



Decriminalisation of People Who Use Drugs: A Guide for Advocacy

It is time to end the criminalisation
and punishment of people who
use drugs.



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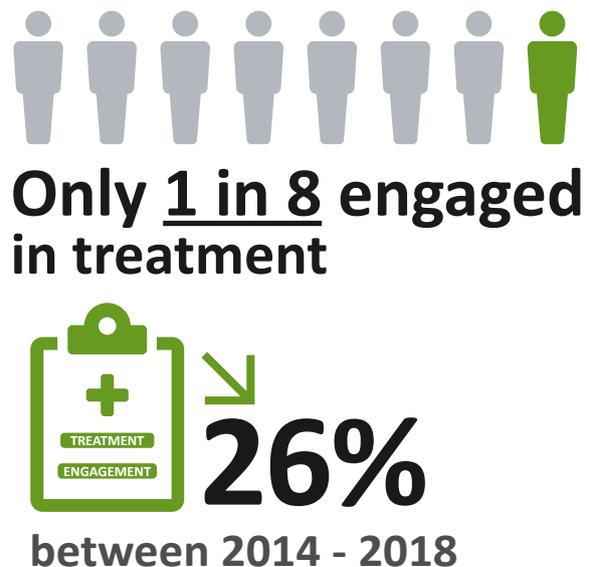
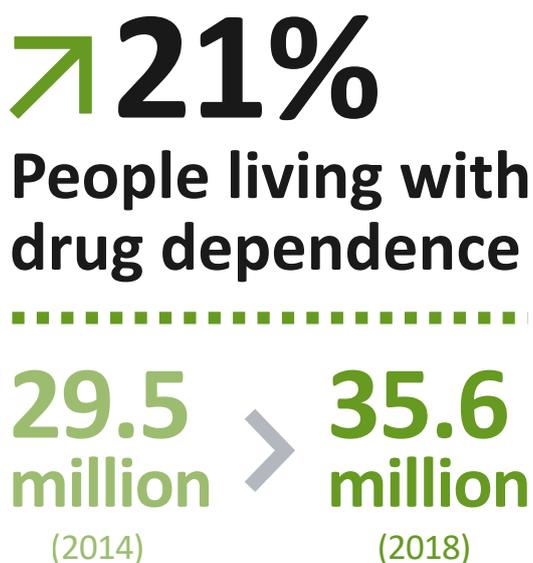
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Introduction: the need for decriminalisation

Around the world, governments use criminal justice systems to respond to complex issues in society that often have roots in poverty, trauma, racism and other forms of discrimination and inequality. In most countries, drug laws stand out for their strict enforcement, imposition of harsh punishment, disproportionate sentences, and stigmatising and discriminatory impacts.

The criminalisation of people who use drugs is often driven by the goal of a 'society free of drugs', and has been central to the policies and rhetoric of the 'war on drugs'. Yet governments that have adopted punitive drug policies and campaigns have failed to eradicate drug use and dependence, and such policies have had disastrous consequences. The results are seen in overcrowded prisons; the continued existence of detention centres (including those in the guise of 'drug rehabilitation'); the exacerbation of poverty for affected communities; inadequate and underfunded health and social support services as resources flow to punishment and policing; stigma, marginalisation and demonisation of people who use drugs, which poses obstacles to accessing the support and services they might need, including healthcare, education, housing and employment; and increased incidence of preventable adverse health consequences, including overdose deaths and high prevalence of HIV, viral hepatitis and tuberculosis.

In 2021, a report by the International Drug Policy Consortium highlighted UN data showing the serious lack of drug treatment services:



Source: International Drug Policy Consortium (2021), *Taking stock of half a decade of drug policy: An evaluation of UNGASS implementation*, http://files.idpc.net/library/UNGASS_5y_Review.pdf

The 'war on drugs' has disproportionately impacted people who are already marginalised, including people living in poverty, women, people of African descent, Indigenous peoples, young people, and other communities who are marginalised because of immigration status, gender identity, sexual orientation, ethnicity or race.

In this Guide, decriminalisation is defined as the removal of all sanctions for drug use and activities relating to personal use: possession, acquisition, purchase, cultivation and possession of drug use paraphernalia. Governments, civil society groups, networks of people who use drugs and academics around the world increasingly acknowledge the need to reform drug policies to decriminalise drug use and the possession of drugs for personal use. The entire UN system has now come together to recommend decriminalisation, with many positive statements also made by other international bodies.

High-level support for decriminalisation



“Eliminating the barriers to equitable programme coverage among the most marginalized communities will require countries to recognize and address overlapping vulnerabilities...Law and policy reforms, including decriminalization of key populations, will be essential.” [UNAIDS, Global AIDS Strategy, 2021 - 2026.](#)



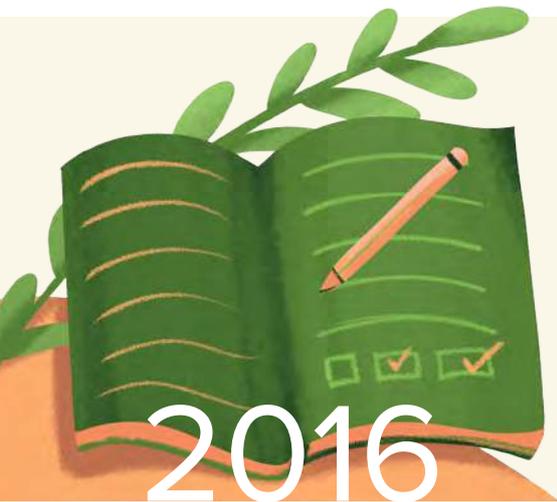
“The review and revision of laws and policies can facilitate access to services and decrease HIV and HCV vulnerability. This includes efforts to decriminalize drug consumption and possession for personal use, as recommended by UNAIDS and WHO. This kind of drug policy reform can help create an enabling environment for large-scale and effective HIV and HCV programming, improve health and reduce transmission of infectious diseases such as HIV, and reduce prison populations and the misuse of law-enforcement resources.” [Global Fund to Fight AIDS, Tuberculosis and Malaria, Harm reduction for people who use drugs, March 2020.](#)



The 31 entities of the United Nations system, including the UN Office on Drugs and Crime (UNODC) and the Office of the High Commissioner for Human Rights (OHCHR), agreed to “promote alternatives to conviction and punishment in appropriate cases, including the decriminalisation of drug possession for personal use” when they adopted the [United Nations System Common Position Supporting the Implementation of the International Drug Control Policy Through Effective Inter-agency Collaboration in 2018.](#)



“The Conventions do not automatically require the imposition of conviction and punishment for drug-related offences, including those involving the possession, purchase or cultivation of illicit drugs, in appropriate cases of a minor nature or when committed by drug users.” [International Narcotics Control Board, INCB Alerts, Application of principle of proportionality for drug-related offences \(April 2017\).](#)



“Encourage the development, adoption and implementation...of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature...and taking into account, as appropriate, relevant United Nations standards and rules, such as the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules)”

Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem (Para 4 j.)



“The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.” United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance, 1988, Article 3, Para 4 (d). (Paragraph 2 of Article 3 refers to the possession, purchase or cultivation of controlled substances. For more detailed discussion, see page 41, [A public health approach to drug use in Asia: Principles and practices for decriminalisation, 2016.](#))

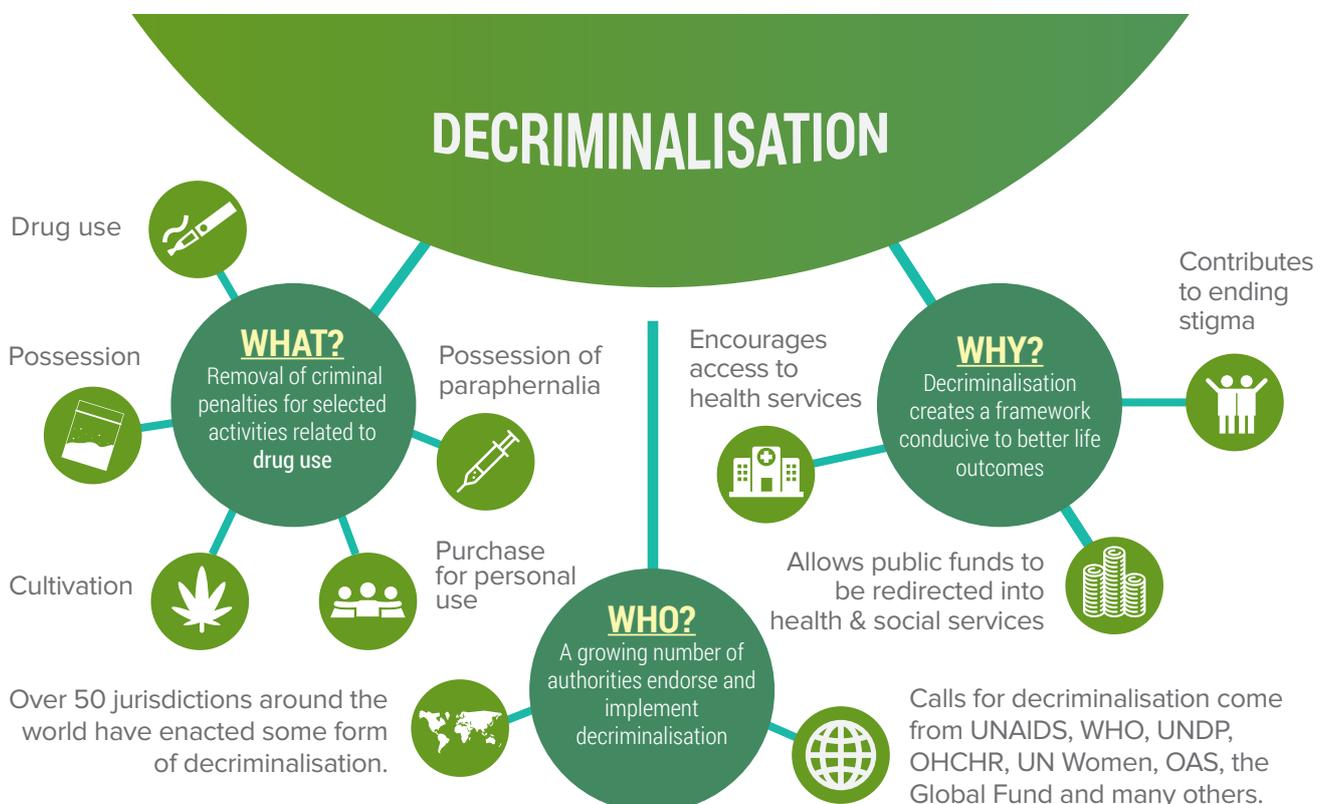
This Guide for Advocacy is intended to be a user-friendly resource for people from all sectors who wish to understand the key objectives, principles and concepts relating to decriminalisation of drug use and how to advocate for it. Through three stages – Know it, Show it, Grow it – it outlines practical steps for developing strategies to advocate for decriminalisation, and offers tools that can be adapted and applied to plant the seeds for cultivating healthy, safe and inclusive communities.

KNOW IT

In the 'Know it' section, you will see the 'gold standard' definition of decriminalisation according to the International Drug Policy Consortium and the reasons for it. This section also outlines the positive outcomes, and the key objectives and principles, to aim for with decriminalisation.

A. What is decriminalisation?

At least 30 countries (and over 50 local jurisdictions) have implemented some form of decriminalisation, and each model is different. For the International Drug Policy Consortium, the gold standard of decriminalisation is removing all sanctions for the use of all controlled substances (those restricted by the international and national drug control regimes) and related activities, and achieving improved outcomes for public health and human rights - this is the definition of decriminalisation that will be used throughout this Guide. The infographic below provides a summary of the definition and reasons for decriminalisation.



Source: International Drug Policy Consortium (2016), *IDPC Drug Policy Guide 3rd edition*, <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition>

The Gold Standard of Decriminalisation includes 6 key elements:



The removal of all sanctions (whether criminal, civil or administrative) for drug use and all connected activities, such as acquisition, cultivation, purchase and possession of drugs or equipment for personal use, for all substances.



The promotion of voluntary access to drug dependence treatment, harm reduction and/or other health and social services for people who use drugs.



The meaningful involvement of people who use drugs in each step of the development and implementation of decriminalisation, taking into account the diverse and intersectional nature of communities (i.e. in terms of race, ethnicity, socio-economic status, gender, sexuality and age).



The expungement of, and reparations for, all previous convictions and criminal sanctions for drug use and connected activities, upon decriminalisation.



Comprehensive training, sensitisation and awareness raising among relevant public authorities to ensure the effective implementation and adherence to the new decriminalisation policy.



The redirection of resources from criminal and law enforcement responses towards services and programmes based on health and human rights



In parallel with the removal of sanctions, adequate pathways need to be established to facilitate access to a range of drug treatment, harm reduction and other health and social services (e.g. assistance with employment, housing, and education), in accordance with the needs of each individual and on a voluntary basis. Where such services are not available, investments need to be made to ensure provision of harm reduction and drug treatment service options in order for decriminalisation to achieve positive health outcomes.

The inability to complete a drug treatment programme, or continuation or relapse in drug use, must not lead to criminal or other sanctions. Access to services should not be conditional on entering a guilty plea, abstinence, or any change in drug use patterns, as that would defeat the purpose of ending criminalisation and punishment.

Decriminalisation is different from depenalisation or legal regulation



Depenalisation

Drug use and possession for personal use remain a criminal offence but legislative reform or other policies provide for reduced penalties, such as reduced term of imprisonment or alternative criminal sanctions to imprisonment.

*Note: In some languages, such as Spanish and French, the word 'decriminalisation' in English is often translated as 'despenalización' and 'dépénalisation' respectively. This is different from the concept of 'depenalisation' as described above.

Decriminalisation

Drug use and possession for personal use are no longer criminal offences. While the IDPC Gold Standard advocates the removal of all kind of sanctions, in some countries criminal penalties are replaced by other non-criminal sanctions.

Legal regulation

All activities related to cultivation, production, sale, possession and use of selected drugs are legal. Governments may choose to adopt laws and policies to regulate these activities, including limitations on availability, advertising, production and access.

Source: International Drug Policy Consortium (2016), *IDPC Drug Policy Guide 3rd Edition*, <https://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition> & Drug Policy Alliance, <https://drugpolicy.org/decrim>

Decriminalisation processes can be *de facto* (informally applied in practice) or *de jure* (formally passed into law and/or regulations):



De facto

Drug use and related activities remain a criminal offence in legislation, but in practice, not enforced.

For example, the **Netherlands**.



De jure

Decriminalisation is adopted through a legislative process, e.g. repeal of provisions in the existing drug law or the enactment of new legal provisions, or through a judicial decision by a court.

For example, **Czechia**.

B. Why must we end the criminalisation and punishment of people who use drugs?

The consequences of criminalising and punishing people who use drugs are devastating, especially for people who are in situations of vulnerability, e.g. due to poverty or marginalisation from racial and gender-based discrimination. The impacts of a criminal record are life-long and pose significant barriers to accessing education, employment, housing, banking services and even getting the right to vote or a driver's license.

“I believe that drugs have destroyed many lives, but wrong government policies have destroyed many more. A criminal record for a young person for a minor drug offence can be a far greater threat to their wellbeing than occasional drug use.”

Kofi Annan, former UN Secretary General, in a speech at the 68th World Health Assembly, 19 May 2015





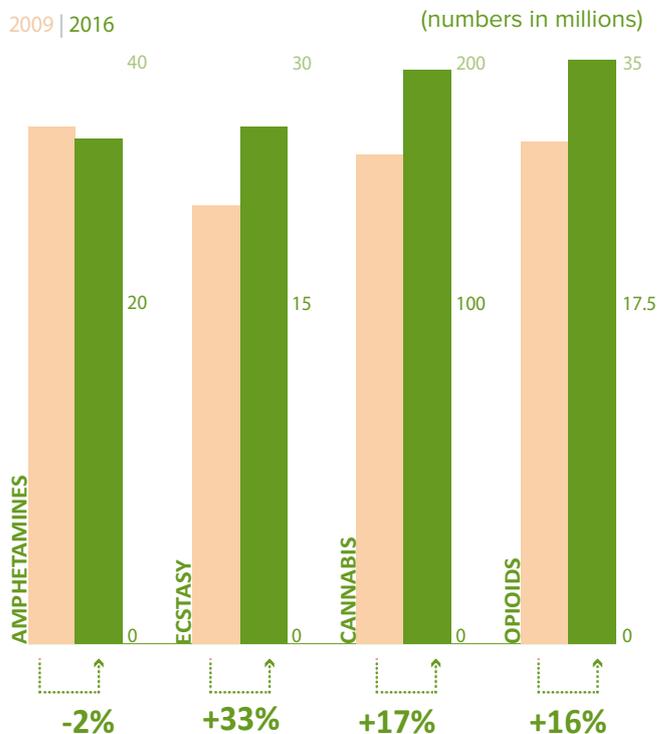
Drug policies that criminalise people who use drugs do not work

“if your son or daughter is unlucky enough to get caught on a drug charge, they will be allowed no second chances. They are likely to be criminalised, and can end up in prison even for a first offence... Prison can be very brutalising, and is the wrong place for most people...The profound after-effects are there and none of our family will ever fully recover.”

Hope and Mick, whose son James went to prison for using drugs and social sharing of drugs in the UK, <https://anyoneschild.org/hope-and-mick/>

Around the world, governments have not been able to achieve the ‘drug-free’ goals they set for themselves. In 2018, when assessing the impacts of a decade of drug policy, IDPC noted significant increases in both drug supply and demand, alongside worsening trends in the health risks connected with drug use. The increasing range of drugs consumed and the growing number of people who use drugs show that imposing sanctions does not deter the use of drugs but instead exacerbates health harms, social exclusion and marginalisation. Throughout history, people from different cultures and countries around the world have used many now-prohibited drugs for religious, traditional, recreational and medical purposes, and continue to do so today.

Increase in Demand for Illegal Drugs



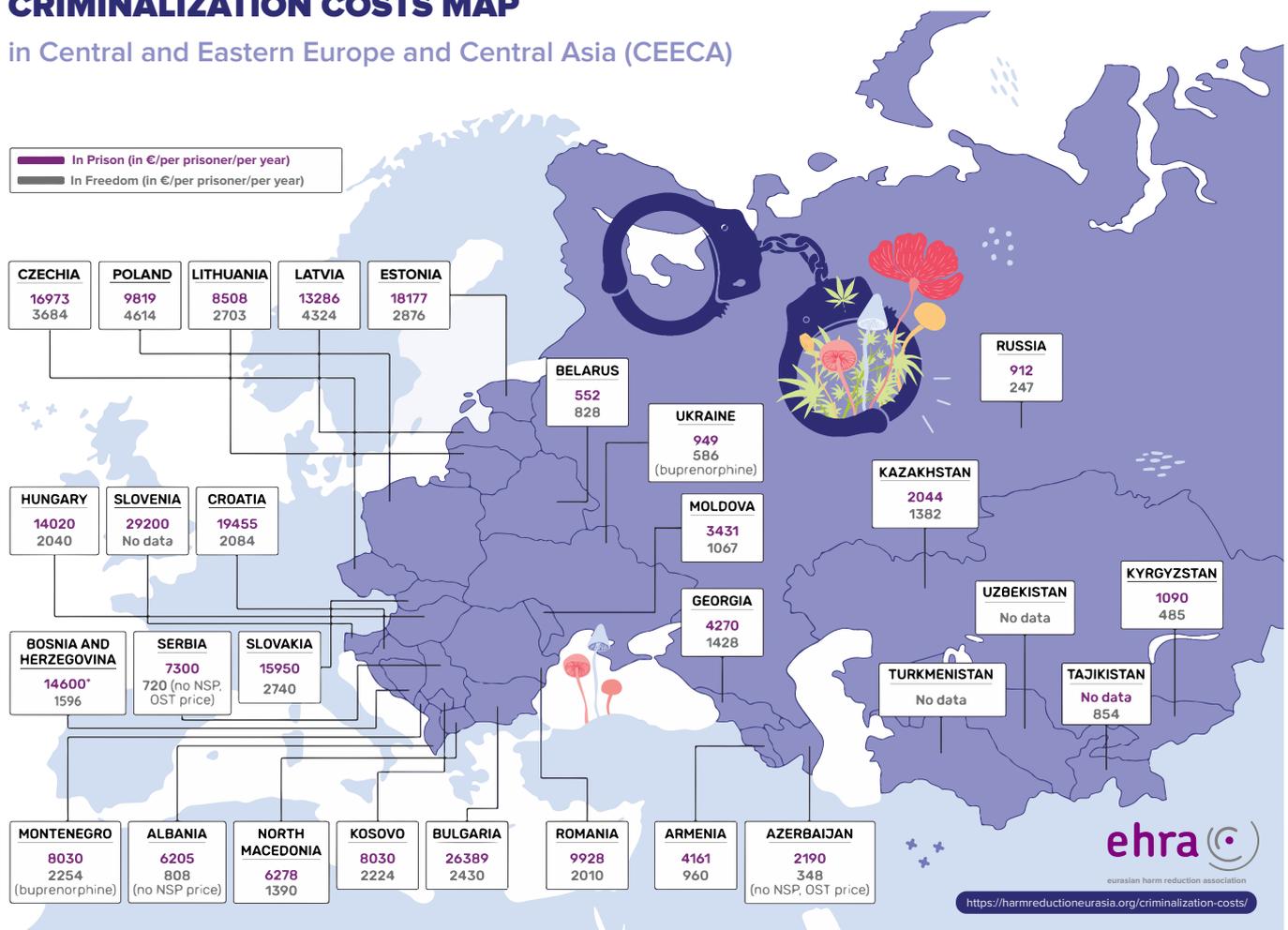
Source: International Drug Policy (2018), *Taking Stock: A decade of drug policy- A civil society shadow report*, <https://idpc.net/publications/2018/10/taking-stock-a-decade-of-drug-policy-a-civil-society-shadow-report>

Criminalisation is ineffective, damaging and costly

Criminalising people who use drugs has resulted in disproportionate investments in law enforcement and criminal justice at the expense of health and harm reduction services and social support. Research by the Eurasian Harm Reduction Association, as presented in the **Criminalization Costs Map** below, shows that the costs of imprisoning a person far outweighs the costs of providing people who use drugs with the assistance they need to achieve improved health and welfare outcomes.

CRIMINALIZATION COSTS MAP

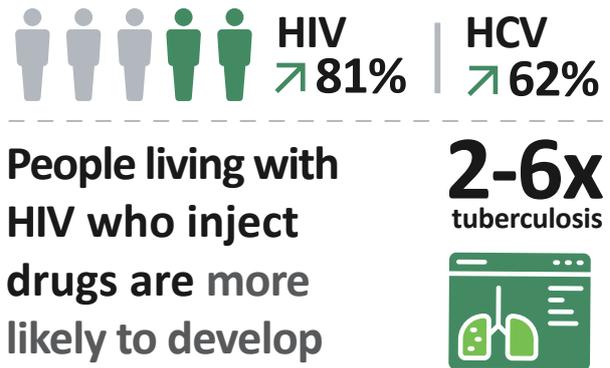
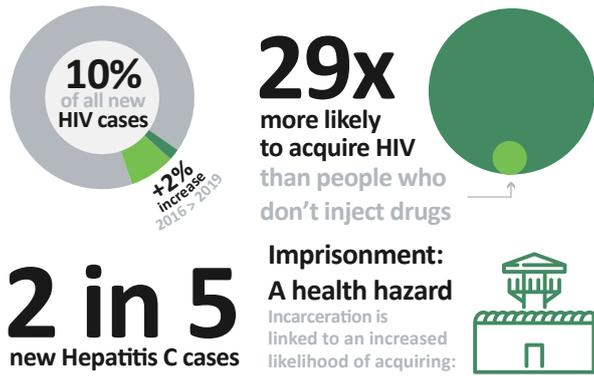
in Central and Eastern Europe and Central Asia (CEECA)



Source: Eurasian Harm Reduction Association, *Criminalisation Costs*, <https://harmreductioneurasia.org/criminalization-costs/>

The negative health consequences of criminal sanctions and other punishment, including compulsory detention in drug rehabilitation centres (discussed further on page 16), are seen in the high numbers of **drug-related deaths**, and **increasing prevalence of HIV, hepatitis C and tuberculosis** among people who use drugs. Adequate government investment is required to ensure the availability of **evidence-based drug dependence treatment and harm reduction programmes**, in order to achieve positive outcomes for health and human rights.

Negative Health Outcomes



Source: International Drug Policy (2018), *Taking Stock: A decade of drug policy- A civil society shadow report*, <https://idpc.net/publications/2018/10/taking-stock-a-decade-of-drug-policy-a-civil-society-shadow-report>

Criminalisation policies also result in negative social impacts on individuals and communities, including overcrowding of prisons and inadequate provision of housing, employment and education assistance. Policies that impose sanctions on people for drug use further add to the socio-economic burden on communities living in poverty and deprivation. When drug use and possession for personal use are criminalised, large amounts of public funds are required for the criminal justice system and law enforcement interventions. In contrast, the decriminalisation of drug use and related activities can lead to the re-direction of resources towards improving health and social outcomes.

#DECRIMINALISATION SAVES MONEY

California saved nearly \$1Billion in the first 10 years of cannabis decriminalisation



Infographic: Release, *A Quiet Revolution: Drug Decriminalisation Across the Globe*, 2016, <https://www.release.org.uk/publications/drug-decriminalisation-2016>



Specific impacts of criminalisation and punishment on women who use drugs

Listen to Rosma Karlina talk about her experiences in Indonesia on the *Reality Bytes On Drugs in Southeast Asia* podcast - episode 1:

Rosma is a passionate advocate for women who use drugs, and works at Indonesia Act for Justice (AKSI). She also wrote about her experiences as a woman who uses drugs in this [blogpost](#) where she says:

“I used drugs. For over 20 years. Before I co-founded AKSI Keadilan (Action for Justice) Indonesia in 2018, I attended 17 drug treatment and rehabilitation programmes – most often against my will – and spent nearly two years in prison for a low-level drug offence.

Today, I am proud to be the women’s coordinator at AKSI, an NGO that provides paralegal services to people who use drugs and other vulnerable persons to expand access to justice in Indonesia. I have worked as a paralegal, providing legal assistance for women and children involved in drug cases in the city of Bogor since 2006.

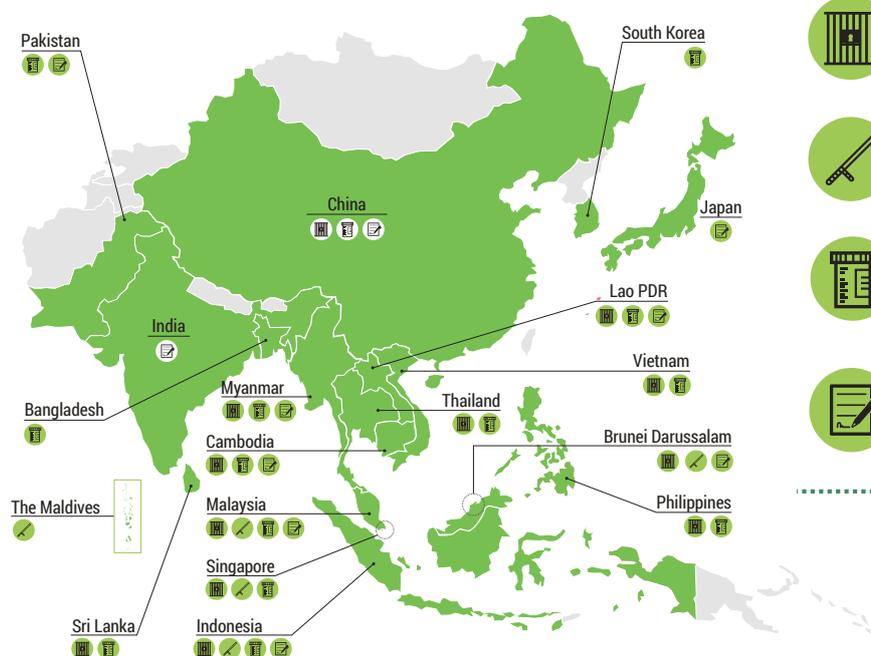
My story is not unique, yet it is powerful. Women who use drugs experience more violence, stigma, and discrimination compared to their male counterparts because their drug use is viewed as incompatible with their expected societal roles as “good” daughters and mothers. I hope to contribute to a different narrative – one of courage and resilience – and ultimately, to improve the quality of life for women who use drugs.”



Criminalisation and punishment of people who use drugs has devastating impacts

The range of punishment imposed for drug use, and possession of drugs for personal use, are extensive and imposed under both criminal justice and administrative systems. They include imprisonment, detention disguised as drug rehabilitation, corporal punishment, and compulsory registration with law enforcement.

Torture and cruel punishment



Compulsory *rehabilitation* in detention

Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Vietnam



Corporal punishment

Brunei Darussalam, Indonesia, Malaysia, the Maldives and Singapore



Forced urine testing

Bangladesh, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, Pakistan, the Philippines, Singapore, South Korea, Sri Lanka, Thailand and Vietnam



Mandatory registration

Brunei Darussalam, Cambodia, China, India, Indonesia, Japan, Lao PDR, Malaysia, and Pakistan

Administrative punishment

can also amount to acts of torture or cruel treatment

Source: International Drug Policy Consortium (2019), *10 years of drug policy in Asia: How far have we come? A civil society shadow report*, <https://idpc.net/publications/2019/02/10-years-of-drug-policy-in-asia-how-far-have-we-come-a-civil-society-shadow-report>

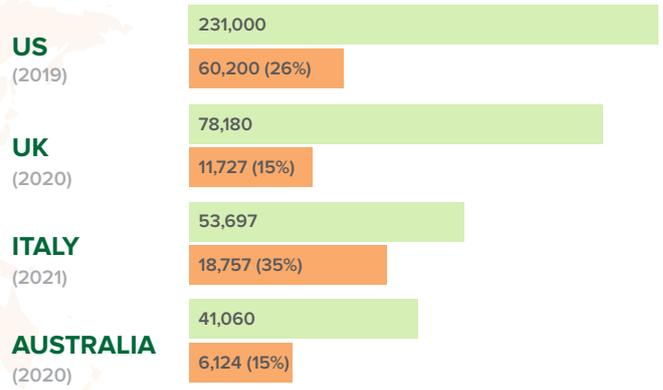
Decriminalisation facilitates responses to drug use and dependence that are based on principles of public health and human rights.

Over 400,000 people who use drugs are currently held in state-run compulsory drug detention centres, often labelled as ‘drug rehabilitation’ facilities, where people are subject to forcible administrative detention. Despite strong statements by UN agencies and civil society for governments to end the use of compulsory detention of people who use drugs, little progress has been made towards closing them down, and transitioning towards community-based drug treatment and support services. In Southeast Asia, the number of people held in such centres remain high, with over 130,000 in Thailand in 2020 and over 50,000 in Vietnam in 2018. Between 2012 and 2017-2018, available data indicate that there has either been an increase or no significant decrease in the number of people detained in those facilities in Cambodia, China, Lao PDR, Malaysia, the Philippines, Singapore, Thailand, Vietnam.

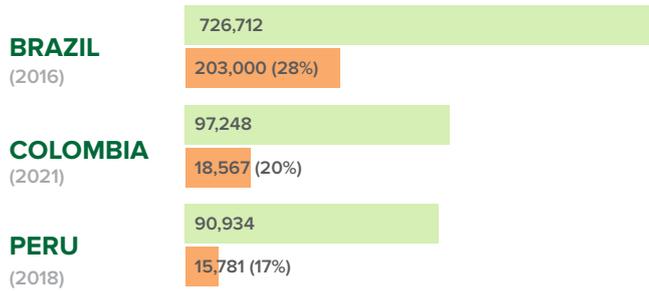
Compulsory drug rehabilitation, or drug detention, centres are not an appropriate response to drug use, and have been documented to subject people who use drugs to serious ill-treatment, ranging from corporal punishment to the denial of appropriate care. In 2020, several UN agencies issued a statement calling for their closure and “to transition to an evidence-informed system of voluntary community-based treatment and services that are aligned with internal guidelines and principles of drug dependence treatment, drug use and human rights.”

Punitive drug policies fuel mass incarceration around the world

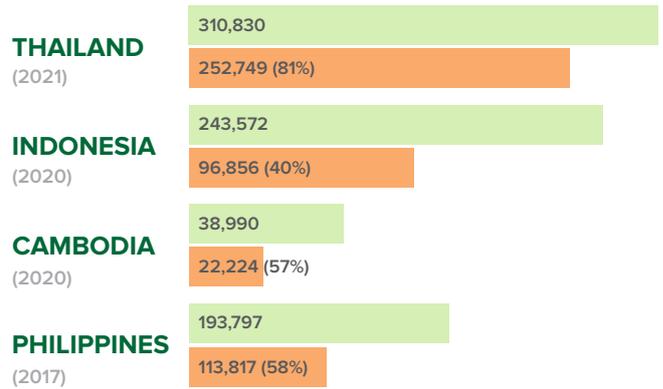
Numbers of people in prison held for a drug offence



Latin America

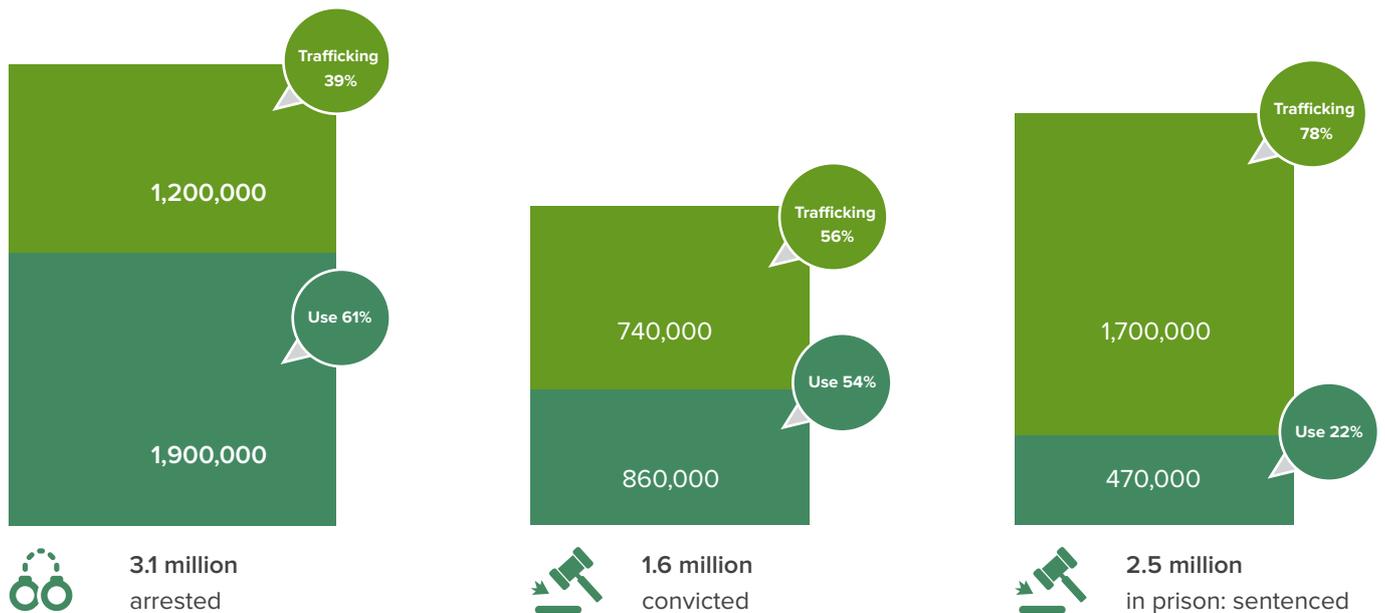


Southeast Asia



■ Total number of people held in prisons
 ■ Number and percentage of people held for a drug offence

Estimated number of people in the criminal justice system for drug offences worldwide



● Drug possession for personal use
 ● Drug trafficking

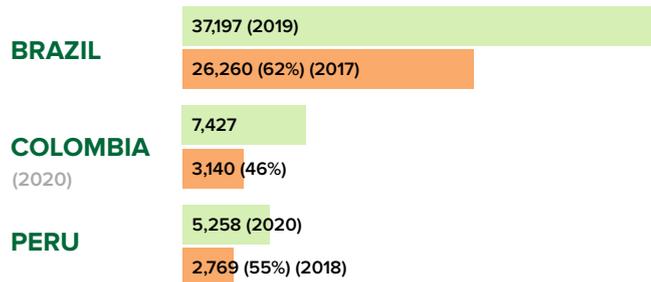
Source: United Nations Office on Drugs and Crime (2020), UN World Drug Report 2020, Booklet 1, page 21, https://wdr.unodc.org/wdr2020/field/WDR20_BOOKLET_1.pdf

Women are increasingly imprisoned for drug offences

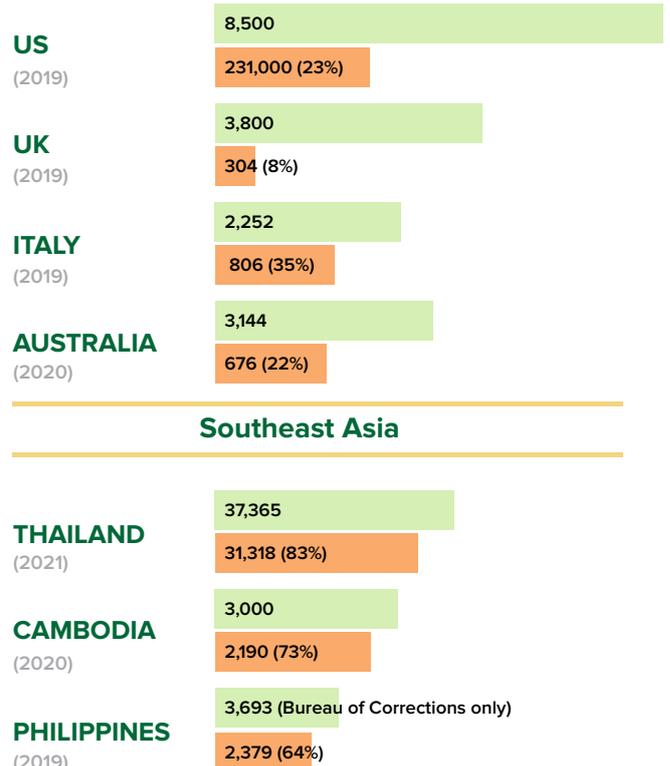
Proportion (%) of women held for a drug offence



Latin America



Southeast Asia



■ Total number of people held in prisons
 ■ Number and percentage of people held for a drug offence

Factors that lead to women's incarceration for drug offences



Source: Washington Office on Latin America, (2020) *Women Behind Bars for Drug Offenses in Latin America: What the Numbers Make Clear*, <https://www.wola.org/wp-content/uploads/2020/11/Final-Women-Behind-Bars-Report.pdf>

“Overall, although a multiplicity of factors are behind the participation of women in the drug trade, it has been shown to be shaped by socioeconomic vulnerability, violence, intimate relationships and economic considerations.”

Source: United Nations Office on Drugs and Crime (2018), *World Drug Report:*

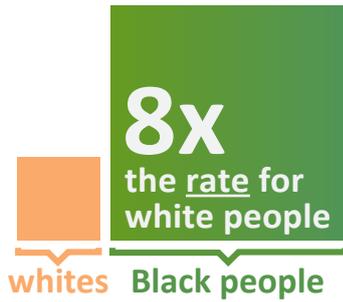
Women and Drugs: Drug use, drug supply and their consequences, p7, <https://www.unodc.org/wdr2018/>



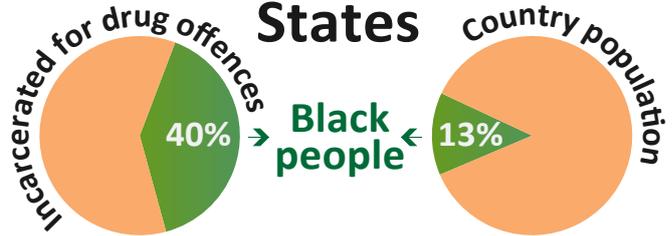
Criminalisation targets people on the basis of race and ethnicity.

United Kingdom

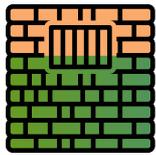
Prosecutions for drug offences



United States



Brazil



64%

Black people account for of the prison population



62% of Black women are incarcerated for drug offences

Source: International Drug Policy Consortium, (2021) *Taking stock of half a decade of drug policy - An evaluation of UNGASS implementation*, <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation>



The experience of people facing multiple layers of discrimination from the criminal justice system can also be seen in Colombia

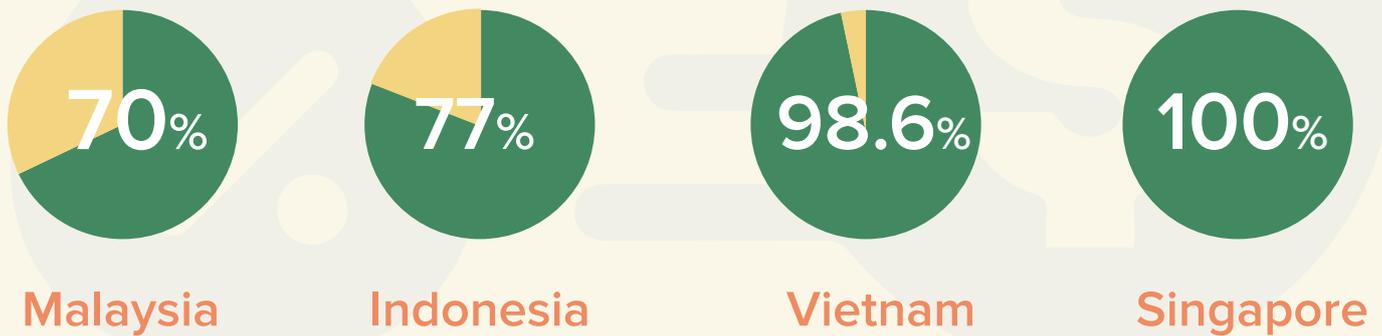
“The discrimination suffered by ethnic minorities in Colombia is exacerbated in prison. The discrimination they suffer for being women is made even worse for being Afro-Colombian or indigenous.” Sergio Chaparro, when he worked at Dejusticia, a non-government action-research centre for legal and social studies in Colombia.

Read about the experiences of Angela in Colombia, which illustrates the discrimination experienced by people from ethnic minority groups.

Source: https://womenanddrugs.wola.org/photo_essay/i-am-not-a-criminal/

Sentencing of drug offences is disproportionate in many countries. Some countries even impose the death penalty for certain drug offences, such as the trafficking of drugs into a country or the possession of a larger quantity, in violation of international law.

Percentage of death sentences which were given for drug offences in 2019:



Source: Harm Reduction International (2020), *The Death Penalty for Drug Offences 2019*, https://www.hri.global/files/2020/02/28/HRI_DeathPenaltyReport2019.pdf

The impacts of the death penalty are immeasurable, and extend far beyond the individual sentenced to death. [Read about the harrowing experiences of Nagaenthran K Dharmalingam's family](#), who travelled from Malaysia to Singapore under highly restrictive conditions to see him after receiving notice of his pending execution. Not only is the death penalty for drug offences a violation of international law, the death penalty is neither a solution for any problems nor ever justified. In addition, there is no clear evidence that the death penalty deters drug-related offences.

Positive outcomes resulting from decriminalisation

Ending the criminalisation and punishment of people who use drugs enables governments to redirect funds and resources towards ensuring adequate access to drug treatment, harm reduction and other health and social services for people who use drugs and their communities, resulting in improved outcomes such as:



- a. **Respect for human rights:** When people use drugs, they do not forfeit their rights to privacy, health, gender equality, and to be free from discrimination, torture and arbitrary detention. Decriminalisation can be a rights-based approach to drug use which promotes community inclusion (rather than marginalisation) of people who use drugs. When drugs are not depicted as a 'social evil', people who use drugs are less vilified, stigmatised, marginalised and dehumanised – including by the media, politicians and the public. People who use drugs must be meaningfully involved in decision-making processes about the policies that affect them.



- b. **Public health improvements:** when decriminalisation is implemented properly, the number of people accessing drug treatment services will increase, HIV and hepatitis C transmission rates will decrease, and there will be a reduction in drug-related deaths and overdose. When countries align their policies with the 'gold standard' of decriminalisation, people who use drugs can seek the help they need, including: sexual and reproductive health services; accurate and non-judgemental advice about the risks associated with drug use and how to manage those risks; and access to drug dependence treatment, harm reduction services, legal assistance, employment, education and housing. This will result in improved social, economic and health outcomes.



- c. **Socio-economic benefits:** in addition to being a cost-effective response to drug use, decriminalisation should enable an individual to preserve their employment and housing status or ability to pursue employment opportunities, which will result in stable income and enhanced productivity. As a result, decriminalisation can support stability in families and relationships because it does not inflict extensive disruptions (such as loss of employment, housing or livelihoods) resulting from incarceration and punishment.

#DECRIMINALISATION

DOES NOT INCREASE
DRUG USE

CRIMINALISING
PEOPLE WHO
USE DRUGS IS
BAD FOR:



HOUSING



EMPLOYMENT



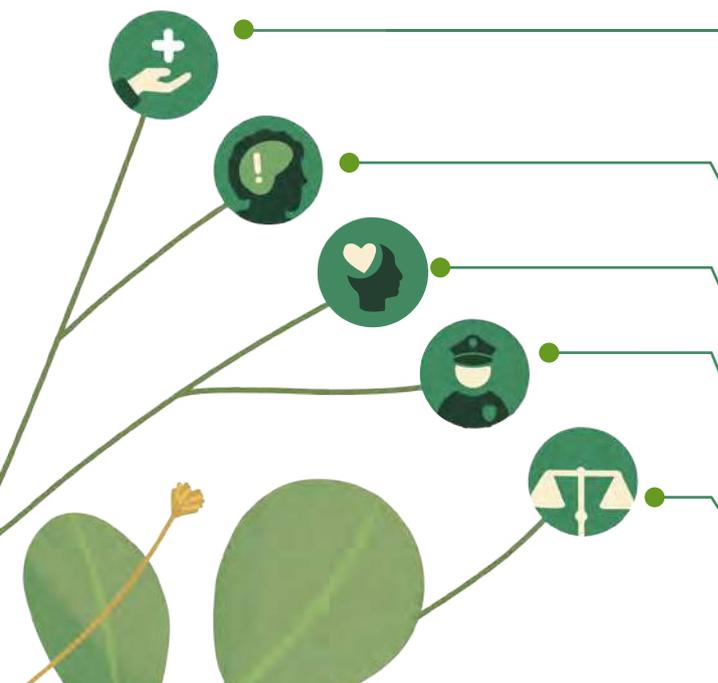
RELATIONSHIPS

AND MEANS
THEY ARE
MORE LIKELY
TO REOFFEND

C. Objectives and principles of decriminalisation

To achieve improved public health and socio-economic outcomes, a drug policy that decriminalises drug use and related activities should be guided by the following key objectives and principles:

Key objectives of decriminalisation

- 
1. To end the damaging impacts of sanctions on people who use drugs, including criminal conviction, registration with law enforcement, imprisonment and detention.
 2. To ensure voluntary access to evidence-based drug dependence treatment, harm reduction and other services for people who use drugs.
 3. To end stigma against, and marginalisation of, people who use drugs.
 4. To end police corruption and abuses, especially against racial, ethnic or other minority groups, young people and women.
 5. To establish evidence-based drug policies that are cost-effective and result in positive outcomes for public health, social justice, human rights and development.

Key principles of decriminalisation

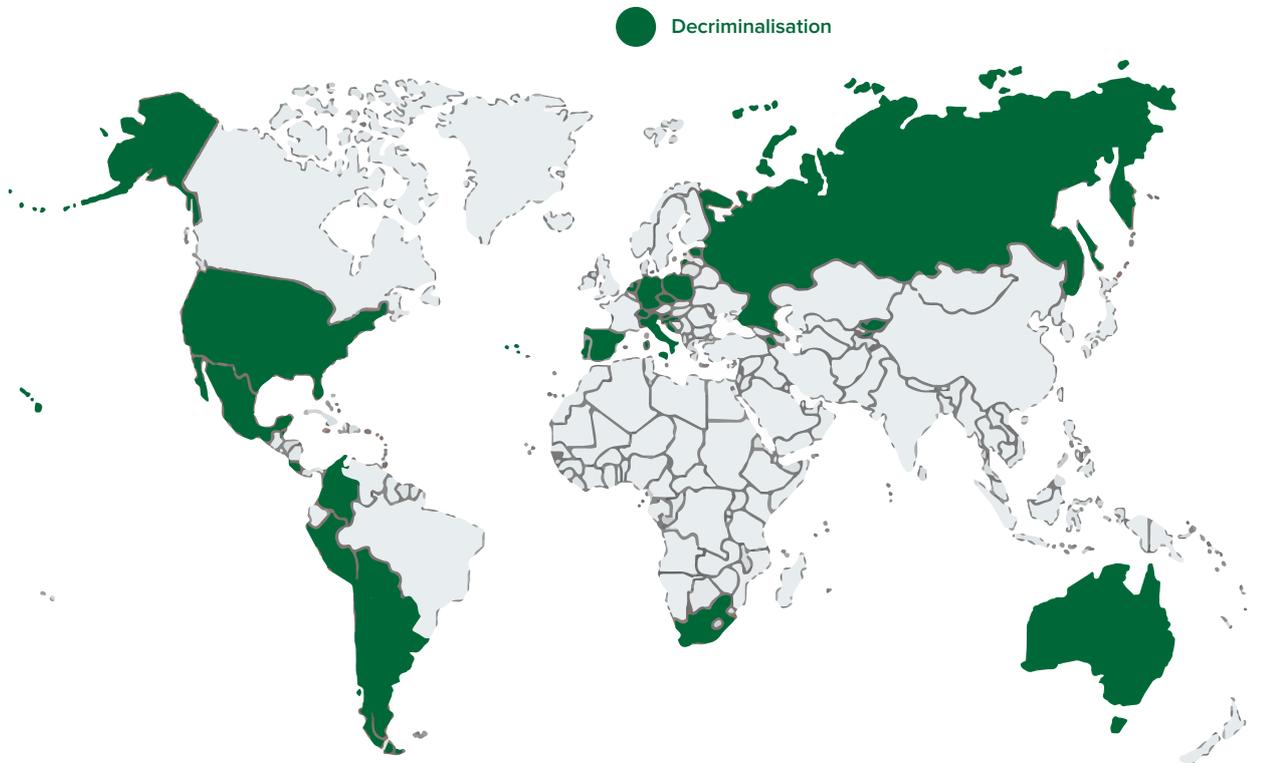
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1. “Nothing about us, without us”: people who use drugs should be meaningfully involved in decision-making processes about policies that affect them, including reforms towards decriminalisation.
 2. Drug policies need to create an enabling environment for accessing drug treatment and harm reduction services, by removing criminalisation and punishment.
 3. Compliance with human rights standards, including in the criminal justice, public health and social welfare sectors, is essential to ensure that improved public health, community safety and socio-economic outcomes are achieved.
 4. Drug policy decisions must be based on the strongest evidence available, for example in terms of the cost-effectiveness and range of drug treatment and harm reduction services to best respond to patterns of drug use and associated risks among the local population.

SHOW IT

This section offers guidance on how to present information on decriminalisation, drawn from existing practice around the world, in order to start and steer dialogue on decriminalisation in your context. Once a key decision-maker, such as a minister, judge or political leader, declares their support for decriminalisation, be prepared to offer advice on the next steps towards making it a reality.

A. Models of Drug Decriminalisation Across the World

At least 30 countries have now decriminalised drug use and related activities. For details about the different models of decriminalisation implemented around the world, refer to this [interactive map by Talking Drugs, Release, IDPC and Accountability International](#). Note the differences between the models in different countries based on which activities and which substances relating to drug use are decriminalised, the threshold quantity amounts, who the decision makers are, and the sanctions that are applied (if any).



The inclusion of a jurisdiction in this map is not an endorsement. Some of these models are highly ineffectual and even counterproductive. To learn more about them, visit www.talkingdrugs.org/drug-decriminalisation



B. Setting up mechanisms to determine whether possession is for personal use

The decriminalisation of drug use and related activities such as possession and cultivation involves the removal of sanctions only for these drug-related activities. As a result, mechanisms need to be in place to distinguish between activities relating to drug use and activities relating to commercial supply or trafficking. While there are different ways to make that distinction, care needs to be taken to avoid widening the net of criminalisation and punishment. It is also important to recall that imprisonment should be used as a last resort for any drug offence.

Some countries have established threshold quantities to determine the amount of drugs that are considered to be possessed for personal use. When a person has a quantity of drugs below the threshold, there is no penalty or punishment that applies. When a person has a quantity of drugs above the threshold, they may face arrest and prosecution for charges relating to the commercial supply of drugs.

Different countries apply different threshold quantities:

In Mexico, the police, prosecutors and the judiciary considers that possession is for personal use on the basis of the following binding thresholds: 50mg heroin, 5g cannabis, 0.5g cocaine, 40mg (powder) or 200mg (pill or tablet) Ecstasy/MDMA, or 2g opium. If a person is caught in possession of a controlled drug for personal use, they risks referral to treatment on a voluntary basis. If caught in possession for personal use for the third time, treatment becomes a mandatory requirement.

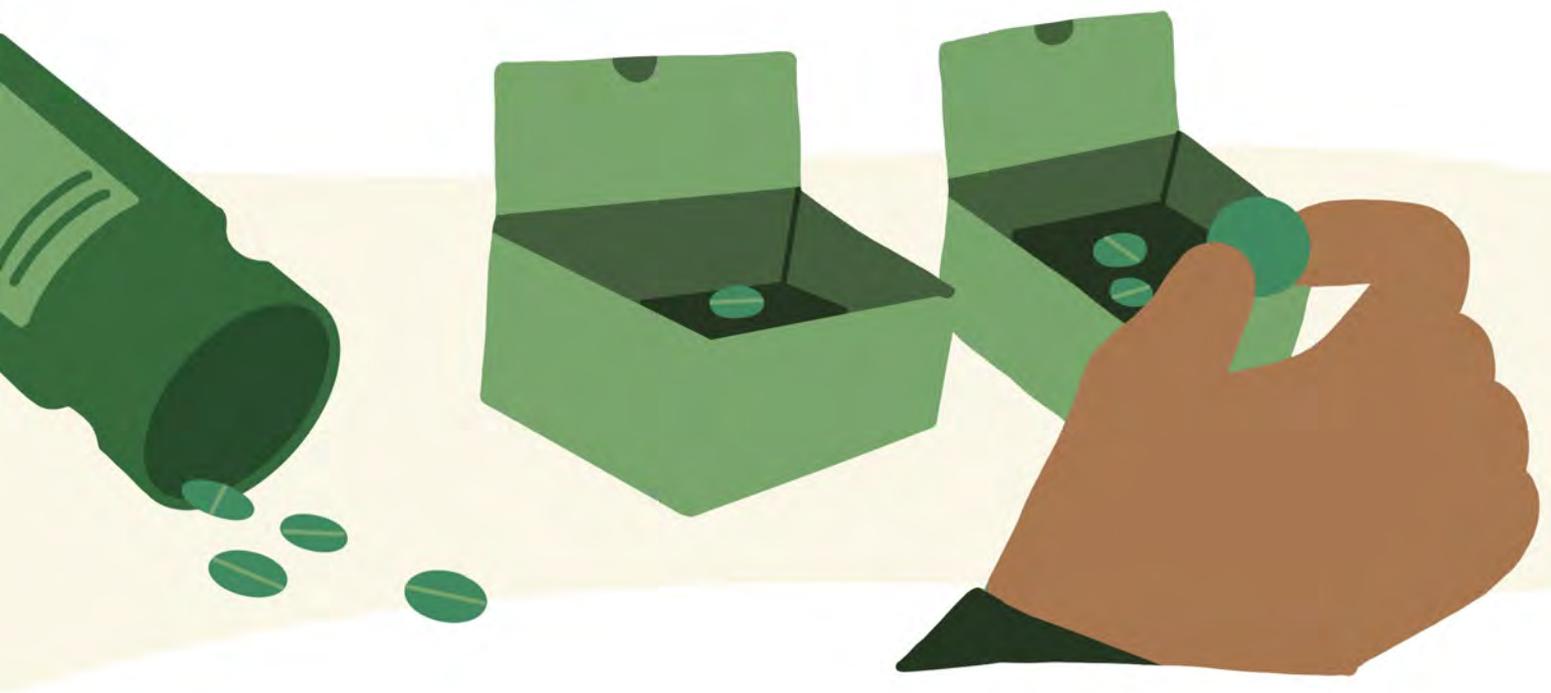
In Portugal, the police considers that a person possesses drugs for personal use in accordance with binding thresholds, which equate to 10 days' worth of drugs for personal use (calculated based on average use): 1g heroin, 1g ecstasy/MDMA, 2g cocaine, 25g cannabis (herbal), 5g cannabis (resin), 2.5g cannabis oil and 5g THC. However, if a person is caught in possession of quantities higher than the set threshold, the courts can take into account other considerations to establish that possession was for personal use, and not with the intent to supply to others.

Threshold quantities can be used as a tool by the police, prosecutors and courts to distinguish between possession for personal use and possession for commercial supply, as well as between no-profit or low-level dealing and commercially-driven engagement in the drug market involving larger financial gain.

To be effective, threshold quantities need to be based on evidence of drug market realities, including drug use patterns, the quantity of drugs a person will likely use per day, and patterns of purchasing. It is critical to consult people who use drugs to inform the determination of threshold quantities (see the case of Czechia for an example of such an approach).

If thresholds are set too low, people who use drugs could be arrested and prosecuted for the commercial supply of drugs even though the amount of drugs they had in their possession was intended for personal use. This could result in more (instead of fewer) people entering the criminal justice system – an effect known as “net-widening” – which is contrary to the objectives of decriminalisation (see the case of Lao PDR for an example of net-widening).

It is important to note that people who use drugs sometimes purchase larger quantities of drugs that may exceed a threshold quantity. For example, when people live in more remote areas, anti-drug raids are being conducted nearby or lockdowns are imposed due to an emergency such as the COVID-19 pandemic, some people will choose to purchase drugs in larger quantities to store at home – in order to limit the number of transactions and to reduce the risk of exposure and arrest by the police. As mentioned below, in some contexts social supply may also be a common practice, whereby some people will purchase a quantity of drugs to share with their friends for no commercial gain (or solely to fund their own drug use).



Threshold quantities are therefore best used as one indicator among others, and not as a conclusive factor in determining whether possession is for personal use. The burden of proof should be on the State to prove that there was intent to supply, and a person should be able to present evidence to rebut or appeal against a decision that their possession was intended for supply (rather than for personal use). If threshold quantities are adopted as part of decriminalisation, it is important to review their effectiveness on a regular basis and revise the threshold quantities if there have been unintended consequences such as net-widening (see how such a review was conducted in [Australia, for example](#)).

Law enforcement officers, police, prosecutors or judges often have the discretion to decide, on a case-by-case basis, whether a person is engaged in activities relating to drug use or commercial supply based on evidence of commercial activity such as possession of several mobile phones, drugs divided into different packets, large amounts of money connected with transactions, or firearms. By contrast, evidence of possession for personal use could include a history of drug use, drug dependency, possession of drug use paraphernalia, or prior referrals to health and harm reduction services.

It is important for threshold quantities, and guidelines on their use, to be transparent and easily understood by authorities in the criminal justice system and the public, which could help reduce the risk of corruption amongst authorities in the criminal justice system and extortion of people who use drugs.

People who use drugs may share their drugs. Some jurisdictions rightly include this “social supply” or “social sharing” in their models of decriminalisation, distinguishing these activities from commercial or financially motivated supply. Removing sanctions from sharing activities can encourage the exchange of valuable harm reduction information and development of peer support systems, both of which can contribute to community empowerment and positive health outcomes.





C. Who can decide whether a person's possession of drugs is for personal use?

In addition to deciding how to assess whether drug possession is for personal use, it is important to know who should make this decision. There are advantages and disadvantages associated with each potential decision-maker. In weighing these advantages and disadvantages in your local context, bear in mind that one of the key objectives of decriminalisation is to end the corruption and abuses experienced by people who use drugs in the criminal justice system.

In the 'gold standard' of decriminalisation, drug use is not subject to any criminal or administrative punishments. Therefore, as a general rule, neither the police nor any other entity would need to intervene when a person is found to be using drugs. Police intervention - from questioning to body search or arrest - would only be warranted when there are clear indications that a person is involved in another criminal offence (such as supply). The mere suspicion that someone has been using drugs, is possessing small amounts of drugs, or is carrying drug use equipment does not justify police intervention.

Unfortunately, in many jurisdictions that have decriminalised people who use drugs, drug possession remains an administrative offence or is considered to be an indicator of other offences. In these settings, people who use drugs are still frequently stopped, questioned or arrested by the police. In such cases, there must be 'someone' responsible for assessing whether drug possession is for personal use or not. Generally speaking, this can be either the police, prosecutors or the courts. As governments design a decriminalisation policy, the overarching objective not to punish people for drug use and related activities should be kept in mind.

	 Police	 Prosecutor	 Criminal Court
Pros	<ul style="list-style-type: none">• People diverted as early on as possible.• Avoid risk of pre-trial detention & unnecessary burden on courts.• Can rely on assessments by trained medical professionals before making a decision	<ul style="list-style-type: none">• Less lengthy process than if the case went to the courts• More flexibility than courts to impose alternatives to punishment• Can rely on assessments by trained medical professionals before making a decision	<ul style="list-style-type: none">• Ensures due process and right of appeal• Allows people to gather evidence and present their case• Can rely on assessments by trained medical professionals before making a decision

	 Police	 Prosecutor	 Criminal Court
Cons	<ul style="list-style-type: none"> • Risk of arbitrary detention, corruption, violence, harassment, racial discrimination • Risk of net-widening 	<ul style="list-style-type: none"> • Lengthier process than if the case were resolved by the police • Risk of corruption 	<ul style="list-style-type: none"> • Risk of lengthy pre-trial detention period • Heavy burden on the courts with significant financial costs • In practice may only rely on police reports • Legal representation and fair trials can be a problem for people who use drugs • Courts are bound by the law and may have little flexibility in deciding on the penalties to impose

In many models, more than one of these actors has the power to determine whether drug possession is for personal use. Thus, a law enforcement agent may charge a person who uses drugs with a drug supply or trafficking offence, but at a later stage the prosecutor or the judge might reject this charge on the grounds that they believe the drug possession was for personal use.

There is no perfect model of decriminalisation. However to minimise a person’s interaction with the criminal justice system as early as possible, it may be preferable to grant police the discretion not to pursue any charges, i.e. of commercial drug supply, where they believe a person’s drug possession is intended for personal use. This also reduces unnecessary burdens on the criminal justice system and avoids the risk of pre-trial detention. However, such an approach does present some risks of corruption and abuses from the police, including harassment, discrimination (e.g. on the grounds of race, ethnicity or gender), bribery, the imposition of excessive fines, and give rise to the need for measures that ensure the transparency and accountability of police decision-making.

Investment in health, social and harm reduction services



As a key objective of decriminalisation is to ensure access to evidence-based drug dependence treatment, harm reduction and other services for people who use drugs, it is important to establish **voluntary and non-judgmental** referral pathways to harm reduction and other health or social services.



While most people who use drugs do not experience drug dependency, it is important to offer voluntary options for referral pathways to health and social services to people who request them. To develop options for relevant services, you can compare the type, quality, availability and accessibility of health, harm reduction and social services that are available with the needs of people who use drugs in your target area. In consultation with people who use drugs:

- a. Reflect on the types of drug treatment or rehabilitation, and other social or economic assistance programmes available in the area. What is their success? Have they improved outcomes for the health and well-being of people who use drugs? Referral pathways should only lead people who use drugs to evidence-based programmes that are proven to be effective, non-judgemental and comply with human rights principles.
- b. Map out the types of drug treatment and other health and social programmes that have received positive assessments from communities of people who use drugs, community-based organisations that work with them, along with academics and other experts. Such programmes will differ depending on the types of drugs used, drug use patterns, the age, gender, culture, religion or socio-economic characteristics of people who use drugs, and other aspects relevant to your local context. For example, the use of stimulant drugs **among men who have sex with men in Hanoi, Vietnam**, calls for a different harm reduction response from the use of stimulant drugs **among sex workers in Bogota, Colombia**.
- c. Identify the people and organisations who could promote, and direct people who use drugs to, these health, social and harm reduction and treatment services. They could be peer outreach workers affiliated with a harm reduction service, or a community organisation or group, and ideally working in collaboration with the authorities who decide whether a person is in possession of drugs for personal use. If funding is needed to enable adequate provision of these services, consider referring to the discussion points raised in support of the allocation of resources away from criminal justice and towards social and health-oriented responses in the ‘Know It’ section of this Guide.

D. Monitoring and evaluation

Even before a system of decriminalisation is established and in practice, there should be processes in place to monitor and evaluate its effectiveness. To measure effectiveness, indicators should be developed that take account of the intended objectives and outcomes of decriminalisation against baseline data, and that utilise the invaluable experiences of people who use drugs. Indicators to measure the effectiveness or success of a decriminalisation model could include:

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1. Increase in the budget allocated to health and social programmes for people who use drugs
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2. Reduction in the number of people arrested or incarcerated for drug use and related activities
- 

3. Number of people who accessed voluntary and evidence-based drug dependence treatment and harm reduction services
- 

4. Incidence of HIV, tuberculosis and viral hepatitis among people who use drugs
- 

5. Number of people who died from a drug overdose
- 

6. Reduction in police violence and abuse against people who use drugs
- 

7. Reduction in stigma against people who use drugs

Monitoring and evaluation processes must include the voices of people who use drugs. When [Czechia](#) evaluated their measures to decriminalise drug use and possession for personal use, they took account of the views of the intended beneficiaries of decriminalisation: people who use drugs. For another example, see the work of the [International Network of People who Use Drugs](#) where they conducted research on the experiences and impact of decriminalisation in [Portugal](#).



GROW IT

To persuade other people to support decriminalisation, they need to see the benefits and understand how it will work in practice in their own community and within available resources. Building on the “Know it” and “Show it” sections of this Guide, the “Grow it” section offers guidance on identifying the appropriate target audience and shaping effective messaging to make a persuasive case for decriminalisation. This section is about mobilising support for reforms to decriminalise people who use drugs.



A. Identify partners and allies

It is important to start calling for drug policy reforms that decriminalise drug use and related activities. The target audience must hear multiple credible voices, including people with lived experience, echoing that same call. By working with partners and allies, more people can be mobilised to advocate for decriminalisation. Work through the questions below to identify potential partners and allies that you can work with.



- a. Who are the people affected by existing policies that impose sanctions against drug use and related activities?

Suggestion: People who use drugs are most affected, but also their parents, children, relatives and partners. People who use drugs from other criminalised communities such as LGBTQI+ people and sex workers will experience additional forms of criminalisation in some settings. People who use drugs may also live with intersecting layers of vulnerability where they are from a marginalised group such as women, people living with HIV, refugees and migrants, therefore more severely affected by punitive drug policies.



- b. Who are the people likely to have an interest in removing criminal and other sanctions against people who use drugs? Who has the ability to influence members of the target audience, whether it is from a perspective of human rights, public health or criminal justice reform?

Suggestion: In addition to people who use drugs, people likely to have an interest in decriminalisation could be from: religious and faith-based communities; academia; media; legal or medical professional associations; serving or retired police, prosecutors and judges; current or former political figures; and NGOs already advocating on related issues such as human rights, women's rights, criminal justice reform and harm reduction. See a case of advocacy in Vancouver where people from different sectors came together to call for the decriminalisation of drug use and possession for personal use.



- c. Take the time to build collaborative relationships with partners and allies to advocate for decriminalisation

Suggestion: Organise a meeting to discuss the impacts of existing drug policies to help identify the issues of concern and possible ways of addressing those concerns, and to reach an agreed definition and understanding of decriminalisation. For example, you can use the [Support. Don't Punish campaign](#) to raise awareness of the need for drug policy reforms including decriminalisation, or host a training workshop for other potential partners and allies using materials from the IDPC and Health[e]Foundation e-course on drug decriminalisation.



B. Set the right advocacy messages

Decriminalisation is considered a controversial proposal in some contexts. It is important to take some time to plan effective local messaging to win support for decriminalisation:

1. Determine your target audience by asking: who will be impacted by decriminalisation? Who are the decision-makers for drug policy reform? Who can influence those decision-makers?
2. Conduct research (e.g. focus group discussions, surveys) to understand the target audience, including their fears or the reasons behind their resistance to decriminalisation. In some sensitive contexts, the messaging may have to omit the word 'decriminalisation' while still advocating for its key components, i.e. eliminating punishment for drug use and possession for personal use.

3. Get inspired, by looking at the messaging and communications strategies used in a context similar to yours. For example, check out Support. Don't Punish resources and campaign activities from previous years, and the successful advocacy for decriminalisation in the US state of Oregon.
4. Draft messages calling for decriminalisation, in consultation with people affected by criminalisation and punishment for drug use, especially people who use drugs in your community. Avoid inadvertently marginalising or demonising other groups of people affected by drug policies, such as people arrested, imprisoned or on death row for drug trafficking.
5. Share the messages in ways your target audience is likely to notice and create opportunities for public dialogue through organising seminars or meetings.
6. Evaluate the responses to your messaging and communications strategy and prepare follow-up actions tailored to the target audience. If they do not respond positively, gather stakeholders again to work out a new approach.
7. Almost as important as the message, is the messenger. Identify champions and influencers who can promote the message to effectively reach the target audience.



C. Respond to doubts about decriminalisation

Be prepared to face resistance and opposition to decriminalisation. This section outlines some common questions or concerns about proposals to decriminalise drug use, along with suggested responses

“If we decriminalise, we are telling people that drug use is OK and more people will use drugs”.

Response: In countries that have decriminalised, including Portugal and Spain, there has not been any significant increase in the number of people who use drugs and levels of drug use remain lower than the average recorded in other European countries. Decriminalisation recognises that drug use and dependence should be treated as a health issue rather than a criminal one. Doing so would mean that people who use drugs, especially those living in situations of vulnerability and facing multiple forms of criminalisation, would no longer fear police harassment, arrest, incarceration and a criminal record.

“If we decriminalise, it will encourage drug use among young people”.

Response: Academic research shows that tougher penalties do not deter drug use. Decriminalisation increases opportunities to reach out to young people to reduce any potentially harmful consequences of their drug use and dependence by building trust and allowing them to come forward to seek help without fear of punishment. Furthermore, if more young people can access services without fear, we can collect more accurate data on youth drug use and the needs of young people who use drugs, which means we can develop services tailored to their needs. We are then also able to equip families, teachers and social workers with evidence-based information on how to prevent young people from engaging in problematic drug use and appropriate response measures for when a young person is developing problematic drug use.

“Drug dealers and traffickers would make us a prime target for their activities if we decriminalise.”

Response: Decriminalisation offers a more effective response to drug use and dependence. It does not remove control measures, including sanctions, which aim to prevent the commercial supply and distribution of drugs. However drug control measures targeting the supply and distribution of drugs must still be proportionate and comply with human rights principles. While detailed discussion on appropriate and proportionate responses to drug supply and distribution is beyond the scope of this Guide, further exploration on this topic is strongly encouraged and can benefit from references to materials such as section 3.3 on proportionality of sentencing for drug offences in the IDPC Drug Policy Guide (3rd edition).

“If we decriminalise, it means we are on the path to legalisation”.

Response: Decriminalisation is different from legalisation (see definitions on p. 10). Decriminalisation is permissible under the existing UN drug control treaties while legalisation currently is beyond the scope of these treaties. Legalisation is “a process by which the prohibition of a substance is ended, allowing for its production, availability and use to be legally regulated.” While not inevitable, governments may consider future reforms to institute legal regulation of controlled drugs if they wish to proactively manage the entire drug market rather than leaving it unregulated.



“If we decriminalise, people who use drugs will be free to commit crimes in the community”.

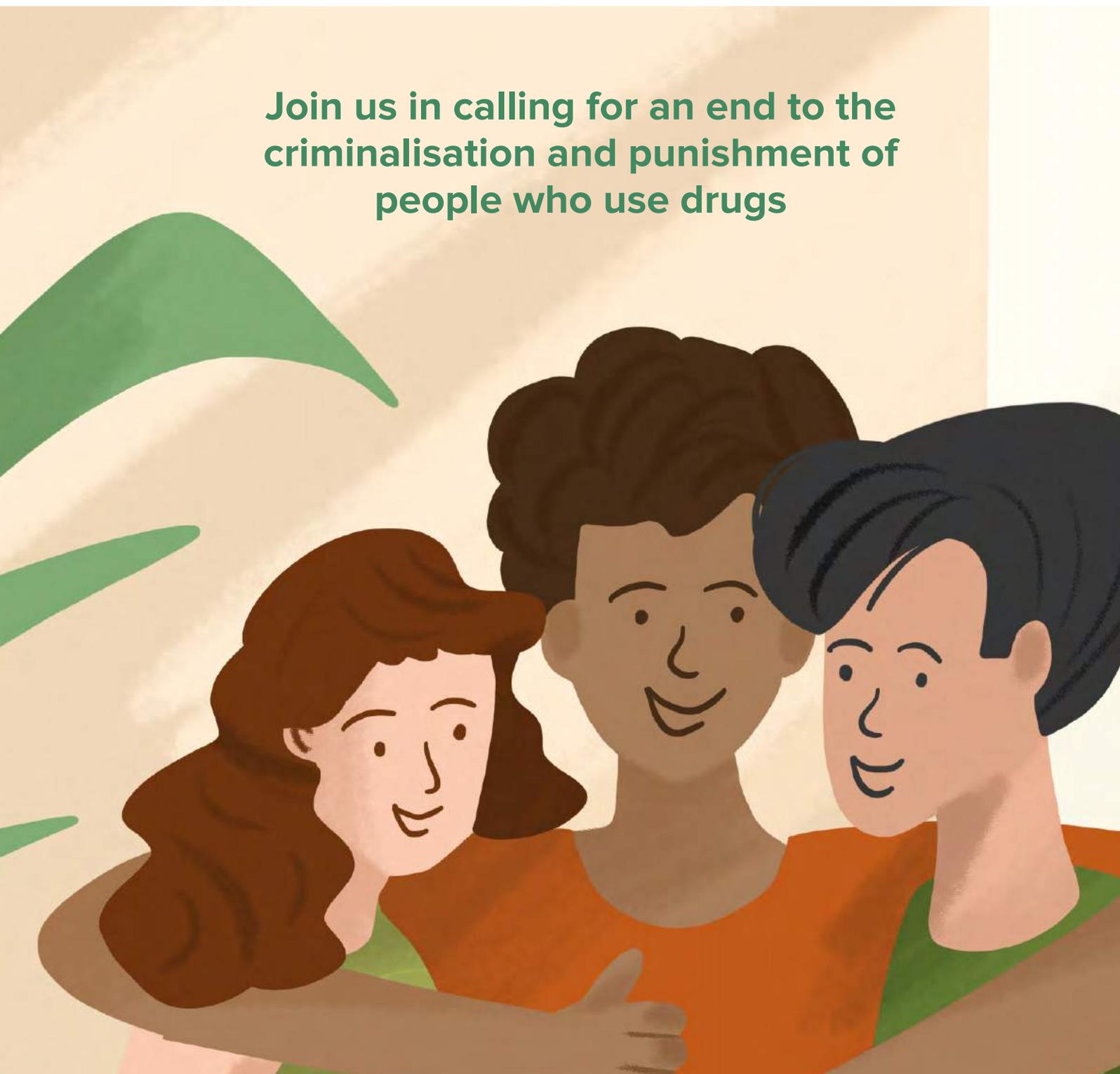
Response: The decriminalisation of drug use and related activities involves the removal of criminal penalties and punishments only for drug use, and cultivation, purchase and possession of drugs and drug equipment for personal use. Political campaigns and media outlets have a tendency to sensationalise stories about people who use drugs committing crimes and hurting other people because of their drug use. These claims generally make people who use drugs or people engaged in drug supply the scapegoats for complex and entrenched socio-economic problems such as poverty, insecurity and violence in urban areas.

Another point to note is that decriminalisation, in accordance with the ‘gold standard’, can reduce overall crime in communities as resources previously allocated to policing and the criminal justice system can be invested in improved social and health outcomes (e.g. education, housing and employment assistance) which in turn can prevent criminal activity.



Decriminalisation is not a silver bullet for problems relating to drug use. However by removing systems of criminalisation and punishment that have been damaging, costly and ineffective, decriminalisation can make a fundamental difference to the lives of people who use drugs as well as their families and communities.

Join us in calling for an end to the criminalisation and punishment of people who use drugs



Key Resources

- International Drug Policy Consortium & Health[e]Foundation (2021), *Decriminalisation E-course*, <https://idpc.healthefoundation.eu/>
- International Network of People who Use Drugs (INPUD) (2021), *Drug Decriminalisation: Progress or Political Red Herring? Assessing the Impact of Current Models of Decriminalisation on People Who Use Drugs*, https://www.inpud.net/sites/default/files/INPUD_Decriminalisation%20report_online%20version.pdf
- Hughes, C., Stevens, A., Hulme, S., and Cassidy, R. (2018), *Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences*, <https://idpc.net/publications/2019/08/review-of-approaches-taken-in-ireland-and-in-other-jurisdictions-to-simple-possession-drug-offences>
- International Network of People who Use Drugs (2018), *Is Decriminalisation Enough? Drug User Community Voices from Portugal*, <https://idpc.net/publications/2018/09/is-decriminalisation-enough-drug-user-community-voices-from-portugal>
- International Drug Policy Consortium Report (2016), *A public health approach to drug use in Asia: Principles and practices for decriminalisation*, <https://idpc.net/publications/2016/03/public-health-approach-to-drug-use-in-asia-decriminalisation>
- International Drug Policy Consortium (2016), *IDPC Drug Policy Guide (3rd Edition)*, <https://idpc.net/policy-advocacy/idpc-drug-policy-guide-3rd-edition>
- European Parliament Directorate-General for Internal Policies (2016), *A Review and assessment of EU drug policy*, <https://idpc.net/publications/2016/12/a-review-and-assessment-of-eu-drug-policy?setlang=en>
- Hughes, C. and Stevens, A. (2010), 'What Can We Learn From The Portuguese Decriminalization of Illicit Drugs?', *British Journal of Criminology* 50(3) October, <https://idpc.net/publications/2010/07/what-can-we-learn-about-portuguese-decriminalisation>



