Chapter 14

Switzerland: Moving Towards Public Health and Harm Reduction

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Abstract

The Swiss drug policy once was very progressive in the 1990s when the harm related to drug use was most visible to the public. Failure of repression opened the room for more innovative harm reduction approaches. In 2008, the four-pillar model including the legal basis for substitution and heroin-assisted treatment of opioid use disorders as well as for other harm reduction facilities was approved by the population that had learned about the success of these measures. Less violence, better health outcomes among people who use drugs and less stigma supported the change of attitudes in the population towards a public health-based approach when dealing with drug use. Switzerland first received heavy criticism for the autonomous policy change at the international level while it is nowadays often cited as best practice example for dealing with people with an opioid use disorder. Otherwise, the country has usually been quiet in drug policy discussions at the UN level. Nevertheless, Switzerland's reappointment to the Commission on Narcotic Drugs, the central drug policy-making body within the United Nations for a period of four years starting in 2018 is promising, given their unblemished recommendation for human rights-based drug policies including the abolition of the death penalty for drug offences, among other things. Alongside cannabis policy changes at the international level, Switzerland witnessed an unexpected development in cannabis availability and sales. However, the country is still rather conservative with regard to current cannabis policies, although cannabis with less than 1% of THC can be sold legally and the possession of up to 10 g will be followed by a fine only, if at all. Switzerland is open to experiment with new regulations but only if the law allows for that. To conclude, the strong sense of connectedness with the international community may support Switzerland's next steps towards public health and evidence-based harm reduction.

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A Brief History of Switzerland's Drug Policy

Switzerland's drug policy is often used as a best practice example given its progressive and innovative approach during the 1990s. However, the relatively liberal view and inclusion of harm reduction in the policy were not the result of a rational decision-making process at the time but rather an experimental response to a major drug crisis. It received some heavy criticism at international level, notably by UN bodies who reminded the government that harm reduction programmes are not substitutes for demand reduction programmes (INCB, 1993). Nevertheless, similar reforms occurred in many other European countries some years later. Importantly, the position on safe drug consumption facilities has evolved positively over the years. The INCB Annual Report for 2016 mentioned for the first time a clear recommendation in favour of this approach (INCB, 2017).

The first Swiss narcotics law was adopted in 1924 and created a national drug control system mainly focussing on opium and cocaine (Hänni, 1998). After the Second World War, controls were extended to many other substances, including cannabis, and a national authority was established. The range of drug-related offences was also extended and the sanctions increased (Hänni, 1998). The use of drugs other than alcohol spread more widely in the 1960s. In 1969, the highest court criminalised personal possession of the controlled substances with no reference to 'drugs' per se (Hansjakob & Killias, 2012). That year, about 500 drug-law offences were registered and 60 kg of hashish were seized (Heller, 1992). A few years later, heroin seizures and a first drug-related death were recorded. In 1975, a revision of the narcotics law came into force. During the debates in parliament, two different visions of drug policy had clashed: one was in favour of criminalising drug use in order to combat drug trafficking, promote public order and reinforce prevention. The other pointed to the contradictions of a policy seeking both to punish and to help people who use drugs (Boggio et al., 1997). The result was a compromise: drug use and possession were to be systematically prosecuted but with relatively low sanctions (a fine and no criminal record). The prosecutor could also refrain from applying any sanction under certain circumstances. The new law pledged local authorities to develop prevention programmes and provide treatment for people with a substance use disorder. Treatment was, however, abstinence-oriented, and opioid substitution was only allowed under strict regulations and surveillance (Csete & Grob, 2012; Hänni, 1998; Klingemann, 1998).

In 1975, when the revised law was implemented, about 5,000 drug law offences and 35 drug-related deaths were registered. Two years later, around 4,000 people were estimated to have developed a substance use disorder (Heller, 1992). Rising drug consumption accompanied an increasingly rebellious youth movement that sparked off street fights with police in several cities in 1980 (Boggio et al., 1997; Grob, 2009). One aim of the youth movement was the creation of autonomous youth centres in the larger cities, and in 1982 the Zurich youth centre opened the first drug consumption room (Uchtenhagen, 2009). By the mid-1980s, Switzerland

was facing a growing drug crisis. More than one hundred drug-related deaths were recorded while the estimate of the number of people with a opioid use disorder was now at 10,000 (Grob, 2009). Moreover, around 15,000 drug-law offences were recorded every year (Heller, 1992) with no sign that law enforcement had an impact on the supply and use of illegal drugs. Drug-related acquisitive crime, such as pharmacy burglaries and housebreaking, was rapidly increasing (Kraushaar & Lieberherr, 1996) notably because of the high price of heroin. Early data also showed that a significant number of people who injected drugs in Switzerland were HIV+ (Uchtenhagen, 2009) and people feared the disease could spread in the general population. The link between the spread of HIV/AIDS and injecting drug use was key for the future of Switzerland's drug policy (Kubler, 2000). People who used drugs were progressively not only considered as criminals but also as vulnerable people in need of urgent help.

In late 1986, people who used drugs in Zurich, mainly heroin, settled in a park – the Platzspitz – located near the main train station as local authorities decided to stop chasing them around the city because it neither reduced public nuisances nor crime (Kraushaar & Lieberherr, 1996). The park became Zurich's infamous Needle-Park, and it contributed to an overhaul of the country's drug policy. Low-threshold harm reduction interventions, such as the distribution of clean needles and syringes, were introduced during the early 1980s, to help prevent the spread of hepatitis and, later, of HIV/AIDS. In 1985, the medical officer of the canton of Zurich threatened to revoke the licence of doctors and pharmacists who provided sterile injection material to people who used drugs and 300 doctors submitted a petition with support from the medical association (Uchtenhagen, 2009). The cantonal parliament then authorised these harm reduction measures and in 1987, the ZIPP-AIDS project began operation at Platzspitz, handing out thousands of sterile syringes every day (Grob, 2009). In Berne, an NGO created a low-threshold facility with a small drug consumption room in 1986 (Wietlisbach, 2014) which later received the support of the city's authorities. Both Berne and Zurich, as well as a few other Swiss-German cities, adopted harm reduction as a component of their dug policy (Kraushaar & Lieberherr, 1996).

A New National Drug Policy

In Switzerland, illegal drugs were considered a major concern in the first half of the 1990s (Longchamp et al., 1998) with an estimated 30,000 people with a opioid use disorder and 700 people annually dying from overdoses or AIDS. As a consequence, the Swiss Federal Office of Public Health (SFOPH) published its first ever National Drug Strategy which introduced the Swiss 'four pillars' policy (prevention, treatment, harm reduction and law enforcement). It retained prohibition as the policy framework but allowed for new approaches, mainly harm reduction measures. The value conflicts within drug policy were managed through wide financial and technical support by the federal authorities and the cantons, and by allowing players to meet and discuss at national conferences and within coordinating bodies. Syringe-exchange programmes and supervised drug consumption rooms were increasingly implemented, and other controversial measures, such as

heroin-assisted treatment or syringe exchange in prisons, were developed as scientific trials to respect the international law. Attempts were made to close the country's needle parks. The drug scene in Zurich moved, however, to an abandoned train station (Letten) which became the city's next needle park (Kraushaar & Lieberherr, 1996). Letten was closed in 1995, involving both the federal government and the cantons. Acquisitive crime and public nuisance declined dramatically at that time.

By the mid-1990s, over 20,000 needles and syringes were being distributed daily in Switzerland, 15,000 people were accessing treatment, mostly methadone maintenance following changes to the conditions determining eligibility, and several cities opened facilities with a supervised drug consumption room (Zobel & Dubois-Arber, 2004). In response to these developments, two coalitions formed around very different ballot initiatives. One, 'Youth Without Drugs', launched by politically conservative circles, proposed to end harm reduction measures, including most opioid maintenance treatment. The other, 'Droleg', called for the legalisation of drugs and regulated drug markets. The new policy appeared as a pragmatic middle ground, supported by a growing coalition of professionals and policy makers and the first drop in the incidence of drug related problems for over a quarter of a century. Both ballot initiatives were rejected by more than 70 percent of voters in 1997–1998. A referendum against heroin-assisted treatment was also defeated in 1999 (Savary, Hallam, & Bewley-Taylor, 2009). The country's drug policy had undergone a major change, supported by the Swiss voters, but so far without significant changes to the narcotics law.

Shifting Cannabis Policy

As in many other countries, cannabis use among young people increased during the 1990s. The Swiss cannabis market changed from an imported resin to a mostly locally grown herbal market. At the policy level, cannabis remained first and foremost an issue of prevention and law enforcement, as treatment demand was low and harm reduction was not developed in this area. The decriminalisation of cannabis use or its legalisation appeared as the main options for cannabis policy reform. These options were supported by the national advisory board on drugs and by an expert Commission tasked to make propositions for a revision of the narcotics law. Both recommended abandoning the prosecution of drug use. The national advisory board went further in a dedicated cannabis report of 1999 (EKDF, 1999) proposing two models: (1) to stop prosecuting cannabis use and reduce the obligation to prosecute its production and sales and (2) to allow a state regulated cannabis market. In 2001, after a public consultation, the Swiss government submitted a revision proposal of the narcotics law to parliament, institutionalising harm reduction, legalising cannabis use and allowing a regulated cannabis market. The proposal remained on hold for three years during which many cantons reduced their law enforcement efforts against the cannabis market. As a result, about 400 illegal cannabis shops operated in 2002 (Leimlehner, 2004). This unregulated market contributed to the lower house's refusal, in 2004, to discuss the revision proposal by a vote of 102 to 92.

This rejection led to the closure of the existing cannabis shops. The shop owners and other cannabis activists immediately started to collect signatures for another federal ballot initiative requiring the legalisation and market regulation of cannabis. They were joined by harm reduction advocates. In parallel, the Swiss parliament partially revised the narcotics law to finally provide a legal basis for heroin-assisted treatment of opioid use disorders. The revision was similar to the one proposed in 2001, but without the section on cannabis. This was still too much for conservative groups, who organised a referendum against that revision. This resulted in Swiss citizens being called to vote, in November 2008, on both an initiative for cannabis legalisation and market regulation; and a referendum against a revision of the law institutionalising harm reduction and heroin-assisted treatment. The cannabis initiative was rejected by 63% of voters, but the revision of the narcotics law was accepted by 68% (Savary, Hallam, & Bewley-Taylor, 2009). Harm reduction was now fully institutionalised, but cannabis legalisation had been rejected by both the parliament and citizens.

An Unsatisfactory Cannabis Reform

It took the parliament a few years to return to the cannabis issue. The rise in the number of recorded offences had no noticeable impact on demand or supply but on the workloads of cantonal justice departments. An old parliamentary initiative was therefore revived and used for a partial revision of the narcotics law in order to decriminalis cannabis use. Adults caught using and/or carrying no more than 10 g of cannabis were then administered a fine of 100 Swiss Francs (about 85 euros). The law came into force in October 2013, and a recent study showed big differences in cantons applying cannabis use decriminalisation (Zobel et al., 2017). The Swiss narcotics law with its successive revisions provides sufficient contradictions and ambiguities to allow for very diverse interpretations by law enforcement at the cantonal level. Recent court decisions stating that cannabis possession of less than 10 g was not to be punished anymore confirmed and added to the growing confusion about the way cannabis use is to be sanctioned or not. In parallel with developments at the national level, some Swiss-German cities started exploring the possibility of cannabis regulation at the local level and thereby continuing experimenting drug policy alternatives at the local level as had successfully been done during the 1980s and 1990s. They were joined in 2014 by the French-speaking canton of Geneva, where a group of political representatives called for a local trial with cannabis social clubs following the models in Spain and Belgium.

This group of cities and cantons continued to grow[1] and started to work together on different cannabis production and distribution schemes (Zobel & Marthaler, 2016). A legal opinion suggested that the only possible way to develop cannabis regulation at the local level was through scientific trials falling under

[1]Zürich (city), Bern (city), Geneva (canton), Basel-Stadt (canton), Thun (city), Winterthur (city), Biel/Bienne (city), Luzern (city), Lausanne (city)

article 8 of the narcotics law. Two cities (Berne and Zurich) and two cantons (Basel and Geneva)[2] decided to be the first to propose such trials. Four target populations for cannabis distribution/sales were defined (1) adults who currently use cannabis, (2) underaged adolescents with problematic cannabis use patterns, (3) adults with problematic cannabis use patterns and (4) adults who were prescribed medical cannabis and self-medicate. During the summer of 2017, the city of Bern submitted the first proposal for a special authorisation under the narcotics law. The project was to permit the sales of cannabis through existing pharmacies to about 1,000 adult residents who were already using cannabis and who would receive a prevention/harm reduction intervention through their smartphone. The proposal had been successfully submitted to the ethics committee, and the funding for the research was secured through the Swiss National Science Foundation. The city of Zurich and two other cities (Lucerne and Biel/Bienne) aimed to implement the same project if it was accepted.

The authorisation was however rejected by the Swiss Federal Office of Public Health (SFOPH) on the ground that recreational cannabis use does not fall under the exemption for medical experiments foreseen by the law. The SFOPH agreed that such experiments would be useful and that a small change in the law – an aricle allowing for non-medical public health research trials – could provide the means for a positive response. In December 2017, more than half of the members of the Swiss parliament signed a petition in favour of such a new article in the narcotics law. In addition, the pressure of cantons had impact on the federal parliament. In 2017, the green party introduced a parliamentary initiative[3] for the legalisation of cannabis and the regulation of its market. While the initiative has in theory little chance to succeed, it could provide the parliament with an alternative if the current cannabis policy continues to be challenged from all sides. Changes in cannabis policy at the international level have also triggered the first steps of a new ballot initiative for the legalisation of cannabis. The association *Legalise it* has already provided a short text inviting the government to legalise and regulate cannabis and started to collect money for such an initiative. In 2018, a committee was set up to collect the necessary 100,000 signatures to enable a vote on the initiative in three to four years.

Alongside cannabis policy changes at the international level, Switzerland witnessed an unexpected development in cannabis availability and sales. In 2011, the country increased the level of THC legally separating industrial hemp from illegal cannabis from 0.2% to 1%. One of the goals was to reduce the number of false positive cases of industrial hemp that had naturally occurring THC levels above

[2]Both Basel-Stadt and Geneva are so called city-cantons made out of a main city (Basel and Geneva) and its immediate surrounding. Other cantons, such as Berne and Zurich, have much larger territories and dozens or hundreds of municipalities of different size.

[3]A parliamentary initiative is a proposal submitted to the parliament by one of its members. It needs first to be examined by the relevant commission which decides if it is worth taking up. If the response is positive, it becomes a law proposal and needs to go through the ordinary legislative process.

the old limit. The threshold of 1% was adopted because other Swiss legislations used this figure and because nobody thought that cannabis with less than 1% of THC would be of any interest in a market where cannabis had usually levels of more than 10%. This proved however to be wrong as the new burgeoning legal US market introduced new low THC and high CBD cannabis varieties which, particularly in the medical sector, found a customer base.

In 2016, two entrepreneurs asked the Swiss authorities if their product – cannabis flowers with less than 1% of THC and high levels of CBD – could be sold legally as a tobacco substitute with the same warnings and taxation as cigarettes. After getting a positive answer, they sold their product and branded it as 'legal cannabis'. It was rapidly sold out and triggered the development of a new cannabis industry with, in early 2018, already more than 500 registrations to sell low THC products as tobacco substitute. Two of the country's largest supermarket chains as well as one of its largest newspaper shop chains have started selling 'legal cannabis', making it available even in small towns.

The situation brought uncertainty for law enforcement bodies as legal and illegal cannabis couldn't be distinguished without expensive laboratory tests. Nonetheless some cantons decided to test all cannabis samples but it proved to be very complicated and costly. New guidelines for street police officers, including some that are barely legal, were also introduced. In late 2017, a rapid test was made available and could help reduce the uncertainty for police officers and perhaps also the inappropriate application of the law. New health-oriented shops selling CBD tinctures, oils, lotions and other products also appeared. A chain called 'Cannabis counters' (Hanftheke) opened a first shop in November 2016 and had 29 shops eight months later. The branding of the products includes a strong reference to their Swiss origin and quality and the customers notably include older people. So far, it remains unclear what will happen with the type of products they are more likely to buy. These cannot be advertised as therapeutic products as this would bring them under the law on medical products and make them illegal without proof of efficacy. And, even if they are sold as usual or alimentary products, they might not be legal because of the way they are produced. A crackdown on non-smokable products is therefore a true possibility but this might differ from canton to canton. Switzerland has allowed medical cannabis since 2014. People with multiple sclerosis can be prescribed the medication Sativex®[4] directly by their doctor to help reduce spasms. For all other diagnoses and symptoms, the physician needs to submit a special request to the SFOPH and renew it every six months. The medication, which can be very expensive, is only sometimes reimbursed by the health insurances, and on a case by case basis. Despite the high administrative burden for the physicians, the high costs, the limited number of medications as well as limited evidence regarding the effectiveness, the number of requests for medical cannabis is constantly increasing. A request for the

[4]The available cannabis medicines include mainly Sativex® (CBD/THC 1/1), Dronabinol® (THC) as well as two preparations of a cannabis oil (Sativaoil; CBD/THC 0.3/1) and a cannabis tincture (CBD/THC 1/2) prepared and sold by only two pharmacies in the country.

simplification of the system has already been made within the parliament in order to provide better treatment options for people with an indication who currently often decide to self-medicate.

Switzerland and the UNODC

Switzerland fights organised crime, the drugs trade and human trafficking as well as corruption and money laundering through its active participation in various international organisations and conventions. At the same time, it is committed to promoting human security and the rule of law. In 2017, Switzerland has been reappointed to the Commission on Narcotic Drugs, the central drug policy-making body within the United Nations for a period of four years, starting in January 2018. Switzerland has been appointed to the commission several times in the past (1961–1975, 1988–1995, 1997–2001 and 2004–2011), but the current term could become one of the most interesting ones in regard of the review and renewal of the existing Political Declaration and Plan of Action in 2019. In general, Switzerland shares a common voice with other European countries in the Commission without having submitted specific proposals themselves. Importantly, the only clear repeated recommendation is to abolish the death penalty for drug-related offences. At the 61st meeting of the Commission on Narcotic Drugs in Vienna in March 2018, Switzerland sponsored three side events on the topics of abolishing the death penalty, the world drug *perception* problem and measuring of the impact of drug policies. Switzerland is clear about the aim to align drug policies with the 2030 Agenda.

Therefore, the Swiss government advocates for better and different data to support the UNODC Annual Report Questionnaire (ARQ) that is based on the self-report of governments of the Member States and thus, often inaccurate and biased. Switzerland is interested in developing a framework for policy coherence while noticing the difficulties of measuring the outcome. Creating an external advisory committee to monitor the progress and to support governments in the data collection is seen as key. Also, indicators related to the Sustainable Development Goals (SDGs) should be included, first and foremost on SGDs 1, 3, 5 and 16. Data on the effects of drug policies are greatly lacking and should be collected additionally. For this, the SDG indicators could be a model to improve drug policy indicators. Finally, outcome-oriented metrics should be prioritised when it comes to data collection efforts. This includes that key components of the UNGASS outcome document are implemented in the ARQs as well as the incorporation of gender policy. Drug demand reduction indicators might be more relevant than supply. Yet, the 2009 declaration focusses on supply reduction only and may no longer fit for purpose when following the UNGASS 2016. In any case, Switzerland promotes evidence-based research to inform drug policies and emphasises the importance of integer non-biased research to move forward.

Only recently, an INCB mission visited Switzerland to discuss the implementation of the three international drug control conventions and to review drug control developments in the country. The focus lied on trafficking and abuse of narcotic drugs, psychotropic substances and control precursor chemicals and

measures taken to address them, as well as challenges regarding access and availability of substances under international control for medical purposes. This was the first mission since 2000, coordinated by the SFOPH. Consultations were held with the directors and senior officials of the SFOPH, Swissmedic, Foreign Affairs, Federal Police and Cantonal Police Berne. Meetings with members of the Federal Commission on Addiction and NGO representatives were also held. The mission also visited a company manufacturing internationally controlled substances and the safe drug consumption facility provided by the NGO 'Contact Foundation' in Berne. The results will be published in the INCB Annual Report 2018 to be expected early 2019.

Conclusions

Switzerland underwent an important drug policy change in the late 1980s and early 1990s, becoming one of the most innovative countries in this area. Still today, almost half of all the patients who have access to heroin-assisted treatment in the world live in Switzerland, while the prevalence of heroin use is much higher in other countries with no or insufficient medical treatment options. Another example of the depth of change are the various established drug checking services in Switzerland who operate on-site at parties and festivals since 1998 and fixed-site in Zurich (since 2006) and Berne (since 2014) on a weekly basis (Barratt, Kowalski, Maier, & Ritter, 2018). Offers like these are generally the first contact with the treatment system for otherwise hidden populations with potentially risky drug use patterns.

As Switzerland is otherwise known for being rather conservative, one might legitimately wonder why and how this was, and still is, possible. The size of the drug problem certainly provided a window of opportunity for policy change. Youthful experimentation with drugs, at a time when heroin became largely available, and the inappropriate response of a very conservative state contributed to the nurturing of a large drug problem. The country's wealth might also have made it particularly interesting for criminal groups to engage in drug supply. The speed with which the HIV/AIDS epidemic was identified and the visible harm also added to the understanding of the size of the problem. Switzerland was aware of the HIV epidemic among people who injected drugs early, possibly earlier than many other countries. The country also did not have just one drug problem but many different ones, with some disproportionally large ones in cities such as Bern and Zurich. The country's federal structure and dispersion of powers played an important role in drug policy change. Within the comparatively small cities and cantons of Switzerland, drug policy players had to meet and discuss to find practical and pragmatic solutions to everyday problems of coexistence. Differences in the size of drug problems, but also in cultural and administrative traditions, led to multiple policies and interventions, including innovative ones. These came mostly from the German-speaking part of the country, where the role of the State tends to be less important and the one of private institutions, including NGOs, more important than in French- and Italian-speaking regions. This policy diversity among cities and cantons later

provided an opportunity for the federal state to develop a common framework. Direct democracy also provided a learning opportunity both for policy makers and citizens. The period 1997–1999, with its three national votes on drug policy, was an extraordinary period of societal debate on drug policy and the diffusion of knowledge on drugs issues. It also favoured the development of coalitions of like-minded people and showed that the 'harm reduction' coalition was now stronger than the 'abstinence' coalition. Before that, local initiatives and referendums had provided knowledge on how to handle the drug issue publicly in order to secure a majority of votes.

All these elements contributed to a significant move in the boundaries of the prohibition paradigm, with the implementation of ideas and measures considered unacceptable until then by many drug policy players nationally and internationally. Switzerland could also have been the first country to legalise cannabis and fully regulate its market, almost a decade before Uruguay and some US States decided to do it. This did not happen, however, notably because there was no public health or security crisis with cannabis which would have provided an opportunity for trying alternative models. Neither was there a strong lobbying group as nowadays exists in the United States. All there was, and still is, is a societal debate on the coherence of drugs and alcohol policies and on the moderate impact and possibly high costs of law enforcement. This debate is still ongoing and one might reasonably foresee that, if cannabis policy change comes to Europe, Switzerland may be among those who implement it. Notably, the international law will be respected but alternative public health-based approaches of regulating currently illegal drugs are likely to follow. Given that illegal drugs have always been and are now more easily available than ever, monitoring changing drug markets is of utmost importance to understand and react on trends in drug use. This includes new strategies with regard to current regulations that are necessarily to protect people who use drugs from the potential harms related to the illegal status of the drugs. Switzerland therefore encourages honest conversations about potential risks related to drug use to increase knowledge about effects and side effects. Harm reduction has proven to be best practice in many scenarios where problems with drugs were experienced. The international community also seems to move more and more to this direction aiming to improve public health by increasing (drug) education, which is positive to see.

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