GLOBAL COMMISSION ON DRUG POLICY

REPORT

# BEYOND PUNISHMENT: FROM CRIMINAL JUSTICE RESPONSES TO DRUG POLICY REFORM

# GLOBAL COMMISSION ON DRUG POLICY

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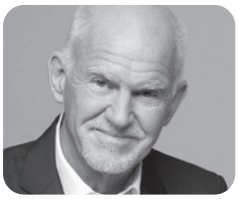

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## 2024 REPORT

*Philippine Drug Enforcement Agency agents and police arrest an alleged drug dealer during a drug raid in Maharlika Village, Taguig, south of Manila. (Noel Celis /AFP via Getty Images)*

# FOREWORD

Around the world, drug policies have been heavily influenced by the International Drug Control Conventions. Many governments have interpreted these as a mandate to pursue a 'drug-free world,' and often as justifying repressive measures. The consequences of this approach are clear - escalating incarceration rates, the erosion of human rights, and disproportionate impacts on marginalized communities. It is not only the individuals caught in the net of punitive drug laws who suffer; entire communities are affected, as well as our collective health and societal well-being.

The Global Commission on Drug Policy has long called for a shift from punishment to evidence-based policies which prioritize health, human rights, and dignity. This report underscores the urgency of our mission. It details the ongoing harms caused by outdated drug laws, and it offers concrete alternatives based on human rights and scientific evidence.

Around the world, there is growing recognition that the "war on drugs" has failed. Many countries are shifting toward harm reduction strategies, decriminalizing personal possession, and regulating markets to undermine illegal trade. While these shifts signal a broader movement towards approaches which respect individual autonomy and address the social determinants which drive drug dependency, the pace of change needs to be accelerated to address the ongoing harm effectively. The Global Commission remains committed to leading this transformation. We believe in a world where drug policies are not tools of repression, but instruments of social justice and public health, and where the countless billions currently spent on drug law enforcement can be shifted into health, housing, and broader social responses.

This report therefore is a call to action - for governments, civil society, and communities to come together, to learn from both past failures and emerging successes, and to chart a new path forward.

Let us be clear: this is not about being 'soft' on crime; it's about being sensible, humane, and just. It's about ensuring that drug policies promote safety, equity, and well-being for everyone.

**Helen Clark**
Chair of the Global Commission on Drug Policy

# INTRODUCTION

Drug prohibition has had catastrophic consequences across the globe. Attempts by States to control or eliminate the drug trade have fuelled increased violence, toxic drug supplies, and crises in criminal justice systems. Prohibition drives the use of the most disproportionate and violent forms of punishment – the death penalty, arbitrary detention, torture, corporal punishment, coerced "treatment" – despite the use of these being in violation of international human rights obligations. Over the last 60 years, punitive drug laws are responsible for an explosion in the prison population in countries worldwide, with disastrous consequences on individuals, prisons, and public health. In 2022, seven million people were either suspected, arrested, or cautioned by police for a drug-related offense.[1] It is not just the extreme harms of prohibition that demand attention, but also the everyday harms, which see individuals struggle to access non-judgmental healthcare or travel through their own neighbourhoods without harassment from law enforcement.

Prohibition has undermined and damaged public health, human rights, and the rule of law. While those who control and profit from illegal markets are responsible for violence, exploitation, and undermining State security. It is the most vulnerable individuals who feel the full brunt of the criminal justice system – those without control, those who are exploited, those with the least power.

> *I believe that drugs have destroyed many lives, but wrong government policies have destroyed many more.*
>
> Kofi Annan

For over a century, countries have tried to reduce the demand for, and supply of, drugs by arresting, prosecuting, punishing, and sometimes even killing consumers, suppliers and producers. This trend has intensified since the adoption of the International Drug Control Conventions (adopted respectively in 1961, 1971 and 1988), essentially requiring governments to pursue drug policies rooted in repression and punishment. Yet everyday around the world, tens of millions of people from all socio-economic backgrounds, genders, ethnicities and religions use drugs. At its core, the criminalization of drug use and possession has always been a misguided approach to managing substance use in society.

In 2022, the United Nations Office on Drugs and Crime (UNODC) estimated that 292 million people aged 15 to 64 years used illicit substances[2] – 1 in 18 people around the world. Two decades ago, this figure was estimated to be 180 million.[3] Of those known to consume illicit substances, 78% use cannabis – a substance less harmful than alcohol or tobacco[4] and with a long history of traditional use by many communities. The majority of these 292 million people live in countries where they are at risk of criminalization: if caught, they face imprisonment or other forms of punishment, restriction of liberties, and in some cases forced treatment. At the same time, over half a billion people worldwide now live in jurisdictions where it is legal to access and consume cannabis, as more than half of U.S. states and an increasing number of countries across the globe have legalized its non-medical adult use.[5]

Only a minority of people experience problems with their drug use. The UNODC has historically estimated that about 10-14% of people who use drugs experience dependency – that means approximately 9 out of 10 people use drugs in a non-dependent manner.[6] The triggers for drug dependency are multifaceted, often including responses to trauma, adverse childhood experiences, homelessness, and self-medication for health conditions or neurodiversity.[7,8] Responding to these experiences by criminalizing people is disproportionate and counterproductive. Rather than addressing the underlying issues that contribute to dependency, criminalization often exacerbates them, with punitive measures leading to further marginalization, making it harder for individuals to access support.

Criminal justice responses to drugs vary in severity around the world. Irrespective of the sanctions, demand for drugs has grown exponentially, with supply and production reaching unprecedented levels.[9] Markets for internationally controlled substances, such as cocaine, amphetamines, and cannabis, continue to flourish.

Governments must act boldly to mitigate the harms of prohibition by regulating drug markets and upholding human rights. This includes establishing Overdose Prevention Centers (OPCs), drug checking, safer supply models, providing naloxone and expanding Opioid Agonist Therapy (OAT) programs. The urgency of these responses is heightened by North America's overdose crises, which have claimed the lives of over a million people in the US over the last two decades[10] and 40,000 in Canada in the past eight years.[11] Policymakers in Europe and beyond are rightly concerned about a similar crisis, given the rise of synthetic opioids, including nitazenes, which can be more potent than fentanyl and are increasingly found mixed with heroin and other substances.[12]

To address the underlying causes of drug dependency, it is critical that services be (1) tailored to the needs of diverse groups, including women, young people, LGBTQIA+ communities, racial and ethnic minority groups, people in detention, and people who use stimulants and other non-opioid substances; (2) integrated into other social and legal support services; and (3) designed and delivered with effective involvement of

people who use drugs. Additionally, harm reduction support needs to be significantly scaled up.

Reforms must end the criminalization and punishment of people who use drugs. This includes removing administrative penalties, coercive testing and "treatment", and expunging criminal records. The fear of criminalization and punishment is ineffective at deterring drug use or trafficking but is extremely effective at deterring people from seeking help for treatment or emergency assistance.[13] The Global Commission on Drug Policy has consistently called for the decriminalization of drug use and possession and other drug offenses, including cultivation and purchase of drugs, in line with Member States' obligations under the International Drug Control Conventions. Low-level supply offenses should not be punished, as individuals often engage in these activities to support personal drug use or out of economic desperation. Ultimately, governments must take steps to reform domestic laws and policies, including implementing regulatory models.

For governments to take control of the drug market, and mitigate associated harms, the establishment of regulated markets is essential. These markets ensure that individuals seeking access to drugs can do so safely, with implemented quality controls, age restrictions and health advice, thereby reducing the negative social and public health outcomes inherent to unregulated markets. Moreover, regulated markets can diminish the power of organized crime, especially when they include social equity principles. This focus on social equity is increasingly seen in newly regulated cannabis markets, which offer opportunities for individuals with criminal records for cannabis offenses to transition into the new legal market, while reinvesting tax revenue into communities impacted by the "war on drugs".[14]

Governments must also address the crisis of growing inequality ensuring robust social safety nets are in place. While drug use is widespread across all socio-economic backgrounds, those living in deprivation, particularly racial and ethnic minority groups and young people from these communities, are disproportionately criminalized for drug offenses. Inequality is also a driver of drug dependency[15] and increases the likelihood of economically disadvantaged individuals becoming involved in the illegal market as low-level actors. Once in these low-level positions, they face greater exposure to law enforcement and are more likely to be criminalized. Meanwhile, individuals with more resources can evade arrest or secure qualified legal representation, often using corruption to navigate the system. This inequitable application of drug laws undermines the rule of law, which is based on the principle that "all in society are equally subject to the law, and that its application is consistent, fair and impartial".[16] The widespread disregard for these laws among otherwise law-abiding citizens highlights the erosion of this fundamental legal principle, as prohibition is viewed as an unjust intrusion by the State into the personal sphere.

There is growing political acknowledgement that the "war on drugs" has failed. In 2024, at the 67th session of the United Nations Commission on Narcotic Drugs (CND), Member States confirmed that "the abuse, illicit cultivation and production and manufacture of narcotic drugs and psychotropic substances, as well as the illicit trafficking in those substances and in precursors, have reached record levels".[17] This historic CND session culminated in the adoption of a resolution recognising the centrality of harm reduction in the overdose response, the first resolution to be voted on in decades.[18] The United Nations High Commissioner for Human Rights also called for States to "move away from the current dominant focus on prohibition, repression and punishment, and instead embrace laws, policies and practices anchored in human rights and aimed at harm reduction".[19]

> *Colombia implemented all the wrong formulas imposed on us from abroad for a war on drugs. We sacrificed lives, gave soldiers and police an impossible mission, wasted our budget, turned our peasant, indigenous, and Afro communities into enemies, violated rights massively and systematically, contributed to the destruction of our ecosystems, and sacrificed our development for a war desired by others […] the international drug control regime, centered in Vienna, has failed.*
>
> Colombia's President, Gustavo Petro, at the opening of the 67th session of CND [20]

Since its inception in 2011, the Global Commission on Drug Policy has advocated for drug policies rooted in scientific evidence, human rights, public health, and security to effectively "leave no one behind". While there have been some shifts away from punitive drug frameworks – such as the decriminalization of possession offenses and the reform of cannabis markets for legal production, sale, and non-medical adult use – these reforms have often been piecemeal and have failed to fully reject punitive frameworks. It is time for governments to boldly address this contradiction by implementing policies that uphold human rights and treat drug dependency as a public health issue rather than a criminal one.


# CRIMINAL JUSTICE RESPONSES TO DRUGS

*Police ride past residents in a bulldozer they use to clear street barricades during a security operation against organized crime in the Maré Complex favela of Rio de Janeiro, Brazil, Monday, Oct. 9, 2023. Security forces targeted three neighborhoods that are controlled by the Red Command drug trafficking group. (AP Photo/Silvia Izquierdo)*

# THE DAILY IMPACTS OF PUNITIVE DRUG LAW ENFORCEMENT

Drug law enforcement affects millions of lives. Entire communities are over-surveilled and over-policed. Drug laws, particularly those targeting possession for personal use, are tools often used by law enforcement to exert social control over young people, racial and ethnic minority groups, oppressed groups, Indigenous peoples, and those living in deprivation.

> *The war on drugs may be understood to a significant extent as a war on people. Its impact is often greatest on those who are poor, but also frequently overlaps with discrimination in law enforcement directed at vulnerable groups…Criminalization of drug use facilitates the deployment of the criminal justice system against drug users in a discriminatory way, with law enforcement officers often targeting members of vulnerable and marginalized groups, such as minorities, people of African descent, indigenous peoples, women, persons with disabilities, persons with AIDS and lesbian, gay, bisexual, transgender and intersex persons. Homeless persons, sex workers, migrants, juveniles, the unemployed and ex-convicts may also be vulnerable.*[21]
>
> United Nations Working Group on Arbitrary Detention

The most commonly punished drug-related activities (possession, smuggling, low-level dealing) are usually carried out by individuals with little power in the market. These individuals, often part of local drug networks, are easily replaceable and more vulnerable to arrest. For law enforcement and prosecutors, targeting drug possession, especially in disadvantaged areas or at borders, is far easier than investigating the complex overarching financial transactions that drive drug markets.

## Police Search Powers – It's All About the Drugs

Police stop-and-searches, or stop-and-frisks, are the most frequent law enforcement encounters that individuals experience, regardless of whether they use drugs. Although this police power is often justified as necessary to tackle serious crime, the actual pretext for stopping and detaining individuals is typically suspected drug possession, predominantly cannabis, and is often related to the need to meet internal targets.

Drug laws are regularly used by law enforcement and other State actors as a tool of oppression, targeting marginalized, racial and ethnic minority groups, especially young people, and are utilized to stifle dissent. The racist beginnings of the war on drugs have continued throughout the decades, harming Black and brown communities who are relentlessly targeted by police on a daily or weekly basis, causing significant psychological distress – a form of police brutality.[22]

### RACIAL DISPARITIES IN POLICE SEARCHES [23,24,25,26,27,28,29]

Drug laws are used by law enforcement and other State actors as a tool of oppression, targeting marginalized groups and racial and ethnic minorities, especially the young, and utilised to stifle dissent.

In England and Wales, **Black** people are nearly **6 times more likely** to be stopped and searched by police for drugs, despite using substances at a lower rate to white people. Drug searches accounted for almost two-thirds of all stop-and-searches carried out by police in England and Wales in 2022.

**63%** of those who are stopped and searched by police in Rio de Janeiro (Brazil) are Black or mixed-race despite making up only **48%** of the city's population, they are also more likely to experience abuse and humiliation at the hands of police.

In Toronto (Canada), **90% of Black youth** aged between 15 and 24 report having been stopped by police between 2008 and 2013, with most stops justified by police based on drugs and firearms.

In France, the equivalent of stop-and-search, 'ID checks', see **Black** people being stopped **9 times more** often than white people and **North African** people stopped **14.5 times more**.
In a survey of 5,000 French people, men perceived as Arabs were more likely to report they experience brutality and insults during these stops. Suspected drugs use or drug dealing is often a feature of these stops.

**Roma people are 3x more likely** than non-Roma to be stopped by police in **pedestrian stops** in Bulgaria and Hungary.



**European countries* that do not require recording of police stops or identity checks:** Belgium, France, Ireland, Norway, and Portugal.

**European countries* that do not publish data on police stops:** Belgium, Bulgaria, Finland, France, Ireland, Italy, Norway, Portugal, Slovakia, Slovenia, and Spain.

*Note: *This is not an exhaustive list, as there may be countries for which POL.STOPS were not able to gather information.*

### The Policing of Children – A Failure to Protect and Safeguard

Drug prohibition is often framed as necessary to protect children; however, it is precisely children and young people who often become targets of policing practices, leading to dire consequences on their life chances. In Sweden, drug-based stop-and-search approaches frequently target young people in public spaces, with intrusive measures like urine testing commonplace.[30] The intersection of structural poverty and race means that it is typically young people from deprived, racial and ethnic minority groups who are most at risk. In Bangkok, those subjected to drug-based stop-and-searches reported feeling more likely to be targeted for searches or public urine tests if they were young.[31] In Nepal, children and young people have reported being arbitrarily stopped, searched, and beaten by police.[32] In the UK, strip searches for both children and adults can occur as an extension of a stop-and-search. Disturbingly, children as young as eight years old have been subjected to this invasive, humiliating and traumatizing experience.[33] In 2024, a child was strip searched by UK police every 19 hours, with Black children being four times more likely to be strip searched compared to their white peers; 88% of these searches were conducted based on a drug related offense.[34]

> *Someone walked into the school, where I was supposed to feel safe, took me away from the people who were supposed to protect me and stripped me naked, while on my period [...] I feel like I'm locked in a box, and no one can see or cares that I just want to go back to feeling safe again, my box is collapsing around me, and no-one wants to help.*
>
> Child Q[35]

The majority of children and adults stopped and searched for drugs, or even strip searched, will not have any drugs on them. For those from poor and marginalized communities, as well as racial and ethnic minority groups, these experiences have become normalized and may persist across generations. Parents and grandparents often share the same traumatic encounters with police that their children and grandchildren face today.[36]

**CASE STUDY**

### HIDDEN IN PLAIN SIGHT: STREET-CONNECTED CHILDREN AND YOUNG PEOPLE IN THE "WAR ON DRUGS" IN THE PHILIPPINES

**Kalitawhan Network, Philippines**

The Philippine government's "War on Drugs" has been marked by widespread reports of human rights abuses, including the indiscriminate killings of suspected drug offenders under the guise of "nanlaban" or "nisukol" (resisted arrest). Alarmingly, children have been deeply affected, either losing parents to apparent extrajudicial killings (EJK) or being exposed to violence and trauma in their communities during anti-drug operations. Some children have even become direct victims, facing arbitrary arrests, trumped-up charges, planted evidence, torture, cruel treatment, and extrajudicial killings.

Since July 2016, over 150 children have been killed, including a five-month-old baby during a joint military-police operation targeting their parents, who were both executed. Children are not just collateral damage in this campaign; some have been deliberately targeted and killed by law enforcement for alleged drug involvement or by unidentified assailants. The Children's Legal Rights and Development Center (CLRDC), a member of the Kalitawhan Network, along with a local partner human rights organization documenting cases of children victims of extrajudicial killings in the "War on Drugs", believe many cases remain unreported.

Street-connected children, many orphaned by the "War on Drugs", have reported experiences of torture, arbitrary arrests, and cruel treatment by police, often accompanied by death threats. In some instances, children were rounded up for loitering or solvent use, with additional drug charges later filed against them.

Children reached by Kalitawhan described the trauma of witnessing violent arrests or killings of family members. They live in constant fear of police, worried about being the next target – whether for arrest or death – simply because of their circumstances. Living on the streets, having prior arrest records, or being associated with individuals suspected of drug activities can make them vulnerable to police scrutiny and violence.

Kalitawhan Network has called on the Philippine government to end the "War on Drugs", advocating for drug law reforms grounded in human rights and children's rights. They also demand accountability for those responsible for the harm inflicted on Filipino children and families.

## The Inequity of Drug Arrests – The Targeting of Racial and Ethnic Minority Groups and Poor Communities for Low Level Drug Offenses

The racial disparity of stop-and-search factors into disproportionate arrest rates. Research from five Canadian cities showed that in 2015 Indigenous and Black peoples were much more likely to be arrested for cannabis possession than white people in every city.[37] Repeatedly, across the world people who use drugs are over-policed and over-criminalized, leading to further marginalization.[38]

### THE INEQUITY OF ARRESTS FOR DRUG POSSESSION [39,40,41,42,43]

#### Canada

In Vancouver, Indigenous peoples were **6.3x** more likely to be arrested for possession of cannabis compared to white people.

Black people in Halifax were **4.1x** more likely to be arrested for possession of cannabis compared to white people.

#### United States

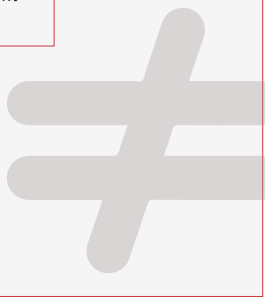
Black Americans make up **14%** of the US population and use drugs at similar rates to white Americans. However, they represent **25%** of all drug possession arrests.

#### India

**67%** of drug cases registered in 2022 were for drug possession for personal use, rather than trafficking.

#### South Africa

In Wynberg, South Africa, **99.3%** of all drug-related crimes heard in the Magistrates were for possession alone.



## Damaging Consequences of a Criminal Record

While some arrests may lead to imprisonment, in many countries low-level activities are typically dealt with through non-custodial penalties. However, nearly all individuals arrested end up with a criminal record. A conviction for minor drug offenses, including possession, can hinder employment and educational opportunities,[44] limit access to State financial support,[45] restrict travel and access to social housing,[46] and – in some cases – lead to eviction.[47] Parents identified as drug users, particularly women, risk losing custody of their children.[48] The stigma associated with drug use and a criminal conviction can push individuals further into the criminal justice system, increasing the likelihood of reoffending. This reinforces a vicious cycle of criminality and discrimination for both these individuals and their families.[49]

For many, their interaction with the criminal justice system leads to a criminal record and non-custodial punishment, which has devastating consequences. For most, there are even greater consequences, whereby a minor drug offense, including possession, can result in deprivation of liberty.

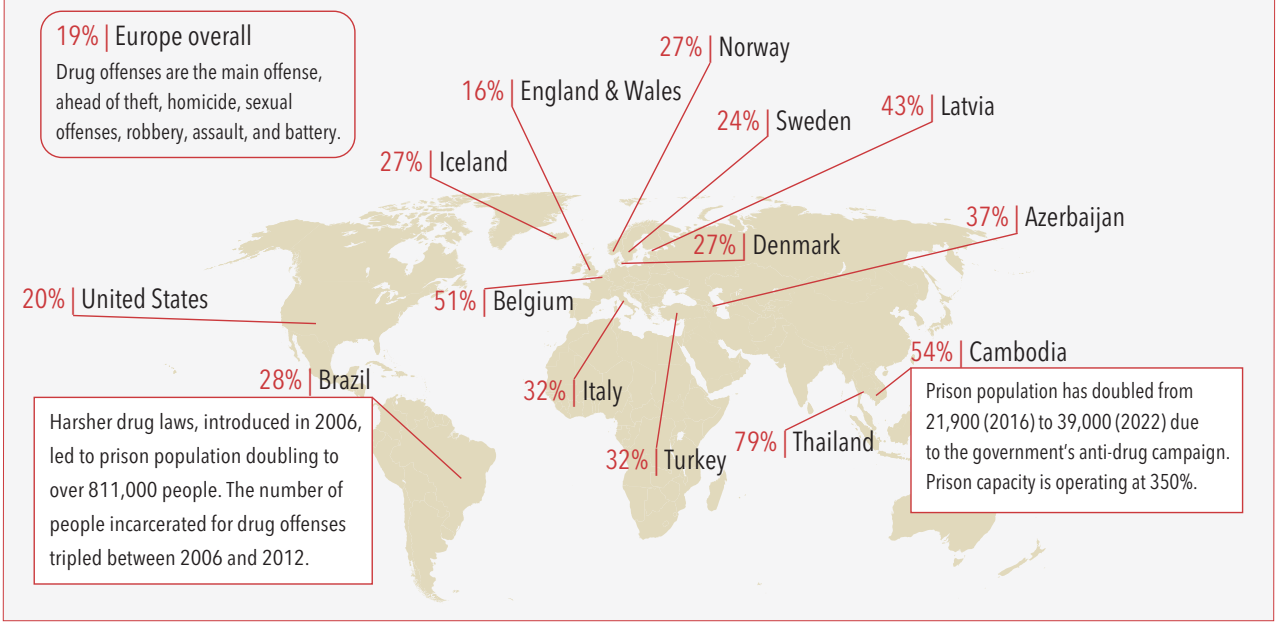
## The War on Drugs Fuelling Mass Incarceration

In 2023, an estimated 11.5 million people were imprisoned worldwide,[50] a 24% increase since 2000.[51] Approximately 20% of the prison population is incarcerated for drug offenses, with nearly half a million imprisoned solely for possession for personal use.[52,53] Those imprisoned disproportionately come from disadvantaged backgrounds, and the majority detained for low-level drug offenses are driven by socio-economic factors or their own drug use or drug dependency.[54]

In June 2024, Honduras announced it intends to build a "mega prison" for 20,000 people, with plans to designate drug trafficking as a terrorist activity, after declaring a state of emergency in 2022 in response to gang violence.[64]

Over 120 countries across the globe report that their prison systems operate at over 100% capacity, with 15 countries exceeding 250% capacity,[65] leading to further human rights abuses and violations, as well as health crises.[66] For example, in the Philippines and El Salvador, thousands of incarcerated individuals share overcrowded cells, with no room to sleep, inadequate sanitation, and limited access to basic needs such as food and medicines. In several countries in Europe, overcrowding and insufficient staffing results in individuals being detained in cells for up to 23 hours a day, subjected to solitary confinement without social interaction, exercise, or daylight.[67]

## DRUG LAWS AND MASS INCARCERATION: THE NUMBERS BEHIND THE CRISIS [55,56,57,58,59,60,61,62,63]




### Detained and Treated as Guilty until Proven Innocent

A key contributor to mass incarceration for drug offenses is pre-trial detention, reflecting policymakers' overzealous approach to drug-related crime. This results in discriminatory pathways to detention for those arrested and charged with drug offenses. This pejorative treatment begins at the outset of the criminal justice process, where legislation allows the detention of individuals suspected of drug crimes for excessively long periods of time. In Sri Lanka, persons arrested for drug offenses can be held in police custody for seven days,[68] while the limit for other crimes is only 24 hours.[69]

In countries such as Brazil, Mexico, and Honduras, pre-trial detention is mandatory for certain drug offenses. The practice of mandatory pre-trial detention for certain drug offenses, such as personal use and possession, prevents judicial assessments of necessity and proportionality, and can delay periodic reviews of detention.[70] In the Philippines, as of September 2022, 81,000 people were in pre-trial detention for drug offenses, accounting for 90% of all those detained in Bureau of Jail Management and Penology facilities for drug crimes.[71] This situation not only violates the prohibition of arbitrary detention, but also undermines the human right to a fair trial, exposing arrested individuals to further human rights violations and abuses, including torture and ill-treatment.

CASE STUDY

### THE PARADOX OF DECRIMINALIZATION IN PERU: CORRUPTION AND ARBITRARY DETENTION

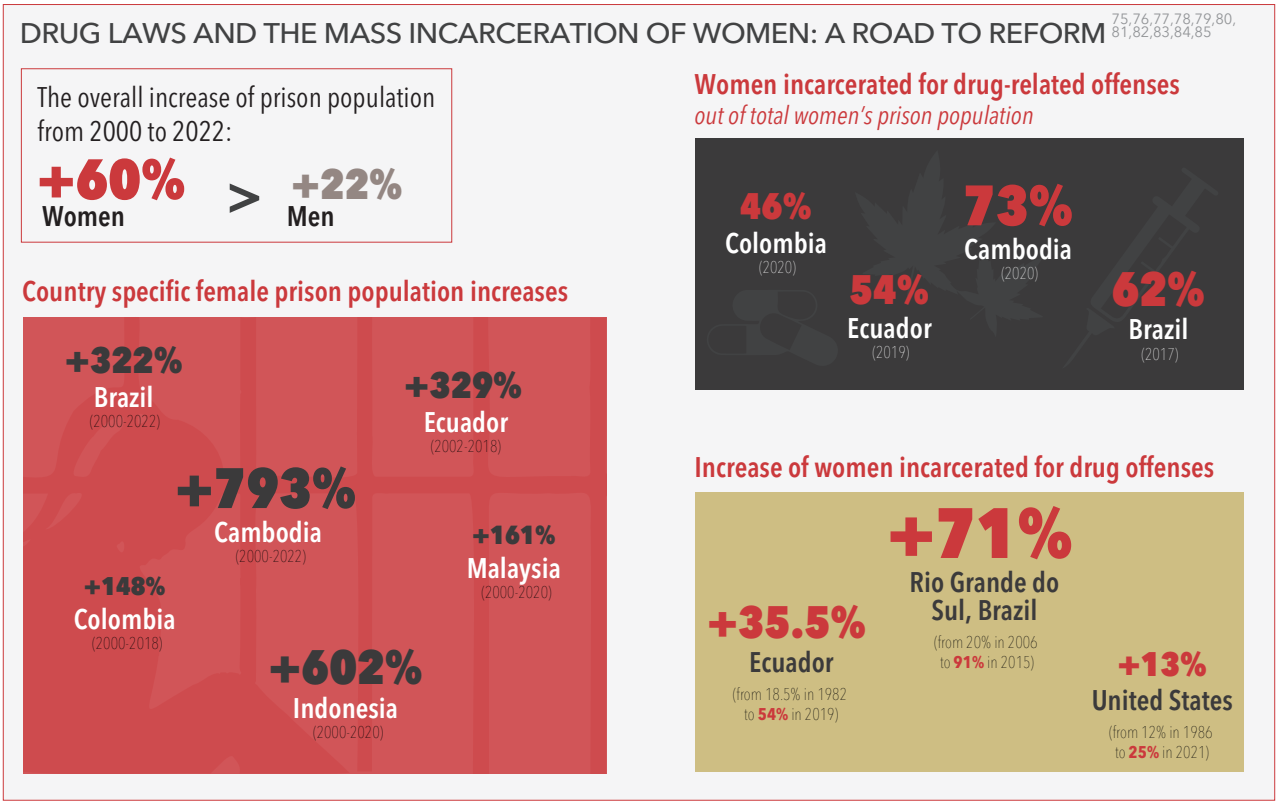
**Jerome Mangelinckx, Penal Reform International**

Peru's approach to decriminalizing small quantities of drugs for personal use paradoxically contributes to corruption and arbitrary detention. The Peruvian Constitution (Art. 2.24.f) permits an extended pre-trial detention period of up to 15 days in specific cases, compared to the standard 24-hour limit applied to most offenses. This provision, meant for serious offenses such as terrorism or drug trafficking, is often misused by police to force illegal confessions or extort bribes.

Under Article 299 of the criminal code, possession of small amounts of drugs for personal use is not punishable in Peru - up to two grams of cocaine or eight grams of marijuana. However, the over-reliance on these specific weight thresholds, rather than individual circumstances, often results in people who use drugs being unfairly accused of trafficking. This highlights the limitations of threshold-based decriminalization, which fails to consider the complexities of drug use from a human rights or public health lens. Allowing extended detention based solely on the quantity of drugs possessed, regardless of intent, perpetuates systemic injustices and obstructs effective drug policy reform.

## Rising Women's Incarceration Rates for Drugs – A Global Trend

Globally, 35% of women in prison are incarcerated for drug offenses, compared to 19% of men.[72] Punitive drug policies are driving this rapid rise in the incarceration of women.[73] The increased incarceration of women is evident in every continent except for Europe.[74]




It is well documented that women imprisoned for drug offenses, like men, largely come from economically deprived communities, with disproportionate representation from racial and ethnic minority groups. Most are involved in low-level drug offenses, driven by economic need or exploitation and coercion.[86] The majority of incarcerated women are parents, and while the imprisonment of any parent can harm a child, the incarceration of mothers has particularly detrimental effects. According to the United Nations System Common Position on Incarceration, children who lose a caregiver to the criminal justice system face greater challenges and are more likely to enter a "cycle of intergenerational risky behaviour and contact with the criminal justice system".[87] Given the disproportionate imprisonment of women for drug offenses, children globally are also victims of the "war on drugs", impacting society as a whole in both the short and long term.

Some countries have taken positive steps to reduce incarceration of women for drug offenses. In 2013 Costa Rica reduced the punishment for smuggling drugs into prisons (a key driver of female incarceration) for women meeting conditions of vulnerability and caregiving, thus allowing for alternative sentences. The reform was retroactive, leading to the release of some 150 women.

## WOMEN INCARCERATED FOR DRUG OFFENSES IN COLOMBIA [90,91]

almost **50%** of women incarcerated in Colombia are detained for drug offenses

**93%** are mothers

**52%** head households

In 2023 law 2292/2023 was adopted, allowing for community service, rather than custodial, sentences for vulnerable women who are heads of households, who committed minor crimes

**30** women have benefitted from this law as of early 2024; there are over **2,000** spots available

### The Overrepresentation of Racial and Ethnic Groups and Indigenous Peoples in the Prison System

The unjust and inequitable nature of drug laws becomes evident when examining who is imprisoned for drug offenses, highlighting the overrepresentation of racial and ethnic minority groups and Indigenous peoples. The United Nations Working Group of Experts on People of African Descent has concluded, that "the war on drugs has operated more effectively as a system of racial control than as a mechanism for combating the use and trafficking of narcotics".[92]

The situations in the USA and Canada, and more recently in the UK, has led the United Nations Committee on the Elimination of Racial Discrimination (CERD) to recommend that these countries amend their drug laws and consider alternatives to incarceration for non-violent offenders.[102]

## MASS INCARCERATION OF RACIALIZED PEOPLE ACROSS THE GLOBE

*Indigenous Peoples throughout the world are oppressed, controlled, and punished disproportionately*

### Canada [96,97]

Indigenous peoples make up **4.1%** of the population however they represent **28%** of the total prison population. Indigenous women represent **40%** of the female prison population. Statistics from 2014 showed that **12%** of federal prisoners locked up for drug offenses in Canada were Black, despite this group only accounting for **3%** of the overall population – it is unlikely that this has changed in any significant way.

### England and Wales [95]

Black women are imprisoned for drug-related offenses at **2.2x** the rate of white women. This trend is repeated in countries across the world.

### United States [93,94]

Black Americans are imprisoned for drug offenses at **5x** the rate of white people and, as of 2022, **40%** of all sentenced federal prisoners identifying as Black were held for a drug offense. For Latinos, the figure skyrockets to **60%**.

### Australia [99,100,101]

Indigenous peoples and Torres Strait populations are **17x** more likely to be imprisoned than non-First Nations people, a scale of incarceration so dire it is termed "hyper-incarceration". Drug laws clearly fuel this injustice: in New South Wales over **82%** of Indigenous peoples caught in possession of cannabis were prosecuted, compared to **52%** of non-Indigenous offenders who were subject to an out of court disposal. Aboriginal women received harsher prison sentences for possession offenses, and were three times more likely to be sentenced to a custodial sentence.

### New Zealand [98]

The Indigenous Māori make up **15%** of the population, but **52.8%** of the prison population, almost half are in prison for a drugs offense.

### Criminal Justice Tools that Increase Punitive Measures

Certain criminal justice approaches exacerbate the overincarceration of individuals charged with drug offenses, including compulsory registration of people who use drugs, mandatory minimum sentences, and racially biased sentencing disparities, such as those between crack and powder cocaine in the USA. These biased practices are further compounded by technology, with predictive policing and sentencing entrenching inequality and discrimination.[103]

In drug offense cases, key fair trial guarantees are often disregarded, either by law or in practice, making convictions easier. Examples include the use of legal presumptions of possession and intent, failure to provide legal aid at all stages of the judicial proceedings (including during the investigation phase) and reliance on coerced confessions (including under the influence or while experiencing withdrawal symptoms) or falsified evidence. This is particularly evident in countries such as Iran and Pakistan, where drug offenses are tried in special courts with limited fair trial safeguards.[104]

Similarly, individuals detained for drug offenses and those who use drugs are often denied benefits available to others, such as suspended sentences, parole, pardons, amnesties, early release, and alternatives to incarceration such as home arrest and community service.[105] This violates the right to a periodic re-evaluation of one's sentence based on individualized assessments, as well as the prohibition of discrimination.[106]

**CASE STUDY**

**LEGISLATIVE REFORM TO ADDRESS CRIMINALIZATION AND INCARCERATION IN GHANA**

**Maria Goretti-Loglo, IDPC**

The Narcotics Control Commission Act of Ghana (Act 1019), passed by the Ghanaian Parliament in March 2020, reduced the incarceration of persons who use drugs and their engagement with the criminal justice system. Act 1019 removed custodial sentences for people caught in possession of drugs for personal use, a significant change as the previous mandatory minimums for possession of a controlled drug was 10 years and for cannabis possession was 5 years. Those now convicted of these offenses face a fine, non-payment of which results in 3 months in prison. The Act also placed harm reduction as a principle, and as a set of interventions, on a statutory footing, mandating the Health Minister to put in place a legislative instrument to operationalize harm reduction in Ghana.

After its enactment, efforts were made in 2023 to assess the impact of these legislative reforms on arrests, imprisonment rates, judicial proceedings, and changes to interactions between law enforcement and people who use drugs. During a focus group discussion involving members of the judiciary, it was highlighted that Act 1019 had an immediate impact on the number of people who use drugs facing incarceration. For example, one judge noted, "Immediately after the passage of the Act, many prosecutors withdrew cases pending under the previous legislation, particularly those related to drug use". Additionally, judges observed a decline in the presence of people who use drugs in court proceedings over the three-year period following the enactment of Act 1019.

However, the absence of centralized court data in Ghana poses a challenge in corroborating the anecdotal evidence provided by the participating judges with official prosecution statistics. Official data from the prison service reveal no significant reduction in the total number of individuals newly imprisoned annually for drug offenses since 2018, except for a marginal decrease noted between 2020 through to 2023 Similarly, detailed data on incarceration rates since the implementation of the Act 1019 remain elusive, primarily due to the lack of disaggregation within the prison service's data collation system. The absence of official statistics on drug-related arrests further complicates efforts to gain a comprehensive understanding of the prevailing dynamics in Ghana.

## Prison Undermines Public Health and Drives Criminality

The Global Commission on Drug Policy's previous report (2023) highlighted that individuals with a history of injecting drug use and those living with HIV and/or Hepatitis C Virus (HCV) are "often concentrated in criminal justice settings". Notably, 42% of people who inject drugs reported being arrested in the 12 months prior, and 29% experienced imprisonment during the same period.[107]

An estimated one in three people in prison use drugs,[108] with many developing problematic relationships with substances while incarcerated.[109] Yet, only nine countries are known to have operating Needle and Syringe Programs (NSPs) in prisons. Even when available, harm reduction services are often inaccessible to most of the prison population due to structural barriers, stigma, and a lack of provision for specific groups such as women and those in pre-trial detention. People who inject drugs are at much greater risk of contracting infectious diseases,[110] with dire consequences for individual health and the wider prison population, staff, and their communities.

A primary objective of prison is reintegration;[111] however, many studies show that imprisonment often increases recidivism rather than reducing crime. Comparative reoffending rates indicate that individuals on probation are less likely to commit further offenses than those in prison, and the likelihood of re-arrest increases with longer prison sentences.[112] Additionally, the adverse effects of incarceration on employment, housing, family life, and reintegration contribute to a higher risk of reoffending.[113]

Despite these shortcomings, detention remains one of the predominant global responses to drug offenses.

*Gang members are brought together for transfer in the presence of authorities, on June 11, 2024, in Tecoluca, El Salvador. (Presidency of El Salvador/Anadolu via Getty Images)*

# "TREATMENT" AS PUNISHMENT

Forced or coerced drug treatment stems from the same flawed understanding of drug use that underpins prohibition. Over the last three decades, court-mandated treatment has become a feature of the criminal justice system, with judges, law enforcement and administrative bodies tasked with diverting individuals to treatment or mandating health interventions without proper consent or expertise. This is evident in drug courts, treatment orders, drug testing, dissuasion commissions, and police diversion programs.

## Compulsory Drug Detention and Treatment

Hundreds of compulsory drug detention and treatment facilities operate worldwide, despite the United Nations condemning mandatory treatment and calling for their closure due to ineffectiveness and human rights violations. Still, in Asia alone, over 500,000 people are detained in these centers.[114] Once detained, often because of a court order or law enforcement decision, individuals cannot leave, and face numerous due process violations. 'Rehabilitation' in these institutions can involve ice baths, forced labor, beatings, and denial of essential medicines, effectively amounting to torture or ill-treatment.[116] Relapse rates after release are high.[117]

In Sri Lanka, magistrates can mandate compulsory rehabilitation in detention centers – including two operated by the Army – for anyone suspected of drug use, based on medical assessment of 'drug dependence' or as punishment for specific offenses. Detainees undergo rehabilitation programs centered around abstinence and often involving violence.[118] In Malaysia, compulsory drug detention has been proven to be ineffective in reducing opioid use;[119] nevertheless, a recent reform intended to address prison overcrowding has expanded the courts' power to forcibly place individuals labelled as drug 'dependent' into non-evidence-based treatment programs.[120]

In the Maghreb region (Algeria, Libya, Mauritania, Morocco, Tunisia), compulsory drug treatment serves as an alternative to custodial sentences. In Tunisia, a judge can "offer" (and sometimes impose) hospital detoxification as an alternative to imprisonment, with no defined duration in Tunisian law, meaning individuals remain until a doctor decides on their discharge. Likewise, Moroccan and Omani law lack specified time limits for compulsory treatment.[121]

Though severely underreported, there are indications that children are also held in these facilities. In Vietnam, children as young as 12 years old can be detained and forced to work in compulsory drug treatment centers.[122] As of 2020, Thailand reported a compulsory drug treatment facility specifically for children.[123] It is impossible to ascertain how many children are mandatorily detained in "rehabilitation centers" throughout China, where they reportedly spend their days studying and working.[124] The United Nations Committee on the Rights of the Child and Amnesty International have expressed concerns about the detention of children in such centers in Cambodia.[125]

## Drug Courts – A False Solution

> *If Drug Courts were merely ineffective perhaps their implementation and heavy promotion by interest groups and the US government could be forgiven, but Drug Courts represent a threat to human rights standards, to procedural due process and to the health systems' ability to address health issues around drugs*[126].
>
> UN Special Rapporteur on Independence of Judges and Lawyers

Drug courts emerged in the USA in the late 1980s as a response to the increasing prison population, a consequence of the "war on drugs".[127] Eligibility for many U.S.-based drug courts is largely restricted to first-time offenders and non-violent offenses where drug use is considered to be the underlying cause. In practice, most courts primarily handle those charged with possession offenses. To qualify for drug court individuals must plead guilty and failure to complete the treatment successfully results in the person being sentenced for the original offence. Pleading guilty means that those who "fail" cannot subsequently enter a plea bargain to reduce their sentence.[128] This results in people receiving longer sentences than they would have received had they not been diverted to the drug court.

Proponents of drug courts point to evidence of reduced recidivism and lower costs.[129] However, this evidence is divergent, with concerns about the reliability of research, particularly regarding the cherry-picking of eligibility criteria.[130] Individuals with criminal records, those convicted of drug supply or non-drug possession offenses, and those with violent offenses are often excluded; as are people with mental health problems.[131] Researchers have found that only 11% to 17% of those incarcerated for drug offenses in U.S.-based prisons would be eligible for a drug court.[132] It is estimated that 45% of those accepted into drug courts are not drug dependent.[133]

## Drug Courts – An American Export

Initially emerging in the late 1980s in the USA, drug courts now operate across the Americas, Australia, many European countries, and parts of Asia.[134]

In Australia, the UK and Ireland, these courts focus on individuals at risk of imprisonment – often with prior convictions – where drug use is considered as the underlying cause of offending.[135] Despite political support, most countries have not scaled up drug courts; in many cases, these courts have been closed.[136] Evaluations indicate minimal participation and difficulties in integrating these courts into existing national and local systems.[137]

Most drug courts in Latin American countries do not operate as standalone courts; rather, treatment is a condition for suspending criminal proceedings. Many jurisdictions prioritize abstinence as the primary goal of treatment. Drug courts are also a feature of juvenile justice programs in several countries.[138] In Chile, these courts are limited to first-time offenders charged with crimes that carry a maximum sentence of three years, including drug possession. A 2011 review found that some prospective participants were not informed that the specific offense they were charged with did not carry a prison sentence.[139] Recidivism rates in 2012 were over two times higher among participants who graduated from the program compared to those who left, though graduate recidivism rates were slightly lower than non-graduates in 2011 but higher in 2010.[140] In Mexico, drug courts operate in six states.[141] In 2015 over 80% of 69 participants in three states were charged with simple possession, primarily cannabis. Human rights concerns have been reported regarding Mexican drug courts, including "involuntary and prolonged internment, overcrowding, poor diet, solitary confinement and isolation, severe punishments and even torture and sexual abuse" in facilities where participants were sent.[142]

Monitoring and evaluations of drug court systems across nine Latin American countries have shown mixed results,[143] demonstrating a fundamental problem with drug courts: they fail to consider the social contexts and challenges individuals face, focusing solely on drug use.

## Coercive and Controlling Medical Practices in Legal Systems

Compulsory drug treatment centers and drug courts are part of a spectrum of coerced treatment and health surveillance within criminal justice systems. Individuals are regularly sentenced to drug rehabilitation or treatment orders by courts, with conditions varying based on whether treatment is inpatient or outpatient. Some orders may include testing requirements, while others mandate abstinence, although in certain jurisdictions Opioid Agonist Therapy (OAT) may be part of the order. A 2009 review found that 69% of 104 countries surveyed had laws permitting compulsory drug treatment.[144] In Iran, for example, judges can sentence individuals to a Compulsory Drug Detention Center (CDDC) or an outpatient treatment center. While treatment programs in Iran can include OAT,[145] they are predominantly abstinence-based, and grave human rights violations have been reported in these centers, including forced labor, denial of food and essential medicines, and torture.[146]

In Europe, an analysis of drug laws across 38 countries found that 21 countries permitted forced rehabilitation or detention orders.[147] Notably, 91% of these laws involved judges making final decisions, rather than qualified medical professionals. Additionally, the majority of laws categorized compulsory treatment as punishment for "substance related criminality", including offenses related to supply and possession. Mandated treatment laws often fail to safeguard "the individuals' ability to assert their right to freedom from unlawful detentions".[148]

Other forms of deprivation of liberty related to drug control are more subtle yet equally problematic. One example is involuntary drug testing upon arrest based on unsubstantiated and arbitrary 'suspicion' of drug use by law enforcement, or when prescribed by law without a clear justification. For example, UK law mandates drug testing for Class A drugs upon arrest,[149] and a positive test necessitates compulsory assessments with qualified assessors. Failure to attend these assessments is a separate offense, potentially leading to arbitrary arrest and subsequent criminalization.[150]

These practices, prevalent worldwide, infringe on fundamental human rights to privacy and physical integrity.[151] When coupled with profiling and discriminatory targeting by law enforcement actors, they perpetuate racism, over-policing, and the marginalization of already disadvantaged communities.

## Coerced Treatment and Testing Undermine Human Rights

Mandating treatment as a punishment raises a fundamental question: if drug dependency is a health condition, why is it under the jurisdiction of the criminal justice system? The United Nations Working Group on Arbitrary Detention (WGAD) clarifies that drug treatment is deemed compulsory – and therefore arbitrary – not only when imposed by law enforcement or a court, but also when a person's consent is not freely given.

> *Drug treatment should always be voluntary, based on informed consent, and left exclusively to health professionals. There should be no court supervision or monitoring of the process, which should rest exclusively with trained medical professionals.*
>
> United Nations Working Group on Arbitrary Detention[152]

Court-mandated treatment violates the right to health, infringing on an individual's right to the highest attainable standard of health and contravenes the principles of informed consent. Furthermore, forced treatment often undermines health, proving ineffective and even harmful. Judicial support for abstinence-only treatment seems ideological, with OAT options dismissed as "substituting one drug for another", rather than viewed as "lifelong forms of treatment", despite their proven benefits.[153] Reports indicate that courts compel individuals on OAT to taper off medication and comply with abstinence treatment orders,[154] which contradicts medical standards and violates rights to health and privacy, including bodily autonomy.

The disclosure of private medical information in court settings and regular urine drug tests mandated as part of treatment orders – enforced by police without a warrant[155] – undermine rights to security, physical integrity[156] and privacy, including the right to confidentiality. Court-mandated treatment replicates punitive and paternalistic approaches to drug use by placing sole responsibility for 'self-improvement' on individuals. This obscures structural issues, such as inequality and over-policing, that contribute to their involvement with the criminal justice system.

This approach to drugs is a response to the failed "war on drugs". However, rather than providing an effective solution, compulsory drug detention centers (CDDCs), drug courts, court-mandated treatment, and police surveillance of bodily fluids exemplify that failure. Because of the misconception that people who use drugs are solely patients or criminals, those who 'fail' at treatment face short- or long-term prison sentences for non-compliance,[157] which further exacerbates the crisis of mass incarceration.

**CASE STUDY**

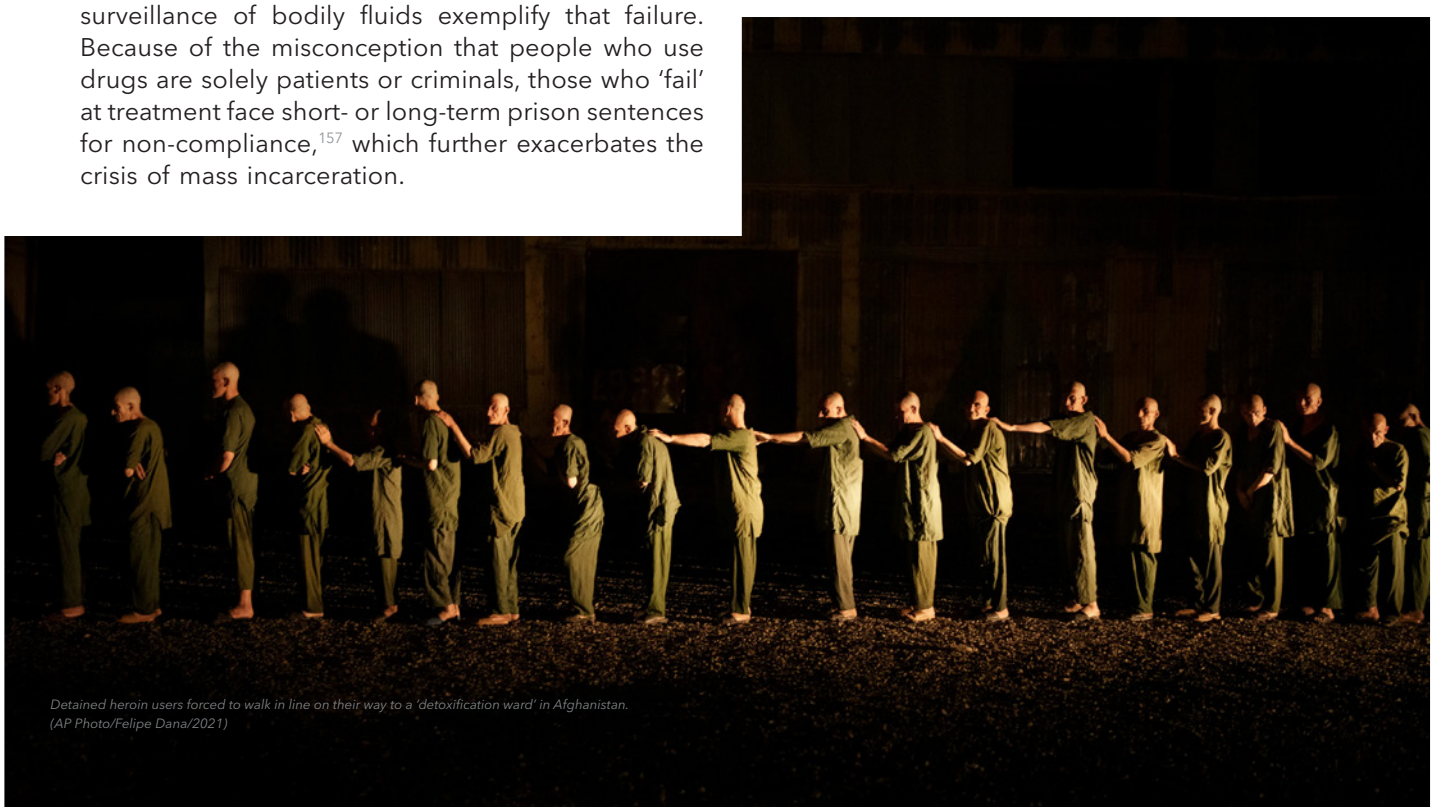
## UNREGULATED AND UNACCOUNTABLE: MEXICO'S TREATMENT CENTERS' CRISIS

**Tania Ramirez, Disentir**

There are many obstacles to accessing appropriate treatment that fulfills standards of quality, availability, affordability, and accessibility in Mexico. First, lack of State-provided treatment, leading to reliance on private centers (most treatment centers are private). In addition, the government has no capacity to verify that the treatment services they provide are according to national and international criteria.

Inadequate government oversight enables irregular centers ("anexos") to operate. There, human rights violations have been documented for decades. In these facilities, involuntary internment is a common practice. These centers are residential rehab facilities that offer abstinence-based treatment where people are forced to stay for long periods even with no patient consent but are involuntarily taken by their family, friends, or religious groups. Widespread human rights violations include also severe punishments, torture, inhuman or degrading treatment, sexual abuse, kidnapping, disappearances and deaths due to poor medical practices.

These centers have also been sites of violence. Many young participants have been killed within them in recent years. For instance, in 2020, a massacre in a private center in Guanajuato claimed 27 lives, and in 2022, six people were killed in Jalisco rehabilitation facilities. Unfortunately, government inaction in closing or holding these centers accountable prevails.



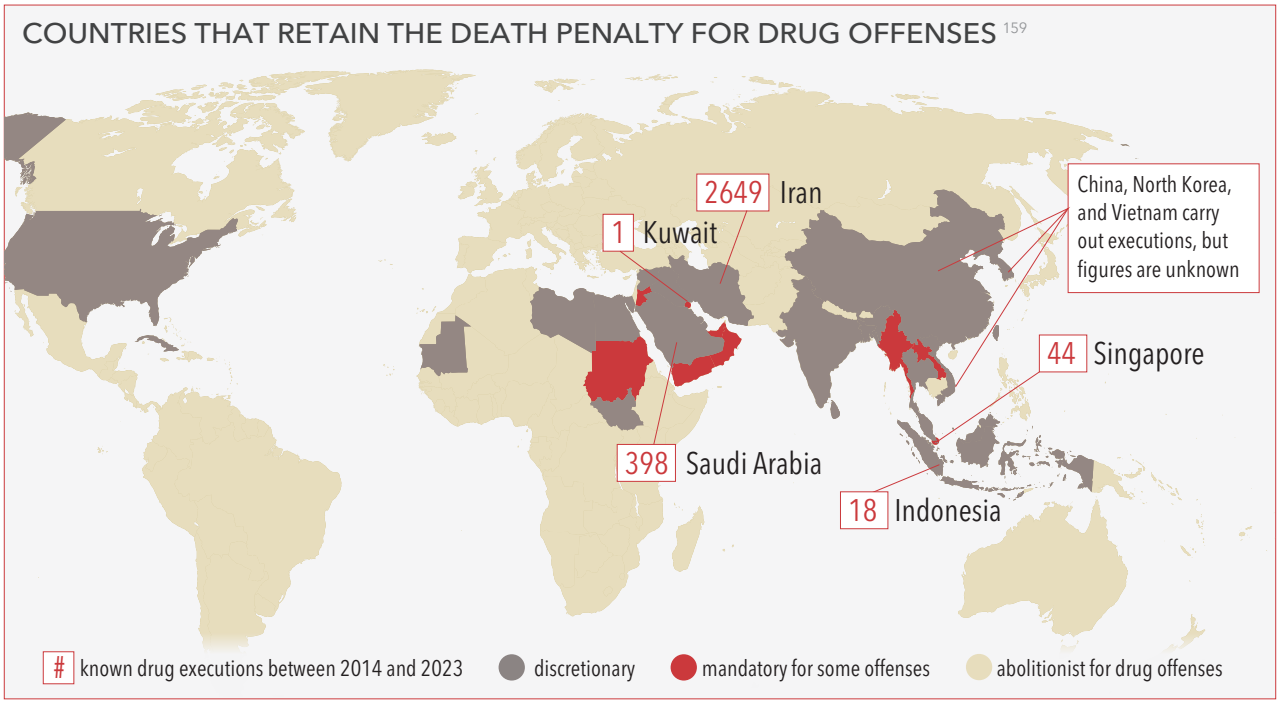
*Detained heroin users forced to walk in line on their way to a 'detoxification ward' in Afghanistan. (AP Photo/Felipe Dana/2021)*

# EXTREME PUNISHMENTS

The punitive approach to drugs, with its underlying rhetoric that frames drugs as "evil",[158] supports the use of extreme punishments as tools of drug control, most notably the death penalty and judicial corporal punishment.

While these punishments directly affect fewer individuals than police searches or imprisonment, they represent an extreme manifestation of the criminal approach to drugs. Such measures disproportionately impact the most marginalized and powerless individuals in society and within the drug market. Their consequences reverberate through countless families and communities, particularly when misused to repress dissent. Moreover, the retention of these punishments reinforces ideological and extremist narratives surrounding drugs, obstructing necessary reform.

## The Death Penalty




*For a comprehensive review see https://hri.global/flagship-research/death-penalty/*

In 11 countries, the death penalty is the mandatory sentence for certain drug offenses, meaning it is the only punishment a judge can impose upon conviction, regardless of the circumstances.[161] Drug law enforcement plays a significant role in the imposition of capital punishment in many retentionist countries, even though the death penalty clearly contravenes international standards on the right to life. The International Covenant on Civil and Political Rights (ICCPR) requires retentionist State parties to impose the death penalty only for the "most serious crimes" – a narrow category which never includes drug offenses – and to move towards abolition of this measure. In 2023, over 40% of all known executions globally were for drug offenses. Every person executed in Singapore, as well as the majority of those executed in Iran, had been convicted of drug offenses. Drug offenses were responsible for the majority of people on death row in Indonesia, Malaysia, Singapore, and Thailand. In the latter, 92% of women on death row are there for drug offenses.[162]

The death penalty for drug offenses is inherently arbitrary, both in its nature and in its application. Fair trial rights are often compromised in capital drug cases, with defendants facing restricted access to legal representation, significant barriers to appealing their sentences, limited opportunities for sentence commutation, and – in some cases – torture to extract confessions.[163] These injustices are exacerbated when capital drug defendants are poor, foreign nationals, or otherwise marginalized.

## OFFENSES THAT CAN RESULT IN THE DEATH PENALTY [160]

| | Drug use | Production (X= trafficking purpose only) | Possession | Trafficking | Storing | Aiding and abetting | Financing drug crimes | Divert legally possessed substances | Include or coerce others into using | Involving children in drug crimes |
|---|---|---|---|---|---|---|---|---|---|---|
| Bahrain | | ■ | X | ■ | ■ | ■ | ■ | ■ | | |
| Bangladesh | ■ | ■ | ■ | ■ | ■ | | | | | |
| Brunei | ■ | | | ■ | | ■ | | ■ | | |
| China | | ■ | | ■ | | ■ | | ■ | | |
| Cuba | | ■ | X | | ■ | | ■ | | | |
| Egypt | | X | | ■ | | ■ | ■ | ■ | ■ | ■ |
| Indonesia | | ■ | X | ■ | ■ | | | | | ■ |
| Iran | | ■ | ■ | ■ | | ■ | ■ | | | |
| Iraq | | X | X | ■ | | | | | | |
| Jordan | | | | ■ | | | | | | |
| Kuwait | | | | ■ | | | | | | ■ |
| Laos | | ■ | ■ | ■ | | | | | | |
| Libya | *not enough or missing information* | | | | | | | | | |
| Malaysia | | ■ | X | ■ | | ■ | | | | |
| Mauritania | | ■ | ■ | ■ | | | | | | |
| Myanmar | | ■ | X | ■ | | ■ | ■ | | | ■ |
| North Korea | *not enough or missing information* | | | | | | | | | |
| Oman | | ■ | | ■ | | | ■ | | | ■ |
| Palestine | | | | ■ | | | | | | |
| Qatar | | X | | ■ | | | | | | |
| Saudi Arabia | | X | | ■ | | | | | | |
| Singapore | | ■ | X | ■ | | | | | | |
| South Korea | | ■ | X | ■ | | ■ | | | ■ | |
| South Sudan | | X | X | ■ | ■ | ■ | | | ■ | ■ |
| Sri Lanka | | ■ | ■ | ■ | ■ | ■ | | | | |
| Sudan | | X | X | ■ | | | | | | ■ |
| Syria | *not enough or missing information* | | | | | | | | | |
| Taiwan | | ■ | | ■ | | | | | ■ | |
| Thailand | | X | | ■ | | | | | ■ | |
| UAE | | X | X | ■ | | | | | | |
| United States | | | | ■ | | | | | | |
| Vietnam | | ■ | X | ■ | ■ | | | | | |
| Yemen | | X | | ■ | | | | ■ | | |

*The table only covers the main crimes and substances for which the death penalty is imposed. The legislation of each country may envisage additional crimes, substances and quantities (sometimes varying depending on the offence) and prescribe specific circumstances which make a drug crime death-eligible. For a comprehensive review see https://hri.global/flagship-research/death-penalty/*

### The Targeting of the Marginalised and the Vulnerable

Foreign nationals are overrepresented in drug-related executions in many countries, particularly where there is a high percentage of migrant workers.[164] In Saudi Arabia, at least 45% of those executed for drug offenses between 2018 and 2023 were foreign nationals. Ethnic minority groups are similarly overrepresented, due to unique vulnerabilities to drug market engagement and to discrimination within the legal and policing system. This is evident in Iran, where the Baluchi ethnic group faces disproportionate execution rates (in 2022, they accounted for roughly 40% of those executed for drugs, while making up only 2% of the population).

While women represent a minority of the death row population, murder and drug offenses are the primary crimes for which they are on death row.[165] In Indonesia, Malaysia, and Thailand, most women on death row are incarcerated for drug offenses.[166] The only woman currently on death row in Singapore is there for drug offenses, following the execution of Saridewi Djamani in 2023. In Iran, the majority of women executed in the past 15 years were convicted of drug offenses.[167] Women face intersectional discrimination in the criminal justice system, often compounded by nationality and poverty, including in capital drug trials. Furthermore, women typically occupy low-level roles in the drug trade – such as drug couriers – which are more likely to result in death sentences compared to those imposed on higher-level figures or 'kingpins'. These factors contribute to the rise in women's incarceration and the heightened risk of facing the death penalty.[168]

The fact that marginalized and vulnerable groups are disproportionately subjected to capital punishment is no accident. It stems from the design and enforcement of drug laws, which focus heavily on drug possession, proximity to drugs, and threshold quantities to determine the severity of the crime. Low-level couriers or manufacturers – often involuntarily involved in the drug trade – are the ones most likely to face the harshest punishments, despite having minimal impact on the broader drug market. Even in the rare cases when capital punishment is applied to high-level figures, the effect is fleeting, as others quickly take their place. Although retentionist governments claim that capital punishment deters drug trafficking, these countries continue to sentence people to death while the drug trade persists within their borders.

Increased recognition of these issues has sparked reform. In 2023 alone, two countries took historic strides. Pakistan abolished death as a punishment for drug offenses, becoming the first nation to do so in over a decade. In Malaysia, where most people on death row are held for drug offenses, the mandatory death penalty was eliminated, and a resentencing process was introduced, also rejecting life without parole as a sentencing option.

### Capital Punishment: The Condemnation and Complicity of the International Community

The use of the death penalty for drug offenses violates international human rights standards, as recognized by the United Nations.[169]

The international community bears some responsibility for the persistence of this practice. Many retentionist countries introduced capital punishment in tandem with their ratification of the International Drug Control Conventions, particularly the 1988 Convention – this treaty endorsed the 'war on drugs' approach, with capital punishment being its most extreme manifestation. As a result, many domestic drug laws adopted this harsh penalty in pursuit of that strategy.[170]

One egregious example of international failure is cross-country support for anti-drug operations in retentionist countries. Between 2012-2021, at least 70 million USD in aid funding – intended for promoting international development, global health and poverty reduction – was instead spent on "narcotics control" in countries that retain the death penalty for drug offenses.[171] This and other forms of support, such as technical assistance and provision of equipment, sometimes through the UNODC, have been directly linked to death sentences.[172] Through such funding, donor countries – including those that have abolished the death penalty in their own legislation – risk being complicit in State-sanctioned killings.

CASE STUDY
**FREE THEM, FREE US**
**Kokila Annamalai, Transformative Justice Collective (TJC)**

Singapore's death penalty regime thrives on the dehumanisation of people on death row – keeping them invisible, voiceless, powerless. Honouring the humanity of these prisoners therefore becomes the most effective form of resistance abolitionists have. In the work TJC does as a death penalty abolitionist, it always questions what affirms the humanity in each of us, and how it can find ways to extend more of those possibilities to death row prisoners, who are systematically stripped of their personhood. From the years of working with death row prisoners and their families, TJC has learnt that what matters to many of them is (a) speaking their truth (b) being able to care for their loved ones and other prisoners on death row, (c) being able to take action and (d) knowing that others see them, care for them and stand with them.

When TJC published childhood photos, interviews with family members and messages from death row prisoners, it grabbed public attention and started shifting sentiments. Previously, Singaporeans wouldn't even know when an execution was taking place – but now, they were getting daily reports on what happens in the week leading up to an execution. Over time, the courts tightened who was allowed to speak to prisoners in court, prisons shrank execution notice periods and imposed further restrictions on death row prisoners passing and receiving notes from their families during visits. Family members who were outspoken had their jobs threatened and faced other forms of harassment.

When TJC started supporting death row prisoners in representing themselves as litigants-in-person, it once again captured public imagination, with crowds of people showing up in court to support them. Soon, hearings were moved online, and prisons made it more difficult for prisoners to consult with each other about their cases. The government also introduced a new law that further restricted their right to bring post-appeal cases.

When TJC organised mass protests in solidarity with death row prisoners, the state-controlled media – which is the only newspaper prisoners receive – refused to report it.

In October 2024, authorities refused to license an exhibition TJC organised centering the voices of death row prisoners and their families, claiming that the exhibition "undermines the national interest". TJC's online reporting is consistently hit with 'Correction Notices', under the country's fake news law.

Up against a system that is determined to silence and incapacitate death row prisoners and those who care about them, TJC's resolve to amplify their voices and power only grows stronger. Because the death penalty for drugs is a key tool of authoritarian control in Singapore, fighting for the humanity of death row prisoners also means fighting for the democratic freedoms that everyone in Singapore deserves. Hence TJC's slogan, 'free them, free us'.

## Corporal Punishment Mandated by Law

Corporal punishment is prohibited by human rights law as a form of cruel, inhuman, and degrading punishment, often amounting to torture.[173] It represents extreme institutionalized violence with profound consequences for a person's physical and mental health. Despite this prohibition, corporal punishment remains a recurring feature of drug law enforcement. It is essential to acknowledge the prevalence of corporal punishment as a form of abuse in compulsory drug treatment centers (both public and private) and healthcare settings, where it is imposed as a means of discipline, education, 'treatment', or even 'healing'.[174]

As of 2020, at least 11 countries permit corporal punishment as a sentence for drug (and often alcohol-related) offenses, with flogging being the most common form.[175] In some of these countries, corporal punishment is mandatory and often accompanies other sanctions, such as fines and imprisonment.

The monitoring of this phenomenon is sporadic, largely due to a systemic lack of transparency among governments. Nevertheless, reports from civil society and the media shed light on these practices. For example, in Iran, possession of less than five grams of heroin is punishable with 20 to 50 lashes and a fine,[176] while drug use can result in 20 to 74 lashes, often administered in public, depending on the substance.[177] The Abdorrahman Boroumand Center for Human Rights in Iran confirmed 123 drug-related flogging sentences between 2014 and 2023, although this figure represents only a fraction of the total imposed.[178]

In Malaysia, possession of 20 grams of cannabis is punishable by three to nine strokes of the cane, in addition to imprisonment. Caning is mandatory for

offenses involving drugs over specific thresholds. Additionally, escaping from compulsory rehabilitation centers is also subject to flogging and imprisonment.[179] Between 2005 and 2012, over 2,000 foreign nationals were caned for drug offenses,[180] and reports of caning sentences for drug crimes continue to emerge, with incidents documented as recently as 2024.[181]

In Saudi Arabia, court-imposed lashes for drug offenses and other crimes can reportedly reach into the thousands and are often administered in regular installments. In 2020, Saudi Arabia suspended corporal punishment as a discretionary punishment imposed by judges for *ta'zir* offenses, including drug-related ones.[182] Nevertheless, according to the European Saudi Organisation for Human Rights (ESOHR), lashing continues to be imposed in drug-related cases.[183]

In Singapore, caning is mandatory for drug possession, trafficking, and related offenses. In 2023, a young man was sentenced to mandatory imprisonment and five strokes of the cane for importing cannabis edibles, which are now legal in many countries.[184] Caning is carried out in prison, with little to no advance notice. The individual is tied to a frame with their wrists strapped to a trestle while a thick rattan cane is used on their bare buttocks. Windows allow other prisoners to witness the punishment being inflicted.[185] A testimony collected by the Transformative Justice Collective (TJC) described the experience:

> *I got 12 strokes of the cane… the scars are like stripes and they have never gone from my skin, it's still there… And it was numb. It was burning. And it was very painful*[186].

Meanwhile, in other countries where corporal punishment is prescribed, implementation appears to be inexistent or minimal, suggesting it is retained mostly for symbolic purposes or as a remnant of older laws. In these contexts, abolition is achievable with minimal practical consequences, sending an important signal to the international community that this punishment is both ineffective and inhumane.

# ALTERNATIVE APPROACHES

*Farmer in a coca field in Llorente, Colombia, 2024.*
*(AFP via Getty Images/Joaquin Sarmiento)*

The death penalty for drug offenses, life without parole, arbitrary detention, torture and corporal punishment contravene international law and, in some jurisdictions, national constitutional laws. The use of these punitive measures must be abolished. However, they represent just the tip of the iceberg in an inherently discriminatory and ineffective system that requires reforms grounded in human rights and scientific evidence. These reforms must prioritize ending the criminalization of people who use drugs and adopting regulatory models based on equity and justice.

While some approaches, such as harm reduction and decriminalization, fully align with the International Drug Control Conventions, others require a critical reassessment of these norms through the lenses of health, human rights, and development.

## THE INTERNATIONAL DRUG CONTROL SYSTEM

The three International Drug Control Conventions are:
- The United Nations (UN) Single Convention on Narcotic Drugs 1961 (as amended by the 1972 protocol)
- The UN Convention on Psychotropic Substances 1971
- The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988

These Conventions prohibit the use, supply, production, cultivation, importation and exportation of specific drugs unless for medical or scientific purposes.

The table below outlines the main provisions of the treaties as they pertain to restricting the possession of illicit drugs. It also highlights where States have flexibility to depart from certain provisions, specifically those related to use and possession. This flexibility is limited to these areas and does not imply that States have unrestricted freedom to make decisions in respect of other Treaty obligations. It shows that while decriminalization of drug use, possession, purchase, and cultivation is allowed under the Conventions, regulating these activities would conflict with States' obligations, indicating that a review of the Conventions would be necessary.

| Treaty Obligation | Permitted flexibility under the treaties |
|---|---|
| **1961 Convention** – "*duty not to permit the possession*" in respect of specific drugs controlled under the treaty (Article 33) | Not possible, except under legal authority (Article 33) |
| **1961 Convention** – "*shall adopt measures as will ensure that … possession … shall be a punishable offense*" (Article 36 (1) (a)) | Subject to Member States' constitutional limitations (Article 36 paragraph 1. a), where those who commit an offense under Article 36 are abusers of drugs an alternative to conviction/punishment can be applied (Article 36 (1)(b)) |
| **1971 Convention** – "*desirable that the Parties do not permit the possession of substances*" in respect of specific drugs controlled under the treaty (Article 5 (3)) | Not possible, except under legal authority (Article 5 (3)) |
| **1971 Convention** – "*each Party shall treat as a punishable offense … any action contrary to a law or regulation adopted in pursuance of its obligation under this Convention*" (Article 22 (1) (a)) | Subject to Member States' constitutional limitations (Article 22 (1) (a)), where those who commit an offense under Article 22 are abusers of drugs an alternative to conviction/punishment can be applied (Article 22 (1) (b)) |
| **1988 Convention** – "*each Party shall adopt such measures as may be necessary to establish as a criminal offense under its domestic law … the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption*" (Article 3 (2)) | Subject to its [the party's] constitutional principles and the basic concept of its legal system (Article 3 (2)) can provide an alternative to conviction or punishment (Article 3 (4)(d)) |

Global Commission on Drug Policy (2016) Advancing Drug Policy Reform: A New Approach to Decriminalization. Geneva: GCDP.
Available at: https://www.globalcommissionondrugs.org/reports/advancing-drug-policy-reform

It is also imperative that governments worldwide address the exponential rise in inequality, including limited access to housing and basic services, as these factors contribute to increasing levels of drug dependency. Many countries are experiencing a surge in homelessness, where the use of illicit substances becomes a response to the inhumanity of living without shelter, sanitation, clean water, and other essential resources.[187]

### Harm Reduction and Treatment

An essential step toward effective and humane drug policies is the implementation of harm reduction, which encompasses "policies, programs and practices that aim to minimize the negative health, social and legal impacts associated with drug use, drug policies and drug laws".[188]

Harm reduction includes lifesaving health services such as Needle and Syringe Programs (NSPs), drug checking, the provision of naloxone (an opioid overdose reversal medication) particularly among peers and community members most likely to witness an overdose, HIV and hepatitis testing and treatment, and other tools for non-opioid[189] and non-injecting users, such as safe smoking kits. Other key interventions include Opioid Agonist Therapy (OAT), through medications such as methadone and buprenorphine, as well as Heroin-Assisted Treatment (HAT). OAT is more widely accepted as both a harm reduction intervention and a form of treatment – by 2024, it was available in 94 countries.[190] HAT and take-home heroin prescribing remain limited, despite evidence supporting their benefits in terms of cost-effectiveness and improvement in health and social outcomes.[191]

Overdose Prevention Centers (OPCs) are equally essential, especially in light of the backlash against public drug use in North America and the worsening homelessness crisis. They can also be referred to as Drug Consumption Rooms (DCRs) or Supervised Consumption Sites (SCSs). These centers allow people to use drugs safely in private spaces, equipped with sterile material and under medical supervision, enabling trained staff to reverse any overdoses that may occur. OPCs also provide opportunities to connect individuals with health and social services. The first OPC opened in Switzerland in 1986, and by 2023 over 100 OPCs were operating globally, including in the USA, Canada, Mexico, Australia, France, Portugal, Belgium, Denmark, Germany, Greece, Iceland, Luxembourg, the Netherlands, Norway, and Spain.[192] OPCs have proven effective in reducing the risk of bloodborne viruses and overdose; for instance, overdose mortality rates in Toronto fell from 8.10 to 2.70 deaths per 100,000 people in neighbourhoods where OPCs were established.[193] Additionally, these centers have contributed to reducing crime in local areas,[194] as well as reducing public injecting and drug-related litter.[195] OPCs are also cost effective; research in the USA indicates that each avoided overdose death saves between 503,869 USD and 1,170,000 USD due to decreased negative health outcomes associated with the facility.[196]

Harm reduction encompasses more than just a set of services; it is a comprehensive approach that addresses the economic and social structures perpetuated by punitive drug control, which often contribute to problematic relationships with drugs. A harm reduction approach recognizes that inequality is a driver for drug dependency, and that individuals from marginalized and lower socio-economic backgrounds are at greater risk of harm from drugs and drug policies.[197] This approach encompasses "access to legal assistance, social services, housing and adequate food"[198]; making integrated services – offering health, legal, and social support under one roof – particularly effective. For example, the Housing First approach (addressed below) embodies harm reduction values by prioritizing safety and health, ensuring individuals are supported first and foremost.

### Decriminalization Improves Public Health and Human Rights Compliance

Drug decriminalization typically involves removing criminal sanctions for drug use and possession but can also include activities such as personal cultivation[199] or non-commercial supply (social supply).[200] As of 2024, an estimated 39 countries have decriminalized drug use.[201] In some longstanding legal frameworks, where investment in harm reduction is a feature, there has been significant benefits for individuals and communities. Concerns that decriminalization promotes drug use or sends the "wrong message" are unfounded, with research demonstrating that decriminalization does not increase use,[202] but instead improves health and social outcomes.[203]

Czech Republic decriminalized possession of all drugs for personal use in 1990 but re-introduced a more punitive approach in the late 1990s due to political backlash. Those caught with "greater than a small amount" faced criminal charges. Government-funded research found that the more restrictive model did not reduce drug availability, increased drug use, and raised social costs.[204] In 2011, the government returned to a more progressive decriminalization model.[205]

Improved health outcomes for people who use drugs are a key feature of decriminalization models. After Portugal decriminalized personal possession of all drugs,

in 2001, the first decade saw significant declines in drug-related deaths, HIV transmission, and viral hepatitis rates.[206] Additionally, the number of individuals voluntarily seeking drug treatment increased under this approach.[207] Oregon (USA) decriminalized possession of all drugs in 2020 and saw positive outcomes, though drugs were re-criminalized in 2024.

In 1976, the Netherlands introduced policing and prosecutorial guidance that effectively ended criminalization for drug possession, though the offense remains officially recognized in the legal framework. As a result, the country reports low rates of drug-related deaths, HIV cases, and low levels of drug dependency.[208] Similarly, Germany, which decriminalized drug possession in 1994 through the decision by the Federal Constitutional Court, and Czech Republic, both report low opioid death rates.[209] In contrast, countries like Finland, Sweden, Norway, Ireland, and the UK, which enforce punitive drug possession laws, have significantly higher drug-related mortality rates.[210]

Colombia decriminalized personal drug use and possession in 1994, through a Constitutional Court decision, which was later expanded by additional rulings. The legal framework enabled the country to implement harm reduction models,[211] making Colombia one of the few countries in the region with operational NSPs, OAT, peer-distributed naloxone,[212] drug checking services, and even a drug consumption room.[213]

### Decriminalization Reduced Police Contact for Racial and Ethnic Minority Groups and improved Social Outcomes

Decriminalizing drug use reduces arrests and incarceration, allowing resources to focus on more serious crimes and essential services. In Jamaica, the 2015 decriminalization of cannabis possession and cultivation led to a 90% drop in related court cases and the expungement of thousands of minor cannabis offenses,[214] while also boosting funding to HIV services.[215] Studies show that cannabis decriminalization in the USA led to significant reductions in arrests,[216] though not all jurisdictions, such as Mexico, have seen similar outcomes.[217] Monitoring and evaluation, involving all affected groups, are key to ensuring positive results.

Removing criminal sanctions for possession offenses also reduces police contact with racial and ethnic minority groups. An analysis of 43 US states found cannabis decriminalization led to an over 50% reduction in arrests for Black individuals, with arrests dropping from 810 arrests to 361 per 100,000 between 2008 and 2019, though racial disparities persisted.[218]

Decriminalization is also linked to improved social outcomes. Research from Australia shows that people criminalized for cannabis possession faced negative impacts on employment, housing, and family relationships compared to those subjected to civil fines.[219] Additionally, 32% of criminalized individuals re-entered the criminal justice system, while no further contact was recorded for those who received administrative responses.[220] Other studies also show reduced recidivism following decriminalization.[221]

Decriminalizing possession offenses creates savings for the State. Portugal experienced an 18% reduction in social costs in the first decade of decriminalization, despite increased government investment in harm reduction and treatment.[222] Savings related to reduced health expenditure, due to lower HIV and viral hepatitis cases, along with decreased criminal justice costs from less policing and fewer prosecutions. Moreover, the analysis included indirect savings from avoided income loss and tax receipts that would have resulted from criminalization.[223] In the USA, decriminalizing cannabis possession in California yielded an estimated 1 billion USD in savings for the criminal justice system between 1976 and 1986.[224]

### Decriminalization Endorsement by the United Nations

Over a decade ago, the World Health Organization (WHO) called for the decriminalization of drug use and possession, recognizing it as a necessary "critical enabler" for health.[225] In 2015, the United Nations Development Program (UNDP) supported this view, stating that decriminalization was essential to "promote development-sensitive policies and programs on drug policy and control".[226]

In 2016, at the United Nations General Assembly Special Session on Drugs (UNGASS), UN bodies published an open letter calling for decriminalization,[227] highlighting that criminalizing drug use obstructs the realization of human rights, particularly the right to health. Human rights mechanisms of the UN system have consistently advocated for decriminalization of drug use, cultivation, and related activities. In 2018, the Office of the High Commissioner for Human Rights (OHCHR), in a report to the Human Rights Council, recommended "decriminalizing the personal use of drugs and minor drug offenses" to uphold the principle of proportionality and alleviate prison overcrowding.[228]

Calls for progressive drug law reform from various UN entities, including UNAIDS[229] and UN Women,[230] culminated in the release of the 2018 UN Common Position on Drug Policy by the Chief Executive Board (CEB), representing all 31 UN agencies. This jointly committed to:

> *To promote alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use, and to promote the principle of proportionality, to address prison overcrowding and overincarceration by people accused of drug crimes, to support implementation of effective criminal justice responses that ensure legal guarantees and due process safeguards pertaining to criminal justice proceedings and ensure timely access to legal aid and the right to a fair trial, and to support practical measures to prohibit arbitrary arrest and detention and torture.*[231]

By 2024, several human rights treaty bodies, including the Committee on the Rights of the Child (CRC),[232] the Committee on Economic, Social and Cultural Rights (CESCR),[233] and the Committee on Elimination of Discrimination Against Women (CEDAW),[234] have called for drug policy reform.

Among Special Procedures, the Working Group on Arbitrary Detention (WGAD) recommended decriminalization.[235] In 2024, the UN Special Rapporteur on the Right to Health urged States to decriminalize drug use and "move toward alternative regulatory approaches".[236] Additionally, in 2023, the High Commissioner for Human Rights reiterated support for decriminalization, calling for review of convictions and sentences to potentially quash, commute or reduce criminal records and punishments.[237] The Commissioner also called for the consideration of responsible legal regulation of all drugs.[238]

## Limitations of Decriminalization that Continue to Punish People Who Use Drugs

In many jurisdictions, States have replaced criminal penalties with civil ones, imposing alternative punitive measures such as fines,[239] confiscation of passport or driver's license,[240] and referrals to treatment.[241] In these cases, law enforcement continues to surveil and search individuals suspected of drug possession, especially where thresholds or paraphernalia possession remains criminalized.[242] This leads to ongoing over-policing of racialized and ethnic groups and marginalized communities. Moreover, it can undermine health outcomes, as individuals may avoid emergency services during drug-related crises,[243] or hesitate to access harm reduction and treatment programs due to punishment.[244]

### *Thresholds: Unscientific and Arbitrary*

In some countries, arbitrary threshold amounts are used to determine whether drug possession is treated as a criminal offense or subject to civil penalties. There is no scientific basis for these thresholds, and significant variation exists across jurisdictions. Arbitrary thresholds can also lead to net-widening. In British Columbia (Canada), where thresholds were set at 2.5g (for any drug) and police acted as a referral pathway, police seizures of drugs below this quantity increased by 34% within the first six months of the pilot[245].

When the distinction between decriminalized activities (such as possession and use) and criminalized ones (such as trafficking) relies solely on quantity, the risk of corruption increases. Police and prosecutors can charge individuals with more serious crimes based on cooperation or bias, particularly in the absence of evidence or weak chain of custody practices. In 2023, Portugal moved away from strict thresholds, as individuals caught with amounts above the limit for personal use continued to face criminalization, contradicting the decriminalization policy.[247] Law enforcement now distinguishes between possession and supply based on circumstantial evidence, such as the quantity of drugs that clearly exceeds personal use, text messages with consumers, and drug packaging.


*Meeting attendees hold signs at a Bellingham (USA) City Council meeting at City Hall to protest the criminalization of public drug use, April 2023. (Hailey Hoffman/Cascadia Daily News)*

## THRESHOLDS FOR DECRIMINALIZATION MODELS[246]

| Country | Activity | Threshold amounts |
|---|---|---|
| Antigua and Barbuda | Possession / Cultivation | *Cannabis:* 15g (herbal) or 4 plants |
| Argentina | Possession / Cultivation | Prosecutors or the judiciary decides on whether possession is for personal use |
| Armenia | Possession / Social supply | Small quantity / no financial gain |
| Australia | Possession and cultivation depending on state | *mainly Cannabis:* depends on the state |
| Barbados | Possession | *Cannabis:* 14g |
| Belize | Possession | *Cannabis:* 10g |
| Bolivia | Possession / Cultivation | *Coca:* about 7kg |
| Brazil | Possession | *Cannabis:* 40g |
| Canada (BC only) | possession | *Opiates*: 2.5g \| *MDMA*: 2.5g \| *Methamphetamine*: 2.5g \| *Cocaine*: 2.5g |
| Chile | Possesion / Cannabis cultivation | No thresholds |
| Colombia | Possession / Cultivation | *Cannabis:* 20g (herbal) or up to 20 plants for cultivation; *Cocaine:* 1g |
| Costa Rica | Possession / Cultivation | No thresholds |
| Croatia | Possession | No thresholds |
| Czech Republic | Possession / Cultivation | *Cannabis:* 10g (herbal) \| *Heroin:* 1.5g \| *Cocaine:* 1g \| *Methamphetamine:* 1.5g \| *MDMA:* 1.2g Thresholds quantities also have minimum threshold of active ingredient as well |
| Dominicia | Possession / Cultivation | *Cannabis:* 28 g or 3 home-grown plants per person |
| Estonia | Possession | Small quantity decided by police, usually 10x a single dose |
| Germany | Possession | *Cannabis*: 6-15g (herbal) \| *Cocaine*: 1-3g \| *MDMA*: 5g Thresholds vary by Lander (municipality) |
| Italy | Possession / Cannabis cultivation & social supply | Absence of evidence of supply |
| Jamaica | Possession / Cultivation | *Cannabis:* 56g (herbal) or up to 5 plants per household |
| Kyrgyzstan | Possession | *Heroin*: 1g \| *Cannabis*: 3g (resin) \| *Cocaine*: 0.03g (powder) \| *MDMA*:1.5g |
| Luxembourg | Possession / Cannabis cultivation | *Cannabis:* 3g of 4 plants |
| Malta | Possession / Cultivation | *Cannabis:* 7g (herbal) or 50g (storage in a residential address), or up to 4 plants. |
| Mexico | Possession | *Heroin*: 50mg \| *Cannabis*: 5g \| *Cocaine*: 0.5g \| *MDMA*: 40mg (powder) |
| Netherlands | Possession | *Cannabis*: 5g or 5 plants \| All other drugs: 0.5g |
| Paraguay | Possession | *Cannabis*: 10g \| *Cocaine*: 2g \| *Heroin*: 2g |
| Peru | Possession | *Cannabis*: 8g \| *Cocaine*: 2g (powder) \| *Opium derivatives, such as heroin*: 0.2g \| *MDMA*: 0.25g |
| Poland | Possession | Small quantity determined by police |
| Portugal | Possession | *Cannabis*: 25g (herbal) \| *MDMA*: 1g \| *Heroin*: 1g \| Cocaine: 2g |
| Russia | Possession | *Cannabis*: 6g (herbal) \| *Heroin*: 0.5g \| *MDMA*: 0.3g |
| Slovenia | Possession | Smaller quantity of illicit drugs for one-off personal use |
| South Africa | Possession / Cultivation | No thresholds yet |
| Spain | Possesion | *Cannabis*: 100g (herbal) \| *MDMA*: 2.4g \| *Heroin*: 3g \| *Cocaine*: 7.5g |
| St Kitts | Possession | *Cannabis:* 56g (herbal) |
| St Vincent and the Grenadines | Possession | *Cannabis:* 56g (herbal) |
| Switzerland | Possession | *Cannabis*: 10g (herbal) |
| Trinidad and Tobago | Possession / Cultivation | *Cannabis:* 30g (herbal) |
| United States | Possession / Cultivation | *Cannabis:* depends on the state |
| Uruguay | Possession / Cultivation | No thresholds |
| Virgin Islands | Possession | *Cannabis:* 56g (herbal) |

● Binding ● Indicative ◯ Other (No threshold, not applicable, unclear, or varies regionally)

***Punishment Models Undermine the Potential Outcome of Decriminalization***

Drug-related penalties, such as fines, can lead to increased police activity, known as "net-widening", disproportionately affecting people in deprivation and marginalized communities. South Australia's Cannabis Expiation Notice (CEN) Scheme, which imposes civil fines for cannabis possession, resulted in a 2.5-fold increase in recorded cannabis offenses in its first nine years of operation. More individuals were imprisoned for non-payment of the CEN than were incarcerated for cannabis possession when it was a criminal offense.[248]

Treatment referrals in decriminalization contexts share issues with treatment interventions in the criminal justice system. Treatment must always be voluntarily, not a substitute for fines or other sanctions, and neither administrative courts nor criminal courts should determine whether individuals 'need' treatment. There is also significant risk that treatment systems become overwhelmed with referrals for the estimated 9 in 10 people[249] whose drug use is non-problematic, and who do not require medical support. These approaches reflect pathologizing attitudes towards drug use and perpetuate the stigma, discrimination, and resource misallocation associated with criminalization.

Not all decriminalization models are equally effective in addressing the harms of criminalization and promoting the rights of people who use drugs. The International Network of People who Use Drugs (INPUD) stresses that full decriminalization must include "removing all administrative sanctions and mechanisms of monitoring, surveillance, coercion, and punishment for use and possession of drugs including fines, warnings, revocation of rights and privileges (such as revoking drivers licenses, voting rights, etc.), confiscations, diversion, forced treatment, drug urine testing, police surveillance, and any other non-criminal penalties or punishment", as well as removing arbitrary threshold amounts, raising awareness on the effects of decriminalization policies, and establishing independent monitoring of criminal justice systems.[250]

While Portugal's system diverts to a Dissuasion Committee, where a range of punitive measures can be applied, approximately two-thirds of cases are suspended with no sanctions imposed.[251] Similarly, Spain, Uruguay, Colombia, Germany, and the Netherlands do not punish individuals for drug possession under their decriminalization models.[252] In fact, many decriminalization models have been initiated by Constitutional Court decisions, such as those in Spain, Colombia, Germany, and South Africa, where judges have explicitly recognised an individual's right to bodily autonomy. This restricts States from undermining that human right through punitive measures.[253]

## Police Diversion Schemes Emerging in the Absence of Political Leadership

Diversion schemes, which have been in place for decades, aim to redirect individuals charged with drug possession into health, social, or educational interventions.[254] If the mandatory conditions of the diversion are met, prosecution is avoided. These schemes operate in Australia, the USA, and the UK,[255] often at the State or local police level, based on policy frameworks rather than legislative reform and frequently relying on police discretion.[256] Eligibility criteria can vary, with some restrictions based on gender or age, or prior criminal records.[257]

Police drug diversion schemes have mixed results and retain some of the flaws of punitive approaches. They have been shown to reduce recidivism, improve the health of people who use drugs, and lower costs for the criminal justice system and other social costs.[258] By removing the risk of criminalization, these schemes can also mitigate "the labelling, stigmatisation, and other effects that compound mental health problems and keep people away from treatment for substance use disorder".[259] However, potential participants in the Law Enforcement Assisted Diversion Program (LEAD) in Seattle have declined to join the program, being concerned about judgement from peers.[260] There are also concerns that diversion can, once again, result in compulsory treatment and overwhelm already stretched drug treatment services,[261] despite the majority of those diverted not needing a health intervention.

As with decriminalization models that retain sanctions, concerns remain regarding diversion schemes, as they contribute to the surveillance and punishment of people who use drugs. There is also the risk of "net-widening".[262] Police culture and resistance have been identified as one of the biggest challenges in the implementation of diversion schemes.[263]

The Law Enforcement Assisted Diversion (LEAD) program in Seattle has since developed into a street-based outreach service under a "collective impact consortium model of community organizations". Police referrals now represent only a small number of the individuals they support, and for most, the threat of arrest is no longer part of the model.[264]

### Backlash against Decriminalization: The Politics of Public Drug Use

Public drug use has recently been weaponized in political, media, and public discourse, leading to backlash against drug policy reform, harm reduction efforts, and, more importantly, people who use drugs – particularly those who are unhoused. The stigma of this backlash is especially striking given that we manage public drug use regularly – whether in bars, restaurants, smoking zones, or even alcohol consumption areas in public spaces. Yet, when it comes to public use of criminalized substances, rather than managing it, people who are already on the margins are further excluded.

The US state of Oregon and Canadian province of British Columbia decriminalized drug possession in November 2020[265] and January 2023,[266] respectively. In Oregon, 58% of voters supported Measure 110, which removed all criminal penalties for drug possession. Individuals caught with drugs for personal use receive an on-the-spot fine or can opt for a health assessment at Addiction Recovery Centers instead of paying a fine.[267] Measure 110 also prescribed the expansion of drug treatment and support services funded by savings from reduced criminal justice costs and cannabis tax revenue.[268] In Canada, the federal Government granted British Columbia an exemption from the Controlled Drugs and Substances Act, permitting the removal of criminal penalties for small amounts of controlled substances. Skyrocketing drug-related deaths, linked to a toxic drug supply, motivated these reforms.

Despite notable successes from Oregon's decriminalization approach, a backlash over public drug use led the State legislature to recriminalize possession in April 2024,[269] reclassifying it as a misdemeanor, punishable by up to six months in prison. Similarly, in 2023, the Canadian federal Government amended British Columbia's exemption to prohibit drug possession in public spaces – now facing a Constitutional challenge.[270] In both cases, heightened media coverage and social media posts blaming decriminalization for public drug use played a significant role in the rollback of these reforms.

The rise in homelessness since the pandemic, seen across many US and Canadian states as well as in Europe, has fuelled the backlash against decriminalization in both Oregon and British Columbia. Since 2020, homelessness in Vancouver has resulted in encampments, although these are regularly dismantled by law enforcement.[271] Oregon has the third highest rate of homelessness in the USA.[272] Drug use is inevitably being blamed for these increases, although the reality is that soaring house prices, the cost-of-living crisis, and lack of social safety nets are responsible.

CASE STUDY

### MISINFORMATION IN OREGON (USA) AND PORTUGAL

**Theshia Naidoo, Drug Policy Alliance**

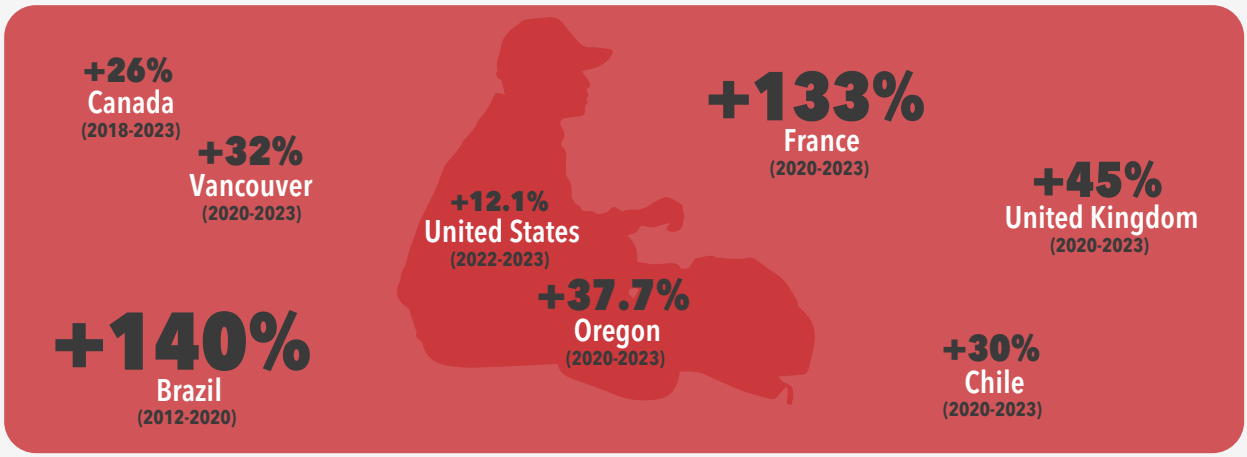
The Drug Addiction Treatment and Recovery Act (Measure 110), enacted in 2020 through a voter initiative, made Oregon the first state in the USA to decriminalize possession of any drug for personal use. Less than three years after the law took effect, the state partially repealed the measure. Succumbing to a misinformation campaign that blamed preexisting societal problems on decriminalization, the state legislature reinstated criminal sanctions.

Despite independent evidence to the contrary, leading news outlets in USA attributed rising overdose rates and homelessness to decriminalization. The overdose crisis fueled by fentanyl has impacted regions across the USA, regardless of underlying punitive measures for drug offenses. In Oregon, the proliferation of fentanyl in the drug supply coincided with the adoption of Measure 110, impacting overdose rates in the state. Media narratives incorrectly linked rising overdoses to decriminalization, ignoring evidence from independent longitudinal studies that found no association between Measure 110 and fatal overdose rates. Further, Oregon's homelessness rates are tied to eviction policies and a shortage of affordable housing, however, media portrayals of these persistent problems tied them to decriminalization.

Media narratives also misrepresented developments in Portugal, claiming that the country was rethinking its decades-long decriminalization policy and seeking to undo it. The reality is that Portugal adopted a law, amid these media misrepresentations, expanding their decriminalization policy in significant ways and reaffirming its sustained commitment to a public health approach. Portugal provides ongoing proof that criminalization is not the answer to problematic drug use.

## THE HOMELESSNESS CRISIS ACROSS THE WORLD [273,274,275,276,277,278,279,280]

*The number of homeless people worldwide continues to rise, both in countries that have decriminalized drugs and those with strict criminalization policies. Decriminalization of drugs isn't the cause of the housing crisis; criminalization of drugs won't solve it either. The real cause of the housing crisis lies in housing policies and inequality, not drug policy reform. Without housing, people lack private space to use drugs.*




Criminalizing public drug use does nothing to address the concerns people have about visible drug consumption, unless the underlying reasons – people lacking private spaces to use drugs – is resolved. This approach increases the risk of criminalization and encourages riskier drug practices among those who are unhoused or unable to use drugs in their homes, resulting in health harms. The recent US Supreme Court ruling which determined that people who are homeless are not protected from cruel and unusual punishment under the Constitution[281] also fails to address the root causes of this crisis.

Policymakers concerned with public drug use must implement and scale up Overdose Prevention Centers – OPCs (*see page 27*) to effectively address this situation. Unfortunately, in Canada, there has been a political backlash against OPCs, despite apparent concerns about public drug consumption. For instance, in August 2024, the Canadian province of Ontario announced its intention to scale back OPCs.[282]

Cannabis social clubs should be included in regulatory frameworks to provide safe spaces to those who use cannabis and are at risk of criminalization or eviction. Cannabis social clubs are usually private members clubs where individuals can cultivate, sell, purchase, and use cannabis. These clubs can currently be found in Spain and Uruguay, with a lesser presence in other European countries, such as Belgium, France, Austria and the Netherlands (where "coffeeshops" are more well-known).[283] Recently, legal reforms in Germany and Malta permitting adult cannabis use have led to the establishment of these clubs.[284]

### Addressing Social Determinants: Harm Reduction, Housing, and Social Safety Nets

Decriminalization, access to quality health services, and the establishment of safe places for drug consumption are essential for protecting the rights and health of people who use drugs and the wider community. However, these measures alone are not sufficient. An evidence-based, health- and human rights-centered approach to drugs must also tackle economic and social structures perpetuated by punitive drug control, which often underly problematic relationships with drugs.

As the UN Special Rapporteur on the Right to Health expressed in her 2024 report:

> *Societies often further stigmatize people who use drugs rather than dealing with the root causes of the disparities surrounding drug use and the risk factors for drug use disorders.*[285]

Harm reduction (*see page 27*) acknowledges that inequality drives drug dependency, and that individuals from marginalized and lower socio-economic backgrounds are at greater risk of harm from drugs and drug policies.[286] An approach that embodies these values is "Housing First", which recognizes housing as a fundamental right. Under this model, housing is not conditional on being drug-free and includes harm reduction services, allowing individuals to use drugs with the necessary tools to do so safely.[287] An interdisciplinary team of health and support workers assist residents in managing their accommodation as well as their broader health and social needs.[288]

Participants in Housing First programs achieve long-term stable housing; experience fewer hospital admissions; report improved quality of life (including better physical and mental health); and have reduced substance use problems and arrests.[289] These programs can also help decrease chronic homelessness, though they must be accompanied by harm reduction strategies.[290] Housing First programs operate in various European countries, including Austria, Denmark, Finland, France, Hungary, Italy, Luxembourg, The Netherlands, Norway, Spain,[291] and the UK.[292]

CASE STUDY
**SCOTLAND: A CHARTER OF RIGHTS FOR PEOPLE WHO USE DRUGS**
**Isobel Houston**

In July 2023, the Scottish Government published a paper on drug law reform calling for the decriminalization of all drugs for personal supply by changes to the Misuse of Drugs Act 1971 which is reserved to the UK parliament. Scotland has committed to a human rights-based approach.

As part of this, the National Collaborative (NC) was established to increase participation of people with lived and living experience of substance use in the design, delivery and monitoring of services.[294]

Since January 2022, the NC has evolved into a dynamic network made up of people with experience of substance use, family members, third sector organisations, national and local government officials, health professionals and scrutiny bodies. The project gained recognition at the Human Rights Council as an approach that is 'firmly grounded in the International Guidelines on Human Rights and Drug Policy and nourished by community consultations'. [295]

The NC Charter of Rights seeks to create a shared understanding of what international human rights mean in practice for people affected by substance use in Scotland. This process runs parallel to ongoing preparation of a Scottish Human Rights Bill which would incorporate economic, social and cultural rights into Scots law as far as possible within devolved competence.

The approach has involved bringing together people with lived experience and representatives from across the public sector to develop a toolkit and show leadership in building a human rights culture.[296]

The final Charter and toolkit will be launched in December 2024 and focus will turn towards embedding it into policy and practice across the public sector.

### Divest/Invest – Rethinking Funding for Drug Control

A crucial way to address inequalities exacerbated by punitive drug control is through the reallocation of funding and resources. Governments spend an estimated 100 billion USD annually on ineffective and harmful punitive drug policies. This continued funding aggravates drug-related human rights violations, reinforces discriminatory and violent criminal justice systems, and contradicts States' international human rights obligations.[297] Funding for drug control also diverts much needed investment in health and social services: in 2022, harm reduction funding in low- and middle-income countries was only 6% of the estimated need.[298] A recent study by Harm Reduction International (HRI) revealed that between 2012 and 2021, countries spent over 974 million USD in development aid in 'narcotics control' projects, surpassing the combined spending on mental health, food safety, and household food security.[299]

Divesting from criminal justice and law enforcement responses and investing in health and social services can significantly mitigate the harms caused by criminalization. For instance, the above-mentioned Measure 110, adopted in Oregon in 2020, redirected savings from decriminalization and tax revenues from cannabis legalization – approximately 300 million USD – toward support services. This resulted in extraordinary increases in access to harm reduction services.

## OREGON'S MEASURE 110: SETTING THE RECORD STRAIGHT [300,301,302]

By 2024, the Oregon Health Authority reported:

**+300%** people seeking support for services provided for those who use drugs

**+143%** 'client encounters' for drug treatment services

± **$300 000 000** savings from decriminalization and tax revenues from cannabis legalisation

**redirected towards support services**

- **+148%** harm reduction
- **+143%** drug treatment
- **+205%** peer support
- **+286%** supported employment
- **+296%** housing

Political backlash led the Oregon Legislature to **recriminalize** the possession of drugs, despite increased service engagement of people who use drugs

### Safer Supply – Regulated Alternatives to Street Drugs

Safer supply is a harm reduction intervention designed for individuals at risk of overdose due to a toxic illicit drug market. These programs aim to keep people alive.[303] While sometimes conflated, safer supply models are distinct from Opioid Agonist Therapy (OAT) and Heroin-Assisted Treatment (HAT); they have not been developed as a treatment for dependency but rather as an overdose prevention strategy.

OAT is an essential treatment for individuals experiencing drug dependency. An analysis of six treatment pathways, including detox and rehabilitation, found that only buprenorphine and methadone (the most common OAT medications) effectively reduced the risk of overdose.[304] However, given the increasing toxicity in supply chains across North America, Europe, and Central and Latin America,[305] safer supply models must be integrated into a wider overdose prevention and harm reduction strategy.

An early safer supply program emerged in Canada in 2016, focusing on providing prescribed opioids, such as hydromorphone tablets, in response to fentanyl contaminating and supplanting the heroin market.[306] Reports from those accessing safe supply opioids indicate that these programs lead to "increased stability in their drug use patterns, and helped avoid cycles of withdrawal, cravings, and periods of high frequency of use, thereby reducing their vulnerability to an opioid toxicity".[307]

Safer opioid supply has been shown to significantly reduce the risk of both fatal and non-fatal overdoses, as well as rates of infections, emergency department visits and hospital admissions (though no changes in mental health or substance use-related hospital admissions were observed).[308] Participants in safer supply programs also report improved health outcomes, including increased access to treatment for chronic health conditions, such as HIV and Hepatitis C.

Importantly, the safer supply approach can help individuals feel less stigmatized and enhance privacy, as it does not require supervised consumption, a common feature of OAT.[312]

Despite the positive outcomes associated with safer opioid supply programs in Canada, especially in British Columbia (BC), there has been criticism regarding alleged risks of diversion to young people, potentially leading to overdose.[313] The BC Coroner's office reported that between 1 January 2019 and 31 December 2023, 126 young people under 19 years of age tragically died from drug overdoses – with fentanyl, or its analogues, detected in 83% of these deaths. Hydromorphone was detected in 16 cases (13%); however, the coroner determined it was "unlikely to have contributed significantly to the death" in 11 cases, as the hydromorphone levels were within a therapeutic range, and another drug was present in all 16 fatalities.

While diversion does occur, it is not happening on the scale alleged. Often, diversion is motivated by individuals looking out for one another, as diverted pharmaceutical products will inevitably be safer than the toxic drug supply. Concerns around diversion and the risk of overdose intensified during the COVID-19 pandemic when, in some countries, individuals on OAT were given larger take-home quantities of methadone or buprenorphine due to lockdown conditions. Research analysing these increased take-home supplies and the associated risk of diversion found that this practice did not increase the risk of overdose. In fact, individuals experienced better clinical outcomes due to a less restrictive treatment regime, with the risk of diversion remaining small.[314]

Safer supply models in BC extend beyond opioids to include stimulants and benzodiazepines.[315] However, the number of individuals prescribed alternatives for these drugs remains very low: as of December 2023, only 437 people were on safer stimulant supply and 60 on a benzodiazepine.[316] These models are not limited to medicalized frameworks: a "compassion club" was established in Vancouver, backed by the provincial government and led by the Drug User Liberation Front (DULF), which supplied drugs that had been checked for quality and contaminants. The program has since been closed, and members of DULF are facing federal prosecution, despite the club being linked to a decrease in non-fatal overdoses among participants.[317]

Given the rise of synthetic opioids in non-opioid drug markets – such as methamphetamine supply in North American and street benzodiazepine supply in the UK – it is imperative to scale up safer supply models to address the emerging public health emergency.

### SAFER SUPPLY: THE EVIDENCE FROM CANADA[309, 310, 311]

In one **Ontario** service,

**73%** of people on safer opioid supply reported addressing a health issue for the first time after entering the program

**85%** reported feeling more connected to health services

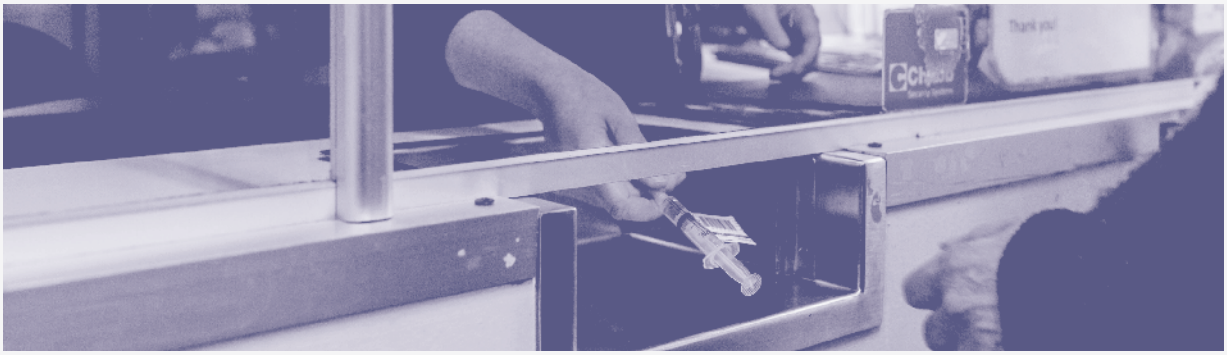
In one **Toronto** service,

**27%** of clients reported improved housing

**81%** had more time to do the things they wanted

**88%** reported they felt safer

**85%** reported improved quality of life



## Regulated Markets – Repairing the Harms and Reinvesting in Communities Harmed by the 'War on Drugs'

The blatant harms of an unregulated market are well-evidenced, ranging from the overdose crisis to the violence associated with drug markets in countries like Mexico and the destabilization of governments in West Africa. These issues undermine public health, safety and human rights. While safer supply is critical for addressing the urgent risks faced by people who use drugs, it does not meet the needs of groups that have supplied drug markets for decades, including small-scale farmers and suppliers economically dependent on this market.

In 2011, when the Global Commission on Drug Policy first called for the legal regulation of drugs for non-medical adult use,[318] no jurisdictions had taken that step for any drug. Today, twenty-four US states and Washington D.C. have established legal markets for cannabis, regulating its production, sale, and consumption.[319] Legal cannabis markets have also been established in Uruguay, Canada, Thailand, Malta, Luxembourg, and Germany.[320] Where possession of cannabis in some jurisdictions can result in imprisonment, in others it can be bought from a regulated supplier. This is a contradiction on a global scale.

## CANNABIS LAW DISPARITIES: FROM IMPRISONMENT TO LEGAL SUPPLY

### IMPRISONMENT [321, 322, 323, 324]

In Singapore, Cannabis is a Class A drug. Possession can lead to up to 10 years' imprisonment and / or a 20 000 USD fine.

In Nigeria, possession of cannabis should result in a 10-year custodial sentence, or life imprisonment for cultivation.

In Malaysia, possession of cannabis (and other drugs) can lead to corporal punishment.

From 2017 to 2021, 70.1% of people sentenced for cannabis possession in the U.S. were sentenced to imprisonment, on average for five months' imprisonment.

### FINES [325, 326, 327]

In New Zealand, the available penalties for cannabis include a 500 USD criminal fine.

In Armenia, possession of any drug, including cannabis, can result in a 400 USD administrative fine, out-stripping average annual income.

In Antigua & Barbuda, there is no penalty for cannabis possession beyond confiscation, subject to thresholds (15g). But smoking cannabis in a public place is a civil offense and can lead to a warning, then 500 USD administrative fine, then 1500 USD.

### NO SANCTIONS [328]

In Spain, there are no criminal or administrative sanctions for cannabis possession, provided the person's intention is personal use in a private setting.

### LEGALIZATION [329, 330, 331]

In Germany, the Cannabis Act 2024 legalized self-cultivation and communal, non-commercial self-cultivation of cannabis in cannabis associations.

Uruguay has never criminalized possession of cannabis (or any drugs) and was the first country to legalize cannabis in December 2013.

Recreational use of cannabis is legalized in 24 U.S. states as of November 2024.

Jurisdictions have adopted different legalization approaches that reflect their unique circumstances. Bolivia, for example, has introduced legislation allowing for the legal production, sale, and consumption of the coca leaf – in line with the traditional use of the plant.[332] Principles of reparations and equity are becoming central for policymakers who recognize the harm caused by drug prohibition and the importance of supporting communities economically dependent on the illicit trade.

Early adopters of cannabis regulation, like Colorado and Washington, viewed legalization as a chance to raise tax revenue for local governments, undermine the illegal market, and implement a public health approach through age restrictions and product safety requirements.[333] Proponents of legalization rightly highlighted failures of past drug policies, which incurred significant costs while achieving little in terms of public safety. Regulation allows governments to re-establish control over an out-of-control market.[334]

These arguments remain valid for legalizing and regulating drugs, but newer legal frameworks emphasize repairing the harms caused by drug prohibition, particularly to targeted racialized communities, and prioritizing equitable market principles.[335]

Of the 24 US states that have regulated cannabis, 15 have included social equity elements in their legislation. States such as Colorado and Washington have amended their laws to incorporate equity principles.[336] This approach features reinvesting tax revenues into communities that have experienced over-policing and overincarceration, providing licensing and job opportunities to individuals with cannabis-related convictions, expunging criminal records, and offering financial and technical assistance to facilitate market participation.[337]

> *Unlike any other state in America, this legislation is intentional about equity. Equity is not a second thought, it's the first one, and it needs to be, because the people who paid the price for this war on drugs have lost so much.*[338]
>
> Crystal D. Peoples-Stokes, Democratic majority leader, New York State Assembly

The monitoring and evaluation of regulated markets against their stated goals is fundamental to the efficacy of any model. In some States, the ambitions of social equity goals have been limited by market realities.[339] A regulated model, however, unlike an illicit one, allows policymakers to amend legislation and guidance to maximize the potential outcomes they seek to achieve.

While US advocates grappled with equity and reparations, Canadian policymakers have expressed regret that their 2018 cannabis regulatory framework did not consider the needs of Indigenous and Black communities. In 2022, the Senate Committee on Indigenous Peoples concluded that "First Nations people have not shared in economic opportunities stemming from the legalization of cannabis after the federal government ignored First Nations' calls for jurisdiction over its possession, sale and distribution".[340] The laws that legalized cannabis in Canada delegated power to provinces to determine their own legal framework, however the laws pertaining to First Nations people and their lands remain under federal control, leaving Indigenous communities in a state of legal limbo.[341]

Canada also retains criminal penalties for possession of cannabis obtained outside of the licit market.[342] Data from the Peel Region found that prior to legalization, Black individuals were 3.4 times more likely to face cannabis possession charges; post-legalization, this figure rose to 4.6 times.[343] This demonstrates the need for governments to ensure that their regulatory models are equitable in practice.

Social clubs (*see page 33*) will inevitably reduce the risks of over-commercialization and contribute to a growing evidence base for best practices. Germany and Malta are adopting the 'social club' model, permitting the cultivation of a specified number of cannabis plants for personal use[344] – this is also a feature of the frameworks in Uruguay,[345] Canada,[346] and many US states.[347] Meanwhile Switzerland and the Netherlands are piloting different models for cannabis production and supply to inform their own legal frameworks.[348]

Lessons learned from jurisdictions that have implemented regulatory models are key for developing frameworks to control not only cannabis but all drugs. Current research has focused on public health outcomes, the impact on the criminal justice system, the effects of the new legal markets on illicit markets, and the effectiveness of social equity aims. Individuals moving from illicit economies into legal markets could help reduce resources available for organized crime and encourage governments and researchers to monitor this transition.

> *One thing is clear: the disproportionate use of criminal penalties and repressive approaches to address the world drug problem is causing far more harm than good. We therefore need a paradigm shift in global drug policy. A more responsible – and humane – regulation of the drug market to eliminate profits from illegal trafficking, criminality and violence. And ultimately, we must remember that at the heart of the world's drug problem lie people. So, at the heart of the laws, policies and practices applied in this area must also be people and their rights, freedoms and dignity.*[349]
>
> Volker Türk, UN High Commissioner for Human Rights, High-Level Side Event: 67th Commission on Narcotic Drugs

## LESSONS TO LEARN FROM CANNABIS LAW REFORM

### Canada [357, 358]
Canada's Cannabis Act initially required applicants for a cannabis retail licence to have 25,000 USD in cash.
Lawmakers have expressed regret that social equity principles did not inform legalization and that, consequently, "First Nations people have not shared in economic opportunities stemming from legalization" (Senate Committee on Indigenous Peoples) .

### Illinois [351, 352]
The Cannabis Regulation and Tax Act 2020 facilitated auto-expungement of criminal records.
By January 2021, almost half a million 'low-level', cannabis criminal records had been expunged.
25% of cannabis tax revenue goes towards restoration projects for marginalized communities and 20% goes towards harm reduction.

### Colorado
Amendment 64 legalized cannabis in November 2012. The arrest rate of white youth for cannabis-related offenses fell by 9% by 2014.
However, for Black and Latino youth, arrests rose by 52% and 22% respectively. They were also more likely to be charged with public cannabis consumption.

### Massachusetts [356]
The Social Equity Program supports racialized people into the cannabis industry.

### New York [355]
40% of tax revenue from legalized cannabis is dedicated to a community reinvestment scheme.

### California [350]
'Auto-expungement' removes cannabis-related criminal records.
The California Community Reinvestment Grants invests cannabis tax revenue into projects for communities targeted by the War on Drugs.

### New Mexico [353]
Cannabis was legalized in 2021.
The Criminal Record Expungement Act automatically expunges certain cannabis offenses two years after an arrest or conviction.

### Virginia [354]
30% of cannabis tax revenue is invested into an equity reinvestment fund.
There are 'social equity' cannabis licences, which prioritise people with cannabis-related criminal records.

### Belize [359]
The Misuse of Drugs (Amendment) Act 2017 facilitated the expungement of cannabis-related possession offenses (if the conviction was no more than 1000 USD).

### Jamaica [360]
The Dangerous Drugs (Amendment) Act allows for the expungement of cannabis-related offenses (if the conviction was no more than a 1000 USD fine).

### South Australia, Australia
Cannabis Expiation Notices, introduced in 1987, created non-criminal response.
However, more people were incarcerated for non-payment of the CEN than were incarcerated for cannabis possession before CENs.
South Autralia later changed the scheme.

Legalization
Decriminalization

# THE WAY FORWARD

*A woman stands in a field of cannabis during the hemp harvest in the Bekaa Valley, Lebanon, 1985.*
*(Based on an original photo by Francoise De Mulder/Roger Viollet)*

- Establish and promote access to high-quality, tailored, integrated harm reduction and drug treatment services on a voluntary basis, both in communities and in deprivation of liberty settings. Core to this is Opioid Agonist Therapy (OAT), including diamorphine as a medication choice, as well as Needle and Syringe Programs (NSPs), naloxone, drug checking, and Overdose Prevention Centers (OPCs), which save lives, support public health and safety, and reduce crime, bloodborne infections and public drug use.

- Fully decriminalize drug use, as well as possession, cultivation, acquisition, and social supply of drugs, and possession of paraphernalia. Expunge the records of those who have been criminalized historically.

- Support and implement "safer supply" models to provide regulated, pharmaceutical-grade drugs to individuals who would otherwise use contaminated or illicit substances, thereby preventing avoidable deaths and overdoses.

- Regulate all drugs. Ensure regulatory models are equitable in practice and dismantle laws that risk criminalizing those communities that have been historically over-criminalized.

- Ensure people who use drugs, other affected groups, and civil society are meaningfully involved in the review, design, implementation, and evaluation of all relevant laws and policies.

- Prioritize social equity models for regulated markets for cannabis and other drugs and consider the increased role of government in the operation of the market, including price controls, to reduce the over-commercialization of the market and the undue influence of private actors, achieving better public health outcomes.

- Challenge misinformation and disinformation on drug use, drug policies, and drug-related harms at the local and national level.

- Adopt housing strategies that support people who use drugs and reduce homelessness. Ensure access to stable and secure housing, regardless of drug use or drug-related convictions, as a fundamental aspect of any national drug policy. Abstinence should not be a condition of housing.

- An effective social safety net addressing wider economic and social needs is vital – this should be underpinned by enforceable legal rights ensuring people who use drugs are treated equally.

- In adopting reforms, governments must adopt an age- and gender-sensitive approach and prioritize those who have been harmed by drug law enforcement. Reforms must protect public health, promote public safety, and uphold human rights.

# RECOMMENDATIONS

### To Governments

Abolish the death penalty for drug offenses, and ensure proportionate resentencing, as a step towards full abolition.

Undertake a comprehensive review of drug control laws and reform the criminal justice system to ensure full compliance with human rights norms and standards, ensuring principles of proportionality, reasonableness, necessity, and non-discrimination are fully respected and upheld. This includes removing judicial corporal punishment; sentences for life without parole; mandatory minimum sentences and presumptions; mandatory pre-trial detention; unreasonably lengthy police or pre-trial detention; racially biased disparities in sentencing; exclusions from alternatives to incarceration, amnesties, and benefits including eligibility for parole and early release; and the end of the compulsory registration of people who use drugs.

Respect and uphold all fair trial guarantees in drug-related cases and ensure that people accused of drug offenses can benefit from the application of suspended sentences or other benefits of sentence reduction available for other types of offenses.

Immediately close compulsory drug detention centers and ensure drug treatment, either in public or private facilities, is never imposed by courts, is voluntary, is only administered by specialist medical staff, and is evidence-informed and community-based. People detained in such centers must be immediately released with sufficient provisions of health and social services available to them, as required.

Promote alternatives to incarceration for individuals charged with minor drug offenses and/or in situations of vulnerability. Ensure that persons deprived of liberty have access to quality, tailored harm reduction and drug treatment services on a voluntary basis and in full confidentiality, as well as to essential health services. Services should be at least of the same quality as those available in the community, and continuum of care should be guaranteed.

Discontinue all special courts that have the power to mandate drug treatment, including drug courts or other diversion programs, as they inherently coerce individuals into undergoing medical treatment. The threat of imprisonment must never be used to coercively influence an individual into drug treatment.

Divest from ineffective and harmful drug control policies and practices both domestically and internationally. Allocate adequate funding to harm reduction and other health services, as well as to social services, with ring-fenced funding for community-led services.

Ensure that funding, technical cooperation, and assistance to anti-drug operations, including those provided through UNODC, does not contribute, or risk contributing, to human rights violations such as the imposition of the death penalty, corporal punishment, or arbitrary detention; including by improving transparency on funding and on assessment processes. When the risk of complicity in violations arises, any cooperation should be immediately suspended.

Abolish laws that restrict the collection of demographic data so that the disproportionate impact of punitive drug laws on specific communities can be identified and addressed, and that the impact of any reforms is equitable.

Regularly collect and publish updated, comprehensive data on drug-related law enforcement measures (including warrantless stop and search, arrest, conviction, and incarceration) disaggregated by race, ethnicity, gender, and age, among others.

### To the United Nations System

Support government actors in considering, adopting, and implementing drug policy reforms fully consistent with human rights, health, and development, including through technical assistance from relevant agencies in partnership with civil society.

Ensure funding is reserved for activities which are fully aligned with human rights standards, and do not risk contributing to human rights violations, such as the imposition of the death penalty, corporal punishment, or arbitrary detention; including by improving transparency on funding and on assessment processes.

Ensure the UN system 'speaks in one voice' that is anchored in human rights and harm reduction, and that different agencies and mechanisms provide clear and consistent guidance on drug policy and criminal justice system reform.

Strengthen and further develop adequate mechanisms to monitor the implementation of drug control laws, policies and practices and ensure their consistency with international human rights law and standards and provide effective remedies when this is not the case.

### To Civil Society

Place people who use drugs at the center, ensuring their leadership in promoting, implementing, monitoring, and evaluating drug policy reform that is equitable, just, and effective.

Reach out to organizations and groups working on issues adjacent to drug policies, such as those representing groups disproportionally impacted by punitive drug policies and the criminal justice system, to build a diverse, inclusive, and comprehensive movement.

Housing organizations and harm reduction groups should work together to ensure that policies for hostels and social housing provision support people who use drugs, reducing the risk of eviction.

### To the Research Community

Further analyze the role of technological tools adopted for crime prevention and drug law enforcement, with specific attention to its compatibility with human rights norms and standards and the risk of exacerbating the discriminatory implementation of criminal law.

Collect disaggregated data and report on the impact of decriminalization and legalization processes on the human rights and health of people who use drugs, on the availability and quality of health and social services, and on the criminal justice system, with a specific focus on racial and ethnic minority groups, women, and other affected groups.

Ensure people who are drug-involved are centered in research as equal and active participants.

# GLOSSARY

**Abstinence-based treatment:** treatment programs that require someone to stop using drugs and alcohol entirely. Abstinence-based treatment often describes approaches that do not utilize Opioid Agonist Therapy options, such as methadone or buprenorphine.

**Arbitrary detention:** deprivation of liberty with no justifiable legal basis, where it is disproportionate, unnecessary or unreasonable, or otherwise incompatible with international standards.

**Buprenorphine:** a synthetic opioid that is a commonly prescribed Opioid Agonist Therapy. It is often prescribed as a sublingual tablet or depot injection.

**Cannabis Social Club models:** this involves non-profit cooperatives where members cultivate, share, and use cannabis. They are also referred to as cannabis associations or consumption clubs.

**Compulsory drug detention and rehabilitation centers:** detention centers, established across the world, which require people accused of drug use or dependency to enter involuntary treatment, often at the order of law enforcement or the judiciary. These centers typically involve abstinence-based treatment.

**Decriminalization:** this typically refers to removing criminal penalties for certain drug-related behaviors, such as possession, social supply, or cultivation (typically of cannabis). It does not usually involve regulation of the drug supply.

**Drug checking:** a harm reduction intervention that allows people to check the contents and purity of their own drugs. Common drug checking tools include rapid response fentanyl test strips and nitazenes test strips. It may also involve more sophisticated laboratory testing that can give someone more detailed information about their drugs.

**Drug Consumption Room (DCR):** also referred to as 'Overdose Prevention Centers' (OPC) or 'Safer Consumption Rooms' (SCR). DCRs are a harm reduction intervention involving supervised healthcare facilities in which people can come to use drugs, such as heroin, safely and can usually get access or signposted to other support services.

**Drug dependency:** mental or physical dependence on a drug that means that removal or reduction of the drug can lead to mental and physical difficulties and withdrawal.

**Drug offences:** activities related to drug use and trafficking that are criminalized. The main offences are cultivation, production, importation and exportation, supply, and possession.

**Drug testing:** this refers to taking biological samples, such as blood, urine, saliva, and hair, to test for and identify the presence of drugs or drug metabolites. It is commonly used by social services, law enforcement, and in judicial proceedings.

**Expungement of criminal records:** the removal of a criminal offence, for which someone was previously convicted, from someone's official criminal record. Expungement of criminal records is an essential social equity principle of drug law reform and is currently a feature of some cannabis decriminalization and legalization frameworks.

**Harm Reduction:** refers to policies, programs and practices that aim to minimize the negative health, social and legal impacts associated with drug use, drug policies and drug laws.[361] Harm reduction is grounded in justice and human rights.

**Heroin-Assisted Treatment (HAT):** the prescribing of pharmaceutical heroin (diamorphine) to people who are dependent on heroin, allowing those people to use heroin safely.

**Housing First:** a set of principles that amounts to the provision of unconditional housing, for example housing that does not require abstinence from drugs or hostels that do not evict people for drug use.

**Injecting drug use:** a common form of drug administration that may involve someone injecting either intravenously, subcutaneously, or intramuscularly, depending on the drug used. Drugs that are most frequently injected are heroin, cocaine, crystal meth, and ketamine.

**Legalization:** the regulation of the drug supply chain.

**Methadone:** the most prescribed Opioid Agonist Therapy. It is prescribed as a liquid or tablets and, much more rarely, as an injectable preparation.

**Naloxone:** an opioid antagonist that can rapidly reverse an opioid overdose. It comes in injectable and intranasal forms.

**Needle and Syringe Programs (NSP):** a harm reduction intervention that provides people with sterile needles, syringes, and sharps bins. NSPs may also supply naloxone, aluminum foil for smoking, cookers, sterile swabs, drug checking strips, and sachets of citric acid and Vitamin C for dissolving and injecting brown heroin or crack cocaine.

**Net-widening:** this term describes the phenomenon whereby a criminal reform, including decriminalization models, increase police and criminal justice interactions with the population. An example is when, after criminal sanctions for drug possession are replaced with administrative sanctions, more people end up being fined than were previously criminally sanctioned.

**Non-injecting drug use:** other forms of drug administration, such as snorting or ingesting.

**Paraphernalia:** equipment or accessories used for administering or preparing drugs. It can include needles, syringes, pipes, snorting equipment such as straws, foil, and grinders. Some jurisdictions criminalize the possession of paraphernalia.

**Peer-distributed naloxone:** projects that see people with living experience of drug use leading projects to distribute naloxone. Peer-led harm reduction projects, such as naloxone distribution, may be coordinated by drug user unions or other community-led services.

**Safe smoking kits:** a harm reduction tool that leads to safer smoking practices, particularly for smoking crack cocaine, by supplying glass pipes, cleaning wet wipes, and plastic mouth pieces that can reduce Bloodborne Virus (BBV) transmission.

**Safer supply:** a harm reduction intervention that prescribes alternatives to illicit substances, providing regulated, pharmaceutical-grade drugs to people at risk of overdose. It is typically distinguished from OAT because safer supply projects are more commonly community-led and / or focused on preventing overdoses rather than treatment.

**Simple drug possession:** possession of controlled drugs for personal use. This is the activity for which most decriminalization models remove criminal penalties.

**Social supply of drugs:** supply without remuneration, meaning giving and sharing drugs without making a profit and typically between groups of people, such as friends and family.

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Drug Policy Alliance (USA) www.drugpolicy.org (and see Uprooting the Drug War: https://uprootingthedrugwar.org/

The Eastern and Southern Africa Commission on Drugs (ESACD) www.globalinitiative.net/analysis/eastern-southern-africa-commission-drugs-esacd/

The Eastern and Central European and Central Asian Commission on Drug Policy (ECECACD) https://ececacd.org/

European Union Drugs Agency (EUDA) EUDA home page | www.euda.europa.eu

Global Commission on Drug Policy www.globalcommissionondrugs.org

Global Commission on HIV and the Law (convened by UNDP) www.hivlawcommission.org

Harm Reduction International www.hri.global (See also: www.investinjustice.net/)

Igarapé Institute www.igarape.org.br

Intercambios www.intercambios.org.ar

International Drug Policy Consortium www.idpc.net

International Network of People who use Drugs www.inpud.net

Release www.release.org.uk

Talking Drugs www.talkingdrugs.org

Transform Drug Policy Foundation www.tdpf.org.uk

Transnational Institute; drug law reform resources www.druglawreform.info

UN Office on Drugs and Crime www.unodc.org

Washington Office on Latin America - Drug Policy program www.wola.org/program/drug_policy

West Africa Commission on Drugs www.wacommissionondrugs.org

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GLOBAL
COMMISSION ON
DRUG POLICY

## GLOBAL COMMISSION ON DRUG POLICY

The purpose of the Global Commission on Drug Policy is to bring to the international level an informed, science-based discussion about humane and effective ways to reduce the harms caused by drugs and drug control policies to people and societies.

## GOALS

- Review the base assumptions, effectiveness and consequences of the "war on drugs" approach
- Evaluate the risks and benefits of different national responses to the drug problem
- Develop actionable, evidence-based recommendations for constructive legal and policy reform