

3. HEALTH

THE LEGAL REGULATION OF DRUGS: The potential to deliver global public health



Whilst health is often cited as a reason to restrict drugs, this has failed. After 60 years of prohibition, more people use illegal drugs (an estimated 296 million in 2021¹) and experience greater related harms and deaths² than at any other time.³

Decades of stigma and criminalisation of people who use, supply and produce drugs has had profound health impacts on their lives. Other health impacts of prohibition include the denial of pain relief and potentially transformative medicines. Meanwhile the ensuing poverty, wasted resources, instability and poor governance has ignited a cascade of extensive health harms.

As we witness the beginning of the end of prohibition, with alternatives such as harm reduction, decriminalisation and legal regulation of cannabis, cocaine and psychedelics on the agendas of governments across the world, it is vital that emergent reforms have global health justice at their heart.

We must design these new markets to serve the needs of people, provide redress to those whose health has been harmed under prohibition, enable robust public health regulation and generate resources for health and other vital public services. The above is possible but requires strong advocacy for transitional justice.



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Some of the health harms of prohibition⁴

- The risk of acquiring HIV is 35 times higher for those who inject drugs than for those who do not.
- 86 percent of the world's population live without adequate access to pharmaceutical opioids for pain relief and care.
- Only 1 in 5 people with drug use disorders receive drug treatment. Women are disproportionately affected.
- The US spends an estimated US\$47 billion on enforcing prohibition each year. This is almost five times its 2023 budget for public health systems.
- The medicinal potential of substances including cannabis and psychedelics has been slow or unrealised.

The opportunity for global health justice

Understanding health in the broadest sense – as being about much more than the absence of disease, but including socio-economic factors that are vital to our health and wellbeing – is important to ensure emergent drug reforms improve the health of people and the planet.

A new legal drug market will move the control of drugs away from organised crime to the state. This provides the opportunity to implement a public health approach to control the quality and potency of drugs and restrict who can access them. It can provide information and safe spaces to consume drugs and remove stigma and obstacles to accessing health services for people who do so. It can remove the stigma and criminalisation and generate safe, legal employment for people who grow and trade drugs. It could eliminate the health harms caused by the criminal market and mass criminalisation and create more stable and equal societies. It also has enormous potential to prevent the waste of public resources on enforcing this failed drug war (such as police, judicial and prison costs) and generate tax revenue for the mental health crisis, harm reduction and other public services.

A legal drug trade – risks for global health justice

Advocates for health justice must seize this opportunity before big business does. The graphic below explores what could happen if advocates for health justice fail to engage with drug reforms.

“The harms related to drug use have been fuelled by ill-advised legal and political strategies, part of the ‘war on drugs’ led by the global North, which, since the 1970s, has heavily criminalized and stigmatized the production, distribution and consumption of psychoactive drugs, with devastating effects across the globe and particularly in the so-called global South.

Tlaleng Mofokeng Special Rapporteur on the Right to Health, April 2024

A legal drug trade: The risks we must avoid



Legally regulating drugs can remove access barriers to medicines such as medicinal cannabis, opioid based pain relief and open up new possibilities for treatments – including the emerging evidence of the use of cannabinoids and psychedelics for a wide range of conditions including mental health.⁵ Whilst some Indigenous communities have used naturally occurring psychedelics for centuries, under prohibition their practices and traditions have been criminalised. While it is a welcome development that psychedelics are emerging in the global Minority World as mainstream medicine,

safeguarding and privileging communities with a cultural or spiritual relationship to these plants in new legal markets could go some way in repairing the harms and avoid cultural appropriation.⁶

“The resurrection of research into the neuroscience and therapeutic application of psychedelics represents one of the most important initiatives in psychiatry and brain science in recent decades. It rectifies decades of global research paralysis that emerged as collateral damage from the war on drugs and that has become one of the worst examples of censorship of human research in the history of science.

Professor Nutt, Professor Erritzoe and Dr Carhart-Harris⁷

Health justice in a legal drug trade – key principles

- **Reduce harm.** Regulation must result in safer products, by regulating potency and levels of heavy metals, microorganisms, or residuals of pesticides, as well as who can access them. It must provide accurate consumer information, so people are educated about the strength of the drugs they consume, how to minimise any risks, and be in plain and child proof packaging.
- **Realise medical potential.** Legal regulation should remove restrictions that deny people access to medicines (such as access to opioid pain relief) and enable access to and further research into the medicinal benefits of drugs, including the medical potential of cannabinoids and psychedelics for a wide range of disorders. This could potentially save money for health systems, which are currently forced to spend money on more expensive or less effective medication rather than benefit from the medicinal benefits of currently illicit drugs.
- **Balance priorities for public health.** Models of regulation will differ based on context. More stringent regulation might improve public health and increase tax revenue but may fail to completely eradicate the illicit market. Keeping prices low might achieve the latter but minimise the tax gains. Key is finding a model that can work to maximise the benefits of regulations whilst minimising the harms caused by any additional illicit consumption that may occur. Maximising the public health priorities of the given context, including the determinants of health such as poverty and good governance, must be at the forefront of reforms.
- **Reparations.** Reforms must repair the health harms suffered by people under prohibition. This includes expungement for those who have been criminalised or incarcerated, respecting the spiritual and cultural relationships that communities have with certain plants, and the reinvestment of tax revenue into public services for all.

Examples of existing reforms that support public health

Since 1974 under the control of a national agency, smallholder farmers in **Türkiye** have been licensed to legally produce opium for the medical market. It is one of five countries that produce 94 percent of the world's morphine.⁸

In 2012, the **Kenyan** government implemented a public health approach to drug use by injection. This included public opioid agonist therapy, needle-syringe programmes, a take-home naloxone, pre-exposure prophylaxis and HIV self-testing services.⁹

Today **over 60 countries** have legalised cannabis for medicinal use, paving the way for it to be used for a range of conditions including chronic pain, nervous system disorders such as epilepsy and motor neurone disease, mental health disorders and cancer.

In 2023 **Australia** legalised MDMA for post-traumatic stress disorder (PTSD) and psilocybin for treatment resistant depression joining 23 other countries which have some form of decriminalisation or legal regulation of psychedelics.¹⁰

A number of jurisdictions with legal cannabis markets use the tax revenue to improve health. **Colorado** directs approximately 60 percent of the tax from cannabis sales to the Marijuana Tax Cash Fund which funds health care, health education, law enforcement, substance abuse prevention and treatment programs.¹¹

- **Avoid over-commercialisation.**

Over-commercialisation of alcohol and tobacco across the globe, and prescription opioids in North America, has caused serious harm to public health. As well as stringent regulation on their use, regulations for big corporations must be uncompromising to ensure they cannot dominate the market. Models of regulatory control for other drugs such as the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) which places restrictions on price, packaging, marketing and availability may provide a useful model.

- **Generate revenue for tax capacity, health and public services.**

Ensure that both the cost savings and potential tax revenue from prohibition are used to strengthen society and improve public health.

- **Global redistribution for health.**

The purpose of global redistribution or “aid” ought to be used to redistribute global wealth and compensate those who face the worst effects of global inequality. However between 2012 and 2021 more than USD930 million of this money was spent on “narcotics control” projects in countries around the world, with a significant portion spent in countries with draconian drug laws, including those with the death penalty for drug-related offences.¹² This must be redirected to address health inequities around the world.

■ The US\$930 million of ‘aid’ money spent on ‘narcotics control’ is one and a half times what governments of the world’s poorest countries spent on maternal health during that same decade.¹³

What comes next? Let’s shape it.

Are emerging drug reforms on your agenda? Advocacy for a global public health approach to drug reforms must happen *now*.

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

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Endnotes

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2. “UNODC World Drug Report 2023 Warns of Converging Crises as Illicit Drug Markets Continue to Expand,” United Nations : Information Service Vienna, June 25, 2023, <https://unis.unvienna.org>.
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4. All stats in this box from the United Nations Office on Drugs and Crime, World Drug Report 2023 WDR23_ Exsum_fin_SP.pdf (unodc.org)
5. [New psychedelics and mental health research centre officially opens | King’s College London \(kcl.ac.uk\)](#)
6. [Psychedelic Psychiatry’s Brave New World: Cell](#)
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8. [opium-trade-in-turkey-briefing-2017.pdf \(transformdrugs.org\)](#)
9. [HRI_VOCAL_Briefing_Harm_Reduction_Financing_in_Kenya-1.pdf](#)
10. [What psychedelics legalisation and decriminalisation looks like around the world – BBC Future](#)
11. UNDP 2024, The development implications of emerging licit drug markets
12. [Aid for the War on Drugs – Harm Reduction International \(hri.global\)](#)
13. According to the World Health Organisation Global Health Expenditure database the so called ‘Least developed Countries’ spent US\$621 million on maternal health between 2011 and 2021 <https://apps.who.int/>



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