Drug related policies in Portugal

Global war against drugs produces differentiation between legal and illicit drugs. The later often split in soft drugs (which suggests they can have a softer legal regime, namely given the less expensive level of harmful consequences expected for the user and for the State than legal drugs) and hard drugs (worse for health than legal drugs). In fact, the chronicle use of hard drugs (as well as soft drugs and legal drugs) can be compatible with a normal working life in some cases. In other cases addition can only be controlled by abstinence – that is, for instance, how Narcotics Anonymous think. A third common description of a kind of relation with drugs is recreation, meaning a not abusive use of drugs: even if sometimes it can be excessive, it not addictive.

The medical studies of these syndromes and their causes are controversial. Any explanation has to do with common live habits developed for singular people within modern social lives, sometimes in group, other times under consumerist cultural addiction influence. In any case it is most difficult to control or to change it by rational means and even by strong personal will. The long run treatments available produce a lot of desistence. Come backs after being "clean" are common risks for people "cured".

The prohibitionist legal framework presupposes the possibility of push abstention of use at a zero point for everybody, at least for these people under legal control. Criminalization and incapacitation policies are the logical consequences of this reasoning. Even, at the same time, it is claimed by the State and by head of prison system that it is impossible to avoid the regular commerce of illicit drugs inside prisons, given the ability of consumers to attract the dealer. Some prison high rank personnel claim it would be impossible to run a prison without this kind of black commerce, because there is no support means – medical and security means – able to contain the number of addicts one have in prison in abstinence crisis.[1] Prisons are not designed to be a therapeutic community.

Preventive legal framework accepts that drug use is a resilient human cultural practice and repression will not stop it. So, one has to develop ways of dealing with drug consumers of different kinds trying to prevent short term and long term lethal situations and avoiding drug uses for new comers without using repressive means (because them have often a reverse effect).

The "war on drugs" did develop a new and bigger black market. The evidence of this reverse effect did not end with the global priority to prohibitionist policies. As the preventive approach, the prohibitionist approach failed to propose an end. The "collateral damages" are the isolation by legal means of the families with drug problems, caused by lack of regulation of the market, and the imprisonment of consumers, most of them by anti-social behavior when searching for money to buy expensive illicit product.

The prohibitionist way of looking for drug related problems reveals its limits when one look of its consequences: more addicts and more social problems, besides addiction problems. The preventive way develops different approaches: for instance, therapeutic communities and penitentiary treatment. The techniques can be stronger – clamming abstention – or softer – controlling damages constraining the minimum the free will of the addict person.

In Portugal one can divide the time of political speech about illicit drugs in four periods, as Carlos Costa did[2]: a) drugs as modern political threat, by the beginning of the 70´s under the

[1] In the end of last century the Portuguese government considered the idea of buying drug detector machinery in order to avoid any one entering the prisons to enter with drugs. This idea has been dismissed since then.

[2] Carlos Alberto Pires Costa, "A política relativamente à droga em Portugal: Estratégia dos Partidos Políticos-1976/2000", tese de mestrado ISCSP/UTL, 2002.

dictatorship; b) during the democratization process one can read both medical speech about the drug addiction and the repressive speech as well: neither has consequences because the issue was not politicize; c) democratic regime, at the beginning, do not elaborate ideologically on the matter, leaving the onus of the dealing with the problem to de administration, under government orders; d) by the year 2000 ends the inertial political consensus and the decriminalization of the drug use becomes law, against the polarization of the attitudes on the right wing, asking for longer penal measures against the drug traffic. The left wing views are medical like and there is the official orientation of the Portuguese institute to deal with the social problem.

DSM4 - Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition – has been published in 1994. Drug abuse has been classified has a disease (in the reverse sense that homosexuality has been cleared from the list of mental diseases). After that decision, some States all over the world developed slowly the therapeutic approach in parallel with the criminological approach. Since the end of the 80´s – after a suicidal wave in Portuguese prison system – Prof. Eduardo Cortesão, medical university teacher, critically concerned with mental health and mental care inside prisons, get the opportunity to develop experimental actions and, afterwards, a protocol (1989) that enables him to organize medical teams to improve medical mental care in same prisons around Lisbon, such as Ala G therapeutic community program (started 1991) at Lisbon penitentiary, with a special therapeutic environment, and to attend people at Mónicas and Tires – women prisons – at Linhó and Pinheiro da Cruz. His headquarters was in Prison Hospital of Caxias. In 1994 at Caldas da Rainha, a small exit building supported the interface between therapeutic penitentiary regime and freedom for a short period people need to find a job and a place to live.

The program (as it was conceived by scholars) included training of the security personnel and prison education staff, the availability of doctors, occupational therapeutic professionals and sports trainers and a strict therapeutic contract subscribed by young people willing to find the way out of addiction, for the first time in prison, accepting behavior rules that constrain visitors and the access to remedies (the program was not open to people with chronicle diseases).

The number of professional people involved, the short controlled number of patients (20), the small success of these programs (3-5%), the growing pressure of the inmates (and of administration powers “cunhas”, meaning a traditional way to influence break of rules) to enter the program – which is knowledge as out of prison regime. In 1999 the number of inmates in the therapeutic community doubled and the number of personnel stays the same. The turnover of doctors in the program becomes high, since there is no stable budgetary provision to salary payments. The selection criteria become more flexible.

The difference between the intent and the programs of therapeutic communities and free of drug wings becomes confuse. Today the information available counts both kind of approach together.

In Portugal most people in prison has any kind of problem with illicit drugs. And the ability of the prison system to match the need of diagnostic and treatment is improving from a low point of development of prison heath care. The head of prison system says that the drug problem is imported from outside society. And claim that prison system is not a health care institution: it is a repressive and a social reintegration institution: health care problems are stressful external conditions which make more difficult to achieve institutions goals, such as discipline and social reintegration. Prison is not a therapeutic community. Portuguese prison system has developed internal differentiated sites (“Alas livres de drogas”) where abstention therapeutic communities, for selected inmates, are developed.

Anyway, the prisoners are in prison and the state has the legal responsibility to support heath care treatments as if these people were free and have the initiative to get health care services. It becomes not only a budgetary problem – many of the free drug addicts, especially those with less social economic resources, do not claim for medical help – but also an organizational and institutional problem for prison system to deal with. One of the consequences has been the recent Portuguese state decision to introduce the access of prison inmates to national health care system, as any other person. Before, they had access only to a prison special healthcare system. One lives today a transition period.
Data available are not easy to read when it comes to expenses or benefits, since one do not know for sure how many inmates are hill and not hill, there is not separate and global accountability on the expenses on health care treatments for addiction problems, there is no warranties about the continuity of prison treatment outside prison, whenever inmate leave prison for a short leave or for good.

The estimate of drug users inside Portuguese prisons

Ten million inhabitants and between 140 and 120 prison inmates by 100.000 inhabitants, Portugal begun its war on drugs in the beginning of the 80´s, when the after 1974 democratic revolution defined a post-colonial pro-European consensual political orientation and the perspective of better salaries turned popular newcomer into bigger towns (Lisboa and Oporto) an attractive market for heroin drug dealers. The modernization of drug market destroyed traditional illicit drug market – haxixe – and provoked a securitarian state reaction against it.
In the end of the 90´s it becomes clear the impact of this policy within prison system. The old prison hierarchical culture, privileging violent crimes authors as more respectful inmates inside prison, under an ethical code against perpetrators of violence against women and children, dissolve itself. As it is described by Manuela Ivone Cunha (*Entre o Bairro e a Prisão: Tráficos e Trajectos*, Fim de Século, 2002) for women prison – and as it is known to be the case in men prison – communitarian equalitarism prevail.
30 persons by 100.000 inhabitants are criminal condemn doing time by events related to illicit drug dealing. The numbers have decreased from 2003 to 2004 as a consequence of a new legal regime preventing the criminal legal persecution against drug consumers (Lei n.º 30/2000 and Decreto-Lei n.º 130-A/2001)[3].

[3] http://www.dgpj.mj.pt/sections/leis-da-justica/livro-iv-leis-criminais/leis-criminais/legislacao-penal-avulsa/consumo-e-trafico-de. For the first time in legal history of Portugal a law on drug issues has pass without unanimity. The right wing parties on parliament voted against.

Table 1

Existing condemn prison inmates at 31st December by drug related crimes, since 1997 till 2006

	1997	**1988**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
Drug related crimes	**3 653**	**3 902**	**3 863**	**3 829**	**3 930**	**3 967**	**3 558**	**2 927**	**2 669**	**2 650**
	3	3	3	3	3	3	3	2	2	2
Traffic	326	585	603	653	649	804	197	822	592	578
Traffic and use	268	288	247	146	182	75	275	82	57	53
Others	59	29	13	30	99	88	86	23	20	19

Source: information 183/DSEJI, 26th May 2008

These data are controversial. These data produce a statistical relationship between drug criminality and prison system like this:

Table 2.

Percentage of related to drug crimes prison inmates

1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
25,44	26,73	30,16	30,21	30,17	28,96	25,75	22,26	20,71	20,97

Source: Information 183/DSEJI 26th May 2008

A 2002 governmental research over prisoner´s opinions on this subject diffuse other data. The reverse relative data is showed. 50% of interviewed prisoners answered they were in prison because of traffic or consume of illicit drugs; 23% answered they were in prison because they have performed illegal acts searching for money to buy drugs and 27% answered that their imprisonment has nothing to do with drugs (cf. Anália Torres et al, *Drogas e Prisões em Portugal*, Lisboa - CIES/ISCTE, ed. IPDT – Ministério da Saúde, 2002).

Data on drugs criminality is controversial. Judicial system representatives tend to downsize the volume of condemnations and political system representatives tend to transfer the social responsibility of the war on drugs to the judicial system. Both systems pressed by international comparative data which shows Portugal as one of the European countries that use the most judicial penal system to develop drug policies. [4]

As there is no medical diagnostic entering the prison system is difficult to have a right idea about the habits and heath conditions from who enters prison system (and knowing this, to calculate the health impact of being in prison on acquiring addictive habits on drugs use). As drug dealing is, at the same time, tolerated and forbidden inside prison system, the liability of the social and medical measures for the problem are strongly biased by political and ideological intentions.

Any way, it seems clear that illicit drugs are a huge problem inside Portuguese prisons.

The drug users' therapies available for prison inmates

In Portuguese prison system there are available two kinds of health care services for people who feel to have a problem with illicit drugs. The abstention program (*Alas livres de drogas*) and the

[4] Cf. http://www.emcdda.europa.eu/stats08/duptab1

pharmacological programs (subutex, antagonist and mostly methadone). Since 2006 there is an experimental exercise to develop risk reduction policies (*Plano de Acção Nacional para Combate à Propagação de Doenças Infecciosas e Toxicodependência em Meio Prisional*, cf. http://www.dgsp.mj.pt/).
There is no easy access to management and social information about how many people are involved in these programs and how successful these programs are. Their presence in the field reveals the ideological stress about the all question of illegality of some uses of kind of drugs: a) the consensus on the need of a free and sincere will in order to give abstention program opportunity of success; b) the non social and institutional resistance to the programs; c) the ideological resistance, more inside than outside the institutions, to risk reductions policies.
Few hundred people are able to use one abstention program (337 in 2006 and 326 in 2007). Only 6 prisons (over 50) deliver this program. Inmates are selected between the candidates, who have to submit, before entering, to a physical cleaning and an observation period in order to determine the success probability of the treatment. They will benefit of a lighter ambience than common prison ambiance versus strict rules of abstinence and obligation to submit to random control of drug use. They are seen as privileged inmates (there is no transparent selection process to choose the inmates neither assessment reports on the subject. That is the tradition for all Portuguese public administration). They live separated from other inmates. The treatment goes on by one year. The treatment can be interrupted by freedom or it can finish before freedom. If the case is the last one, then the inmate should submit to tougher rules (regular regime) and to a drug dealing black market pressure to drug use.
The pharmacological programs are developed with external health care sub-system specialized on dealing with drug addicts. These institutions, after previous agreement with prison authorities, supply the drug addicts involved through the security personnel, who gives the methadone to the identified inmates on the program. There is the risk of misuse of the control function of the methadone substance and the more common risk of use of multiple drugs. In 2006 568 people used these services (444 methadone, 99 antagonist and 25 subutex).
In 31 December 2006, 268 inmates were using methadone programs, 8 subutex programs and 48 antagonist programs in six prison establishments: Oporto and Paços de Ferreira, in the north of Portugal, count 112 users. Lisbon, Caxias, Tires e Linhó, all around Lisbon, count 156.
The risk reduction program has been politically attacked on the “salas de chuto” issue – meaning that political opposition to the program, approved in 2006, has been conducted stigmatizing the illicit drug uses, meanwhile out of criminalization few years later. In fact, given the prison guards union opposition in the field, the parliament decision to organize a clean space to support illicit drugs injection inside prisons, as an experimental device, reveal itself non useful, since no inmate has dear to claim for this service.

Addict treatment equipments in prison system

The first prison health care service for drug addiction started in 1992, in Lisbon prison – Ala G). In 1996 open the Oporto equivalent service. In 2000 is open an equivalent service for women in Tires (around Lisbon).
In the year 2006, there were 6 on 50 prison establishments where it were available services for abstention treatment, with 245 beds and 337 users. Lisbon prison (Ala G and Ala A) has half of the global movement, since for decades has been the first and only place where *Alas Livres de Drogas* system has been developed. Today one have the equivalent system in Tires (main

women prison in Portugal), Caxias, Sintra, Leiria (main juvenile prison in Portugal), Sta Cruz do Bispo and Oporto. There were, at Caldas da Rainha, 12 beds to receive people leaving prison needing to finish treatment. This house helped few people to transit outside prison: 17 people in 2003, 14 in 2004, 14 in 2005, 19 in 2006 and 10 in 2007. In 2006 there were 12 more beds to help people to recover from falls on drug consume (Oporto) and a service of group therapy in Caxias prison.

Final notes

By the end of the 60´s, in Portugal, drugs become a political problem. The war in Africa and the new ways of youth live mixed influences and policies: a) to tolerate and hide the psychological consequences of the war as much as the auto therapeutic use of drugs to deal with it by Portuguese soldiers; b) to show moral intolerance to the "sex, drugs and rock and roll" fashion. Portugal adopted a prohibitionist policy facing illicit drug uses, prescribing abstention perspectives to deal with it.

In the beginning of the 80´s, with the economic modernization program, drug dealers developed and democratize a heroin market in Portugal. Criminalization of the use and traffic becomes harder, since the State felt the need to control this shift on the drug market, without changing the main policy conservative views. The result of this configuration becomes clear in the 90´s, within prisons. Most of the prisoners, both male and female, use illicit drugs doing time. The health care problem becomes a new problem to prison system. But there is serious resistance to address the illicit drugs use as a health problem, since inside prison system security criteria have priority.

Meanwhile all kind of contagious diseases, including tuberculoses, hepatitis C and HIV, spread inside Portuguese prisons and risk a public health care problem. It becomes a problem to manage with so deep health problems within prison. There are no enough professional skills available, and there is no institutional vocation to deal with this kind of problems. Prison budget do not comport easily the new growing health care expenses.

The government decides to separate the health care political responsibilities from security responsibilities, namely including prison inmates as users of the national health care system. In 2006 ministry of justice and ministry of health care are legally assigned to develop cooperation in order to implement the assumption of the new responsibility of the national health care system. By 2006 it is adopted a reduction risk policy to add the other more conservative approach, under the responsibility of IDT (Drug and Addiction Institute). The leaders of this program complain publically about boycott to their programs, mainly coming from prison security sectors.