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Course

ILLICIT MARKETS AND ORGANIZED CRIME IN THE AMERICAS

PMI impact

MINISTÉRIO DA JUSTIÇA E SEGURANÇA PÚBLICA

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Class

Experimental Markets: Legalization and Decriminalization Processes

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Introduction

This class addresses **the drugs decriminalization, legitimation and legalization processes that have taken place in some countries around the world, and the strategies adopted aiming to reduce the damage caused by drug use and abuse.**

For this, this class will be divided into 3 parts: the presentation of pioneering experiences that challenged the prohibition imposed by international treaties; the legalized cannabis markets created in the US, Uruguay and Canada; and some social and economic impacts and new problems originated from the legalization of cannabis in these countries.

Concepts

Use rooms: these are rooms equipped with health materials where it is possible to correctly discard used syringes, obtain new syringes and use them outside the streets, in a controlled environment that has been proven capable of preventing overdose deaths, and also works as a gateway to self-care and treatment services;

Institutions

UN: The United Nations is an intergovernmental organization created in 1945 to promote cooperation internationally.

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Most countries prohibit the production, transport, sale and consumption of drugs considered illicit according the Annexes of the international drug control conventions of 1961 and 1971. Along with the 1988 Convention Against Illicit Trafficking in Narcotics, they compound the **international legal framework on drugs**.

However, some countries decided to change these norms, even in conflict with international conventions, because they evaluated the phenomenon of trafficking and consumption of psychotropic drugs in a systemic way, based on the unwanted effects of criminalization and its costs to society.

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One of the first initiatives to challenge international drug prohibition took place in the **Netherlands, starting in 1969**, when the Attorney General determined that the Dutch prosecution should focus its work on combating drug trafficking and not drug use. Years later, the government classified illicit substances into two categories: those of acceptable risk, which would have their use tolerated by the authorities, and others of unacceptable risk.

This model has not caused a huge increase in cannabis use among the Dutch, even though the prevalence of cannabis use in the country is higher than the European average. On the other hand, the Dutch model is considered incomplete because it legalized, in practice, the consumption of cannabis without having legalized its production and distribution.

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In the 1980s, strategies known as **harm reduction** emerged, related to the HIV-AIDS epidemic among injecting drug users. Health services in the Netherlands, Australia, Canada, Switzerland and the United Kingdom have created public programs to exchange used syringes for new ones. It was so efficient that at the end of the 2000s virtually all countries in Western Europe maintained similar programs, some with so-called “use rooms” and others with methadone substitution programs.

Strange as it may seem, this type of strategy took these more vulnerable users away from organized crime and the crimes that some of them committed to sustain their addiction, and reduced the financial, social, and human costs of medical emergencies and overdose deaths.

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In 2001, Portugal calculated the amount of cannabis, cocaine, ecstasy or heroin considered as a dose for use and determined that anyone with up to ten doses of any drug was no longer committing a crime, but an administrative infraction. These people are registered with the police but referred to a dissuasion commission linked to public health, which can impose fines and recommend treatment for users identified as problematic.

The Portuguese experience has been the subject of several studies, sometimes with conflicting results, but many point out that the model released public resources by removing the use from the criminal sphere, reducing the costs of police repression and prosecution in court. However, the reduction of investments in its drug policy has put the model at risk by reducing the work of dissuasion commissions.

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In the same years that Europe produced experiences of use tolerance and harm reduction, **in the Americas, patient activism in defense of the right to medical use of cannabis emerged and prospered.** Following historical tradition, scientific research nowadays proves the effectiveness of cannabis for a range of health issues, and the pressure has grown from patients to be able to benefit from this therapeutic use without having to commit a crime to do so. Cannabis has come to be associated with the well-being of children with severe epilepsy, patients undergoing chemotherapy, or people with multiple sclerosis, with glaucoma, with insomnia.

This change led to the approval by plebiscite in the 1990s in California of medical prescription access to cannabis. Since then, other North American states have legalized the medicinal use and regulated activities related to the cultivation, production and distribution of these products.

These medical cannabis regulation experiments opened the door for the idea of a legal cannabis market for recreational use, also called non-medical use or adult use, to no longer sound distant or absurd.

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The debate over the creation of a **legal cannabis market for adult use** gained traction from the idea that the costs and damages caused by the criminalization of drugs outweigh the costs and damages of drug use itself.

In the United States, in 2012 Washington and Colorado approved proposals to legalize and regulate the adult use of cannabis with more liberal legal market models, which include price fluctuation, sale without registration for people over 21, maximum purchase limit per person and endorsement for certain types of advertising.

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And **in Uruguay**, in 2013, the Congress approved a law that structured another type of legalized cannabis market, mainly through the right to self-cultivation and cannabis clubs. Uruguay's legal market model requires users to register with the state to obtain purchase authorization, which also controls prices and restricts any type of advertising.

In 2018, **Canada** created its legal cannabis market and became the first G7 country to reverse the criminalization provided for in international treaties. In this model, the State controls prices and the potency of commercialized cannabis, standardizes product packaging to make them less attractive and prohibits any type of advertising. The country has also increased penalties for adults who supply cannabis to minors, and many provinces have banned the use of cannabis in public spaces.

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In these experimental adult-use cannabis markets, **the use has not largely increased, but it has increased in some age groups**. According to the 2023 European Drug Report, the number of young people aged 15 to 34 who say they have used cannabis at least once in the previous year is lower in Portugal (8%) than the average in Europe. In the Netherlands, the prevalence is 19%, but it is equalized with that of countries that have not decriminalized the use or legalized cannabis markets. In Canada, the UN Global Drug Report shows that there have been few differences in cannabis use after the creation of the legal market.

Violent crime has not hugely increased either, but there are conflicting studies regarding the impact of the legalization of adult use of cannabis on the prevalence of violent and property crimes in the pioneer states of Washington and Colorado.

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By all indications, **the change saved lives and public resources**, releasing thousands of people arrested for possession of cannabis from criminal sentences. The reduction of repression and the judicial prosecution of users also saved public resources, but a good part of them was just shifted to health and information campaigns. In the United States, it is estimated that more than 15 billion dollars have already been generated in collected taxes.

On the other hand, **new markets have generated new problems**, such as the proliferation of children's edible products made with cannabis, increasing the risk of accidental consumption. There is also concern about the deleterious effect of cannabis on driving vehicles, which can increase traffic accidents, and this has led Washington, for example, to adopt a zero tolerance policy for the use of cannabis by drivers.

Summary

- Introduces the discussion on drugs decriminalization, legitimation and legalization processes in different countries;
- Discusses different strategies adopted, such as the tolerance policy in the Netherlands, harm reduction programs and the legalization of drugs possession in Portugal;
- Presents the debate on medical cannabis legalization activism in the US;
- Introduces models of experimental legal cannabis markets in the US, Uruguay and Canada;
- Discusses the social and economic impacts of cannabis legalization.

Reference

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