

Introduction

THE LEGAL REGULATION OF DRUGS: The potential to deliver global justice



After six decades as a catalyst for profound harm, drug prohibition is ending. Over 60 years ago, the UN Single Convention on Narcotic Drugs made the non-medical and non-scientific use of certain drugs illegal, igniting a cascade of health, social and economic injustices.

Despite its stated aim to protect people, prohibition is responsible for extensive health harms and death. More people use illegal drugs (an estimated 296 million in 2021¹) and experience greater related harms and deaths² than at any other time.³ Prohibition has been used as justification to persecute and terrorise particular groups of people – especially Black and Indigenous – undermine entire states, and divert vast public resources away from the health of people and the planet.

Prohibition is far more than a policy about prohibiting certain plants and chemicals. It is the creator of an entire shadow economy that undermines – and often captures – the roles of state. Just as free market capitalism empowers and enriches the shareholders of big corporations, with policies enabling wealthy people and countries to control resources, exploit workers and grow rich from the poorest, prohibition operates similarly. But its impacts are much more severe because it is unseen, untaxed and entirely unregulated. This shadow system has empowered and enriched organised criminal groups, diverted public policy and money away from people and public services to fighting a war against the poorest, and destabilised entire states to the point of dysfunction.



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Prohibition has also explicitly enabled the enactment of racist and neo colonial policies with Indigenous people, Black people and minority groups disproportionately suffering the ruinous effects of prohibition's enforcement.⁴

The possibilities

Today, people from heads of state to UN High Commissioners are finally recognising the devastating effects of prohibition and calling for its end. Parliaments, governments and civil society around the world are designing and debating reforms that will take the power away from organised

crime, end prohibition and introduce alternatives such as harm reduction, decriminalisation and legal regulation to serve the public good.

Over 100 countries now have harm reduction policies and 30 countries, or 51 jurisdictions, have some form of drug decriminalisation.⁵ More than half a billion people will soon live in jurisdictions where cannabis is legal. Legal regulation, not only of cannabis but cocaine, psychedelics, ketamine and MDMA/ecstasy is being discussed right now in various countries. Prohibition is ending. What comes next is to be determined. The window of opportunity to design regulations for social good is now.

LEGAL ECONOMIES: mechanisms to control and mitigate harm (though not always used or weakly enforced)	ILLEGAL ECONOMIES: no controls or mechanisms to reduce harm
 <p>Banking and financial regulation</p>	 <p>Money laundering</p>
 <p>Taxation for public services and infrastructure</p>	 <p>Zero public finance raised from profit driven trade</p>
 <p>Environmental safeguards</p>	 <p>Pollution, deforestation, uncontrolled fossil fuel consumption, environmental exploitation and destruction</p>
 <p>Labour rights Child rights</p>	 <p>Labour abuses, trafficking, exploitation and slavery Abuse, trafficking, exploitation and slavery of minors</p>
 <p>Governance and democratic systems of accountability</p>	 <p>Corruption, organised crime groups and state capture</p>
 <p>Civilian checks and balances</p>	 <p>Impunity and violence</p>
 <p>Law enforcement and judicial systems to challenge and uphold regulation</p>	 <p>Impunity and violence</p>

Definitions

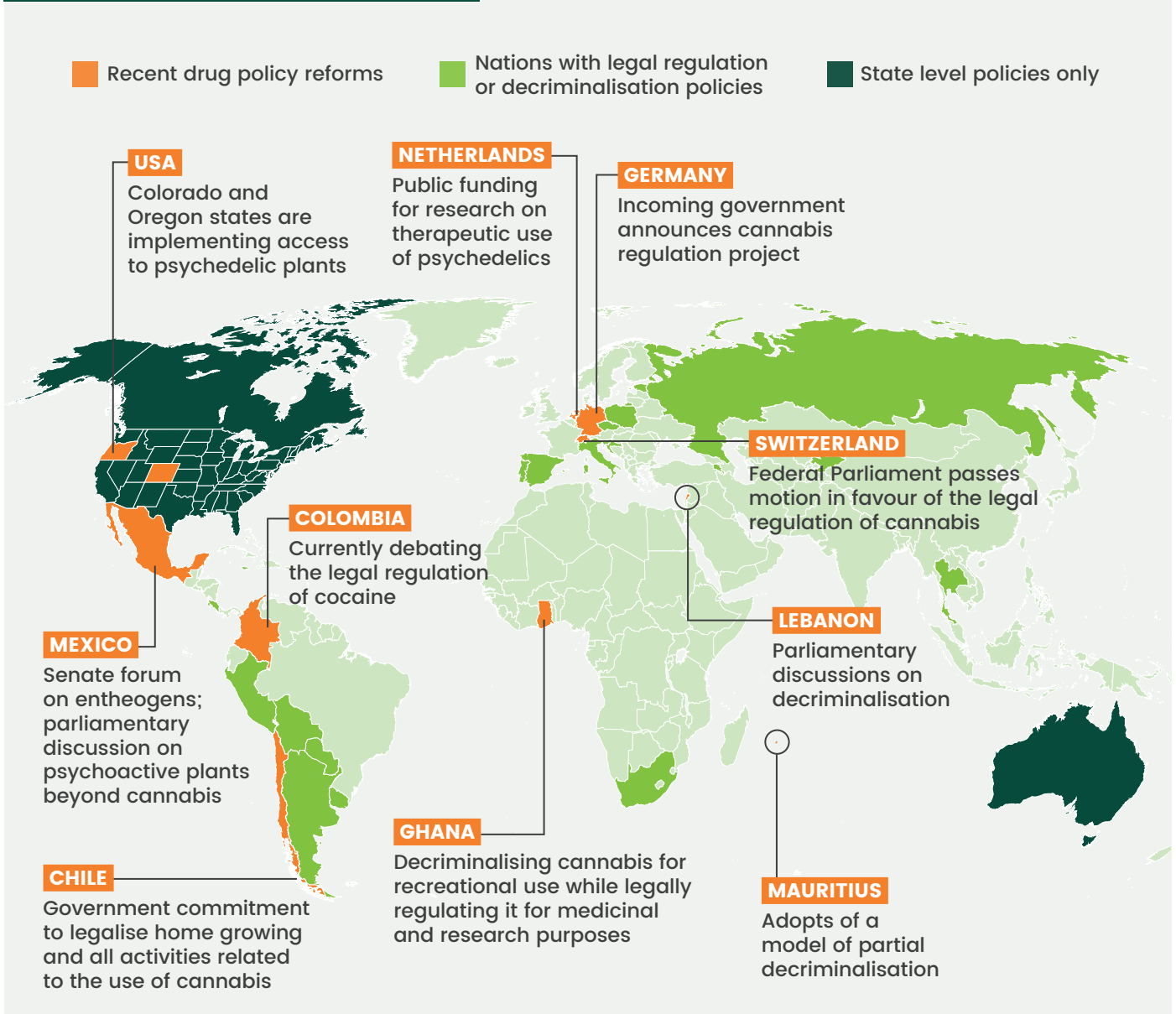
Decriminalisation: The removal of criminal penalties for certain drug related activities. The drug supply chain remains unregulated.

Legal regulation: Drugs and related activities are legalised and subject to regulations, bringing them under state control. These may include how they are grown, produced, supplied, their contents, use (e.g. medical or recreational); how they are sold and taxed and by whom they can be accessed. Other stimulants commonly legal and regulated include coffee, tobacco and alcohol.

Transitional justice refers to societal level responses to legacies of serious conflict, abuse and human rights violations. It requires acknowledging the truth about the events that have occurred, bringing perpetrators to justice, providing reparations for victims, preserving the collective memory of the violations and guarantees of non-repetition. We use the term throughout these briefings to recognise the systemic violations of human rights perpetrated both under prohibition and all the policy areas discussed and our belief that transitional justice provides a framework through which drug reforms can contribute to better, stronger and more equal societies.

Change is happening

Recent examples of global drug policy reforms from 2023



All examples are from the [International Drug Policy Consortium \(IDPC\) Progress Report, December 2023](#)

The end of prohibition presents an unprecedented opportunity to think beyond the confines of neoliberal capitalism and envision and enact a new way of trading that learns from the mistakes of the current system. By bringing a large and profitable industry⁶ out of the shadows and into the realm of legal accountability, we can craft new regulatory frameworks from the ground up – as countries from Germany to Ghana are doing right now.

Instead of moving drugs from the illicit to licit markets in a way that replicates current harms, we can seize this opportunity to imagine a new way of trading and reconfigure one of the world's major illegal trades to prioritise public health, equity and the planet.

Examples of drug policy reforms for social justice

Various drug reforms have explicitly set out to rectify the harms of prohibition and promote social justice. Whilst not all have achieved their aims, the following are just a few examples that we can learn from.

USA: Recognising the racist history of prohibition, various US states have implemented social equity clauses that support disproportionately impacted communities into legal cannabis markets. Whilst these have had varying degrees of success, strong advocacy in the city of **Detroit** ensured that its reforms reflected the city's history of race and inequity. 50 percent of business licences went to longtime Detroit residents who qualify for redacted fees and can buy city owned properties at substantially reduced rates.⁷ Thanks to powerful advocacy **New York State's** cannabis regulation provides expungements for those previously criminalised. It invests 40 percent of the tax revenue from cannabis into communities that were most harmed by prohibition, 40 percent into education, and 20 percent into substance abuse and mental health services.

BOLIVIA: Bolivia's Community Coca Control policy allows small farmers to grow small amounts of coca for local markets. Coca has also been decriminalised whilst the country has requested the WHO reassess the classification of coca under drug control treaties.⁸ These policies recognise the importance of coca for Indigenous communities and the need to prioritise local leadership and protection for the environment.

SPAIN: Spain's cannabis social clubs operate on a not-for-profit model. Members can cultivate and consume cannabis for personal use paying fees to the club in exchange for "cannabis dividends" for use within the club.

JAMAICA: Cannabis or Ganja has important social and cultural significance to the Rastafarian community. In 2015 Jamaica legalised the production and sale of cannabis for medical use and decriminalised home cultivation and consumption for personal use, reversing decades of criminalisation and persecution. The government implemented various reforms to explicitly rectify the harms suffered by the Rastafarian community under prohibition. These include a tiered licensing system to support transitional Ganja growers and reduce barriers to the market, and later special permits. However other requirements such as expensive security measures, land titles and access to funds have led some people to feel the Jamaican state and middle class have benefited more than traditional Ganja growers.⁹





Different models of regulation

Regulation takes the control of drugs away from organised crime and brings it under state control. There are a range of options for what that could look like. Transform Drug Policy has looked extensively at regulation for public health. It has identified five types of regulation ranging from stringent to more liberal.¹⁰

Prescription: drugs are only available on prescription equivalent to current models for medical drugs.

Pharmacy sales: drugs are available through prescription or over the counter.

Licensed sales: licences are given to certain vendors to sell specific drugs under certain conditions.

Licensed premises: vendors would be licensed to manage premises where drugs would be sold and consumed, similar to public houses and bars.

Unlicensed sales: drugs are included under food and beverage legislation.

Economic models to support what matters

It is possible to craft policies that prioritise genuine wellbeing – both physical and psychological – fostering strong relationships and enabling community contributions. *Buen Vivir* or *Sumak Kawsay*, meaning “good life” or “Life in Full,” is a holistic concept rooted in some Indigenous cultures. It emphasises harmony with the environment and social relationships as essential for healthy lives, advocating for a collective lifestyle that integrates physical, mental, emotional, and spiritual health. Similarly, concepts like Donut Economics and De-growth are gaining traction. These frameworks envision an economy designed to support human and planetary health and well-being, rather than the relentless pursuit of profit for its own sake.

Transitional justice for a legal drug trade – key principles

Whatever and however regulation is enacted, it must at minimum, be based on the principle of transitional justice. This means it must be explicit in its aim to right the wrongs of prohibition, both for those who have been directly harmed – such as small-scale farmers and people criminalised, incarcerated and persecuted – and victims of the wider conflict and chaos created by prohibition.

Because of prohibition, a large proportion of the world lives in countries that are afflicted by severe poverty, undermined by organised crime, and where people are denied access to healthcare and other public services. Reforms must be built on an understanding of the specific ways in which prohibition has furthered racism and neo-colonialism in each context and be crafted with the explicit recognition of the need to right these wrongs.

This collection of briefings builds on a series of international thematic webinars and civil society meetings held in 2020 called 'A World With Drugs'. A range of people with direct experience of the effects of prohibition along with experts from both the drug policy reform and social justice sectors, including human rights, international development, trade, tax and environmental justice, explored the impact of the legal regulation of drugs in those areas. These papers set out some basic principles for how drug reforms can contribute to achieving justice in a range of key areas critical to social and economic justice. It is a contribution to the dynamic conversation about how to reform drug policy for public health, global equity and the planet.

What comes next? Let's shape it.

Drug reforms are happening now.
Is this on your agenda?

Contact c.james@healthpovertyaction.org for information about upcoming events and how to contribute to the ongoing conversation to ensure drug reforms deliver for the health of people and the planet.

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Cover image: 'The war on drugs kills poor people every day'. Marijuana March, Niterói, Brazil, June 2016. Mídia NINJA CC: BY-SA 3.0

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Endnotes

1. UNODC World Drug Report 2023 [unodc.org/res/WDR-2023/WDR23_Exsum_fin_DP.pdf](https://www.unodc.org/res/WDR-2023/WDR23_Exsum_fin_DP.pdf)
2. *ibid*
3. UNODC World Drug Report, Special Points [WDR2023_web_DP.pdf](https://www.unodc.org/res/WDR2023_web_DP.pdf) (unodc.org)
4. *The War on Drugs and the Global Colour Line* (plutobooks.com)
5. "What Is Harm Reduction?," *Harm Reduction International*, 2022, <https://hri.global/what-is-harm-reduction/>; "Drug Decriminalisation across the World," *Talking Drugs*, <https://www.talkingdrugs.org/drug-decriminalisation/>
6. Due to its illicit nature the value of the drug trade is difficult to assess and estimates vary, but is significant.
7. "Bounded Equity: The Limits of Economic Models of Social Justice in Cannabis Legislation" – Katherine Hendy, Amanda I. Mauri, Melissa Creary, 2023 ([sagepub.com](https://www.sagepub.com))
8. *Coca Chronicles: Bolivia Challenges UN Coca Leaf Ban* – WOLA
9. *Towards social justice and economic empowerment? Exploring Jamaica's progress with implementing cannabis law reform* ([researchgate.net](https://www.researchgate.net))
10. *Legal regulation, Transform* ([transformdrugs.org](https://www.transformdrugs.org))



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