

8. LABOUR RIGHTS

THE LEGAL REGULATION OF DRUGS: The potential to deliver labour rights

The illicit drug trade is a breeding ground for labour rights violations. Violence, intimidation and murder (perpetrated both by organised criminals and state agents), destruction of crops, low wages, long hours, exposures to hazardous chemicals, systemic gender discrimination¹ and numerous violations of children's rights among them.

“When the Kani [opium poppy] was fully matured and was ready to be harvested, the police personnel entered and started destroying the field... they destroyed everything and left me with nothing.

Female drug farmer,
Northern India²

Employees in other sectors who use illicit drugs, including for medical reasons, have been discriminated against and dismissed from their employment, whilst the criminalisation of people who use or trade in drugs has devastating impacts on their future employment and financial security.³

“[The civil police] put [a gun] in my mouth ... the guys torture us. And they don't give a rat's ass to human rights.

Male small scale drug trader,
São Paulo, Brazil⁴



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We are currently witnessing the beginning of the end of prohibition, with alternatives such as harm reduction, decriminalisation and legal regulation of cannabis, cocaine, psychedelics, ketamine and MDMA/ecstasy on the agenda of governments across the world. At the same time debates on formalising the informal economy, are being had by UN agencies, governments, workers and employers worldwide. The convergence of these two agendas provides an opportunity to support the formalisation of workers, enable people to transition from exploitation in illicit markets to decent, safe and secure jobs, reduce poverty and stigma and generate vital revenue for public services.

Informal vs illicit economies

The majority of the world’s workers (nearly 2 billion people) work in the informal economy.⁵ In low income countries informal workers form 89 percent of total employment.⁶ Figures for informal workers exclude the millions working in illicit economies, including the drug trade. These include drug crop farmers or low level drug traders, many of whom enter the drug trade due to poverty, vulnerability and the lack of safe, alternative employment.⁷ These workers face all the vulnerabilities of those in the informal economy, in addition to criminalisation and violence, at the hands of both states and organised crime.

A legal drug trade – risks for labour rights

If the needs of small-scale drug producers and traders are not prioritised in drug reforms they risk perpetuating or even expanding existing labour rights violations.

Freedom of association⁸ is critical for all workers, yet, not all jurisdictions allow for the unionisation of all categories of workers. The Freedom of Association of farming workers is fragile in many countries.⁹ In some jurisdictions where cannabis has been legalised, enterprises have shown considerable disrespect for the labour rights of cannabis workers. In particular, cannabis workers’ right to form unions has come up against employers’ resistance, with claims that national laws forbid the unionisation of agricultural workers.¹⁰

Other risks that will need to be mitigated include the impact of the likely reduction of the ‘prohibition premium’ the drop in the price of drugs as result of the transition from illicit to legal markets. This may require farmers to grow more crops on larger areas of land to make the same income as they

earn in illicit markets.¹¹ Other risks from a larger, expanded legal market include the extension of existing safety and health threats¹² such as exposure to mould as a result of the high humidity of cannabis production, allergens, pesticides, chemicals¹³ and dust from processing.¹⁴

There are further risks of small scale farmers being excluded from the market (see trade paper in this series). For example in 2017 when the government of Lesotho began issuing licences for cannabis farming the cost of a main operating licence was US\$23,000, meanwhile the per-capita income was US\$2,925.¹⁵ Corporate capture – when private industry uses its political influence to take control of the decision-making apparatus of the state undermining efforts to realise human rights¹⁶ – has already been observed in the emerging cannabis markets of Canada and the USA.¹⁷ Active steps must be taken to ensure this is not repeated in wider drug reforms.

The design of legal markets must take all these risks into account and seize the opportunity to ensure small scale cultivators, Indigenous and marginalised communities are enabled to form strong robust unions, protected from commercialisation, and that legal markets provide decent work, including safe, secure and well paid jobs and access to social protection.

Advocates for labour rights must seize this opportunity before new drug markets get captured by corporations. The graphic below explores what could happen to new legal drug markets if advocates fail to engage with drug reforms.

A legal drug trade: The risks we must avoid



The opportunity for labour rights

High poverty and informality are common characteristics of rural economies (see text box on previous page). The shift to legal drug markets has the potential to help people transition out of the illicit economy and provide a wide range of decent, safe work, address unemployment and reduce poverty. For African countries that have so far implemented some form of drug reform, the reasons have been primarily economic.¹⁸ In Morocco for example, improving farmers' incomes was reported as a primary aim of the country's cannabis reforms.¹⁹ The emerging legal cannabis industry provides a wide range of jobs across cultivation, processing and retail.²⁰ In the United States of America the median salary for cannabis workers is 10.7 percent higher than the median salary.²¹

The ILO Centenary Declaration for the Future of Work (2019) advocates for the transition from the informal to the formal economy while giving due attention to rural areas.²² Drug regulation, which requires the formalisation of workers could contribute to this aim, which expects countries to “*progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage*” that meets the needs of workers.

Most US states that have legalised medical cannabis have also introduced protections against discrimination for employees across sectors who are registered users of medical cannabis,²³ and in Washington DC since 2023 employers must treat a patient's use of medical cannabis to treat a disability in the same way they would treat the legal use of a controlled substance.²⁴ In 2024 Washington state introduced a law prohibiting discrimination in initial hiring decisions based on an applicant's lawful, off-duty use of cannabis or test results.²⁵

Reforms based on transitional justice are essential to evolve legislation, regulations and licensing regimes with inbuilt social and environmental clauses, minimise risks, and maximise the benefits for labour rights and decent employment creation. They will require supporting currently illicit enterprises such as small scale growers, to obtain licences, as well as ensuring relevant labour protections for workers who become waged employees in an expanded legal drug industry. They also must reduce agricultural production costs and tackle issues such as soil degradation, climate change, land scarcity, and the concentration of land ownership to feed the world's rapidly growing population.^{26,27}



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Cauca, Colombia: A woman cleans up marijuana plants to be pressed into 25 pound bricks.

Relevant Labour Conventions

In addition to the aforementioned 2002 Recommendation (R204) on the transition to the formal economy here are ten ILO Conventions that must be adhered to within a regulated drug market.

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182).
- Occupational Safety and Health Convention, 1981 (No. 155)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

In addition, a convention on biological hazards in the workplace is currently under development.

The importance of unions

Reforms in California and New York require companies with licences to sell cannabis to sign neutrality agreements that require employers to not communicate their concerns regarding unionisation with their employees, while granting unions the right to freely advertise the purported benefits of unionisation. Since 2011 The United Food and Commercial Workers International Union (UFCW) has represented cannabis workers across The United States, Canada and Puerto Rico, and organised 300 dispensaries and grow facilities across the country,²⁸ many of whom have ratified union contracts. In October 2024 after serving a strike notice, UFCW workers in the Canadian Canna Cabana chain of cannabis stores ratified their first contract to improve staffing levels, mandate paid breaks, enable workers to receive tips and created full time positions, paid education and bereavement leave for all workers along with access to group health and medical plans for eligible employees.²⁹ A 2021 report³⁰ from the US Economic Policy Institute (EPI) found that unionised cannabis workers can earn up to 32 percent more than their non-unionised peers outside of the cannabis industry. They found unionisation was key to creating safer, better paying jobs in the cannabis industry, and more likely to provide benefits like health care, paid leave, and flexible working.

“High-quality cannabis jobs have made this industry good for hardworking families and has expanded economic opportunity to communities of color who were hurt by outdated state and federal policies. Labor Peace Agreements bring cannabis businesses and unions together as partners. They are a proven formula for success, increasing pay, providing benefits and protections for workers in the industry.

Ademola Oyefeso UFCW Legislative and Political Director & International Vice President, September 20, 2021³¹

In order to ensure labour rights are protected in emergent reforms, workers in the drug trade should begin collaborating, planning and organising now, both to advocate for the inclusion of robust labour rights and in preparation for the ability to formally organise. Innovative alliances spanning trade unions and the social and the solidarity economy (which includes cooperatives, foundations and social enterprises) have been shown to improve livelihoods, support individual access to rights, develop collective identity, shared ownership and mutual support as well as improve the wider environment for informal economy workers.³² Trade Unions and other parts of the social and solidarity economy should show the same support to drug workers that they demonstrate to other informal workers.³³

Learning from other trades: Bananas

Fair Trade initiatives ensure producers are paid a minimum price for their products which must be produced under certain environmental and social standards. These include the right to unionise and collective bargaining, fair wages, social protection including pension schemes, and work in safe and healthy conditions free of forced and child labour. It includes a ‘Fairtrade Premium,’ an additional sum of money which goes into a communal fund for workers and farmers to use to improve their communities.

Volta River Estates Ltd, a Ghanaian/Dutch company and Ghana’s first commercial banana export operation, became Fairtrade certified 1996. It exports over 10,000 tons of Fairtrade Bananas annually and employs 800 people. In 2023 US\$392,000 of Fairtrade premium was received. The workers invest the premium back into benefits for workers and the community such as health and education initiatives and environmental production techniques.

Whilst Fairtrade initiatives need to go hand in hand with a wider overhaul of the global trade system to go beyond niche markets and benefit more than a select group of producers (see our trade paper in this series), a focus on fair trade initiatives within other sectors can demonstrate ways to protect labour rights for drug markets.

Learning from other trades: Sex work

Sex work provides an example of informal unions in an illicit sector that have successfully organised and advocated for labour rights. In 2022, Belgium decriminalised sex work and allowed sex workers to work as self-employed. In 2023 it became the first country to extend labour rights to sex workers, including rules around working hours and payment, the right to refuse clients and the mandatory availability of emergency buttons in every room.³⁴ In May 2024 a new labour law made it possible for sex workers to also be able to work under an employment contract, thus gaining access to social security, pension, unemployment and health insurance, family benefits, annual and maternity leave, and protection from dismissal or other adverse action. However protections for sex workers without work status or without legal residence are yet to be decided.³⁵

Labour rights in a legal drug trade – key principles

- **Repair the harms of prohibition.** Provide for the expungement of criminal records of persons convicted under prohibition, and support for people formally criminalised to enter decent employment.
- **Unite workers in preparation for reform.** Support drug crop producers to unite in informal cooperatives, develop a support network and provide training and capacity building to further their knowledge of union rights in preparation for transition into licit markets. Trade Unions and social and solidarity economy entities should work with drug workers in the way they work with other informal workers and enterprises in line with ILO Recommendation N.204.
- **Promote South-South cooperation** and regional collaboration such as the Fair(er) Trade Cannabis Working Group (see our paper on trade in this series) to pool knowledge and innovation and reduce global power imbalances.
- **Centre labour rights in all reforms** including freedom of association, collective bargaining, prohibitions on forced and child labour and a commitment to the principles of equality and non-discrimination in line with ILO conventions. Rights must be monitored and enforced through robust, independent auditing of the supply chain to ensure adequate protection for workers.
- **Take an active labour market approach** in line with the transition to the formal economy to include workers under legal protections. This includes relevant protections in supply chains and labour

protection, as well as support to individuals to enter the labour market such as training, subsidies, supported employment opportunities and programmes for entrepreneurial activities. Remove barriers for women, including occupational gender segregation and the provision of childcare.

- **Require employers to provide health and safety plans** to identify, assess, and mitigate hazards particular to the industry. This should include protections for particular groups, including migrant labourers and women.
- **Address the determinants of health** Ensuring fair and safe employment must go hand in hand with provision to deliver wider human rights including health, food and shelter, such as a decent welfare provision and strong public health systems.
- **Strict licensing criteria** to favour small businesses and community-based operations over larger corporate entities. Promoting cooperative models can empower local producers, allowing them to pool resources, share knowledge, and increase their bargaining power in a competitive landscape.
- **Equitable distribution of economic benefits.** Instituting targeted investment strategies, including establishing funds to support entrepreneurship in the micro, small, and medium enterprise category with grants or soft loans targeting people who have been marginalised under prohibition. Establish educational and training programmes to support cultivation, processing, business management and affirmative action policies favouring women and local businesses, as well as support for people who choose to transition to other industries.
- **Regulate big corporations** to ensure they cannot dominate the market and that new opportunities benefit the poorest. This may include limits on the size of grow sites, moratoriums, full transparency and caps or strict limits on foreign ownership and investment, requiring big companies to share knowledge and technology with small businesses, restrictions on the import of seeds, requirements to source inputs locally and protection within supply chains.

What comes next? Let's shape it.

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

Contact c.james@healthpovertyaction.org to contribute to the ongoing conversation to ensure drug reforms deliver labour rights.

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Endnotes

1. www.opensocietyfoundations.org/reports/impact-drug-policy-women#publications_download
2. <https://www.healthpovertyaction.org/wp-content/uploads/2019/02/Punishing-poverty-research-report-WEB-v5.pdf>
3. Ibid.
4. Ibid.
5. <https://www.ilo.org/publications/women-and-men-informal-economy-statistical-update>
6. Ibid.
7. See for example <https://www.healthpovertyaction.org/wp-content/uploads/2019/02/Punishing-poverty-research-report-WEB-v5.pdf>
8. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
9. ILO, Decent work deficits among rural workers: Key findings and recommendations for trade unions, 2022 https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_dialogue/%40actrav/documents/publication/wcms_850582.pdf
10. Union Drive at Missouri Cannabis Company Could Impact National Labour Law <https://scheerpost.com/2024/10/30/union-drive-at-missouri-cannabis-company-could-impact-national-labor-law/>
11. Currently, the high costs of drugs under prohibition the 'prohibition premium' means that cultivators can make profits from relatively small pieces of land.
12. Guide to Worker Safety and Health in the Marijuana Industry https://deohs.washington.edu/sites/default/files/documents/Guide-to-Worker-Safety-and-Health-in-the-Marijuana-Industry_FULL-REPORT.pdf
13. Ibid.
14. 'In one case, constant exposure to air filled with cannabis dust caused a woman to develop asthma within months of working at a cannabis cultivation and processing facility. Tragically, in January of 2022, the 27-year-old woman suffered a fatal heart attack at her workstation because of an asthma attack.' The Cannabis Industry and Labour Unions January 9, 2024 <https://onlabor.org/the-cannabis-industry-and-labor-unions/>
15. <https://www.theguardian.com/global-development/2023/feb/15/lesotho-cannabis-boom-failing-to-deliver-prosperity>
16. See the trade briefing in this series for further discussion on this.
17. 'corporate capture' and emerging cannabis markets 21st July 2021 <https://transformdrugs.org/blog/preventing-corporate-capture-of-emerging-cannabis-markets>
18. https://www.researchgate.net/publication/376129360_Implications_of_legalisation_of_cannabis_cultivation_in_Ghana_a_critical_review
19. Ibid.
20. <https://www.mselaborlaw.com/practice-areas/cannabis-employees-workplace-rights/>
21. <https://www.ufcw.org/cannabis-business-certificate/>
22. ILO Centenary Declaration for the Future of Work, 2019 <https://www.ilo.org/about-ilo/mission-and-impact-ilo/ilo-centenary-declaration-future-work-2019>
23. <https://www.mselaborlaw.com/practice-areas/cannabis-employees-workplace-rights/>
24. Ibid.
25. Ibid.
26. ILO, The future of work in African agriculture: Trends and drivers of change, 2018. <https://www.ilo.org/publications/future-work-african-agriculture-trends-and-drivers-change>
27. ILO, Decent work deficits among rural workers: Key findings and recommendations for trade unions, 2022 https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_dialogue/%40actrav/documents/publication/wcms_850582.pdf
28. <https://www.ufcw.org/press-releases/ufcw-celebrates-cannabis-workers/>
29. <https://www.ufcw.org/actions/victories/cannabis-workers-in-canada-ratify-a-first-contract/>
30. <https://www.epi.org/publication/ensuring-the-high-road-in-cannabis-jobs/>
31. <https://www.ufcw.org/press-releases/new-report-cannabis-workers-unionizing-leads-to-higher-quality-jobs-and-increases-standards-in-fast-growing-industry/>
32. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_emp/%40emp_ent/%40coop/documents/publication/wcms_844973.pdf
33. The ILO has published a toolkit for Trade Unions on organising the informal economy https://www.ulandssekretariatet.dk/wp-content/uploads/2021/01/Guide-Organizing_informal_workers_into_trade_unions-a_trade_union_guide-1.pdf
34. https://www.coe.int/en/web/commissioner/blog/2024/-/asset_publisher/aa3hyyf8wKBn/content/protecting-the-human-rights-of-sex-workers
35. <https://www.utsopi.be/our-work/decriminalisation/cadre-du-travail>



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