there is, there’s still a disconnect between, I think the recovery community, who supports decriminalisation and the cannabis advocates, and like as someone who is a patient, medical cannabis patient, like I can’t make sense of it, so I think it’s just a lot of, it’s politics and sometimes it’s about funding, but my hope is that we can actually bridge that gap, because I think that’s going to make a huge, a huge dent in like the fight for decrim, but we, we just exist in like different worlds.”

(Participant 12, Maine)

Racial factors, where certain groups are labelled by the police as using/supplying drugs more than others, were cited as having a role in this distinction between cannabis and other drugs in Maine.

“Cannabis is legal here in Maine, and that has broad bipartisan support, so people in both parties, I mean we mostly only have two parties here, political parties, and that has broad support, but harder drugs is a bigger, is a tougher sell for all the reasons you already know, I’m sure, like class and race issues here in the US, around who does drugs and what kind of drugs they do.”

(Participant 18, Maine)

THE ROLE OF THE MEDIA

Interview participants shared that the media played an important role in decriminalisation debates. There was evidence that media coverage could be both supportive and oppositional to decriminalisation, depending on the political perspective of the media outlet. Engaging with media productively was an important strategy for decriminalisation advocates. The general sense was that media coverage was mixed but generally quite positive and with a trend of becoming more progressive over time. However, there were still issues with media stories that increased stigma towards people who use drugs or promoted misinformation.

This may not have been out of opposition to decriminalisation but rather the media requirement to simplify and dramatise issues to increase engagement, or due to requirement of “balance”. These issues aside, media was not seen as a huge barrier to decriminalisation, particularly in comparison to the more significant political barriers, and was often seen as a tool that could be useful to campaigning when utilised correctly. The main issue was incorrectly framing issues in a way that limited public understanding.

In Norway, when efforts to introduce decriminalisation fell through, the media picked the issue up and continued coverage helped sustain momentum for decriminalisation as a topic after the bill was rejected. This was useful, even if they were not always good at communicating the complexities of the debate and tended to use stigmatising imagery, and there had been some progress in reflecting more positive stories.

“Coverage of drug use, it’s always stereotypical, quite tabloid, the illustration photos always show either like that stereotypical joint or someone shooting up with heroin. There has of course been some progress made in that area, in recent years, where you’ve had some other types of reporting, you know, talking to, to high functioning users of psychedelics, and stuff like that, or you know, cannabis activists, and also some medical cannabis, and medical use of psychedelic coverage.”

(Participant 1, Norway)

In Ireland too, there was a sense that media framing could be unhelpful, for example by focusing heavily on violent conflict between competing drug gangs. Despite this, the coverage was seen as useful for keeping the issue in the public debates, drawing attention to areas where policy change was required, and highlighting processes that could be used to bring about change, such as a citizen's assembly (a democratic process where citizens are selected at random to develop policy solutions).

“There has been quite a bit of coverage around, you know, the arguments, why there needs to be a citizens assembly, and I suppose the positive thing in that discussion is, like there is a general acceptance by people that we’re not doing particularly well, apart from the department of health and minister, they think it’s all great, but generally in Irish society, people can see, look we’re not, we’re not doing great on this issue.”

(Participant 2, Ireland)

These types of themes were repeated across all of the countries in the study. For example:

- In Poland, media interest helps to create and sustain debates around cannabis decriminalisation, although it may reinforce a medical model by focusing on medical rather than recreational cannabis (Participant 4, Poland).
- In Scotland, there has been a ‘perfect storm’ of advocacy streams coming together and being picked up by media, particularly due to the context of high drug deaths.

Despite the use of some stigmatising imagery and language, there has been lots of progress in getting even traditionally conservative tabloid newspapers on board with decriminalisation (e.g., the Daily Record) (Participant 5 & 7, Scotland).

- In Maine, there has been some good support of decriminalisation, but they do have a tendency to use stigmatising imagery, or emphasising the dangers of drugs for children (Participant 18, Maine).
- Internationally, it was noted that whether in support or opposition of decriminalisation, media have a tendency to take a strong viewpoint that will help sell newspapers and therefore advertising space (Participant 22, International).

THE ROLE OF LAW ENFORCEMENT

Law enforcement organisations had an important role in decriminalisation efforts. First, they wielded a significant amount of political power and were able to influence policy and media. Second, they were directly responsible for the practical implementation of decriminalisation measures and, in the case of *de facto* or discretionary decriminalisation, their interpretation of policies and willingness to implement policies in the spirit intended had an impact on how these measures worked in practice. Partnership between police and health services was essential for the shift from a criminalised model to a healthcare model of drug use. In Scotland there had been great progress in getting police on board with a healthcare approach.

“There’s been a marked change in the police involvement, you know, from the top down, and the police, they’re much more bought into a harm reduction, you know, scenario, 20 years ago, the, if a drug consumption ... was on an agenda, the police were not allowed to attend the meeting, you know, and if it was brought up in a meeting, they were instructed by the then chief constable, they had to leave, so we’re well on from that, where they recognise that police are part of what needs to be a whole system, a whole community response, that, and you know, look at the way that the police are now holding naloxone, 10 years ago, that would never have happened.”

(Participant 7, Scotland)

However, police could still be a barrier to decriminalisation in several of the countries. For example:

- In Ireland, there had been barriers to implementing even a very light form of decriminalisation for the first two offences in the ‘three strikes’ policy.

“It still hasn’t been introduced, the government has said there’s a pilot going to be run in 4 or 5 different parts of the country, it hasn’t been officially said, but we kind of know that the, the police, the Gardai, they won’t do it; because they say it involves implementing the law in a different way, in different parts of the country during the pilot, and they say they won’t do that, so it’s just stopped, it stalled, because there’s nobody politically to drive.”

(Participant 2, Ireland)

- In Poland, the police force was considered very conservative and although they have the discretionary option of non-prosecution, they rarely use it in practice, highlighting issues with implementation. This may be because police do not want to lose the right to stop and search people. Even if charges are eventually not pursued by prosecutors, the individual will still have been searched and had their drugs removed by police, meaning they have still been subjected to the criminal justice system. Some participants shared that police in Poland find criminalisation of drugs useful because they claim they can use it as a way to stop users then work up the chain to find suppliers and pursue organised crime. They also follow a very statistics focused model of policing where detecting a large number of crimes is perceived as effectiveness (Participant 4 and 17, Poland).
- In Maine, police were identified as one of the greatest barriers to decriminalisation because they still held a view of people who use drugs as deviant and needing to be punished. There is also a specifically racialised element to this, where the war on drugs has been used as a way to target enforcement onto people of colour.

“Because of our particular history with slavery, and with basically apartheid in our country, I think people hold onto police as the answer to maintain social control ... I also think there’s a desire, and it’s not just police, and I don’t know if this is human or American, but this desire to punish people and it just, and to be harsh and to, and to punish, and so I think that is something we’re always up against, and that, that lack of compassion and that ... the desire to use law enforcement to deal with our issues and our desire to punish people we see as deviant or not like us are the two biggest impediments.”

(Participant 18, Maine)

- In Norway, the police were considered conservative by interview participants and often resistant to decriminalisation due to concerns about loss of powers such as strip searching, taking blood and urine samples and searching phone records which they suggest they may use to pursue other crimes. A high-profile issue of police corruption has led to reduced trust in the police and consequently greater support for health approaches and decriminalisation and considering this as a human rights issue (Participants 6 and 9, Norway).

STRATEGIES IN ACHIEVING DECRIMINALISATION

Participants were able to provide expert insight into the strategies that could be helpful in advocating for decriminalisation. There were three key strategies highlighted:

- **Advocates and Influencers:** It was important to have high profile and outspoken advocates for decriminalisation, particularly in influential political positions but also in related sectors such as healthcare. Advocates in media were also important, as were advocates from living and lived experience organisations, families who had been directly affected by the harms of criminalisation, grassroots advocacy, and the support of non-governmental organisations.
- **Framing of decriminalisation:** It was important to frame the issue very carefully to maximise public acceptability and support. This may involve not using the term 'decriminalisation' but instead just referring to the actual legislative processes that would happen instead, for example emphasising that people would be offered support instead of being punished.
- **Incremental change:** Rather than attempting to achieve decriminalisation through a major and rapid change of drug legislation, it may be more feasible to make small, gradual changes that eventually lead to decriminalisation. These incremental shifts in the direction of decriminalisation show people the positive benefits and gradually increase acceptability without creating too much resistance. For example, reframing from a criminal issue to a health issue may be the first step, which can lead to medication-assisted treatment, drug consumption rooms, depenalisation, and eventually towards full decriminalisation.

ADVOCACY

Having people willing to advocate for decriminalisation was a vital strategy. In particular, it was useful to have advocacy from wider networks that were not just limited to drug advocacy organisations. For example, in Ireland, advocacy from professionals such as social workers was helpful in increasing the wider acceptability of the issue.

“Recently we’ve had the, the social workers association of Ireland, come out very strongly in favour of, of you know, looking at changing the laws. Youth workers organisation have as well a group now, youth workers against prohibition, so that’s a really positive development, because people, social workers are generally seen as, do you know, people sort of have a sense of well they are, you know, nice people and youth workers, so I think that’s something really important as, as more of those kind of groups of people, who are coming again from their direct, it’s directly coming from the work they do.”

(Participant 2, Ireland)

In Poland, advocacy from think tanks, such as the Institute for Public Affairs, were able to influence media attitudes by conducting research and promoting decriminalisation as an evidence-based policy. The focus on cost-effectiveness in Polish advocacy shows how advocacy has to frame things in a manner that is most acceptable for their specific social context.

“Together with one of the economy academics, they calculated how much criminalisation, how much cost it produced for the society ... and when you multiply, then you can see the annual cost that we as a society had to, had to take for that.”

(Participant 4, Poland)

In Maine, advocacy from individuals and families with lived experience was vital in getting decriminalisation legislation through the House and nearly through the Senate, ‘the reason why I think it ever even got that far was really because of the voices of people with lived experiences really organising around that piece of legislation’ (Participant 11, Maine).

“I can’t emphasise enough the, the difference that having the Maine recovery advocacy project and the kind of grass roots support, that’s been a real transformative presence in the debates here, having people organised, who are in recovery, who support people with who use drugs and are very vocal in the debate, I think that’s been really, really important.”

(Participant 23, Maine)

Experiences in Maine highlighted the importance of how lived experience is represented and taken on by policy makers and others in power was key. Examples were given where lived experiences were used to pursue criminalisation, for example with the narrative that ‘jail saved my life’ (Participant 11, Maine) and was also used as rationale for forced treatment.

“..people are really dug in, like you meet people, legislators who have lost family members and they just are so in their grief and no one can blame them for that at all, they just haven’t gotten, I mean we had a forced treatment bill come out at the end of session, because someone’s sister died in front of them, a legislator, who is a mental health professional, it’s, you know, a social worker, and she’s convinced that if she had been able to force her sister into rehab, that her sister would still be here, and so those stories, when people are in that grief, in the moment, that’s what really grabs people, and it’s, it’s really challenging to honour that grief, and honour that person’s experiences, and also say, but that’s not going to help, and I think that’s been, that’s been really hard...”

(Participant 12, Maine)

Political advocacy was also extremely important, especially from powerful and influential politicians who were in a position to influence legislative processes. In Maine, the grassroots activism was supported by advocacy from powerful legislators and health officials, who had power and influence in the debates.

“It was having a few legislators who were very committed, so it’s like knowing people in power who know how to move the levers ... also we had a broad array of support, so we did not have law enforcement for most of it, but we did have doctors, we did have other people who were seen as credential supporters, so doctors, health experts...”

(Participant 18, Maine)

FRAMING OF DECRIMINALISATION

Another important strategy involved framing decriminalisation in a manner that maximised its acceptability to a wide range of stakeholders and public. Key to this may be to simply not use the word 'decriminalisation'. One very useful framing technique was to frame it as decriminalisation of the person, rather than the substance.

Framing in terms of the harms of criminalisation to individuals and the financial cost to society of enforcing ineffective laws was also a useful strategy, and a form of framing that could be usefully picked up by politicians to use in advocacy efforts. Emphasising the evidence that criminalisation was harmful, and decriminalisation could reduce harms was important and could be achieved by framing the issue as a matter of healthcare and harm reduction. In particular, asking people to think about the healthcare response they would like to see if their own family or friends were affected by drugs could be useful in moving them away from support of criminalisation. The focus on healthcare allowed a very clear, focused messaging that was difficult for people to oppose.

“What was so important in the Good Samaritan campaign, is we had really clear consistent messaging, that this campaign was about saving lives. We don't have a good like clear message that we want to decriminalise all drugs.”

(Participant 11, Maine)

There are potential drawbacks with framing the issue in terms of medical responses to drug harms as may reinforce the idea that drugs are harmful, give the impression that every person who uses drugs needs treatment, limit the debate to specific drugs such as opioids, and overlook the wider philosophy of decriminalisation.

“We can't change the mindset of decriminalisation until we change the sort of... you either come at it from a cognitive liberty argument, which is that everyone has a right to alter their consciousness, until it becomes harmful, therefore you decriminalise all drugs and you step in when it becomes really problematic, or you come from a mindset of like, well drugs are good fun and everyone likes them, so we might as well decriminalise them and you know, reduce the harm to those that have problems with it, but we're not there yet..”

(Participant 5, Scotland)

Another perspective offered was that the public health angle was often more palatable than a human rights argument but is dependent on will/capacity to actually develop a healthcare infrastructure.

“I also have always thought that the public health argument for decriminalisation for harm reduction was always stronger than your human rights argument, not because there's not enough importance related to human rights ... but basically because countries that don't care about human rights, are not going to be sensitive to that argument ...

...I think the public health arguments of ongoing epidemics, loss of, loss of life, and loss of productivity, the economic arguments of course related to that, are very strong, but despite all the decades of evidence that we have accumulated around these topics, there's still, you know, really such bad levels of implementation of evidence based programmes, services, access to these services, for people who use drugs, that hasn't really changed in the last 20 years really."

(Participant 21, International)

INCREMENTAL CHANGE

Rather than attempting to achieve decriminalisation all at once, participants often argued that a more realistic strategy would be to make gradual and less perceptible steps towards decriminalisation, which would take a longer time but demonstrate the positive outcomes step-by-step and avoid strong resistance. These incremental shifts could involve a shift from criminal to health models, amendments to laws to minimise penalisation for possession, and development of specific settings where drug use was decriminalised, such as drug consumption rooms. For example, the shift to a health approach in the 1980s as a response to HIV, during the Regan and Thatcher period, could be considered the beginning of an incremental shift towards decriminalisation, due to gradually changing attitudes to recognise that harms are caused by the illegality of drugs.

Because of the conservative social and political attitudes in Norway, it was important to use both incremental shifts and a reframing away from the language of decriminalisation – this could gradually move things on without sparking political resistance.

"I think that might be the way forward, for Norway, a change in juridical practice may be a creeping process, or changes in law, and then you also get some political, but small parts of the time, maybe, I think.. I think the report actually scared the shit out of a lot of people, because it looked so radical, because they, they actually said that these things at once."

(Participant 9, Norway)

Drug consumption rooms in Norway were also seen as an incremental shift towards decriminalisation (Participant 14 & 15, Norway). Similarly in Maine, incremental shifts were useful for getting Republican lawmakers on board. The Good Samaritan law in Maine was also seen as an incremental shift towards full decriminalisation (Participant 11, Maine). International participants felt it was felt unlikely that the UN conventions on drugs would be overturned – therefore, the best chance of achieving decriminalisation would be through country-by-country incremental shifts (Participant 21, International)

"I mean it's such a long history of you know, the UN conventions that have shaped this, and usually conventions aren't easily overturned ... basically it's never going to be a global step, I think, that will be way too complicated, so the only way forward is that countries, more and more countries continue to take this step, and, and then document what ...what they see happens."

(Participant 21, International)

The limitation of this type of approach was highlighted in Poland. It had been hoped that incremental shifts, such as the 2011 amendment, would lead to changes in police practice, that they would cease arresting people for possession if they knew that the charges would likely be dropped by prosecutors. However, the room for interpretation afforded by the incremental shift in policy meant that police behaviour often did not change in the way hoped by decriminalisation advocates.

“The hope was that if they’d stop these cases, then the police actually will follow and change their practice, because it won’t make sense for them to stop people, because then the cases will be dropped, dropped, dropped, but that didn’t happen.”

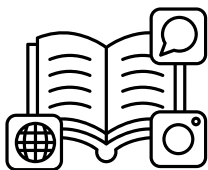
(Participant 4, Poland)

Another perspective was that incremental change could go beyond decriminalisation and lead to legalisation and whilst this was recognised as a potential barrier for garnering support for decriminalisation by some, it was also acknowledged as a desired outcome for some drug policy reform activists:

“Some people are wary of the decriminalisation debate, because they think that people can get their heads round decrim, but legalisation is just a step too far, others, you know, and you get the sort of slippery slope argument, oh well if we decriminalise, they’ll want to legalise it next...”

(Participant 25, International)

Such themes highlight that within incremental change, these differing viewpoints of potential goals of incremental change need to be understood and addressed at jurisdiction level in order to support decriminalisation advocacy efforts.



MEDIA ANALYSIS

MEDIA DEPICTION OF DECRIMINALISATION

The way that various media sources cover the issue of decriminalisation is different in each jurisdiction. Broader cultural attitudes and specific histories dictate attitudes toward drug use, the legal status of drugs and decriminalisation. However, important similarities can still be observed across jurisdictions. When the term ‘decriminalisation’ is used in the media, it refers to a very broad range of drug policy reforms.

When media sources do not define different approaches to removing criminal penalties for drug possession and use, it is difficult to develop consensus or even shared understanding of the differences between them and their relative benefits. Superficial or sensationalist reporting does not describe accurately the goals of advocates across the full range of opinions on this topic. Inaccuracy in reporting may also reflect confusion or imprecision in the communication of their proposals by advocates and campaigners. Appendix 1 contains details about media activity around decriminalisation in each of the five jurisdictions, as well as relevant case studies.

FACTORS INFLUENCING CHANGES

IMPACT OF TERMINOLOGY ON ATTITUDES TOWARDS DECRIMINALISATION AND THE WIDER POLICY CONTEXT

Public attitudes differ greatly towards decriminalisation and other drug policy measures, such as depenalisation and legalisation, and it is likely people often do not understand the nuances between these. These differences mean that when media reporting is inaccurate or unspecific, the nature of the debate may not reflect the arguments which are specific to decriminalisation (Ana Liffey Drug Project 2021). This provides advocates with a strong incentive to ensure that clarity is maintained.

CASE STUDY: #SAFERFROMHARM CAMPAIGN (IRELAND)

Initiated by Ana Liffey Drug Project; funded by the Open Society Foundation; and supported by a range of Irish advocates - #SaferFromHarm is a civil society campaign to decriminalise people who use drugs. Between 2018 and 2019 (i.e. prior to the COVID-19 pandemic) the campaign had a sophisticated communications strategy in place which included:

- saferfromharm.ie - a dedicated website which was a focal point for the campaign online, where people could access more information and download resources.
- Campaign resources included the reports 'The Human Rights of people who use drugs in Ireland'; 'Not Criminals - Underpinning a health-led approach to drug use'; and more.
- Town Hall meetings were held in Dublin, Cork, Waterford, Limerick and Galway. The aim of the meetings were to raise awareness of decriminalisation and to communicate key messages to the public in a way that made the case for change.
- A poll was carried out by RED C - with interviews carried out in a random nationally representative sample of 1,007 adults aged 18+ online between 24th and 29th January 2019.

- Social media engagement was prolific, including, but not limited to, video content created with famous Irish people - including singer songwriter Christy Moore; author Marian Keyes; actor and broadcaster PJ Gallagher; comedian Tara Flynn; singer songwriter Damien Dempsey; rapper Mango; and more.
- Traditional media was engaged with regularly and widely – including op-ed pieces; press releases; quotes provided to relevant news stories; and more.

The communication strategy ensured the #SaferFromHarm campaign was successful at engaging with the wider public about the decriminalisation of people who use drugs; and helped to create a better understanding of the attendant issues. It also built a narrative to help influence the implementation of Ireland's health led response to the possession of small quantities of drugs for personal use.

In Ireland, former drugs minister Aodhán Ó Ríordáin emphasised the importance of clarifying the policy goals at the outset of his campaign (McDonald, 2015). However, the terms 'legalisation' and 'decriminalisation' are used interchangeably in Irish media and elsewhere (Meagher, 2018). This conflation commonly leads to the presumption that decriminalisation will, almost by design, lead to an increase in the incidence of drug use and these concerns are frequently cited as a central argument against decriminalisation. By presupposing this outcome, media outlets exercise power by weaponizing existing public attitudes towards legalisation. This makes decriminalisation appear more radical and obscures its purpose.

However, potentially unhelpful media speculation as to the possible consequences of decriminalisation can be moderated by examples of decriminalisation in practice. Advocates and journalists have used Portugal as an example of the possible reality of decriminalisation and to distinguish decriminalisation from legalisation. Media coverage of this example of decriminalisation in practice can highlight that drug possession remains a focus for state concern and that there are diversionary and dissuasion aspects of the Portuguese model. (Brophy, 2015). For jurisdictions with more conservative attitudes towards drug policy, such media coverage may encourage a wider acceptance of decriminalisation amongst the general population.

There is, however, a risk that media coverage oversimplifies decriminalisation, as a single solution to all drug-related harms. Continuing with the example of Portugal, here a range of public health focused policies were introduced alongside decriminalisation (Slade, 2021). However, media coverage mostly – if not exclusively – evaluates decriminalisation as the reason for changes in drug-related harm. The harm reduction and education initiatives that were also implemented were not featured as prominently within the media (Slade, 2021).

Additionally, reports of Oregon's decriminalisation offer Maine media an opportunity to examine how decriminalisation works in practice, in another US state (Bangor Daily News, 2021). Oregon's Drug Addiction Treatment and Recovery Act (2020) decriminalised small quantities of drug possession. The state has received considerable domestic and international media attention for this decision

(Beaumont, 2022), but the success of its outcomes are not as well-established as the two decades of evaluation which Portugal has seen. Despite a lack of evaluation of its outcomes, the policy change still offers an additional example of how this can work in practice, particularly for Maine due to their proximity.

MEDIA COVERAGE OF ENFORCEMENT OF DECRIMINALISATION AND THE SOURCES OF OPINION

Across jurisdictions there is media focus on the role of drug criminalisation in policing and occasionally the police's role in drug policy.

Coverage of policing in Scottish media demonstrates existence of uneven applications of the law. Poverty and socioeconomic disparities are highlighted in a large portion of media advocacy reporting. In a 2015 article from *The Herald*, the author argues that socioeconomic factors exist as a proxy for police enforcement; different settings will carry different risks from drug use and possession (Learmonth, 2015). In this article, a police source argues that uneven enforcement is justified on the basis that “the presence of gangs [in] poorer areas” leads to crimes being committed to fund drug purchases (Learmonth, 2015). The source argues that acquisitive crime is comparatively low in affluent, cocaine-using parts of Scotland, so different criminal enforcement strategies should be used in practice. Here, presumptions of when police enforcement will be required are justified on the basis of the potential harm to others.

Increasingly across different jurisdictions, the failings of individual police officers and wider policing policy and practice are the subject of media scrutiny, and this includes consideration of drug-related policing. Media coverage commonly scrutinises drug policy and enforcement through the lens of racial profiling and inequality concerns. For example, as State Governor, Paul LePage received widespread media attention when he claimed that nine in ten drug dealers importing drugs into Maine state are Black or Hispanic (Wright, 2016). LePage was a prominent figure in the Maine drug policy debate, and this resulted in a widespread media backlash, where many Maine (and US-wide) sources aimed to fact-check such claims (Graham, 2016; Thistle, 2016; Bangor Daily News, 2016). Media sources unanimously denounced LePage's claims as inaccurate, and highlighted data which disproved his allegations (Fox News, 2016). In this case, media coverage advanced advocacy efforts by challenging LePage's claims and dismissing misinformation (Thistle, 2016). This fact-checking represents a crucial function of the media in advocacy and allows the outcomes of criminalisation to be verified.

Norwegian media scrutinises the policy influence of The Norwegian Narcotics Police Association ('NNPF') (Belgau, 2021; Thommessen, 2021; Schwencke, 2021). This organisation is largely comprised of active and former police officers (NNPF 2022) but has no formal connection to the police force or its activity (Larsson, 2021). It continues to face accusations that it has an outsized influence on the activity of police officers who are members (Ording, 2022). In particular, the NNPF's conservative approach to drug policy and 'just say no' education campaigns represent distinct policy positions (NNPF, 2022).

Media concern focuses on the potential for these to override the orders and policies issued by the police force (Støyva, 2021). This scrutiny has also sought to highlight the NNPF's power to shape media coverage of decriminalisation and drug policy. Journalist Hanne-Karine Sperre authored a 2015 *Nettavisen* article which justifies the practices of the NNPF by highlighting the harms which are deemed inherent to drug use (Sperre, 2021).

Sperre, it later emerged, did not disclose that he was an NNPF member. This led to this article being condemned by the Norwegian Press Complaints Commission (Bjerke, 2021). The widespread online discussion which resulted from this alleged misconduct used this as another example of the NNPF's covert influence on the drug policy and decriminalisation debates (Marhinussen, 2021). Media coverage of this influence has the effect of weakening the authority of drug policing. Norwegian press therefore displays scepticism over the enforcement of current drug policy, informing the wider debate on this issue.

MEDIA COVERAGE IN THE CONTEXT OF NATIONALIST POLITICAL IDEOLOGY

Media coverage of decriminalisation does not exist in a vacuum. Theories on how decriminalisation would function in practice are supported by examples within each jurisdiction's media output. These examples show the effects of current sanctions and offer a perspective into jurisdictions with different drug policies.

In some cases, advocacy efforts in the media may appear to be bolstered by there being a lack of international reference points. A nationalist context substitutes for an absence of international success in one Scottish media story, where advocate Professor David Nutt calls for psychedelic drugs to be used medicinally (Amos 2015). He asserts Scotland's world-leading scientific status and posits that an evidence-based approach and open attitude towards developing drug policy would continue this legacy. Nutt's opinion was presented in *The Scotsman* largely without comment. Here, a nationalist identity that views Scotland as a home to enlightened thinking has the effect of improving the feasibility of radical approaches to drug policy. By framing progress as a natural extension of Scotland's long history of medical research and innovation, it urges the reader to similarly take pride in the adoption of novel policy approaches. However, since this article was released, a pioneering approach to psychedelic drugs is low on the media agenda.

There is a suggestion here that in the context of populist and exceptionalist political discourse, arguments for decriminalisation could be made. This may be effective, in the context of international drug law and international treaties were framed as the background to criminalisation.

MEDIA COVERAGE OF THERAPEUTIC AND MEDICINAL USE OF DRUGS

When media outlets publish examples of people using illicit drugs medicinally, the stories are usually conveyed sympathetically. Whilst medicinal and therapeutic use of substances is clearly distinct from decriminalisation for personal use, coverage of the

issue can impact on the wider perception towards substance use. Examples of medicinal use are common in cannabis decriminalisation advocacy (McNamee, 2015) and are used to argue that decriminalisation would benefit public health and remove unjustified criminal sanctions. It is commonly argued that it would be unjust for a parent or caregiver to be punished for providing cannabis or cannabis-based products to their ill child if medical benefits can be observed (Barnes, 2016). Other groups which are presented more favourably in the media include military veterans experiencing post-traumatic stress disorder and people with terminal illness at the end of life, who may use psychedelics therapeutically.

Coverage of this type does not mean there is universal support for decriminalisation for people who may use substances medicinally or therapeutically, but it may open discussion on the use of drugs as self-medication and of people who use drugs being survivors of trauma or those with severe or terminal health conditions. Stories of this nature usually focus on cannabis, so people may conclude that medicinal use should not extend to other substances. It is worth noting that the medicinal benefits of using pharmaceuticals like benzodiazepines or opiates are rarely discussed in the media despite the fact their medicinal use is well established.

Overall, for most mainstream media outlets, medicinal use is generally not included as part of a larger debate surrounding decriminalisation for personal use and is treated distinctly, especially by media outlets antagonistic to decriminalisation. However, there is some evidence that the sympathetic coverage of medicinal use may feed into wider drug policy progress by engaging more conservative audiences in to the wider uses and benefits of substances.

CASE STUDY: PSILOCYBIN BILL (MAINE)

The use of medical examples is common in recent media coverage of advocacy efforts in Maine to legalise the medicinal use of psilocybin – a hallucinogenic compound commonly found in “magic mushrooms”. Although the campaign was unsuccessful in changing policy (Billings, 2022), advocates’ personal stories captured the attention of media outlets. Journalists noted that examples from veterans had the effect of expanding sympathy to conservative voters who may otherwise be opposed to the proposed policy changes (Whitehurst, 2022). This shows the power that media coverage has in reaching audiences which may otherwise not be engaged in the policy debate.

Coverage of medicinal use can be influential in shaping the nature of the decriminalisation debate and the opinions of the public. However, the debate surrounding full decriminalisation for non-medicinal use also considers whether access should be provided to those who are excluded from a public health narrative. Arguments which extend beyond public health considerations could also influence public opinion. This narrow focusing of the media agenda results in outcomes which do not successfully engage the entire population. In Norway and Maine, the conditional acceptance of decriminalisation in each jurisdiction’s legislature reflects this (Foreningen Tryggere Ruspolitikk, 2021; Miller, 2022).

MEDIA VIEWS ON THE IMPACT OF CRIMINALISATION

Across all jurisdictions, media coverage of decriminalisation, is shaped by the perceived outcomes of existing sanctions. These includes the impact on levels of drug use, the range and nature of drug-related harms, and the impact of sanctions on individuals in possession or using drugs as well as wider society. There is often a particular concern about the effect on people who are otherwise regarded as 'law-abiding' citizens. Thus notions of 'proportionality' and 'fairness' are measures of success.

Media coverage, like public opinion, is also influenced by prejudice, stigma, and wider political ideology

CASE STUDY: #FUNDACJA420 ADVOCACY CAMPAIGN BY MATA (POLAND)

Polish rapper Mata's arrest for cannabis possession prompted widespread media coverage. Following this, Mata established his own advocacy campaign named Fundacja 420 (The 420 Foundation) which aimed to decriminalise and remove penalties from cannabis possession (Luiza, 2022).

This campaign was used mainly to platform Mata's music and as such did not directly impact the wider debate. Critics have argued that this campaign has failed to meaningfully impact media because Mata, as a privileged young person, cannot fight stereotypes about cannabis use by his mere presence (Krawczyk, 2022). The campaign achieved a large reach due to Mata's popularity as a musician and media personality, but further active efforts to expand the campaign would be required to ensure the campaign will be widely shared and have a wider and lasting impact.

The limited impact of Mata's campaign to decriminalise cannabis can be accounted for by his celebrity. As a celebrity, his life and lifestyle are, by definition, perceived not to be like those of young people. As a privileged person he may use drugs but there is no necessary useful parallel drawn between his use of cannabis and that of other young people who are not so privileged. In *Narkopolityka*, Krawczyk (2022) observes that Mata's high profile cannabis use does not actually challenge public perception of drug use.

Interestingly, his song *Patointeligencja* - an exposé of the drug use in Poland's private schools (Urbaniak, 2019) associated substance use with a non-traditional group and was more impactful and treated quite differently by the media who saw him as opening up sociological discussion on the matter. He has been hailed for the "incredible sociological detail" of his lyricism in this song (Marshall, 2021). Therefore, personal examples can be most useful when challenging public perception of people who use drugs when they challenge the reader's understanding of how drug policy and usage impacts society.

In reporting crime, particularly violent or sensational crimes, the media will use stigmatising terms and stereotypes to describe any suspect or perpetrator who has used drugs - whether or not they were using drugs at the time of the crime or whether drugs have any role in the crime itself.

Thus more sympathetic coverage is reserved for very specific groups of people who use drugs. These may include people who are described as ‘innocent victims’ such as those who are very young or who have been exploited, or, people who have experienced trauma or adverse life events and have perhaps been denied access to adequate help and support.

CASE STUDY: ‘STRAFFSKADER’ ADVOCACY CAMPAIGN BY TRYGGERE RUSPOLITIKK (NORWAY)

In January 2021, advocacy organisation The Norwegian Association For Safer Drug Policies launched a campaign displaying posters in public spaces, including across Oslo’s public transport stations and on social media (Tryggere Ungdom, 2021). The posters used fictionalised examples of people who use illegal drugs and described the steps they took to reduce the chances of harm or overdose occurring (Straffskader, 2021). These posters created strong reactions from advocates and journalists, with mixed support for the campaign (Narkotika Politikk, 2021).

Due to the use of young people in the posters’ examples, and the chance for the posters to be viewed by young people, this campaign was criticised for normalising the use of illegal drugs and suggesting that a person could take drugs without risk (Babington, 2019). This campaign showcases examples of drug use which go beyond medicinal uses, and aims to argue that current criminal policy should not punish all drug use (Tryggere Ungdom, 2021). It was successful in enabling debate on broad decriminalisation.

The media can, through a narrow focus and repeated use of very similar stories negatively influence debate on drug-related issues. Polish media network TV, covers drug trafficking and anti-social criminal behaviour (TVP, 2020; 2021). Over the span of their recent reporting, this has formed much of their reporting on drug-related issues.

Of course the opposite is also true and media could, with another focus promote a more enlightened public perception and debate around drug-related issues including decriminalisation.

MEDIA OPPOSITION TO HARM REDUCTION INITIATIVES

Across jurisdictions, there are examples of the media covering opposition to harm reduction education initiatives by advocates. In particular, backlash against education aimed at young people has received wide media coverage. This presumes that education campaigns condone or normalise drug use. In this context people promoting such education are portrayed as promoting education to achieve decriminalisation. While such advocates may support decriminalisation, this is portrayed as their fundamental aim within a covert agenda.

Contrasting this, campaigns which provide harm reduction services can receive positive media treatment. The following case study highlights an example of this in Scotland.

CASE STUDY: GLASGOW'S UNOFFICIAL OVERDOSE PREVENTION CENTRES (SCOTLAND)

Advocate Peter Krykant established and operated an overdose prevention centre in which people could self-administer their own street drugs and which provided sterile injecting equipment and sought to reduce the harms associated with taking drugs in some locations. The operation was carried out illegally (Busby, 2020); media coverage therefore used the success of this operation to show the potential positive impact of harm reduction in drug policy advancements (McGivern, 2021). By seeing this success in practice, Scottish media outlets could highlight real results from the operation. The illegal status of this operation clearly shows what could be standardised if the law was changed.

Paul Sweeney, a Member of Scottish Parliament who volunteered at Krykant's overdose prevention centre, subsequently proposed a Bill which would make them legal (Boyle & McCurdy, 2022). The Bill was positively received by media outlets across various political perspectives (Daisley, 2022; Meighan, 2022). However, one outlet emphasised the importance of considering other factors alongside policy reform; the author noted that tackling stigma is another central issue (Boggie, 2022).

Such stigma can be found within BBC News (2021) reporting of this centre whereby the stigmatising term "fix room" was used to describe these. The content of this article gave a platform to Krykant's arguments for a harm reduction-led approach. However, this shows that stigmatising language is still normalised in Scottish publications, even where the content is sympathetic to harm reduction advancements.

The success of Krykant's advocacy differs greatly from Norway's Straffskader media campaign. Reactions to these campaigns differ due to the different audiences which they target. The criticism for the Straffskader campaign can be attributed to the broad and widespread nature of their messaging. By contrast, Scotland's unofficial overdose prevention centres operated as an immediate response to ongoing unsafe drug use (Powell 2021). In the Scottish example, the connection to drug policy changes were also more focused on addressing the needs of individuals who already use drugs.

FRAMING OF LICIT SUBSTANCES

Bias in media can manifest in the treatment of currently permitted substances. While the harms of tobacco and alcohol receive frequent media attention, these stories are not framed as investigations into the legitimacy of their legal status. Where discussions do consider restrictions to the availability of these substances, proposed measures are incremental. This reflects the libertarian concession that restricting access to these substances would prevent people from having the agency to evaluate the risk of harm themselves.

This media framing ultimately upholds the status quo. An evaluation of merit is not conducted based on the harms of each substance, or any other metric which is being used to scrutinise the feasibility of full decriminalisation. Instead, reporting frequently perpetuates the notion that (most commonly) alcohol and tobacco exist in a different category, immune from challenge. The Polish Drug Policy Network (Polska sieć Polityki Narkotyowej) critique Polish politicians and journalists for emphasising the harms of illicit substances more than the potentially more serious harms of alcohol (TSz, 2010). They argue that cultural ubiquity and acceptance of alcohol use has led to disparity in the scrutiny and consideration of harms. This can also be observed in other jurisdictions, where scepticism over existing alcohol and tobacco laws (UNODC, 2022) are framed as health-led interventions which do not seek to restrict wider public access.

The function of media in investigating harm is therefore limited. The status quo is perpetuated by reporting which uses different criteria and thresholds to evaluate the harms associated with the use of different substances. The stark differences in reporting can prevent decriminalisation advocacy arguments from breaking through to a similar rights-based footing.

MISINFORMATION

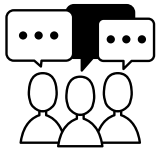
The development of policy may be influenced by information which is false (Wardle & Derakhshan, 2017). Misinformation is present throughout the discussion surrounding decriminalisation.

A claim was spread on social media that Scottish media's concerns over a high drug-related death rate were unfounded. This was circulated by some prominent political figures (McTiernan, 2020) and political campaign groups (Inverness South for Independence, 2020) across Facebook and Twitter. This claim falsely argued that Scotland's high drug-related death rates were artificially inflated due to changes in measurements compared to other nations. The presence and influence of misinformation can therefore be observed across jurisdictions. Media scrutiny of this claim, like in Maine, helped to clarify that it was false (The Ferret, 2020).

The fact-checking function of media may also amplify misinformation (Wardle & Derakhshan, 2017). There are concerns that journalism, in seeking to rebut false information, may inadvertently lead the claim to be uncritically accepted across a wider network (First Draft, 2021). Additionally, outlets may spread false information in bad faith, presenting it as true if it supports their policy position (Wardle & Derakhshan, 2017). This can prevent advocacy efforts from being engaged with on the basis of an argument's merit.

CASE STUDY: MEDIA COVERAGE OF GOVERNOR LEPAGE'S COMMENTS (MAINE)

Maine Governor Paul LePage falsely claimed that 90% of drug traffickers in Maine are Black or Hispanic (Wright, 2016). When these comments were made in 2016, LePage was an influential figure in Maine politics. Mainstream media sources amplified his message and were able to demonstrate that he was wrong (Graham, 2016; Thistle, 2016; Bangor Daily News, 2016). Use of fact-checking can therefore have the effect of spreading false information more widely. However, the harms of this are outweighed by the ability to correct the record and highlight accurate information. Advocacy campaigns in the media should therefore engage with misinformation when it can convincingly be rebutted.



DISCUSSION

There was a sense amongst interview participants that the general attitude towards decriminalisation had shifted within the last decade and more overtly within the last 5 years or so. Overall, the topic of decriminalisation appears less controversial to discuss across the 5 jurisdictions and internationally although the war on drugs narrative was still evident. Unfortunately progress with discussion did not always lead to action within jurisdictions and the impact of global prohibition and the human rights violations related to this was clear at an international level.

No jurisdictions had achieved *de jure* decriminalisation, but all had some movement towards it. In the jurisdictions with the greatest movement, participants emphasised that incremental changes were often the most likely and effective way to implement meaningful change on the road to decriminalisation. However, it is important to note there are limitations to incremental change. For example, the "three-strikes" adult cautioning scheme in Ireland will continue to criminalise people after their third possession offence, therefore policy continues to target individuals most likely to have police interaction because of their contextual circumstances (e.g., poverty, homelessness, inability to stop using drugs). Arguably this kind of "incremental reform" has resulted in little or no practical change, while co-opting an image that policing has reformed, that drug policy has changed, and that further reforms are therefore unnecessary.

Whilst the advocates in this evaluation generally agreed that incremental changes were effective, there was some evidence from interviews and the wider literature that some of these changes had been implemented following a wider decriminalisation campaign. It is therefore important to consider whether campaigning for *de jure* decriminalisation, but continuing to make the case for incremental changes within

this may result in a compromise between stakeholders involved and achieving incremental change. Equally, interview participants made clear that sometimes incremental change is only seen favourably by policy makers and other stakeholders where it is clearly separate and distinct from *de jure* decriminalisation and would not be a form of decriminalisation 'by the back door'. It was clear from some experiences, e.g. Poland and Maine that there is a need to ensure that incremental changes do indeed reduce harm as some diversion measures risk reinforcing prohibitionist ideals e.g., non-voluntary, coercive treatment measures. Therefore, incremental changes that shift power from policing and carceral logic and place greater emphasis on public health, are perhaps the most important to prioritise to achieve the attitudinal shift required for greater law reform.

Portugal, which is the most commonly cited example of decriminalisation, was discussed by participants as an example of an effective diversion model, yet it is important to note that over 80%, cases are suspended with no diversion (SICAD, 2014), Equally understanding Portugal's reforms in the context of their wider health-based approach including investment in treatment and harm reduction is key if to fully understand their outcomes (Transform, 2021). This highlights the educational work needed to understand decriminalisation efforts in individual jurisdictions and their efficacy if learning is to be transferred to other jurisdictions.

In both the interview findings and the media analysis, it was clear that defining the model of decriminalisation being proposed and other related policy responses which might be considered part of a move towards decriminalisation was key. Clear presentation of decriminalisation proposals and consideration of the most appropriate terminology to use for different audiences emerged as a way to avoid confusion and conflation with legalisation of drugs. The findings made clear that political will for change was heavily influenced by the political positions of the government in power at the time and whether decriminalisation would be seen as a vote winner or loser. Media depiction and public opinion had clear impacts on this political will. Equally advocacy by drug organisations which engaged with prominent politicians proved an effective way to influence political will. Identification of and collaboration with political advocates was a useful way to bring the debate in to the forefront of the political arena. As progress could be clearly impacted by a change of government, as was the case in Norway, ensuring engagement occurs with a variety of political advocates and cross party would strengthen advocacy efforts.

Law enforcement organisations had an important role in decriminalisation efforts. From their ability to influence policy and the media, to their role in practical implementation of measures such as diversion or *de facto* decriminalisation. Whilst the police role may be defined and restricted to enforcing the current law, police attitudes and opinion are crucial in the public debate of decriminalisation. Firstly, police may act in a manner that is viewed as inappropriate while enforcing laws on people so that those people then come to be viewed as victims of law. For example, in the case of prosecution of parents in possession of cannabis for use with children who have seizures, for whom other medication is less effective. Secondly, police may express an opinion that enforcement of the law is unfair or ineffective. This view has been expressed by organisations representing the views of retired police officers, for example Law Enforcement Action Partnership (LEAP) in the UK.

The findings demonstrated the need, wherever possible, to collaborate with law enforcement and to include police at all levels as part of ongoing advocacy and education work. Scotland's work around police carriage of naloxone was one example given which was part of a wider shift of policing attitudes to people who use drugs. However, police can also actively campaign against decriminalisation, as highlighted in the Norwegian example.

Participants in some jurisdictions, e.g. Poland, shared that police find criminalisation of drugs useful because it can be effective in targeting organised crime. This is contested within the literature which suggests regulated markets are effective ways to reduce organized crimes.

Hierarchies of drugs and greater acceptability towards certain drugs or certain groups of people who use drugs was evident in the findings, this included ethnicity and social classes. Overall, there had been far more progress within decriminalisation of cannabis than other substances across the 5 jurisdictions and indeed internationally. Progress ranged from cannabis legalisation in Maine, to depenalisation measures such as recorded police warnings for all drugs in Scotland, and the introduction of medicinal cannabis in Poland. The evident hierarchy of drugs suggests a clear link with the greater stigma towards problematic drug use and more specifically people who use opioids. Conversely, in some jurisdictions there was greater appetite for decriminalisation for people with drug dependency and greater reservations about the impact of decriminalisation for recreational use, in particular towards young people.

It is important to highlight that views on the inclusion of medicinal use within the decriminalisation debate were mixed amongst the interviewees. There were examples of a will and a benefit to keep this separate to decriminalisation, yet other examples of progress with medicinal cannabis being used to open the dialogue of decriminalisation of other forms of use. Hierarchies of substances were also present in medicinal use with greater acceptability for cannabis, as can be seen in Maine where medicinal cannabis has been available for a number of years, yet the recent Medical Psilocybin Bill did not get passed. Addressing cannabis or psychedelic exceptionalism is an important part of challenging hierarchies of drugs and reducing the stigma towards specific substances and the variety of people who use them.

The relationship between cannabis legalisation and all drug decriminalisation is complex and is likely to become more of an issue to understand and articulate as more jurisdictions progress cannabis legalisation. It is therefore important that advocates seek to address this complexity at jurisdiction level and consider medicinal use when looking at the terminology, framing and narrative of decriminalisation of all drugs.

In addition to consideration of terminology and thorough explanation of the forms of decriminalisation, the framing of decriminalisation as a public health approach to drug use was deemed the most effective way to engage wider support for change. It was noted that a public health approach was inclusive of a rights-based approach but was perhaps more palatable when focused on health for the majority of people who

may feel less comfortable with the concept of the right to use drugs. However, it was also recognised by participants that the focus on health approaches could lead to policies that were incompatible with the principles of decriminalisation, particularly when abstinence focused treatment was prioritised, or treatment was coercive.

Campaigns and initiatives which made the case for change by blending the public health approach and highlighting the harms of criminalisation through utilising personal stories appeared to be impactful in many jurisdictions. The inclusion of lived and living experience of drug use was a helpful way to bring the debate to life; successful examples included campaign case studies, features in media pieces and via celebrities sharing their own life experiences. Bringing people who use drugs into the advocacy and policy making arena is of utmost importance in developing more compassionate and informed responses to drug use.



CONCLUSION

Key points from the findings included: making the case for change by framing decriminalisation as part of a public health approach; defining the model of decriminalisation being suggested; clarifying terminology; and centering communication about decriminalisation on the specifics of policy changes being proposed and the benefits. Equally important in achieving change was garnering support and knowledge, achieved by collaborating with a range of stakeholders including political advocates, police, health representatives and those with lived and living experience of drug use. Media depiction and public opinion were closely linked with the political will needed to implement drug policy reform. There was an evident need to challenge unhelpful hierarchies of drugs, their use and the people who use them, which are based in stigma in order to end the criminalisation of people who use drugs.



LEARNING AND RECOMMENDATIONS

The findings suggest a number of learning points and recommendations for jurisdictions that wish to move towards decriminalisation.

TERMINOLOGY



The term decriminalisation is not consistently defined and understood in the context of drug policy. Rather than measuring successful implementation of decriminalisation against a single definition which may be interpreted differently in each jurisdiction, it may be more effective to offer a criterion for what components can be implemented within decriminalisation. For example, the criterion could include guidance about diversionary, depenalisation and non-enforcement measures. Jurisdiction experts expressed caution on the potential problems with defining criterion such as thresholds for possession and how this may distract from the broader political goals of full decriminalisation.

A clear description of what the policy changes being proposed are, and what the implications would be, especially within correspondence intended for a broader audience such as media, should be provided.

GOOD PRACTICE EXAMPLE: NORWAY

The Norwegian organisation Safer Drug Policies recently carried out two public polls, one which asked people whether they supported decriminalisation. The other did not use the word 'decriminalisation' or refer to the ongoing process or the Bill concerning it, but rather described the model proposed within the Bill, stating this is what would happen, and asking, would you support it? A far larger proportion of people voted in support of the latter poll, indicating that avoiding the use of the term 'decriminalisation' and providing the public with information about what the proposed changes mean in practice is more likely to result in people supporting decriminalisation.

EDUCATION



It is vitally important institutions and individuals are fully and accurately informed on issues around drugs and decriminalisation. This is particularly pertinent for those within criminal justice, the police and prosecution authorities, who implement policies and governments which define policy. Relevant organisations and experts in the field should work to inform and “myth-bust” on issues including defining the threshold for quantities of drugs considered as being for personal use; the lack of impact prosecution for possession charges has on organised crime; and the negative impact of criminalisation and enforcement measures on individuals and communities.

GOOD PRACTICE EXAMPLE: NORWAY

Following a vote in the Norwegian Parliament to assess and prepare for drug policy reform, an expert committee made up of a range of stakeholders across different fields, such as health, advocacy and criminal justice was established. This Public Drug Policy Reform Committee produced a 400-page piece of literature in 2019, detailing the historical and scientific aspects of the issue.

This report, “NOU: 2019:26 Drug policy reform – from punishment to help”, examined the question of decriminalisation critically, assessing and comparing a criminalisation standpoint and a public health standpoint. The committee concluded that there was no empirical base to the claim that criminalisation leads to significantly decreased substance use and thus a public health approach should be favoured. The report also proposed amounts of different drugs which should be the threshold for personal use, based on evidence and expert experience.

To establish the argument for decriminalisation and the individual model at jurisdiction level, it is key that a range of expert stakeholders, including people who use drugs, are involved in the development of the evidence base for decriminalisation and the likely consequences. It is also important that the available evidence supporting decriminalisation is disseminated to influential stakeholders within individual jurisdictions in order to inform practice.

GOOD PRACTICE EXAMPLE: POLAND

The Polish Drug Policy Network received funding to develop and facilitate training regarding drug harm solutions for prosecutors and judges to bridge the gap between them and addiction therapy specialists. Multiple sessions were carried out across the country with high attendance. Follow up interviews with participants showed largely changed attitudes regarding how drug policy should be approached, the role of law and penal law in this area and a readiness to engage with public health and relevant services on this issue.

SHARED UNDERSTANDING AND COMMUNICATION



The various relevant parties involved in drug policy often come to the table with differing opinions and vested in the issue. For example, police may have specific concerns over the implications of drug law reform, that differs from staff working in health settings and to those within the political arena. It is therefore important that there is clarity and consistency with communication from drug policy reform advocates to other stakeholders; for example, amongst campaigners and advocating organisations as well as between different relevant fields, such as criminal justice, police, health, and government. Each sector may respond to particular arguments that address their concerns. Advocates can clarify and agree upon messaging and messengers best positioned to influence each field. It is important there is transparency on the implications of movement towards decriminalisation, such as changes to funding and budget allocation and ensuring there is, for example, sufficient capacity in treatment to be offered as voluntary diversions.

It is key that those advocating for legislative change work towards a common goal and shared understanding of decriminalisation as far as possible, and, are united on messages provided to policy makers in order to engage them in progressing decriminalisation.

GOOD PRACTICE EXAMPLE: MAINE

In Maine, a massive bipartisan coalition, including medical professionals, committed legislators, and people with lived and living experiences, worked together to apply clear and consistent pressure to law makers around issues relating to decriminalisation. This strong push led to a bipartisan swell of power in the House and Senate to pressure the Governor into taking action. It is felt this diverse but united group communicating the same messages led to the passing of strongest Good Samaritan law in the country in 2019. The actions also helped build a more sustainable base of support for decriminalisation and related measures across sectors, including harm reduction, recovery, healthcare, medical, who continue to largely unite on the same message.

INCREMENTAL CHANGE



Each jurisdiction has its own set of unique circumstances and most are some stages away from having full decriminalisation. While some jurisdictions may benefit from advocates pushing for *de jure* decriminalisation, policymakers and the public are not ready for this in some jurisdictions. Where there is resistance to *de jure* decriminalisation, it may be beneficial to focus efforts on achievement of incremental changes focused on reducing the range of harms to people who use drug. Such incremental changes may ultimately achieve decriminalisation and indeed, may achieve even broader goals, such as legalisation and regulation of substances.

Those advocating for change in this area should work directly with politicians, police, and other professionals to push for smaller, but crucial, changes, such as implementation of diversionary measures to voluntary treatment/support, decriminalisation and provision of drug-related paraphernalia and legislation for safer injection facilities/drug consumption rooms. It is important to monitor such diversionary initiatives to ensure they are reducing harms, rather than continuing to reinforce prohibitionist ideals e.g. non-voluntary, coercive treatment measures.

GOOD PRACTICE EXAMPLE: SCOTLAND

In 2021, the Lord Advocate, Scotland's senior law officer in Scotland extended existing regulations around Recorded Police Warnings, meaning the scheme was extended to include all classes of drugs and not only cannabis. This means police can choose to issue a warning in cases of possession of any substance, reflecting a widening of alternatives to prosecution for drug possession offences in Scotland. In 2022, Police Scotland implemented a national rollout of officers carrying naloxone following a successful pilot the preceding year. These recent changes demonstrate a gradual change in approach from police towards more harm reduction focused, rather than punishment focused, practice.

However, there are limitations to incremental change and it can be argued that some incremental reform has resulted in little or no practical change. In addition, some incremental changes had been implemented following wider decriminalisation advocacy efforts. Equally, some incremental change is only seen favourably by policy makers and other stakeholders where it is clearly separate and distinct from *de jure* decriminalisation.

Whether to focus efforts purely on incremental changes or to arrive at them as part of a wider decriminalisation campaign is likely to be jurisdiction dependent. Overall, incremental changes that shift power from policing and carceral logic and places greater emphasis on public health, may be most effective in achieving the attitudinal shift required for greater law reform.

POLITICAL ADVOCATES



In order to bring decriminalisation to the forefront of discussions within government bodies, who ultimately make decisions on policy and legislation, it is important to build relationships with a broad range of dedicated political advocates. It is important for those advocating for decriminalisation to engage politicians and decision makers in the debate. Mapping and then targeting those with a vested interest in the field, perhaps who have come from social work, health, or other relevant backgrounds and/or shown engagement before may be useful.

Equally, connecting with politicians who are not antithetical but are still in need of lobbying to move from soft support to full support of a decriminalisation agenda is an important part of developing political allies and reducing fears of a political backlash for supporting decriminalisation. Ensuring political advocates hear the voices of public opinion through their constituents is an important part of encouraging political advocates to take action. Working closely with individuals and parties at local as well as state/national level is important in creating an appetite and opportunity for change. A limitation of political advocacy is that changes in leadership roles can be fatal for reforms, therefore cross-party engagement and seeking to engage a wide range of political advocates is key.

GOOD PRACTICE EXAMPLE: IRELAND

The Irish Minister for Drug Policy between 2015-16 declared himself in favour of the decriminalisation of people who use drugs and committed to changing legislation to achieve this. This was seen to pave the way for NGOs to carry out local 'town hall' style meetings across the country, creating opportunities to speak to the public and different stakeholders, including local officials, about these issues. The minister talked with organisations and committed to achieving change, bringing the relevant civil servant departments together and got agreement to work on decriminalisation together. There continues to be some politicians in Ireland who are open about their own personal drug use which has initiated more conversations about keeping people out of the justice system and decriminalisation. Advocates feel that having these traditionally credible individuals supporting decriminalisation is effective in garnering respect and trust in the arguments from a broader spectrum of people. Notably, the same Minister for Drug Policy referred to above was supportive of supervised injecting facilities; and their support ultimately led to the enactment of the Misuse of Drugs (Supervised Injecting Facilities) Act 2017.

FRAMING AND NARRATIVE



A person-centred frame that highlights the benefits of decriminalisation – or the specific components of the reform, such as referral to voluntary treatment instead of prison – can move decision makers and the public more than depersonalised and technical arguments for reform. Any framing and narrative effort should have a clear understanding of the target audience, the key messages to communicate and what action is required for them to take. The voice and stories of lived and living experience should be incorporated into decriminalisation campaigns and media coverage where possible and appropriate; as this can help to alleviate stigma around drug use and inform people about the arguments for decriminalisation. Problem drug use should be framed as a public health issue due to the impacts it has on individuals and communities.

GOOD PRACTICE EXAMPLE: MAINE

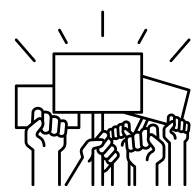
The Maine Recovery Advocacy Project (ME-RAP) organised around the piece of legislation that was successfully passed at Committee and in the House and only failed by a small margin in the Senate in 2020. They worked to ensure lived/living experience voices and the drug-related death rates were at the centre of the narrative and policies being proposed. This was seen as being why the bill got as far as it did, which was not initially expected. Members of the state legislature have since talked openly about losing their own family members to overdose which has had a powerful impact on the conversations around decriminalisation. Having the ME-RAP and other grass root groups who all have people with lived and living experience at their cores is seen as being transformative to the debate.

While decriminalisation often seeks to remove low-level violations (e.g., personal possession and use) from criminal penalty, advocates should be careful to avoid a framing that encourages a focus on more serious crime, or suggests all form of drug supply is exploitative. Although this frame resonates with many in the public, police, and political establishment, it does a disservice to those advocating to reduce and end incarceration for these complex issues. Framing that focuses on the 'decriminalisation of people' is likely to be more compelling to a broader audience.

GOOD PRACTICE EXAMPLE: NORWAY

Safer Drug Policies, a Norwegian organisation which works for changes to policy and law, launched their #decriminalize campaign in 2021, to coincide with a government vote on the decriminalisation bill. It contains eight different negative stories of criminalisation, including people not calling an ambulance for their friend in an overdose situation out of fear and someone completing suicide due to punishment for cannabis possession. All of the scenarios depicted are based on true events and are designed to show individuals who do not fit traditional stereotypes. There have been two art installations with the photographs from it. Politicians have picked up messages from the website and literature and use these in debates within government and another used one of the pictures at a press conference. In addition, in 2014 the Head of NATO, who is the former Norwegian Prime Minister, lost his sister due to ill health connected to her heroin use. The Prime Minister and their father, who had also been a well-known and popular politician in the country, were open about this story and so brought a humanistic stance towards people who use drugs. These examples of real-life stories have been effective in garnering interest and support from the public.

CIVIL SOCIETY AND ACTIVISM



Activists and advocates at a ground/local level are key to achieving any social change and the same is true for decriminalisation. Equally advocacy takes many different forms, both direct action and more indirect work which can include creation of publications or media opinion pieces.

Work should aim to reach different groups of individuals, including policymakers, police, health professionals, journalists, and the general public. It is true each group will have different opinions and vested interest in the topic so approaches should be flexible and varied to reflect this. Activists, groups, and campaigners must have sufficient resources/funding to be able to reach more people, often via one-to-one work and key relationship building, which is more effective in gaining support.

Funding is necessary to sustain advocacy over the long term, to conduct public opinion research, and outreach to key interlocutors, and to effectively utilise traditional and social media outlets. Amplifying the voice of voters who are in support of policy change around drug use will influence politicians to see it as a pertinent issue.

GOOD PRACTICE EXAMPLE: SCOTLAND

In September 2020, an individual activist in Glasgow, Scotland set up a supervised injection facility in a van they owned and was not charged under the Misuse of Drugs Act (MoDA) at any point during its activity, which lasted into the following year. Neither the police nor the prosecuting authorities, who operate separately in Scotland took any action against this individual. Interestingly, concurrently to this, a proposal by the state health service (NHS) to provide a supervised injection service on their own premises in Glasgow supervised by registered medical professionals was blocked as those who had put forward the proposal were told they would be breaching common law and several statutes including several sections of MoDA, including possession and knowingly allowing consumption. The van provided a safe space for thousands of injections and other uses to take place, with individuals knowing someone was there to look out for their well-being during this time.

Sharing learning from other advocacy efforts is crucial. These insights from the field offer opportunity for learning from other jurisdictions who may share similar challenges. More indirect action such as multidisciplinary meetings and producing publications can have large impacts and may help engage a broader range of stakeholders.

GOOD PRACTICE EXAMPLE: IRELAND

In February 2020, Ana Liffey Drug Project, supported by the Global Drug Policy Program of the Open Society Foundations (OSF), invited advocates for decriminalisation from around Europe to share their experiences in advocating for decriminalisation in their own countries and to benefit from the insights of others.

They produced a peer-to-peer paper 'Decriminalisation Insights for Advocates' which covered defining an advocacy position, understanding stakeholders, technical details of decriminalisation, law enforcement and key insights in advocating for decriminalisation.

The paper is available on Ana Liffey's website at:
<https://www.aldp.ie/content/uploads/2021/03/Decriminalisation-Insights-for-Advocates.pdf>

MEDICINAL USE



Certain substances, most often cannabis, are legalised for medical purposes in some jurisdictions. Medicinal use in these contexts, particularly where it is prescribed in traditional healthcare settings, is often considered more acceptable to the general public than use for recreational purposes. Whilst there is clear rationale to keep the issue of medicinal and therapeutic use of substances as a separate issue, discussions around medicinal use and the benefits of such substances can provide a platform to open conversations about other legislative changes such as decriminalisation of all drugs.

Organisations involved in wider drug decriminalisation can benefit from connecting with those who campaign for medical use of substances as they may provide learning and networking to those who are responsive to health-based approaches. However, decriminalisation advocacy and legal medicinal use advocacy movements may not be well integrated. Cannabis exceptionalism has meant in practice that successes with cannabis decriminalisation and legalisation have not led to drug law reform with other drugs.

The relationship between cannabis legalisation and all drug decriminalisation is complex and is likely to become more of an issue to understand and articulate as more jurisdictions progress medicinal cannabis legalisation. Equally, with greater emergence of medicinal psychedelic use, it is key to challenge the unhelpful hierarchies that can occur between different drugs. It is therefore important that advocates seek to address this complexity at jurisdiction level by considering medicinal use, and, how it should be best included when looking at the terminology, framing and narrative of the decriminalisation of all drugs.

GOOD PRACTICE EXAMPLE: POLAND

Poland legalised the use of medical cannabis in 2018. Current advocates for decriminalisation co-operate with the hemp industry and those involved in receipt of medical cannabis to open conversations about more general measures around other drugs. The Polish Psychedelic Society was established in 2019 and has held events, including a conference with the University of Warsaw, which has helped to create discussion and attention for the idea of medical use of psychedelics. The Society uses its platform to educate and advocate for decriminalisation of these substances. Using medical evidence, from professionals in health and science, is seen to continue to open minds to the subject of decriminalisation in Poland.

EVALUATION LIMITATIONS

This evaluation provides a snapshot of the recent progress within decriminalisation and key lessons learnt in 5 international jurisdictions. Qualitative interviews and media analysis findings are not necessarily representative of the full range of views on decriminalisation.

The range of content and depth of media analysis for Poland and Norway was limited by software translation. This was mitigated by data triangulation with media experts and media content referenced in the interviews. In order to prevent against researcher bias within the Scottish findings, the Scottish data has been since checked by the advisory panel who includes a UK and international drug policy expert.

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APPENDICES

MEDIA ANALYSIS SUMMARY BY JURISDICTION

NORWAY

Discussion of decriminalisation and reform are frequent within Norway's press publications. The issue of policy reform was introduced by Norway's youth parties (NRK, 2018), which have an influential role in the main political parties' activity (Norwegian Addiction Federation, 2016).

The youth parties' openness to reform led to increased coverage across traditional and social media beginning in 2016 (Velle, 2022; Henriksen, 2016). Norway's media outlets broadly support calls for drug policy reform. Several Norwegian media outlets have recently considered whether punishment for drug possession can be justified (Sjøli, 2021). A public health-led response to drug use is uncontroversial (EMCDDA, 2019). However, Norwegian media is more sceptical of introducing decriminalisation as part of a public health approach. Where concerns are raised by media outlets, the welfare of young people is a central concern. In particular, the argument that decriminalisation may lead to an increase in the availability of drugs is raised, despite evidence to the contrary. This is posed as a danger to the health for Norway's young people (Bjørnland, 2019). This view is frequently echoed in the moderate-right wing (Lepperød, 2018) online newspaper Nettavisen (Sperre, 2021).

This concern is reflected in Norway's supreme legislature, the Storting, and is not restricted to conservative political perspectives. In the Storting's 2021 vote on drug reform, the opposition Arbeiderpartiet (Labour Party) pledged to support policy which moved drug policy from criminal justice to public health but voted down the government's decriminalisation proposals (Safer Drug Policies, 2021). As such, a public health approach and decriminalisation in Norway are not necessarily linked (Norwegian Addiction Federation, 2019). The status quo Norwegian attitude may be viewed as paternalistic; the criminal law is framed as protecting young people from engaging in self-harming behaviour.

By contrast, Norway's media does not advocate for paternalistic or deterrent measures for people whose problem drug use is already recognised by the state. By focusing on improving public health, media outlets assert that support is required to medically intervene in a person's drug problem. Decriminalisation arguments have more impact in Norway's media in this context. Clearly, decriminalisation is less controversial when the public health perspective applies to a specific public – people who are viewed as facing and experiencing significant health risks. It is therefore equally important for advocates to consider the risks of introducing punitive health measures such as mandatory treatment.

CASE STUDY: #NARKOTWITTER AND SOCIAL MEDIA (NORWAY)

In Norway, ongoing advocacy success has been achieved through sharing messages on social media (Løland, 2022). Different factions within advocacy all use the hashtag #narkotwitter (a portmanteau of 'narcotics' and 'Twitter') on Twitter to tag social media posts which discuss drug policy. This hashtag has been used widely and is often one of Norway's most widely circulated hashtags in response to drug policy reporting (Trending Archive, 2021). Twitter '#narkotwitter' advocates also cite themselves as influencing the media agenda (Løland, 2022). The success of this ongoing social media strategy shows that advocacy can be amplified by a well-connected social media response. This can lessen the power of traditional media outlets in setting the agenda and may set the agenda for an under-resourced traditional media seeking to keep in touch with popular opinion within specific groups.

In response to 2021's governmental decriminalisation proposals, Norwegian polling revealed that when presented with multiple options, most Norwegians did not support government proposals for full decriminalisation but would support a lighter form of decriminalisation (Skårderud, 2021). However, when framed as a public health intervention, which would remove penalties and mandate medical intervention, a comparable poll one month later found that most people supported the same government proposals (Nettavisen, 2021). This suggests that the framing of the issue in the media can affect how influential a counterargument based on concern over the health of young people is. The results show that public support for less punitive drug policy is high.

POLAND

The Polish media treatment of decriminalisation is mixed. There is wide variation in media outlets' policy stance and depth of coverage.

Beginning in 2011, there was a large focus on the evaluation of Poland's existing criminal strategy and whether it was effective (Kwasniewski, 2012). This debate led to a change in policy, where prosecutors now have discretion over whether a person should be sentenced for drug possession (Eastwood, Fox & Rosmarin, 2016). Possession remains a statutory offence, and in the first year of this policy's application, only 12% of cases were dismissed by prosecutors or judges (EMCDDA, 2014). Since this policy was implemented, media scrutiny and advocacy have refocused on the evaluation of the fairness and equality in application of this policy. Decriminalisation advocacy still works towards achieving full decriminalisation in practice.

Currently, Polish media outlets do not report on the full range of advocacy efforts which seek to develop decriminalisation policies for all substances. While smaller publications such as OKO.press and Narkopolityka (2021) examine further decriminalisation policy, Poland's larger media outlets focus on ongoing advocacy efforts to fully decriminalise cannabis.

International press organisations have recently expressed concern that Poland's media plurality could erode over time. There are political pressures applied on the owners of media outlets, particularly those critical of the government party. This is an important factor in understanding Polish media conservatism and in helping to understand how outlets may decide to report on decriminalisation issues.

The incumbent Prawo i Sprawiedliwość (Law and Justice) Party has been accused of exerting influence upon the mainstream television network and news publisher Telewizja Publiczna (Osęka, 2019; Szymański, 2020). Government ministers have continued to assert their opposition to drugs law reform (Krawczyk, 2022), which raises concerns that press restrictions may limit future policy debate and perpetuate the government's focus on criminal justice-focused approaches to drug policy.

There is some evidence that support for cannabis decriminalisation may have grown in Poland, according to media polls. In 2009, WP reported on findings from the Hungarian Civil Liberties Union, which found that a significant minority of respondents in Poland did not support the “war on marijuana” (41%). In 2015, however, a PBS poll showed 65% support for legalising medicinal cannabis (Radio Poland, 2015). Evidence for a possible change in attitudes is supported by a Kantar (2020) poll which found that 55% of respondents believe possession of small amounts of cannabis for personal use should not result in imprisonment. Although polling data on broader decriminalisation is limited in Poland, these results suggest that societal attitudes towards cannabis, at least, may be becoming more positive.

SCOTLAND

Scotland consistently experiences a high rate of drug overdose deaths compared to other European nations (National Records of Scotland, 2021). Decriminalisation debate often occurs in the context of addressing this concern, dubbed Scotland’s “national shame” (Christie, 2021). The ongoing high rate of deaths and the regular publication of Government data on deaths means that this issue appears in Scotland’s media frequently (BBC News, 2019). YouGov (2021) polling suggests that only 1 in 20 Scots think that the government are handling this issue well.

In 2021, Scotland’s police force was given powers to issue warnings to those in possession of drugs defined as ‘Class A’ under UK drug control legislation (including cocaine, ecstasy, and heroin) (Transform, 2021). This, in effect, extended the way in which cannabis possession had been policed. This received some media praise for connecting drug policy and health-focused solutions (Daily Record, 2021). However, a large portion of coverage surrounding this policy change was critical of the measures. Several publications argued that this was equivalent to ‘*de facto*’ decriminalisation, where decriminalisation was achieved in practice without proper consultation (Healey, 2021). Writing in the Scottish Daily Mail, Blackley and Grant (2021) pushed back against this policy, claiming “back door” decriminalisation should not be allowed without further debate and scrutiny.

When decriminalisation is in the media agenda, the public health benefits of such a policy are mostly accepted across publications. This is mirrored in the Scottish Government, as drug policy has been reassigned from the Justice to the Health division within the Government structure (Scottish Government, 2021). Government policy and policing strategies have made incremental steps towards ending the treatment of drug possession as a criminal justice concern.

CASE STUDY: DAILY RECORD DECRIMINALISATION CAMPAIGN (SCOTLAND)

In 2019, Scottish tabloid newspaper Daily Record began a high-profile editorial campaign calling for the decriminalisation of possession of small quantities of drugs. This began an ongoing editorial stance in favour of decriminalisation (McGarvey, 2021). However, the Daily Record still publishes stories using stigmatising language for people who use drugs, describing one person as a “drug-fuelled thug” (Howie, 2022) and many as “drug addict[s]” (Reynolds & Wood, 2022; Howie, 2022), despite previously supporting a Scottish Government campaign urging people to not use such terms (Paterson & Carroll, 2021). By using this language, the stigma of drug use is upheld. The Daily Record’s own output does not adhere to its policy stance. The campaign is therefore inconsistent, undermining its strength. This conflict runs through Scotland’s drug-related media coverage.

Some media coverage still includes stigmatising language especially in coverage of crimes committed by people with substance dependence issues. However, advocacy campaigns have been effective in removing the term “junkie” [sic] from Scotland’s reporting in many cases (BBC News, 2021). In the recent past, this term has frequently been used to refer to people who use drugs (SFAAD & SRC, 2020). Any Scottish media support for decriminalisation, and mainstream political discussion, has a practical goal and is not based on a broader libertarian perspective. For the issue to be engaged with, approval of decriminalisation must be linked to some social goal, such as public health or avoiding criminalising otherwise law-abiding citizens. In this context, decriminalisation gains support if it is seen to reduce the stigma that acts as a barrier to seeking treatment. This logic but shows that much of the discussion remains value-based and emotional. Some of it remains judgemental – this reflects popular attitudes in Scotland; 18% of Scots, in a 2021 YouGov survey, think that using ‘recreational drugs’ is morally wrong.

Scotland’s media coverage is also uniquely influenced by the nature of drug policy as a reserved matter for the United Kingdom’s central government. This contrasts Maine’s relationship with the US Federal Government, as US states’ drug reform proposals are, in practice, unaffected by federal intervention (Eastwood, Fox and Rosmarin 2016). In Scotland, media advocacy for decriminalisation is often related to support for further devolution of power from the central UK Government or independence from that Government on the part of the advocate or the media outlet itself. Some media coverage therefore merely asserts the right for Scotland to decide its own drug policy, without developing the detail of decriminalisation arguments.

A YouGov poll in 2021 concluded that 31% of Scottish respondents would support treating drug use as solely a health issue. 56% said that it should, either more so or equally, be dealt with as a criminal issue. Although this shows that there is mainstream support for rethinking how drug policy is categorised, it does not represent a clear-cut public endorsement of decriminalisation.

Support for decriminalisation in Scotland varies based on which drug is in question. The Scottish public’s varied opinions on decriminalisation can be attributed to a divide in the perception of different categories of drugs.

A 2021 YouGov poll found that while 66% of Scots supported the decriminalisation of possession of drugs such as amphetamine or cannabis, only 24% would support this policy extending this to drugs like heroin or crack cocaine. Attitudes towards heroin decriminalisation are also reflected in a 2021 Sunday Times poll that showed only 17% of Scots would support the decriminalisation of heroin possession.

Support for the decriminalisation of substances seems to support the notion that there is a hierarchy of drugs. This reflects the framing of existing legislation that criminalises possession. Public perception of who may use these drugs may also form a similar hierarchy and stigma helps shape this. This shows that although Scots agree that current drug policies are ineffective, any successful policy solution must account for how different categories of drugs will be treated.

MAINE

Maine's media output has, in certain cases, displayed a libertarian attitude to drug policy. Cannabis legalisation has acknowledged this approach, where a person's autonomy is recognised in law. However, this attitude does not extend to all drugs, nor the debate surrounding full decriminalisation. Largely, this issue is framed as a response to Maine's ongoing opioid overdose epidemic and therefore the effect of decriminalisation as a public health response is debated (AP News, 2021).

In Maine, scrutiny over police enforcement also informs the criminalisation debate. A high-profile public debate on drug trafficking and racial inequalities in enforcement have influenced the media's output in this area (Graham, 2016). Concerns over systemic racism influence many different strands of modern policy discourse in the US, including the effects of criminalisation (Levins, 2021). This can be seen in decriminalisation coverage, with frequent reflections on the punitive approach of the historical 'war on drugs' policy strategy (LoBianco, 2016).

A Drug Policy Alliance poll in 2016 found that 63% of Maine respondents agree that drug use should be treated as a public health issue. Additionally, 64% of this survey's respondents said that possession of a small quantity of drugs for personal use should not lead to arrest. This suggests a close association, as in other jurisdictions, between support for a public health approach more broadly and support for decriminalisation. This also reflects an ongoing shift away from the punitive 'war on drugs' approach seen in the US in the late twentieth century. By 2001, a Pew Research Center poll concluded that 74% of American respondents considered the war on drugs to be "unwinnable". More recently, in 2021, 83% of Americans in an ACLU survey say that the 'war on drugs' has failed. This shows that there is an appetite for drug policy reform within the state of Maine, and nationally. [N1]

The 2021 campaign for the Maine senate to decriminalise all drug possession for personal use affirmed the public desire for decriminalisation. In 2022, a poll from the ACLU of Maine found that 60% of registered voters support decriminalisation. Although the senate voted down decriminalisation proposals, public support translated into expansion of the 'Good Samaritan' law in 2022 (McCauley, 2022).

Laws of this type, found in all US states, aim to ensure people who assist in medical emergencies can receive immunity from prosecution for seeking or providing this assistance (West & Varacallo, 2021). In Maine, where a person administers overdose-reversing medication or calls for emergency services to respond to a suspected drug-related overdose, they will not consequently be prosecuted for a broad range of possible offences, including the possession of drugs (Miller, 2022). There is a sustained public appetite in Maine for decriminalisation and related policy measures.

IRELAND

A large portion of Irish media coverage of drug issues aims to ensure that the issue of decriminalisation continues to be debated. Media coverage suggests that policy reform is central in response to Ireland's high drug-related death rate and high levels of drug use among young people (Clark 2018; Gallagher 2017).

CASE STUDY: STIGMA CAMPAIGN FROM PHILLY MCMAHON (IRELAND)

McMahon, an Irish sports personality, has advocated for cultural change by fronting media campaigns which emphasise the negative social impact of stigmatising language for people who use drugs (Fetherstonhaugh, 2021). One campaign criticises widespread use of the term "junkie" [sic] (The Journal, 2016). The message of this campaign was widely circulated in Irish media outlets, which spread McMahon's message surrounding the harms of stigmatising language (Nevin, 2021).

By changing public biases towards people who use drugs, a platform for wider discussions of policy is created within Irish media. This campaign contributes to an open debate on full decriminalisation.

PROJECT MATERIALS

PARTICIPANT INFORMATION SHEET

BACKGROUND

Scottish Drug Forum (SDF) have been commissioned by The Ana Liffey Drug Project in Ireland to conduct an evaluation of the recent decriminalisation and advocacy efforts, in 5 international jurisdictions. This work is funded by the Global Drug Policy Program of the Open Society Foundation.

The project is an evaluation of the recent decriminalisation and advocacy efforts, in 5 international jurisdictions:

- Ireland
- Scotland
- Norway
- Poland
- Maine (USA)

The key aims of the evaluation are to:

- Scope the current situation in each jurisdiction
- Identify emerging themes across the jurisdictions and the key lesson learnt
- Identify recommendations to ensure learning is shared

This will be achieved by the following objectives:

1. Conduct qualitative interviews with key informants in each jurisdiction
2. Conduct a literature review of relevant national and international literature
3. Conduct a media analysis
4. Analyse and collate findings into a final report outlining key learning and recommendations

INTERVIEW PROCESS

You will be invited to attend an online interview with one of the SDF research team which will last approximately 60 minutes. With your permission, the interview will be recorded, with researchers noting down key points and themes.

Audio recordings, transcriptions and any notes will be stored on a secure server and will not be shared outside of the research team. You do not need to answer any questions you do not want to, and you can stop the interview at any time with no consequences, and have your interview removed from the evaluation. Your data will be anonymous, and your name will not be used in report writing.

Participation in this evaluation is completely voluntary. We would be grateful for your help, but you can choose not to take part with no consequences. You may also withdraw your data up until the point of publication by contacting the researcher. If you choose to do so, the information you provided will be destroyed.

CONTACTS

If you want to find out more about this evaluation or have a complaint about this evaluation, please contact:

Samantha Stewart, Scottish Drugs Forum, 07747481305, 0141 221 1175, samanthas@sdf.org.uk

If for any reason you cannot contact Samantha or are unsatisfied with the response you can also contact Katy MacLeod Peer Research Programme Manager 07980 548759 katy@sdf.org.uk

Please keep this sheet for your information. THANK YOU FOR YOUR HELP

INTERVIEW TOPIC GUIDE

DEMOGRAPHIC INFORMATION

- How would you describe your gender?
- What age are you?
- Can you describe your current role and the organisation/service you work for?
- How long have you worked in this field?

DECRIMINALISATION IN YOUR JURISDICTION

- Can you summarise the current situation and policy context regarding decriminalisation of drugs in your country/ state/ jurisdiction?
- How would you describe the attitude towards/support for decriminalisation in your country/ state/ jurisdiction?
- How are decriminalisation and issues around drug use presented in media outlets? (prompt – does the media have influence over policy around decriminalisation?)
- As part of this project, we are conducting a media analysis across the five jurisdictions. Are there any particular media outlets that contribute to the narrative of decriminalisation or broader attitude to drugs? Is there a specific time period in the last ten years that this was especially prominent or important?
- Have there been any significant changes around decriminalisation in the last ten years in your country/ state/ jurisdiction?
- If yes, what were they?
- Why did these changes occur?
- What, if anything, hasn't changed?
- Why has this not changed?

REFLECTIONS

What has worked well in the steps towards/ achievement of decriminalisation in your country/ state/ jurisdiction? Why did this work well?

What were/ are the limitations of decriminalisation in your country/ state/ jurisdiction?

Is there anything else you would like to add about this area that may be relevant for the evaluation?

Do you have any contacts within your country that could provide a perspective on decriminalisation in your country/ state/ jurisdiction? If yes, please provide details..

