

## 7. LAND RIGHTS

# THE LEGAL REGULATION OF DRUGS: The potential to deliver land rights

Under prohibition, anti-narcotic interventions have often taken land from its rightful owners,<sup>1</sup> especially Indigenous and marginalised communities.<sup>2</sup> Governments have destroyed drug crops through methods such as aerial spraying and military force. This has caused environmental harm and allowed large corporations to seize control of land, displacing small farmers<sup>3</sup> who often cannot compete with emerging agribusinesses.

Much of the land through which drugs are both produced and trafficked include key areas of biodiversity and environmental sensitivity. These include the Brazilian Amazon, the wildlands of Paraguay, the Upper Guinean forests and forests of West Africa, Central America, Mexico, Laos, Myanmar and Thailand.<sup>4</sup>

Drug money is also often reinvested in other damaging industries like illegal logging, mining, or farming.<sup>5</sup> This has led to violent land grabs, forced displacement, and environmental destruction in areas vital for global biodiversity. Vulnerable people are frequently dragged into the drug trade as a result.<sup>6</sup>

We are currently witnessing the beginning of the end of prohibition, with alternatives such as harm reduction, decriminalisation and the legal regulation of cannabis, cocaine, psychedelics, ketamine and MDMA/ecstasy on the agenda of governments across the world.



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This brings both opportunities to end the abuse of land rights under prohibition, but also other risks. It is vital that the emergent reforms of the global drug trade explicitly rectify the erosion of land rights under prohibition and include specific provisions to protect people's right to land.

## A legal drug trade – risks for land rights

Currently, the high costs of drugs under prohibition the 'prohibition premium' means that cultivators can make profits from relatively small pieces of land.<sup>7</sup> One likely result of the transition from illicit to legal markets is a reduction in the price of drugs. As a result farmers may need to grow more crops on larger areas of land to make the same income. As well as exerting greater demand for land, this could lead to poverty and financial insecurity for small farmers.

If big corporations are enabled to dominate drug cultivation in legal markets this could intensify competition for land and resources. Currently a number of communities are in dispute processes with states regarding land ownership. These could provide opportunities for businesses to exploit existing uncertainty around land tenure.

If legal drug farming becomes more profitable than other forms of farming, some land may be switched from food production to drug crops. This could intensify competition for arable land, reduce food supplies and lead to food insecurity.

Large scale legal drug cultivation (as opposed to small scale farming) often involves environmentally damaging processes including deforestation, water extraction and the use of pesticides and fertilisers. If drug cultivation is conducted on a larger or commercial scale under legal regulation this could lead to increased environmental degradation, threaten food sources, and affect ecosystem biodiversity.

The design of legal markets must take all these risks into account and ensure small scale cultivators, Indigenous and marginalised communities are protected from commercialisation, and supported to enter the legal market, while mitigating the risks of corporate monopolisation, environmental harms and food insecurity.

Advocates for social and economic justice must seize this opportunity before new drug markets get captured by corporations. This graphic explores what could happen to new legal drug markets if advocates for land rights fail to engage with drug reforms.

## A legal drug trade: The risks we must avoid



## The need to address the 'prohibition premium'

Under prohibition drugs are expensive. This is known as the 'prohibition premium'. The high price of illicit drugs is due to the risks involved in producing, trafficking and selling them. Whilst the vast majority of the profits from the drugs trade goes to those who traffic and trade in them, and not those who produce them, the high price of drugs can still enable small farmers to receive profits from illicit cultivations on relatively small pieces of land,<sup>8</sup> and survive in areas where other cash crops are not profitable. Most illicit coca and opium poppy cultivators in Colombia, Mexico, Myanmar and Afghanistan for example have plots on less than one hectare of land.<sup>9</sup>

Strong advocacy from and with drug producers is required to ensure that new legal markets provide and support farmers to transition out of poverty, ensure they are given production licences, supported to meet required production standards and provide opportunities for secure, stable income and reducing poverty.

## The opportunity for land rights

None of these risks are inevitable. If explicitly designed to repeal the harms to land rights under prohibition, drug reforms have the potential to end the current denial of land rights, return land to communities and protect them from environmental destruction. This will only be possible with the deliberate development of new markets that **rectify the injustices of both prohibition and the denial of land rights**.

This will require robust policies to return appropriated lands to their original owners, improve land registration systems and set protections in land tenure so they are unable to be mis-appropriated again. It requires preventing corporate capture, and enacting a range of policies to support agroecology and ensure small scale producers can compete equally in a licit market (see trade paper in this series). It will need careful planning to ensure responsible land expansion, and exhaustive environmental legislation to prevent resource exploitation and environmental damage.

## Land rights in a legal drug trade – key principles

- **Repair the harms of prohibition and return appropriated lands** including compensation for loss of livelihoods, and the establishment of land rehabilitation programmes for lands that have been damaged.
- **Address prejudice and institutional bias.** The current depiction of illicit crop producers as criminals, often in conjunction with existing colonial discourse has been used to justify the seizure of land from Indigenous and other marginalised communities. Regulation must repair the harms of systemic injustice through ethics based consciousness training, address prejudice and end harmful stereotypes.
- **Robust regulation to protect land tenure and security.** Land rights to be championed as human rights, support community-led approaches in land restitution, land reform, swifter approaches to land titling, inclusive decision making for land use, mediated land conflict resolutions, mechanisms put into place to give vulnerable and marginalised landowners more support when engaging in land disputes in line with Articles 8, 2b and 32 of The United Nations Declaration on the Rights of Indigenous Peoples.

### Land titling in areas of Peru a game changer for Indigenous land tenure

In the Peruvian Amazon, illegal crop production has caused widespread deforestation and land grabs in Indigenous territories. Many Indigenous communities lack legal protection because the government has been slow to grant land titles. This leaves them vulnerable to exploitation and violence. Over the past decade, 30 Indigenous leaders have been killed for trying to defend their land.

Indigenous tribe Santa Martha attribute the lack of government action to define land area and deliver land title grants as a primary factor for illegal deforestation.<sup>10</sup> The Unipacuyacu tribe, reportedly does not even have a title deed despite the fact its leaders have been requesting one for ten years, which sources say has resulted in invasion and deforestation of Indigenous land.<sup>11</sup>

When communities gain legal titles to their land, deforestation drops significantly. For example, titled land in Peru saw a 66% decrease in deforestation.<sup>12</sup> Land titles also allow communities to unite smaller plots into larger, communal areas, which aligns with Indigenous values and makes it harder for outsiders to seize land.

Recently, the Peruvian government worked in partnership with the Association for the Development of the Peruvian Rainforest Association (AIDSEP) and the Rainforest Foundation US (RFUS), to introduce a faster and cheaper way to issue land titles. This approach, developed with local and international partners, uses mapping technology to speed up the process. Since June 2023, the government has issued 37 titles to Indigenous communities, giving them the legal tools to protect their land and restore unity to their territories.

- **Protect against corporate land capture.**

Support and strengthen Indigenous and marginalised communities' agency to retain land tenure and reduce corporate capture. Champion agroecological practices. Make resourcing available for long-term community development and infrastructure programmes for those most affected by prohibition and vulnerable to appropriation under legal regulation.

- **Remove barriers to and provide support for small farmers,**

traders and traditional herbalists to transition to licit markets. Reforms could include affirmative licensing, reduce or exempting small farmers from fees, requirements for capital outlay and bureaucracy or timing payments until after harvests, quotas for numbers of small local growers, supporting traditional herbalists to function as medical suppliers and proactive support to enable them to meet the required processes and standards to enter the market.

- **Implement an anti-poverty and environmentally sustainable industrial development strategy**

for the new trading sector. For example, subsidising poor farmers and small producers, targeting new jobs in areas experiencing poverty, developing local processing capacity (e.g. edibles) and protecting smaller and emerging domestic traders from international competition.

- **Support small scale, sustainable production over export.**

This could include employing the principles of infant industry protection such as infant industry subsidies, grants, training and skill building, technical assistance, ensure value is added in country, support for small traders in getting products to market, minimum price guarantees for products and protecting land rights, indigenous knowledge and local seeds and strains from foreign imports.

- **Robust environmental policies** and the implementation of remediation to ensure sustainable cultivation practices for the legal market, addressing issues like land use, water consumption and champion agroecological approaches.

## What comes next? Let's shape it.

Are emerging drug reforms on your agenda? Advocacy for drug reforms that support land rights must happen *now*.

Contact [c.james@healthpovertyaction.org](mailto:c.james@healthpovertyaction.org) to contribute to the ongoing conversation to ensure drug reforms deliver justice.

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Cover image: The banks of the Sajta River, opposite the Isiboro Sécure National Park and Indigenous Territory, Bolivia. Here the government allows farmers to have one cato (1,600m<sup>2</sup>) to grow coca for personal consumption and sale. © Carlos Villalon; villalonsantamaria.com

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### Endnotes

1. <https://hip.innovationnorway.com/article/landledger:-reinventing-land-rights-in-crisis>
2. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5473056/#r23>
3. <https://doi.org/10.1016/j.polgeo.2022.102781>
4. <https://www.healthpovertyaction.org/wp-content/uploads/2023/10/REPORT-Revealing-the-Missing-Link-to-Climate-Justice-Drug-Policy.pdf>
5. <https://www.healthpovertyaction.org/wp-content/uploads/2023/10/REPORT-Revealing-the-Missing-Link-to-Climate-Justice-Drug-Policy.pdf>
6. <https://www.healthpovertyaction.org/wp-content/uploads/2023/10/REPORT-Revealing-the-Missing-Link-to-Climate-Justice-Drug-Policy.pdf>
7. <https://www.tandfonline.com/doi/full/10.1080/03066150.2024.2328647#d1e1050>
8. <https://doi.org/10.1080/03066150.2024.2328647>
9. <https://doi.org/10.1080/03066150.2024.2328647>
10. <https://news.mongabay.com/2021/01/indigenous-cacataibo-of-peru-threatened-by-land-grabbing-and-drug-trade/>
11. <https://news.mongabay.com/2021/01/indigenous-cacataibo-of-peru-threatened-by-land-grabbing-and-drug-trade/>
12. <https://news.mongabay.com/2024/09/record-number-of-indigenous-land-titles-granted-in-peru-via-innovative-process-commentary/>



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Suite 2, 23-24 Great James Street, London WC1N 3ES ☎ +44 20 7840 3777

@ [c.james@healthpovertyaction.org](mailto:c.james@healthpovertyaction.org) 🌐 [healthpovertyaction.org](http://healthpovertyaction.org)

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