

NSfK Working paper 3/2024

Disparities in Drug Law Enforcement: Insights from Denmark's Euphoriant Act (2003–2020)

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The opinions expressed in this working paper are the author's own and do not reflect the view of the Nordic Research Council for Criminology.

Findings

The research project consists of two studies. One study of who get punished for violating the Euphoriant Act and one study of the implementation of the warnings rule from 2004. The first study investigates individuals charged under Denmark's Euphoriant Act from 2003 to 2020, focusing on first-time offenders born in 1990 or later. The analysis revealed significant demographic and socioeconomic disparities between those charged with possession versus sales of illegal drugs. While both groups were predominantly male, individuals charged with sales were more likely to be younger, of non-Western descent, and from single-parent or disadvantaged households. Those charged with sales exhibited higher rates of prior drug and mental health issues, as well as greater detachment from education or employment. Furthermore, police engagement was more frequent for this group, both before and after their first charge. Conviction rates were markedly higher for possession charges compared to sales. These findings underscore the importance of socioeconomic and demographic contexts in shaping patterns of drug-related criminal charges.

The second study investigates the enforcement of Denmark's drug legislation concerning warnings for socioeconomically disadvantaged individuals with severe substance disorders. It reveals a significant gap between the policy's intent and its practice, as the provision for issuing warnings was consistently underutilized, peaking at only 14.7% of eligible cases in 2008. The research highlights that de facto decriminalization that relies on police discretion can lead to insufficient implementation and inconsistencies. These findings indicate barriers, such as lack of awareness among law enforcement, unclear eligibility criteria, and maybe social stigmas, which hinder equitable implementation. The study concludes that a comprehensive approach with clear legislation and guidelines could lead to enforcement that aligns better with policy objectives and enhances outcomes for vulnerable populations. Socio-economic factors also played a critical role. Individuals from disadvantaged backgrounds were less likely to receive warnings, even when they met the criteria for leniency. This disparity underscores how socio-economic status influences judicial outcomes, compounding the challenges faced by already vulnerable populations.

Summary

This project examines the enforcement of Denmark's Euphoriant Act (Lov om euforiserende stoffer) over the period 2003–2020, highlighting significant disparities in social and judicial outcomes. While the Act was designed to criminalize the possession and small-scale sale of illegal drugs, its 2004 amendments introduced leniency provisions for socioeconomically disadvantaged individuals with severe substance use disorders. However, data from the National Police of Denmark and Statistics Denmark reveal that these leniency provisions were rarely applied. The findings point to disparities based on ethnicity and socio-economic background. Recommendations emphasize clearer legislation, improved training for law enforcement, better integration of public health services, and robust data monitoring. The project provides a deeper understanding of how drug policies impact marginalized populations, offering critical lessons for Nordic and global drug reform efforts.

Background

The Euphoriant Act is the cornerstone of Danish drug policy, aimed at regulating the possession and sale of illegal substances. In 2004, amendments were introduced to alleviate the law's impact on marginalized groups [1]. These amendments allowed warnings to replace fines for individuals meeting the specific criteria, of being socio-

economic disadvantage and having severe substance use disorders. The goal was to balance the punitive elements of the law with measures reflecting harm reduction principles. Despite the intentions behind the amendments, enforcement practices have consistently fallen short of their promise. Analysis of data from the POLSAS system and Statistics Denmark shows that warnings were issued in fewer than 15% of eligible cases annually. A lack of awareness among law enforcement, combined with vague criteria for leniency, created barriers to the law's equitable application. Furthermore, the enforcement disproportionately affected non-Western individuals, those from disadvantaged socio-economic backgrounds, and those charged with minor infractions, such as possession of cannabis.

The Danish case offers valuable insights into the intersection of punitive measures and welfare-based drug policies. It reflects broader challenges concerning de facto and de jure decriminalization and balancing public health priorities with criminal justice objectives, an issue particularly relevant for Nordic countries that often seek to combine these approaches.

Nordic relevance

Denmark's enforcement of the Euphoriant Act provides a critical lens through which to view broader challenges in Nordic drug policies. Like other Nordic countries, Denmark has sought to develop and implement harm reduction while at the

same time having a prohibitive drug policy. However, the reliance on discretionary enforcement can be seen to exacerbate existing inequalities, which can undermine equity and justice principles that underpin Nordic welfare models [2]. Furthermore, the de facto decriminalization of socioeconomically disadvantaged people with severe substance use disorders and its deficient implementation can provide an example of some of the challenges with this type of de facto leniency policy [3, 4]. The findings from Denmark emphasize the need for legislative precision and possible systemic reforms. Other Nordic countries can draw lessons from Denmark's experience, particularly regarding balancing welfare policy with drug control policy and its enforcement. Clear legislative frameworks and consistent application are essential to achieving both public health and justice objectives.

Recommendations

To address the disparities found in both studies, Denmark could implement reforms. First, legislative clarity is paramount. The criteria for issuing warnings should be explicitly defined to minimize reliance on discretionary enforcement. Clear guidelines would ensure consistency across jurisdictions and reduce the potential for biases [3, 4]. Second, training of law enforcement officers could help them to better align their practices with the law's intent. Such training should, among other things, focus on addressing implicit biases and improving awareness of the socio-economic and substance use factors that underpin the leniency provisions.

Enhanced understanding among police officers is critical to ensuring that the law is applied equitably. Integration of health and social services into enforcement processes is another could also be an important step. It could help to direct individuals with substance use disorders towards should be directed to appropriate treatment and support systems, rather than punitive measures that exacerbate their vulnerabilities. This approach would align enforcement practices with harm reduction principles and promote better outcomes for affected individuals. Finally, robust data monitoring systems are necessary to track enforcement patterns and ensure accountability.

Knowledge gaps and future research

While this study offers valuable insights, several areas require further exploration. Future research should examine the decision-making processes of law enforcement and judicial actors to understand the factors driving discretionary enforcement. Additionally, longitudinal studies are needed to assess the long-term outcomes of individuals who receive warnings compared to those subjected to fines or custodial sentences. Comparative studies within the Nordic region could identify best practices for drug policy enforcement, highlighting effective strategies for integrating health and social services. Finally, the potential impact of training programs on reducing enforcement disparities warrants further investigation.

Conclusion

The enforcement of Denmark's Euphoriant Act reveals critical gaps between legislative intent and practice. While the 2004 amendments sought to introduce leniency for marginalized groups, these provisions have been underutilized, perpetuating systemic disparities in judicial outcomes. Addressing these challenges requires a multifaceted approach that combines legislative clarity, enhanced training, and better integration of public health services. Denmark's experience serves as a cautionary tale for policymakers in other Nordic countries and beyond. By aligning policy design with equitable enforcement practices, governments can move closer to achieving the dual goals of public health and justice. The findings from this study provide a valuable foundation for developing evidence-based drug policies that promote fairness and equity.

Outputs

A manuscript about disparities in enforcement of the Euphoriant ACT awaits final analysis pending delivery of the control group from Statistics Denmark. The manuscript will be submitted to the Nordic Journal of Criminology.

A manuscript about the implementation of the rule in the Euphoriant Act that allows for warnings for socioeconomically disadvantaged people with substance use disorders is finished and ready to be submitted to the International Journal of Drug Policy.

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The project

'Disparities in Drug Law
Enforcement: Insights from
Denmark's Euphoricants Act
(2003–2020)' is a personal
research grant funded by the
Nordic Research Council for
Criminology (NSfK).

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