

LEGAL REGULATION OF DRUGS FOR GLOBAL JUSTICE



Briefing series

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Introduction

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



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

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

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

















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

The possibilities

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

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

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

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

Definitions

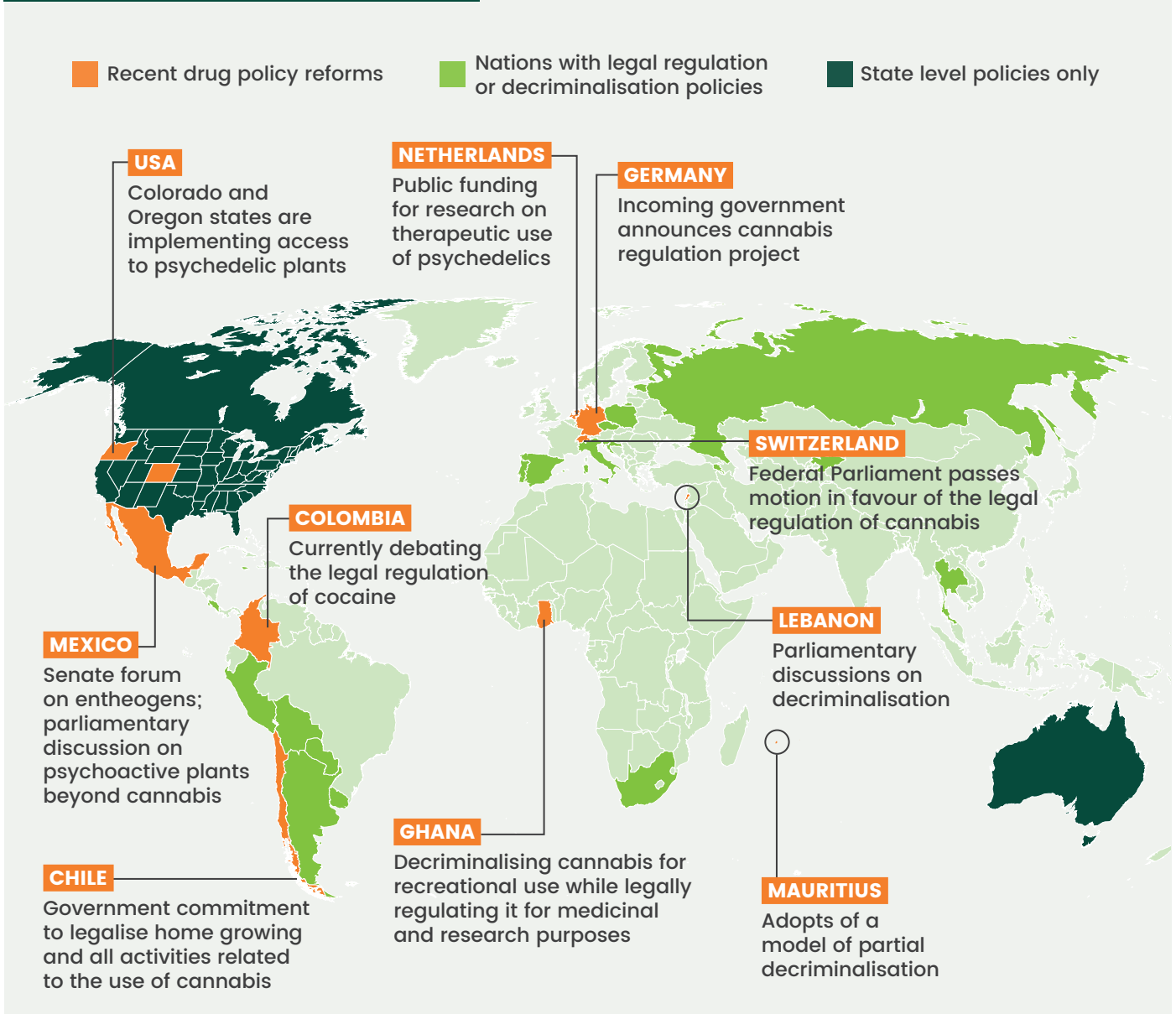
Decriminalisation: The removal of criminal penalties for certain drug related activities. The drug supply chain remains unregulated.

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

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

Change is happening

Recent examples of global drug policy reforms from 2023



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

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

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

Examples of drug policy reforms for social justice

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

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

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

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

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



Cannabis Pictures CC: BY 2.0



Different models of regulation

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

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

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

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

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

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

Economic models to support what matters

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

Transitional justice for a legal drug trade – key principles

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

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

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

What comes next? Let's shape it.

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

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

Edited by: Natalie Sharples. Thanks to all those who provided drafts and comment: Jenna-Rose Astwood, Clemmie James, Kingsley Ofei-Nkansah, Martin Drewry, Tom Wills, Nick Dearden, Dave Bewley-Taylor, Zara Snapp, Dasheeda Dawson, Toisin Ajayi, Steve Rolles, Paula Plaza, Neil Woods, Rebeca Lehrer, Cat Packer, Kojo Koram, Tamar Todd, Ella Ronan, Robert Rycroft and everyone who took part in 'A World With Drugs' webinar series.

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

Endnotes

1. UNODC World Drug Report 2023 [unodc.org/res/WDR-2023/WDR23_Exsum_fin_DP.pdf](https://www.unodc.org/res/WDR-2023/WDR23_Exsum_fin_DP.pdf)
2. *ibid*
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4. [The War on Drugs and the Global Colour Line](https://www.plutobooks.com) (plutobooks.com)
5. "What Is Harm Reduction?," *Harm Reduction International*, 2022, <https://hri.global/what-is-harm-reduction/>; "Drug Decriminalisation across the World," *Talking Drugs*, <https://www.talkingdrugs.org/drug-decriminalisation/>
6. Due to its illicit nature the value of the drug trade is difficult to assess and estimates vary, but is significant.
7. In 2017 Global Financial Integrity estimated the value between US\$426 billion to US\$652 billion [Transnational Crime-final_exec-summary.pdf](https://www.gfintegrity.org) (gfintegrity.org)
7. "Bounded Equity: The Limits of Economic Models of Social Justice in Cannabis Legislation" – Katherine Hendy, Amanda I. Mauri, Melissa Creary, 2023 (sagepub.com)
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1. TRADE

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



Under prohibition, small scale farmers who cultivate and produce drug crops, and low-level traders – often people living in poverty – face systematic persecution and criminalisation.

Communities risk having their crops or products eradicated which can be harmful to individual and community health and the environment. They risk violence towards themselves or their families, and the possibility of incarceration and death (34 countries maintain the death penalty for drug offences).¹ Since most economic gains are accrued further down the production chain, cultivating communities often make very little income from the crops they produce.

As we witness 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, it is vital that the emergent reform of the global drug trade has trade justice at its heart.

Due to its illicit nature, the value of the drug trade is difficult to assess. It is, however, significant. In 2017 Global Financial Integrity estimated the value between US\$426 billion to US\$652 billion.² We must design this new market to serve the needs of people; create fair and legal income for small scale farmers and traders; generate resources for vital public services; and enable fair growth while respecting planetary boundaries. The above is possible but requires strong advocacy for transitional justice.



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Licensing for social equity

Recognising the racist history of prohibition, various US states have implemented social equity clauses that support disproportionately impacted communities into legal cannabis markets. Strong advocacy in the City of Detroit ensured that its reforms reflected the city's history of race and inequity. 50 percent of business licences went to longtime residents who qualify for redacted fees and can buy city owned premises at substantially reduced rates.³

A legal drug trade – risks for trade justice

Whilst illicit markets are by nature entirely absent of protections for small scale farmers and producers, markets for licit goods are also often unjust. Global trade rules favour big businesses and wealthy nations at the expense of producers and countries in the global Majority World. Emergent drug reforms have the opportunity to explicitly learn from the failings of other trades and build in provisions to address these from the outset.

Advocates for social and economic justice must seize this opportunity before big business does. The graphic below explores what could happen if advocates for economic justice fail to engage with drug reforms. For example, when the government of Lesotho began issuing licences for cannabis farming in 2017, the cost of a licence for production was US\$23,000. Meanwhile, the per capita income was just US\$2,925.⁴

A legal drug trade: The risks we must avoid



The opportunity for trade justice

If constructed using principles of transitional justice, a legal market could give people the opportunity to produce and trade crops without fear of criminalisation, stigma and incarceration. They could earn decent wages in safe conditions. Their activities could support the economic growth of their countries within planetary boundaries and provide an example to other trades of what is possible.

This will only be possible with the deliberate development of new markets that **rectify the injustices of both prohibition and global trade**. These markets must recognise the cultural and religious significance of drug crops, be carefully crafted to ensure meaningful participation of small-scale farmers and traders, uphold labour rights and safeguard local businesses. They must be designed to mitigate against inequities in global trade, ensure economic benefits to producer countries, minimise the risk of corporate domination, and promote sustainable economic growth within ecological limits. There is a precious window of opportunity in which to do these things whilst the drugs trade remains outside of international trade rules. It may be possible to set positive precedents that over time might be used to support wider trade reforms.

Working for just reforms in the Caribbean

In the Caribbean, the Fair-Trade Cannabis Working Group⁶ brings together traditional cannabis cultivators, policymakers, civil society and academics, to advocate for regulation that will allow small and traditional cannabis growers to benefit from the emerging licit cannabis market and avoid free market, export-oriented strategies. Priorities identified include a regional harmonised approach to development of the cannabis industry; a focus on diverse markets rather than export-oriented growth; using nationalised banks to bypass current international banking restrictions; and a focus on cooperative structures.

Bolivia: Putting Indigenous farmers in control

Bolivia's Community Coca Control policy allows small farmers to grow small amounts of coca for local markets. Coca has also been decriminalised whilst the country has requested the WHO reassess the classification of coca under drug control treaties.⁵ These policies recognise the importance of coca for Indigenous communities and the need to prioritise local leadership and protection for the environment.

Trade justice in a legal drug trade – key principles

Transitional justice for drug producers and traders:

- **People first.** The input of current farmers, small scale traders and those currently persecuted under prohibition must be central to the development of emerging regulations. Lessons from the injustices of other trades must be shared and explicitly addressed.
 - **Repair the harms of prohibition.** This includes recognising the important cultural and religious significance of drugs for some communities, expungement for those who have been criminalised and the reinvestment of tax revenue for public services.
 - **Remove barriers to and provide support for small farmers, traders and traditional herbalists.** Reforms could include: affirmative licensing; reducing or exempting small farmers from fees and bureaucracy; reducing requirements for capital outlay or timing payments until after harvests; establishing quotas for numbers of small local growers; supporting traditional herbalists to function as medical suppliers; and proactive support to enable small operators 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.
- **Labour rights and gender justice.** Ensuring adequate labour law including the right to unionise, prevention of child labour, use of cooperative laws to enable growers to register as cooperative bodies, health and safety regulations, protections for migrant labourers, and removing barriers for women including the provision of childcare. Rights must be monitored and enforced through robust, independent auditing of the supply chain to ensure adequate protection for workers.

Transitional justice for a global equitable drug trade:

- **Global trade justice.** Explore options that could enable drugs to remain outside of unjust WTO rules including TRIPS, as well as other trade agreements and pressures applied through mechanisms like IFI conditionalities. This could include regional inter se modifications of drug control conventions (agreements between specific countries that enable them to modify global agreements creating mini treaties between themselves without undermining global agreements⁷) and development of regional agreements, approaches and standards. It also requires mechanisms to prevent negative consequences of global imbalances resulting from increased production in the Minority World (for example, the potential impact on Afghanistan, which currently produces 93 percent of the world's illicit opium). Policies could include pricing boards, tariff-free access to Minority World markets, support in accessing markets, and compensation for losses incurred by farmers in producer countries.
- **Bilateral trade justice.** Options include: ensuring agreements allow drug producers in the global Majority World duty-free and quota-free access to the international market; exemption of drug seeds from harmful conventions such as The International Union for the Protection of New Varieties of Plants Convention 91 (UPOV); enabling unilateral measures to support greater fairness in supply chains; and unilateral Directives on unfair trade practices and the introduction of regulators for fair purchasing.
- **Small scale, sustainable production over export.** This could include employing the principles of support for infant industries, such as protection, subsidies, grants, training and skill building, and technical assistance. This would help ensure that lucrative added value stages (such as processing) are retained in producing Majority World countries. Policies could also include: support for small traders in getting their products to market; minimum price guarantees; protecting land rights and indigenous knowledge from expropriation; and safeguarding local seeds and strains from corporate imports.

Developing Ghana's cannabis policy

In 2023 Health Poverty Action, the West Africa Drug Policy Network, Ghana's POS Foundation and the International Drug Policy Consortium brought together cannabis farmers, drug policy reform and economic justice advocates together with policymakers to design their priorities for Ghana's new cannabis markets. Key priorities included: regulation to prevent corporate capture of the market; ensuring market regulations support women and right the wrongs they currently experience under prohibition including the reinvestment of tax revenue into childcare provision in order for women to build sustainable livelihoods and deliver gender justice.

- **Regulate big corporations.** Ensure they cannot dominate the market and 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, and requirement to source inputs locally.
- **Fair intellectual property rights.** Protect indigenous plants and seeds and knowledge, for example through ensuring trade deals do not include The International Union for the Protection of New Varieties of Plants (UPOV 91) Convention and exemptions from WTO TRIPS agreements (above). Recognise the objectives of the UN Convention on Biodiversity. Provide publicly funded and publicly accessible research and development to further knowledge and development of seeds, growing conditions and uses, and make this available to all.

- **Environmental justice.** Ensure production is based on sustainable use of land, energy and water, and that it does not replace food crops. Prioritise small scale growing over industrial scale resource intense indoor grow sites.

What comes next? Let's shape it.

Are emerging drug trade reforms on your agenda? Advocacy for a trade justice approach to drug reforms must happen now.

Contact c.james@healthpovertyaction.org to contribute to the ongoing conversation to ensure drug reforms deliver for trade justice.

Author: Natalie Sharples. With thanks to Tom Wills, Nick Dearden, Dave Bewley-Taylor, Zara Snapp, Clemmie James, Martin Drewry.

Cover image: Coca leaves being sold legally at Tarabuco Sunday market, Bolivia. © Jamie Marshall – Tribaleye Images / Alamy Stock Photo

Endnotes

1. <https://hri.global/topics/drugs-and-human-rights/death-penalty-for-drugs/>
2. [Transnational _ Crime-final- _exec-summary.pdf \(gfintegrity.org\)](#)
3. "Bounded Equity: The Limits of Economic Models of Social Justice in Cannabis Legislation" – Katherine Hendy, Amanda I. Mauri, Melissa Creary, 2023 ([sagepub.com](https://www.sagepub.com))
4. [Why is Lesotho's cannabis boom failing to deliver the prosperity it promised? The Guardian](#)
5. [Coca Chronicles: Bolivia Challenges UN Coca Leaf Ban – WOLA](#)
6. [Position Paper of the Fair-Trade Cannabis Working Group in the Caribbean, Transnational Institute \(tni.org\)](#)
7. This would enable countries to enter inter se agreements on different drug products. For more information see TNI [The elegant way to end global cannabis prohibition: Inter se modification The elegant way to end global cannabis prohibition: Inter se modification, Transnational Institute \(tni.org\)](#)

2. TAX

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



Tax policy has the potential to play a profound role in delivering drug markets that work for social justice. The vast profits generated by the drug trade constitute a highly significant proportion of some countries' revenue. Whilst estimates are difficult due to its illicit nature and vary, in 2017 Global Financial Integrity estimated the value to be between US\$426–652 billion.¹ This is between two and three times the global aid budget.

As we witness the beginning of the end of prohibition, with alternatives such as the decriminalisation and legal regulation of cannabis, cocaine, psychedelics, ketamine and MDMA/ecstasy on the agenda of governments across the world, it is vital that emergent reforms have global tax justice at their heart.

In 2022 the total value of cocaine shipments from Central America (excluding El Salvador) is estimated at US\$101.8 billion. The value added of cocaine movements represented 21.87% of Belize's GDP in 2002. The average value as a percentage of GDP from 2000–2018 was 6.64 percent, more than spending on education (6.34 percent) and double health spending (3.21 percent). For some years 2000–2018 Belize's cocaine movements approached or exceed average tax revenue as a percentage of GDP.²



These revenues are both highly significant, and highly volatile. The value of cocaine across Central America jumped from US\$53 million in 2000, to nearly US\$24 billion in 2016 before reducing to nearly US\$ 14 billion in 2018.³

The people benefiting from these revenues are not the citizens of these countries that produce drugs, but organised criminals. Whilst a small portion of drug revenue may benefit rural communities, the volatility distorts the economy, creates boom and bust, and fills the pockets of organised criminals rather than boosting public services. Bringing these revenues out of the illicit sphere to being under state control where they can be taxed (which could include taxes on production, products, corporations and income from the employment generated) could provide stable and vital revenue for public good.

If Belize's 2002 cocaine revenue was taxed at the rate of tax to GDP for the country in that year (14.5 percent), the cocaine trade could have brought in US\$ 44.2 million, almost equivalent to the amount the country spent (44.3 million) on health that year. If the country had a stronger tax system, represented by a higher tax to GDP ratio (for example 34 percent, the current average OECD tax to GDP ratio) taxation from the cocaine industry could have brought in US\$ 103.5 million, more than double the health budget.⁴

Tax policy is a vital tool in the design of regulation that can enable the participation of small farmers and traders, support people to transition out of illegality into licit markets and provide vital revenue to improve health and reduce poverty.

Tax for transitional justice

Recognising the racist history of prohibition, various US states have implemented social equity clauses that support disproportionately impacted communities into legal cannabis markets and direct the tax revenue to invest in health and other social programmes. Thanks to powerful advocacy New York State's cannabis regulation provides expungements for those previously criminalised. It invests 40 percent of the tax revenue from cannabis into communities that were most harmed by prohibition, 40 percent into education, and 20 percent into substance abuse and mental health services. Other US states similarly use tax revenue for health and social programmes: Illinois 20 percent, Oregon 25 percent, Colorado 60 percent and New Jersey 70 percent.

A legal drug trade – the risks for tax justice

As we see from other trades, the potential for tax to enable or impede social justice and global power equality is huge.

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

How much tax could we gain from the drug trade?

At a conservative estimate, global drug sales could provide governments with an additional US\$150 billion in tax revenue each year.⁵ This is enough to end world hunger four times over.⁶

This estimate is for a sales tax only and does not include revenue from taxes on corporations, production or income as a result of increased legal employment. As well as revenue generated by taxes, legally regulating drugs can prevent public money being wasted on failed enforcement with potential savings in the police, military, prison and judicial systems, as well as those associated with wider health harms.

A legal drug trade: The risks we must avoid





Activist at New York cannabis protest

Tax is a key issue of both national and global equity. A common problem for poor countries is the so-called ‘race to the bottom’ in which in attempts to generate revenue from foreign investment, countries compete to offer tax breaks to foreign corporations, resulting in the benefits leaving the country, most often ending up in wealthier ones.⁷ In countries with weak capacity for tax planning and collection companies can offer “help” in the form of “tax advice” or “consulting”, enabling them to influence tax policy in their own interests. Tax policies that prioritise the needs of domestic producers and domestic revenue generation are therefore vital.

Drug reform and tax policy further overlap in the case of illicit financial flows. In 2017 Global Financial Integrity listed drugs as having the second highest value out of 10 illicit industries.⁸ The illicit drug trade also fuels a number of the other industries listed such as illegal mining, logging and fishing, and illegal trade in wildlife, weapons and human trafficking, as drug gangs use their existing trafficking infrastructure to diversify into other criminal activities.⁹ Organised crime fuels corruption, undermines states and creates the conditions in which illicit activities can occur. Meanwhile the low taxes and high levels of secrecy in the global tax

architecture allows organised criminals to funnel their wealth accrued from drugs and other crimes into tax havens around the world. The UNODC estimates that in 2019 Mexico received inward illicit financial flows of US\$11 billion from cocaine, methamphetamine, and heroin while Colombia received between US\$1.5 and US\$10 billion.

Whilst removing prohibition will have an impact on illicit flows, those same tax havens also facilitate the flight of capital earned legally. The Tax Justice Network estimates that countries are on course to lose US\$4.8 trillion in tax to tax havens over the next 10 years.¹⁰ It is therefore vital that drug and tax justice advocates join together to close the global tax loopholes to ensure that the profits from a licit drugs trade are able to benefit citizens of the countries that produced them.

Tax justice in a legal drug trade - key principles

If constructed using principles of transitional justice, drug reforms could generate new, stable forms of revenue for countries to strengthen tax collection capacity, reduce poverty and improve public health. This will only be possible with the deliberate development of new markets that **rectify the injustices of prohibition and global tax abuse.**

- **Put people first.** Governments must explicitly refuse big industry’s offers of tax ‘expertise’ and instead draw on the experiences of those who have achieved tax justice as part of their reforms (see above) as well as current farmers, small scale traders and those currently persecuted under prohibition.
- **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. Conversely, 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 regulation whilst minimising the harms caused by any additional illicit consumption that may occur. The public health priorities of the given context must be central to any reforms.
- **Fair rates.** Address the barriers to market for small producers (in particular recognising the current absence of loans for substances that are currently illicit.) Set tax rates for small farmers that enable their participation and allow for transition to a licit market. Scale tax revenues based on the place of different actors in the value chain. Where foreign companies are involved ensure they pay fair rates of tax.

- **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.
- **Use tax to support trade and environmental justice.** Support producers in traditional countries of production by ensuring that countries of the Minority World reduce tariffs on imports from them and use tax rates to encourage environmentally sustainable production.
- **Join up advocacy for drug policy reform and tax justice.** Work together to end illicit financial flows and shut down the global network of tax havens to prevent the theft of citizen's resources.

What comes next? Let's shape it.

Are emerging drug reforms on your agenda? Advocacy for a tax justice approach to drug reforms must happen *now*.

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

Author: Natalie Sharples. With thanks to Clemmie James, Dasheeda Dawson and Toisin Ajayi

Cover image: Advocates for the legalisation of marijuana taking part in the annual NYC Cannabis Parade, May 2018. © Richard Levine/Alamy Live News

Endnotes

1. [Transnational_Crime-final-_exec-summary.pdf \(gfintegrity.org\)](#) Total global spend on aid in 2023 was US\$223.7 bn US\$Development finance data – OECD
2. All cocaine estimates in this section are from 'Acknowledging Cocaine Capital in Central American Development' – Journal of Illicit Economies and Development (Ise.ac.uk) Population and government expenditure data from World Bank <https://data.worldbank.org/>
3. Ibid.
4. Ibid.
5. Our figures in detail: Estimates of the global drug trade vary but we have taken a conservative figure of half a trillion US\$ (based on the 2017 GFI figure of US\$426 US\$652 billion). There is no global figure available for global tax to GDP ratio. We estimate it at 30 percent for the following reasons. The OECD average is 33.5 percent. OECD countries account for 41 percent of world GDP. Some non-OECD countries have higher ratios than the OECD average, but most have lower. A majority of countries (96 out of the 181 for which figures are available) have a ratio of at least 20 percent. So, we estimate the global average at between 20 and 33.5 percent. Then we add in the factor that taxes from drugs will almost certainly be at a higher rate than the average tax from the rest of GDP. Globally the average tax on cigarettes is 66.9 percent in high income countries and 56.5 percent in lower income countries. Considering all the above, we base calculations of tax from drugs at a conservative figure of 30 percent. This results in the estimate of total tax from drugs per year being US\$150 billion (30 percent of 500 billion). However, total government revenue gains could be much more. The tax figure is a conservative estimate and only covers sales taxes, excluding taxes on production, corporations, or income (from increased licit employment). It would cost less to regulate the drugs market than it currently does to wage the war on drugs (which currently costs over US\$100 billion a year). There would also be wider savings from the collateral damage of current drug policy (reduced costs of healthcare, reduced harm to the environment, reduced armed conflict, more stable and less corrupt governance.)
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7. [Health-and-Tax-briefing-WEB-2.pdf \(healthpovertyaction.org\)](#)
8. [Transnational Crime \(gfintegrity.org\)](#)
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10. [The State of Tax Justice 2023 – Tax Justice Network](#)

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.



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

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

A legal drug trade: The risks we must avoid



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.

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

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.
- **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.

Author: Natalie Sharples. With thanks to Clemmie James and Paula Plaza

Endnotes

1. [UNODC World Drug Report 2023 warns of converging crises as illicit drug markets continue to expand](#)
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4. INDIGENOUS RIGHTS

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

The imposition of colonial drug prohibition has undermined the fundamental relationship between Indigenous communities and drug plants, interrupting centuries of holistic cultural practice.

It denies Indigenous Peoples the ability to live in accordance with their cultural philosophies, impedes their traditional medicine, health and economic wellbeing, prevents Indigenous-led research and development into drug crops (whilst restricted grants are given to scientific and commercial organisations) and has made them a target for violence from both organised crime and states.

Indigenous communities are targeted by drug traffickers, leading to the appropriation of Indigenous crops and displacement from their lands. In Colombia, Brazil, Guatemala, and Honduras, 'Narcos' regularly use violence, threats and cash to buy up or take over large areas of indigenous land. This imposes health threats from illegal mining and violence and murder from drug cartels. Meanwhile Indigenous Peoples have been violently targeted by state efforts to eradicate illicit crops and have been disproportionately incarcerated for drug related offences.

- Māori make **17.3%** of New Zealand's population, but Māori men are **51.9%** of the prison population, with almost half of that population (**47%**) incarcerated for drug related offences.¹



Definitions

Biocultural heritage is a way of life that places harmony between Indigenous people and the environment and social relationships as paramount. It includes Indigenous Peoples' relationships to traditional crops and medicinal plants, wild foods, landscapes, and long-standing traditions, practices and knowledge for adaptation to environmental change and sustainable use of biodiversity. Biological heritage is also closely linked to cultural identity and religious beliefs. This collective stewardship of the earth is passed down through generations.

Bioprospecting and **biopiracy** are contentious and overlapping terms. The former is broadly defined as exploration of biodiversity for potential medical, academic or commercial use, whilst biopiracy is the theft of traditional Indigenous plants and knowledge. Both can involve the use of intellectual property rights by corporations to patent certain substances and knowledge, severing the rights of Indigenous peoples to plants and knowledge they have held for centuries.

As we witness 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 agendas of governments across the world, it is vital that the emergent reforms of the global drug trade prioritise Indigenous Peoples to avoid further imposition of colonialism and erosion of rights.

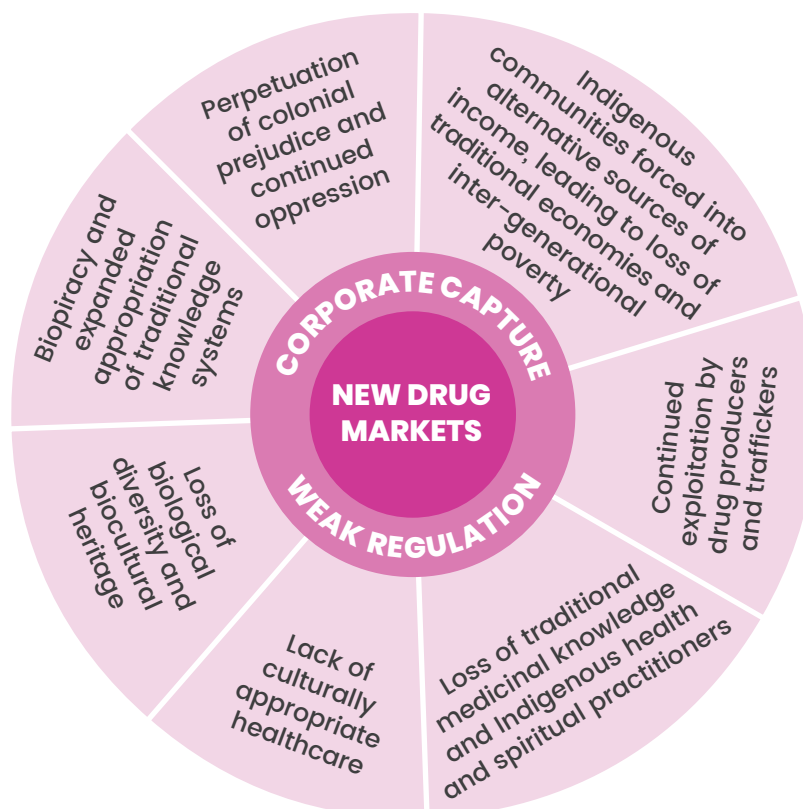
A legal drug trade – risks for Indigenous rights

If drug reforms happen without the full participation of Indigenous communities we risk the injustices of prohibition being recreated, and even expanded in a legal market as non-Indigenous interest in traditional plants and medicine grows.

Along with concerns about being pushed aside for economic opportunities, particular concern of some Indigenous Communities regards bioprospecting and biopiracy. If the licences given for research and development into drug plants prioritise corporations or non-Indigenous scientific organisations, this could restrict Indigenous-led research and development.

Advocates for Indigenous Rights must seize the opportunity before new drug markets get captured by corporations. This graphic 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



Will revolutionary drug reform in Mexico create opportunities for Indigenous communities?

Psychedelic plants and fungi such as peyote and mushrooms are currently illegal in Mexico, outside of Indigenous ceremonial customs.² A proposed new bill introduced by the Senate aims to decriminalise specific psychedelics and make them available for therapeutic use, combining ancestral knowledge with Western biomedicine to address mental health challenges. The proposed bill is likely to include measures to protect Indigenous medicinal knowledge and genetics as well as 'bio-conservation' modifications to environmental law, to conserve the land where these species grow. It is envisioned that the traditional Indigenous therapy will be regulated by a newly established Office of Traditional Medicine, and that the ongoing bioprospecting of Indigenous medicinal plants would provide compensation to Indigenous communities for the use of their traditional knowledge.

Supporters of the bill say that enshrining the traditional use of psychedelic mushrooms in law is a form of protection and recognition of Indigenous medicines. However Indigenous communities remain concerned by potential risks. These include: whether mainstreaming traditional medicines could lead to commercial exploitation, the misuse, appropriation and the potential loss of the spirituality, ethics and custom as part of the healing process, and lack of participation of Indigenous Peoples in research and development. Some want greater engagement and consultation with Indigenous Peoples and safeguards to ensure the bill delivers psilocybin access respectfully and equitably.

“The medicine is not protected now. It’s out of control...What we need is a record that says the Mazatecs are the custodians, the Mazatecs are the ones that for millennia have defended the medicine.”³

Alejandrina Pedro Castañeda Indigenous healer

Meanwhile legal regulation risks enabling the expansion of biopiracy and the appropriation of Indigenous knowledge. Whilst mainstream interest in the medical potential of psychedelics is understandably growing, regulation must protect the inherent relationship with psilocybin containing mushrooms, mescaline containing cacti and DMT containing plants held by Indigenous Peoples.

The opportunity for Indigenous rights

If constructed using principles of transitional justice, the legal regulation of drugs has the potential to reverse the colonial exploitation of Indigenous plants and knowledge, end the disproportionate incarceration of Indigenous peoples and enable culturally appropriate healthcare.

This will only be possible with the deliberate development of new markets that **rectify the injustices of both prohibition and the colonial erosion of Indigenous rights**. New markets must respect the vital relationship between Indigenous Peoples and drug crops, be developed in adherence

with international Conventions that protect the rights of Indigenous Peoples and ensure meaningful participation of Indigenous peoples in their development.

They must be designed to provide appropriate economic opportunities that mitigate inequities in global trade, prevent corporate domination of new drug markets, promote sustainable economic growth within ecological limits and enable access to culturally appropriate health care. There is a precious window of opportunity to do this.

“Our sacred leaf is an essential part of our ancestral cultures...The coca leaf [forms] the basis of thousands of years of ancestral knowledge, traditions, uses and customs. For the original Indigenous peasant peoples and the Bolivian people, the coca leaf signifies life, culture, dignity and sovereignty.”⁴

David Choquehuanca Vice President of the Plurinational State of Bolivia

Indigenous rights frameworks

A number of existing and emergent international treaties provide a framework for the rights of Indigenous peoples. These include:

- **The United Nations Declaration on the Rights of Indigenous People (UNDRIP).**
Any new international frameworks on drug policy must recognise the unique position of Indigenous Peoples and their rights to use and cultivate biocultural heritage without interference, as part of custom and cultural identity.⁵
- **The International Labour Organisation’s Indigenous and Tribal Peoples Convention.**
Article 2 calls for coordinated action to protect Indigenous rights and promote the full realisation of Indigenous social, economic and cultural rights with respect to cultural identity, customs, traditions and institutions.⁶
- **The International Guidelines on Human Rights and Drug Policy 2019** support the rights of Indigenous Peoples to develop and teach cultural spiritual and religious traditions, which include the use and cultivation of plants and substances with psychoactive effects and the right to control, cultivate, use and protect medicinal plants and seeds connected to cultural identity, cultural medicinal and spiritual practices.⁷
- **The Convention of Biological Diversity 1992** and its supplementary agreement on the conservation of biological diversity, sustainable use of biological resources, fair and equitable sharing of benefits arising from biological resources.
- **The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation to the Convention on Biological Diversity.**
- The ongoing development of World Intellectual Property Organisation (WIPO) treaty on the **Intellectual Property of Genetic Resources and Traditional Knowledge Associated with Genetic Resources (GRATK)**. Formalised in May 2024, the treaty aims to create protective mechanisms for traditional knowledge associated with genetic resources. It currently covers patents based on genetic resources associated with traditional knowledge, however, the scope is likely to expand covering other areas of intellectual property rights.

Tribal Opioid Settlements: Redress to Indigenous communities, could it go further?

In the United States Native American tribal nations have brought a suite of lawsuits against numerous companies involved in the manufacture and supply of synthetic opioids. Along with Native Alaskans, Native Americans have the highest overdose death rates of any racial group.⁸

The central claim of the lawsuits is that companies knew their opioid products were more addictive and harmful than prescribed, contributing to addiction and harm across Indigenous communities.

Settlement funds are to be targeted at reduction and prevention of opioid use. So far, settlements have amounted to over US\$1.5 billion, to be utilised by tribes and their tribal health organisations.

Whilst many tribal leaders are grateful for the settlements and the unique way the money can be spent for traditional, cultural and inter-cultural healing practices. Others question the fact that it only applies to tribes that are federally recognised and whether the amount of money equates to ‘true’ loss or reflect the ‘true’ impact of opioids among Indigenous Peoples and their communities.⁹

“The ongoing, cumulative effects are generational, and this money is not going to be generational.

Cheryl Andrews-Maltais The Wampanoag Tribe of Gay Head Aquinnah¹⁰

Indigenous-led collaboration to harness the potential of traditional medicine

Tū Wairua is a health science collaboration led by the Indigenous Māori community of Rangiwaho Marae, New Zealand. The collaboration aims to unlock the therapeutic potential of psilocybin found in Indigenous varieties of psilocybin mushrooms, which have been traditionally used in cultural medicinal practice by certain Māori groups for generations.¹¹

The priority is to create culturally centred practice to alleviate trending drug use in the community and foster a culturally safe healing space to support participants through therapy.

The Tū Wairua collaboration includes a network of Indigenous medicine practitioners, Indigenous health providers, Indigenous-born biotech company Rua Bioscience, national science institutes, universities, medical research institutes, medical practitioners and other community stakeholders. There are ten varieties of fungi endemic to New Zealand, that have been found to contain psilocybin or psilocin. Rua Bioscience has been granted a licence to cultivate all ten varieties.

The project was granted a license for cultivation and has now secured ethical and regulatory approval for Phase I clinical trials, to demonstrate the safety of psilocybin. Phase II of the trials will explore therapies with the intention of helping people affected by methamphetamine and other addictions.

Indigenous Māori practitioners are involved in the development of the clinical research programme and will participate in the clinical trials, providing guidance and support to participants. A medical doctor will be involved in prescribing during the clinical trials, including the pre-screening and post-session follow-up consultations.

Indigenous rights in a legal drug trade – key principles

- **Repair the colonial harms of prohibition.** Recognition of the inherent traditional, cultural, medical and spiritual relationships between Indigenous Peoples and certain drug plants, expungement for those who have been criminalised and the reinvestment of tax revenue into Indigenous Communities.
- **Enable Indigenous community-led solutions:** Indigenous Peoples are significantly community-based, and their functions operate best at a local level. Influence and support are needed at the local government level to enable Indigenous solutions for harm reduction, community supported drug treatment and recovery initiatives, culturally appropriate healthcare.
- **Robust regulation to protect Indigenous biocultural heritage** and knowledge systems, which have made a substantial contribution to modern medicine, primarily without acknowledgement or compensation. Policies must centralise environmental sustainability, provide provision and opportunity for Indigenous participation with biocultural heritage species, alongside clear safeguards against corporate domination. Consider regulations that gives

elements of the environment personhood and legal rights, such as that afforded to the Whanganui River in New Zealand.¹²

- **Remove barriers to and provide support for small and Indigenous farmers,** traders and traditional herbalists. Reforms could include affirmative licensing, reduce or exempting small and Indigenous 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.

“**Recognize the cultural and medicinal uses of plants and flora for their rich diversity beyond western medical paradigms by protecting the rights of Black people, Indigenous Peoples and people of African descent to grow, access and use such plants and flora without extraction and depletion by industries.**¹³

Dr. Tlaleng Mofokeng United Nations Special Rapporteur on the Right to Health

- **Regulate big corporations.** Ensure they cannot dominate the market and 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, requirement to source inputs locally.
- **Fair intellectual property rights.** Protecting indigenous plants and seeds and knowledge, for example through ensuring trade deals do not include The International Union for the Protection of New Varieties of Plants (UPOV 91) Convention and exemptions from WTO TRIPS agreements. States should ratify and comply with the World Intellectual Property Organisation (WIPO) treaty on the Intellectual Property of Genetic Resources and Traditional Knowledge Associated with Genetic Resources (GRATK) Treaty. Providing publicly funded and publicly accessible research and development to further knowledge and development of seeds, growing conditions and uses to be available to all.

What comes next? Let's shape it.

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

Contact c.james@healthpovertyaction.org to contribute to the ongoing conversation to ensure drug reforms deliver justice for Indigenous peoples.

Author: Jenna-Rose Astwood, edited by Natalie Sharples. Thanks to Clemmie James and Rebeca Lerer.

Cover image: Street art, Cochabamba, Bolivia. Mario Chacon CC: BY-NC-ND 2.0

Endnotes

1. Implicit bias against Indigenous Peoples has been perpetuated within western colonial societies and has historically influenced police discretion. In 2015, the (now former) New Zealand Police Commissioner Mike Bush, acknowledged that New Zealand police have an 'unconscious bias' toward Māori (Indigenous Peoples of New Zealand)
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9. <https://apnews.com/article/business-health-native-americans-epidemics-opioids-9e609e2294824db5101cffeaff455dbws>
10. *Ibid*
11. <https://tuwairua.org>
12. Te Awa Tupua Act declared the Whanganui River a legal person with fundamental rights. It has its own legal identity with all the corresponding rights, duties and liabilities of a legal person. In addition, the act "recognise, respect, and protect the special relationship of the *iwi* (tribe) and *hapū* (sub-tribe) of Whanganui with the Whanganui River." Gerrard Albert, the lead negotiator for the Whanganui *iwi* says that "the reason we have taken this approach is because we consider the river an ancestor and always have." New Zealand Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 – Eco Jurisprudence Monitor
13. <https://documents.un.org/doc/undoc/gen/g24/069/12/pdf/g2406912.pdf>

5. CLIMATE JUSTICE

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

The prohibition of drugs has created an unregulated, profit-driven shadow economy, driving a whirlwind of chaos and instability in areas key to our climate survival, such as the Amazon rainforest.

Many of the countries most weakened by the illicit drug trade are also countries with ecosystems that have the greatest potential for capturing carbon. The tropical rainforests of Central and South America, the Upper Guinean Forest and the jungles of South-East Asia. These all follow the same equatorial line as the main producing and trafficking routes of the main plant-based drugs such as cocaine, opium and cannabis.

Prohibition pushes drug production and trafficking into these remote and vital areas of biodiversity. In many of these regions organised drug gangs violently displace Indigenous communities and diversify their business; reinvesting their vast profits in environmentally harmful and extractive activities such as land grabs, deforestation, timber and wildlife trafficking and mining and using their existing infrastructure – clandestine roads, airports and the employment of impoverished labour – to facilitate these webs of unregulated activities.



Narcotrafficking and illegal mining in the Brazilian Amazon

Links between drug trafficking and illegal mining has been well evidenced since the 1980s.¹ Operation Narcos Gold is one such example. Launched in November 2021 by the Brazilian Federal Police, its aim is to combat money laundering from drug trafficking and dismantle the criminal group responsible. Their investigation revealed that the group received drugs from the Bolivia–Brazil border through clandestine airstrips in illegal mining areas in the Amazon region for distribution in major cities. The group operated an extensive network of illicit businesses across Brazilian territory, moving an estimated sum of over 200 million US dollars over their approximate three years of operation.²

But prohibition has created an even greater barrier to climate justice: An omnipotent shadow economy that corrupts and destabilises state infrastructure and public services. At a time when we urgently need robust climate policy and resources spent on climate resilient development, organised crime groups use drug profits to ‘buy off’ state officials, the police, forest guards, politicians, environmental and agricultural government agencies – anyone that stands in the way of the smooth running of the drug trade.

These groups become embedded with state actors, and can result in state capture, denying the urgent and robust governance required for bold policy changes to address the climate emergency. There is a climate policy deficit in regions that are central to our climate future.³

“**Prohibition gave birth to organised crime. It is what makes it the dominant power it is today.**

Neil Woods Former undercover police officer and Chair of Law Enforcement Action Partnership UK

In some countries such as Guinea Bissau, Honduras,⁴ Mexico,⁵ Suriname⁶ and Columbia,⁷ the association between political elites and organised crime has been exposed at the highest levels. In Guinea Bissau for instance the drug trade has been described as “*glue holding together the constellation of uneasy power alliances in Bissau’s elite protection structure.*”⁸

In others they are more subtle and pervasive, with authorities turning a ‘blind eye’ to the activities of organised crime. Between 2013 and 2019, 69% of agricultural conversion of tropical forests occurred in violation of national laws and regulations; in Brazil, the share was 95%, in Mexico, 97%.⁹

The dynamics of this unregulated trade are a threat to the rights of Indigenous people and communities living in remote areas of biodiversity. In Colombia, Brazil, Guatemala, and Honduras, ‘Narcos’ regularly use violence, threats and cash to buy up or take over large areas of Indigenous and campesino land, and land under conservation protections. This imposes health threats from illegal mining and violence and murder from drug cartels.¹⁰

“**Stopping biodiversity loss and mitigating the climate crisis requires addressing the violent and destructive economy that functions without any regulation and operates with impunity in the very regions we are all trying to save. Ignoring this trade and policies that make it so harmful prevents climate justice.**

Clemmie James Co-facilitator, International Coalition for Drug Policy and Environmental Justice



Police burn a coca laboratory near Tumaco, Colombia.

AP Photo/William Fernando Martinez CC: BY-SA 2.0

We can't save nature by going to 'war' with plants

The links between organised crime and environmental destruction are increasingly well recognised. A common response seen in formal 'anti-corruption' initiatives, but concerningly also promoted within the environmental space is a call for more militarisation, more security and more police to 'fight' organised crime.

This approach fails to recognise two key facts: Firstly prohibition has failed: More people use illegal drugs and experience greater related harms and deaths than at any other time, whilst measures to enforce prohibition, such as crop eradication and the aggressive pursuit of traffickers, have been shown to contribute to an increase in conflict.¹¹ Secondly, **it is prohibition that has created organised crime**. Instead of 'fighting' a futile 'war' we need to remove the power of organised crime in these environmentally sensitive regions, replacing it with legally regulated, small scale and environmentally sustainable trade.

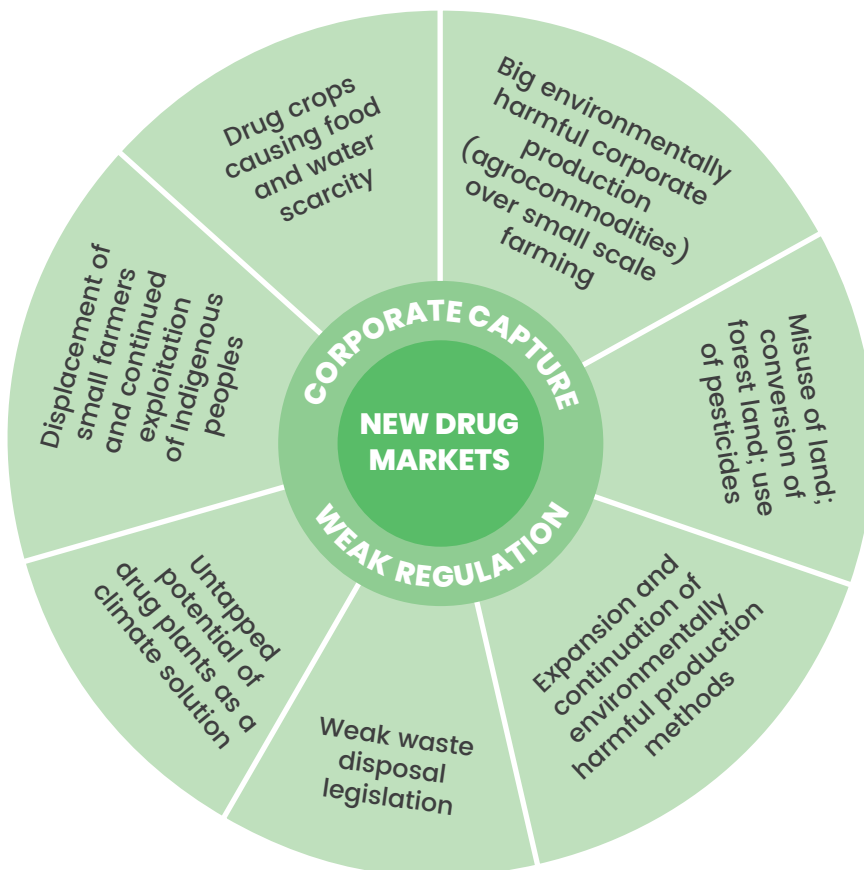
As we witness the beginning of the end of prohibition, with alternatives such as harm reduction, decriminalisation and legal regulation of cannabis, cocaine, psychedelics, ketamine and MDMA/ecstasy on the agenda of governments across the world, we have a small window of opportunity to ensure emergent reforms of the global drug trade support rather than undermine climate justice.

A legal drug trade – risks for climate justice

Emergent drug reforms provide a once in a lifetime opportunity to weaken the hold of organised crime and create a new system that explicitly learns from the failings of other trades. There is an opportunity to build in provisions to support small scale farmers, reduce poverty and prioritise the climate from the outset. These can provide a blueprint for other trades to emulate. But there are risks if reforms happen without the engagement of the climate justice sector.

Advocates for environmental 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 climate justice fail to engage with drug reforms.

A legal drug trade: The risks we must avoid





Burned areas of the Amazon rainforest, near Boca do Acre, one of the most deforested areas in the state.
© Lula Sampaio/Afp/Metsul Meteorologia

The opportunity for climate justice

If constructed using principles of transitional justice, a legally regulated drug market could be established to support climate justice. The end of prohibition will bring the supply chain out of the shadows and allow for transparency and accountability. It will remove the power and violence of organised drug crime, currently entwined with state institutions. It could utilise the potential of drug plants in areas such as bioremediation, soil regeneration, carbon capture and regenerative agriculture, and enact markets that support small scale, sustainable businesses, and sustainable use of land, energy and water.

This will only be possible with the deliberate development of new markets that **rectify the injustices of both prohibition and environmental destruction**. These markets must recognise the climate protective properties of drug crops, implement robust environmental standards and support small producers to meet them, prioritise small-scale farmers and traders over big land and water intensive grow sites and ensure drug crops do not replace space for growing food.

Supporting environmental mitigation and adaptation strategies

From protected areas to land reforms, anti-beef campaigns to sustainable supply chains, a range of environmental strategies are currently undermined by prohibition. Legally regulating drugs in ways that are environmentally protective will take the power away from organised criminals. This could prevent park or forest managers being 'bought off' or Indigenous peoples violently intimidated by organised criminals, allow for transparency in managing supply chains and monitoring forest loss, while preventing the money and violence of the drugs trade undermining environmental initiatives.

Climate justice in a legal drug trade – key principles

- **Prioritise small scale growing** over industrial scale resource intensive indoor grow sites, subsidise poor farmers and small producers, ensure labour rights for workers and protect smaller and emerging domestic traders from international competition.
- **Respect territorial rights and foster land regularisation and distribution** by providing demarcation of Indigenous and traditional communities' territories and complying with national land tenure legislation.
- **Implement robust environmental standards.** Ensure production is based on sustainable use of land, energy and water and that this does not replace food crops. Implement robust environmental standards and provide the training, skill building, and technical assistance to support small producers to meet these.
- **Fair intellectual property rights.** Protect indigenous plants and seeds and knowledge, for example through ensuring trade deals do not include The International Union for the Protection of New Varieties of Plants (UPOV 91) Convention and exemptions from WTO TRIPS agreements. Recognise the objectives of the UN Convention on Biodiversity.
- **Regulate big corporations.** Ensure they cannot dominate the market and enact environmentally damaging practices. This may include protecting against corporate land capture, 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, requirement to source inputs locally.
- **Explore the potential ecological benefits of drug crops.** Drug plants can play a leading role in bioremediation, soil regeneration, carbon capture and regenerative agriculture in support of climate resilient development. Plant based regulated drugs could become valuable fair trade products fostering new green deals and transition economies – while the impacts and contamination resulting from gold mining activities, for instance, will never be sustainable.
- **Prioritise robust public infrastructure needed to adapt to the climate crisis.** Ending prohibition will free up the money currently wasted on enforcing prohibition as well as generate tax revenue were drugs to be regulated and taxed. This should be spent on vital infrastructure including public health services, flood defences, emergency response, evacuation programmes, accommodation that can withstand extreme weather, and welfare services for people most affected by the climate crisis.



Sebastian CC: BY-NC-SA 2.0

- **Integrate drug policy reform into the climate agenda.** Bring conversations on drug policy reform into environmental spaces such as the annual United Nations Framework Convention on Climate Change. Ensure the climate justice and drug policy reform communities join forces to influence new legal regulatory drug systems to protect Indigenous communities, and are aligned with sustainable agricultural practices.

Author: Natalie Sharples.

Thanks to Clemmie James, Rebeca Lerer.

Inspired by the work of the International Coalition for Drug Policy and Environmental Justice.

Cover image: A farmer walks through a burned area of the Amazon rainforest, near Porto Velho, state of Rondônia. © Carl de Souza/AP/Metsul Meteorology

What comes next? Let's shape it.

Are emerging drug reforms on your agenda? Advocacy for a climate justice approach to drug reforms must happen *now*.

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

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6. GOOD GOVERNANCE

THE LEGAL REGULATION OF DRUGS:

The potential to deliver good governance

The act of prohibiting certain drugs heralded the creation of organised drug crime. This has driven corruption and weakened governance, terrorised communities, caused immeasurable violence and deaths, undermined state infrastructure and public services and caused state capture, in which legislators act in the interests of organised crime rather than their citizens.

The sheer scale of the money involved in drug crime (in 2017 estimated at between US\$426 to US\$652 billion) makes drug crime a key enabler of other crimes.¹ Profits from the drug trade provide the majority of the funding for other organised crime,² and fund terrorist activity.³ Criminals who traffic drugs frequently diversify their activities into other forms of organised crime,⁴ relying on their existing infrastructure, networks and routes to traffic weapons, people and other illegal goods.⁵ They can also take over legal trading sectors – partly to launder money, but also simply to expand their business empire. However people working in these sectors are then working for the organised crime groups, and become subject to the risks and dangers this entails. Meanwhile measures to enforce prohibition, such as crop eradication and the aggressive pursuit of traffickers, have been shown to contribute to an increase in conflict.⁶

The cause of this chaos is not drug crime itself, but the system of prohibition which created it. The UN Office of Drugs and Crime defines organised crime as “a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand.” The act of making certain drugs illegal created that demand.



It provides the opportunity for those who trade in drugs to develop immense profits and power, enough to 'buy off' officials at all levels through combinations of bribery and acts or threats of violence (including to their families). In some cases this infiltrates entire states resulting in state capture.

Prohibition created an omnipotent shadow economy, sometimes bigger and more powerful than states themselves, in which organised criminals are enmeshed with state actors, facilitating corruption, destabilising state architecture and public services and creating staggering levels of violence. One study found that 82 percent of all statistical studies found a significant and positive association between the enforcement of drug laws and higher levels of violence.⁷ Between 2006 (when Mexico announced its 'war on drugs') and 2012, 250,000 people were killed in drug related violence and between 2006 and 2015 11,000 children were murdered by organised crime.⁸

“**Prohibition gave birth to organised crime. It is what makes it the dominant power it is today.**

Neil Woods Former undercover police officer and Chair of Law Enforcement Action Partnership UK

Further, and most significantly, prohibition diverts both money and policies away from serving people to serving the interests of organised crime. This prevents governments from providing basic services and legislating in the interests of their citizens.

As we witness 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, this provides an opportunity to loosen the stranglehold of organised crime, reduce their power, create more stable societies, and direct policy and revenues back to people.

A legal drug trade – risks for governance

Whilst prohibition created organised drug crime, it would be naive to think that it will suddenly disappear with its end. Moves towards legal regulation will by nature take power away from organised crime and hand it back to states. However this must be undertaken with analysis and increased understanding of the potential wider effects. This includes the impact that the end of prohibition will have on those currently involved in the drug trade. The latter includes not just powerful organised criminals, but also those at the lower levels of the trade who often engage in it for survival.

A further risk to be mitigated is that of 'corporate state capture' and other corporate crimes and unethical practices. As is the case with licit trades, weak regulation can enable the expansion and abuse of corporate power, at the expense of small scale traders and communities. If drug reforms happen without the full participation of advocates to ensure good governance we risk wider unintended consequences and some of the injustices of prohibition being recreated in a legal market.

Advocates for good governance must seize the opportunity before new drug markets get captured by corporations. The graphic over the page explores what could happen to new legal drug markets if advocates fail to engage with drug reforms.

How drug crime props up states

'Narco-state' is an imprecise and contested term that has been applied to a range of countries across Latin America, Asia, and West Africa.⁹ In essence it refers to a situation in which organised drug criminals and core state actors are entwined, and in which drugs provide a major source of political power or economic revenue for the state.¹⁰ Examples include:

Shan State in **Myanmar** is a key site for global drug production and one of the largest global centres for the production of crystal methamphetamine. The drug market is many times larger than the state's formal economy. It generates revenue for a range of armed groups currently involved in the conflict.¹¹

Since the 1980s organised drug crime has eroded a number of West African states. Most notable is **Guinea Bissau** where the cocaine market has been described as the "glue holding together the constellation of uneasy power alliances in Bissau's elite protection structure."¹²

In April 2022 former President of **Honduras** (2014–2022) Juan Orlando Hernández Alvarado, was described¹³ by the US Department of Justice declaring his extradition on drug charges as: "a central figure in one of the largest and most violent cocaine trafficking conspiracies in the world... once elected President (he) leveraged the Government of Honduras' law enforcement, military, and financial resources to further his drug trafficking scheme."

A legal drug trade: The risks we must avoid



The opportunity for good governance

The end of prohibition would bring the supply chain out of the shadows and allow for transparency and accountability. It could also reduce the power of organised drug crime, currently entwined with state institutions. If constructed using principles of transitional justice, the legal regulation of drugs provides a once in a lifetime opportunity to reduce the power of organised crime, and free up power and revenue to strengthen state services and infrastructure. If drugs were legally regulated and taxed, not only could this disentangle states from organised crime, and strengthen the social contract between citizens and the state, it could bring in vital revenue to rebuild state infrastructure that has been eroded under prohibition.

This will only be possible with the deliberate development of new markets based on transitional justice, that **rectify the injustices of both prohibition and poor governance.**

- After Portugal decriminalised all drugs in 2001, incarceration for all drug offences reduced, including for trafficking and related crimes. The number of people incarcerated for drug offences fell by **43 percent** from 3,863 in 1999 to 2,208 in 2016.¹⁴

Drug revenue for infrastructure not organised crime

In 2017 Global Financial Integrity estimated the value of the global drug trade at between US\$426 billion to US\$652 billion.

At a conservative estimate, global drug sales could provide governments with an additional US\$150 billion in tax revenue each year. This estimate is for a sales tax only and does not include revenue from taxes on corporations, production or income as a result of increased legal employment.¹⁵ To put this in context, the estimated additional funds needed to achieve Universal Health Coverage in the world's 54 poorest countries in 2030 is US\$176 billion.¹⁶

Legal regulation can also prevent public money being wasted on failed enforcement with potential savings in the police, military, prison and judicial systems, as well as those associated with wider health harms.

Some reforms are already demonstrating the redirection of funds into public infrastructure. In the US state of Texas, the city council of Austin redirected US\$150 million from law enforcement to buy housing for people experiencing homelessness, expand health-care, access to food and prevent violence.¹⁷

Good governance in a legal drug trade – key principles

People first. The input of small scale traders, Indigenous Peoples and those currently persecuted under prohibition must be central to the development of emerging regulations. Lessons from the injustices of other trades must be shared and explicitly addressed.

Repair the harms of prohibition, and investigate and prosecute human rights violations committed under prohibition, both directly by organised crime and those done by or with the complicity of the state. Provide reparations for those whose human rights have been violated by state actors and expungement for people at the low levels of the trade who have been criminalised.

Address related crimes. Enact measures to stem related crimes such as the illicit flow of firearms including disarmament initiatives, and evidence-based violence reduction programmes.

Provide employment opportunities and public services for people involved in the low levels of the trade and help to transition to roles in a legal market.

Undertake scenario mapping to acknowledge and mitigate the risk of organised crime expanding into other areas and monitor the effects of this.

Regulate big corporations. 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, requirement to source inputs locally.

Invest in public services and ensure accountable governance. Bringing drug revenues out of the illicit sphere to be under state control not only saves the costs of enforcement, but also means these enormous revenues can be taxed. (This could include taxes on production, products, corporations and income from the employment generated.) This could be transformative, providing stable and vital revenue for public good, repairing the damage that prohibition has done to accountable governance and public services.

Provide international funding additional to aid budgets to support states most affected by prohibition to develop their tax collection capacity, address corruption and rebuild vital infrastructure.

What comes next? Let's shape it.

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

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

Author: Natalie Sharples.

Thanks to Clemmie James, Neil Woods and Martin Drewry

Cover image: Titiwoot Weerawong/Vecteezy

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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,¹ especially Indigenous and marginalised communities.² 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 farmers³ 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.⁴

Drug money is also often reinvested in other damaging industries like illegal logging, mining, or farming.⁵ 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.⁶

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.



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.⁷ 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,⁸ 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.⁹

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.¹⁰ 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.¹¹

When communities gain legal titles to their land, deforestation drops significantly. For example, titled land in Peru saw a 66% decrease in deforestation.¹² 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 to contribute to the ongoing conversation to ensure drug reforms deliver justice.

Author: Jenna-Rose Astwood.

Edited by Natalie Sharples. Thanks to Clemmie James and Rebeca Lerer.

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 (1,600m²) to grow coca for personal consumption and sale. © Carlos Villalon; villalonsantamaria.com

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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



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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Cover image: Cauca, Colombia: Farmers transport loads of marijuana by motorcycle and horse for drying.
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9. RACIAL JUSTICE

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

The so called ‘war on drugs’ has long been recognised as a war on people – especially people of colour. Across the globe, drug prohibition has inflicted widespread harm, from mass arrests and family separations to systemic police violence and the denial of housing, employment, and healthcare. These harms have disproportionately affected racialised communities, embedding inequality into social, health, economic, and legal systems, resulting in unequal equal access to opportunities, resources and power.

Systemic racism, originating from the histories of enslavement, the transatlantic slave trade and colonialism, continues today through stereotypes, prejudice, and deep-rooted structural inequalities. The “war on drugs” exemplifies these legacies, marginalising people of African descent and other racialised communities through discriminatory enforcement.

- In the USA, Black people are almost **six times** more likely to be imprisoned for drug offences than white people¹

Prohibition deeply harms individual and community health and exacerbates racial health inequities. It disrupts key social determinants of health, including housing, education, income, and employment and access to land, disproportionately impacting marginalised communities.



HEALTH
POVERTY
ACTION

DRUG
POLICY
ALLIANCE.

For example, racial discrimination and structural inequalities have hindered access to harm reduction services for Black, Brown, and Indigenous people who use drugs; including access to opioid agonist therapy, needle and syringe programmes, and viral hepatitis treatment.² Meanwhile, prohibition has been used as an excuse for the appropriation of Indigenous crops and displacing people from their lands.

“Globally, people of African descent experience discrimination at every stage of the criminal justice system and are more likely to be stopped, searched, arrested, convicted, and harshly sentenced, including the use of the death penalty, for drug crimes. Higher arrest and incarceration rates are not reflective of increased prevalence of drug use, but rather law enforcement’s focus on urban areas, lower income communities and communities of colour.

UN Working Group of Experts on People of African Descent, 14 March 2019

Prohibition, with its deep roots in racism, further exacerbates economic inequity by diverting resources away from communities, prioritising law enforcement, and widening the racial wealth gap. Prohibition also fuels global inequality. Whilst many of the greatest harms from prohibition occur in the global Majority world or global South, most of the demand for drugs is driven from the global Minority world, or global North. Whilst data quality varies between countries, from 1990–2019 the number of reported drug use disorders per 100 people were 1.6 percent in high income countries vs 0.4 percent in low income.³ Research from the UN Office on Drugs and Crime (UNODC) in Colombia, Brazil, Peru and Bolivia showed that almost half (44 percent) of all documented cocaine trafficking routes were destined for Western or Eastern Europe.⁴

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 racial

justice at their core. We must design these new markets in ways that acknowledge, end and repair past harms and racial disparities, and affirmatively seek to prevent racial disparities in all areas that are affected – from legal access, to housing, enforcement, economic opportunity and healthcare. The above is possible but requires strong and sustained advocacy for racial justice.

Definitions

Race is a social construct used to group people. Race was constructed as a hierarchal human-grouping system, generating racial classifications to identify, distinguish and marginalise some groups across nations, regions and the world. Racial classifications have long been used to justify the extraction of property, land dispossession, and the devaluation of human labour.

Systemic racism: A complex, interrelated system of laws, policies and societal norms that perpetuate racial inequities through both direct and indirect mechanisms.

Health equity: The assurance that all individuals have fair access to health services, outcomes, and social determinants of health, free from systemic barriers or discrimination.

Intersectionality: The interconnected nature of social categorisations such as race, gender, and class, which create overlapping systems of disadvantage.

“The systemic racism experienced by Africans and people of African descent is shaped by intersectionality or the combination of several identities, including sex, gender, sexual orientation, gender identity, nationality, migration status, disability, religion, socioeconomic and other status.

Report of the United Nations High Commissioner for Human Rights, June 2021⁵

Links between prohibition and racism – examples

USA: Black people are almost six times more likely to be imprisoned for drug offences than white people.⁶

Brazil: In Rio de Janeiro, 80 percent of those killed by police are Black.⁷ Data published in 2019 shows that, across the country, 64 percent of all people incarcerated were Black, while 26 percent of men in prison and 62 percent of women in prison were incarcerated for a drug offence.⁸

Cambodia: Ethnic Vietnamese persons are reported to have particularly suffered as a consequence of the state's anti-drug campaign.⁹

United Kingdom: Black people are more than eight times more likely to be stopped and searched than white people.¹⁰ In 2016–17, Black and Asian people in England and Wales were convicted of cannabis possession at 11.8 and 2.4 times the rate of white people.¹¹

Italy: A 2024 report found that Italy's "punitive approach to drug enforcement" disproportionately affects Africans and people of African descent.¹²

Indonesia: In its three rounds of execution in 2015–2016, nine of eighteen people executed for drug offences were all African nationals.¹³

“The war on drugs has operated more effectively as a system of racial control than as a mechanism for combating the use and trafficking of narcotics.

UN Working Group of Experts on People of African Descent, 14 March 2019

The **Global Drug Policy Index** assesses the implementation of drug policy in 30 countries against the standards set in the UN Common Position on drugs. In 2021 it found ethnic disparities in the implementation of criminal legal responses to drugs in 27 out of the 30 countries surveyed. In six of these countries – Brazil, Canada, Mexico, Nepal, South Africa, and the UK – the disparities were found “to a very large extent.”¹⁴

Race, inequality and social control

People engaged at a low level in the drug trade in urban areas of Brazil are often driven into these activities by inequality. Brazil is one of the most unequal countries in the world – in 2017 the joint wealth of the country's six richest billionaires was equivalent to that of the poorest half of the population.¹⁵ White families own on average between 1.5 and 2 times more wealth than Black families.

“We can say that poverty has the face of a woman and the colour of a Black woman. And these Black women are those who are behind bars.

Luciana Boiteux, drug policy expert, Rio de Janeiro¹⁸

Health Poverty Action's research in favelas in Rio de Janeiro and São Paulo¹⁷ evidenced numerous examples of police repression and highly punitive penal measures targeted predominantly at Black youth engaged in low levels of the drug trade. This, combined with the fact that police commanders openly admitted to policing wealthy and poor communities differently meant that both community members and drug policy analysts viewed drug control as an excuse to exert social control over poor and predominantly Black communities.

“The problem is being Black and poor. That's the problem. Because that's a threat. To hell with the rest, it's all an excuse.

Community leader, São Paulo¹⁶

Racism, the USA and the global drug control framework

The United States has played a leading role in shaping the global drug control framework, a system that often reinforces racial and economic inequities. Domestically in the United States, the so called 'war on drugs' has been a powerful tool of racial control, as revealed by those at the helm of early prohibitionist policies.

“ *There are 100,000 total marijuana smokers in the US, and most are Negroes, Hispanics, Filipinos, and entertainers. Their Satanic music, jazz and swing, results from marijuana use. This marijuana causes white women to seek sexual relations with Negroes, entertainers, and others.*

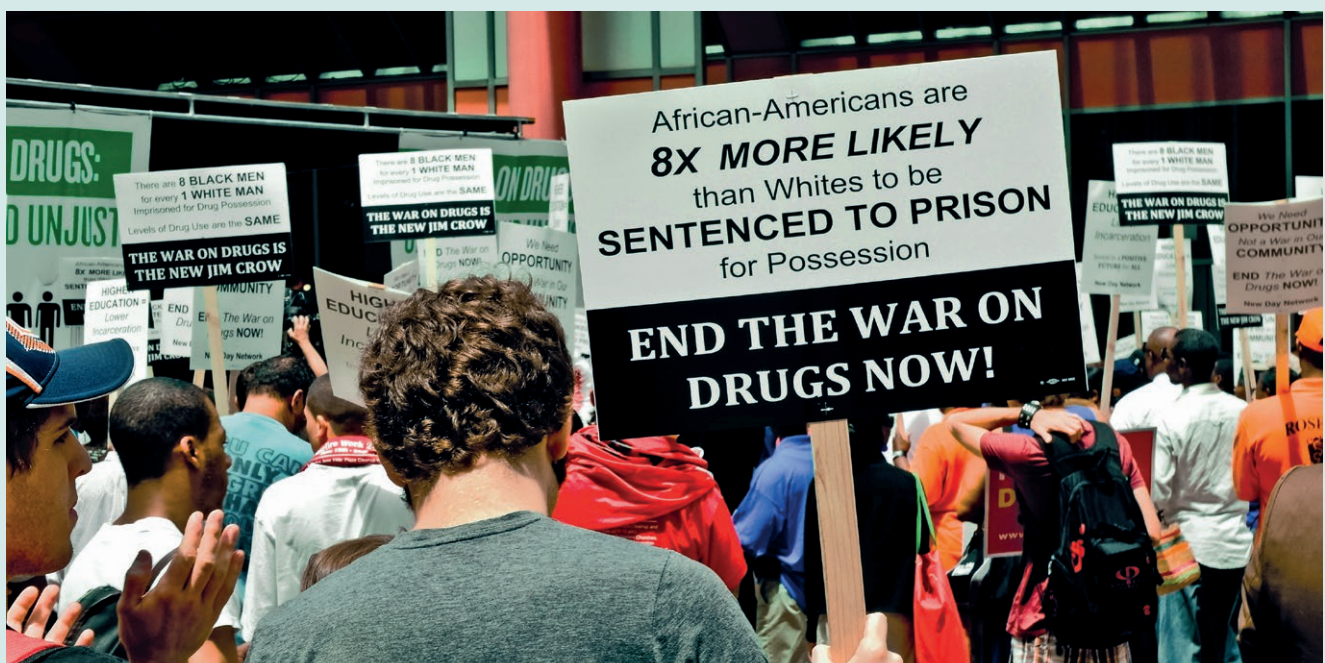
Harry Anslinger, Commissioner, US Federal Bureau of Narcotics (1930–1962)¹⁹

This deliberate criminalisation of Black communities and anti-war activists highlights the racially motivated roots of United States drug policy and its enduring impact. Outside of the United States, its drug enforcement efforts have significantly contributed to the militarisation of foreign law enforcement, increased violence, economic instability, human rights abuses, and forced migration in affected countries, disproportionately impacting racially marginalised communities.

“ *The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the anti-war left and black people ... We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalising both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.*

John Ehrlichman, Advisor to US President Richard Nixon.²⁰

The United State's 'war on drugs' has justified a range of military and geopolitical interventions in the Majority world. These include the invasion of Panama, 'Plan Colombia' a range of anti-Sandinista policies in Central America, and military interventions in Bolivia and Honduras. The neo-colonial nature of drug policy continues to be perpetuated through 'certification' a process whereby the United States imposes financial sanctions, such as suspending aid or opposing loans from international financial institutions, to countries that fail to demonstrate "full cooperation" with its counter narcotics policies,²¹ despite having contravened its own policies.²²



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A legal drug trade – risks for racial justice

By transitioning from punitive approaches to regulated frameworks and incorporating lessons learned and best practices,²³ governments can design policies that prioritise racial equity. However, without intentionality around equity, legal regulation also presents significant risks. Poorly designed policies could recreate or even exacerbate existing racial disparities or create new forms of exclusion, such as barriers to public health, legal access, participation in legal markets or heighten global inequalities.

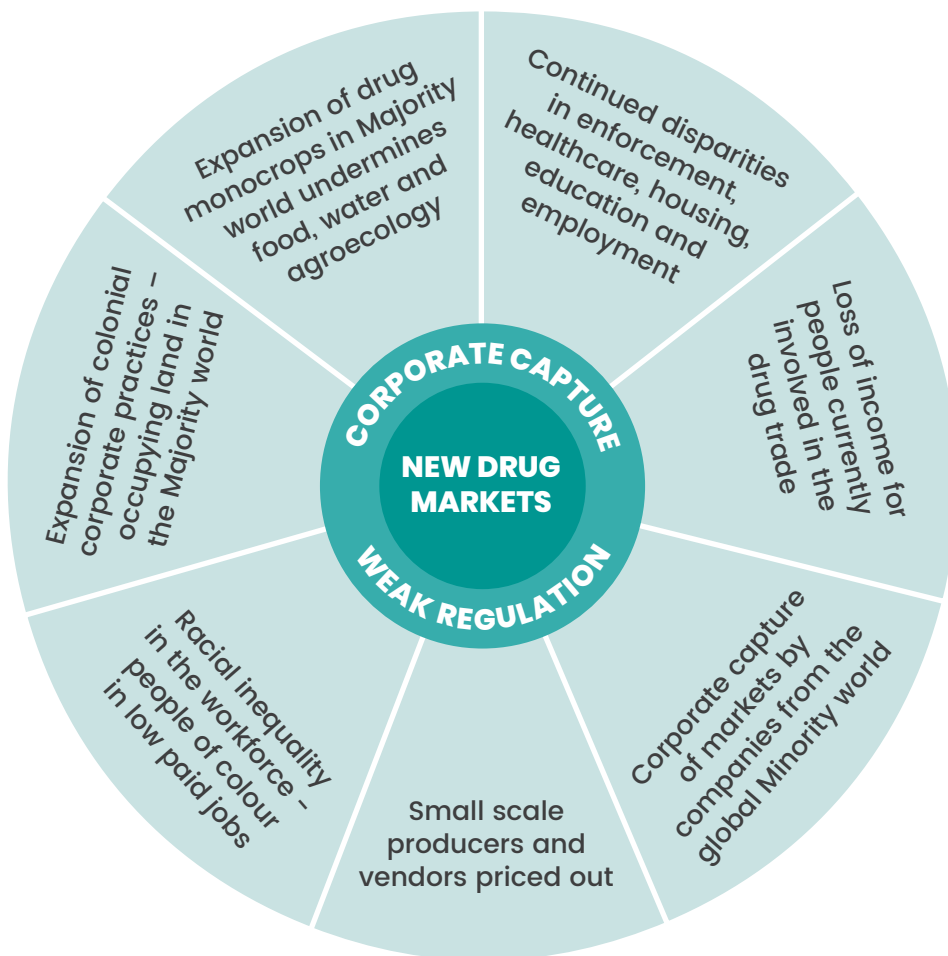
Advocates for social and economic justice must seize this opportunity before new drug markets get captured by corporations. The graphic below explores what could happen to new legal drug markets if advocates for racial justice fail to engage with drug reforms.

“It would be a travesty if these developments further entrenched post-colonial power imbalances and privilege.

Ann Fordham, Executive Director
International Drug Policy Coalition²⁴

To mitigate these risks, governments must work closely with affected communities, incorporate robust equity measures into policy and market design, and establish mechanisms for accountability to ensure reforms actively reduce disparities rather than perpetuate them.

A legal drug trade: The risks we must avoid



The opportunity for racial justice

Governments have a moral and practical responsibility to acknowledge and address racial disparities when reforming drug policies. Decisions about drug regulation, including who has access to drugs, where they can be obtained, and under what conditions, profoundly shape opportunities and barriers across health, economic, and legal systems.

Recent shifts in United States state-level cannabis legalisation have offered pathways for reform, particularly through the development of policies and programs designed to acknowledge and repair the harms caused by marijuana criminalisation, often referred to as social equity programs. While many of these policies are race neutral, they model how governments can

design policies intended to advance equity for marginalised communities. They also highlight how additional and comprehensive reforms are necessary to end and address harms and disparities caused by drug prohibition and prevent harms and disparities within future drug regulation frameworks. Taking a comprehensive approach to racial equity means that in all decisions regarding drug policy and regulation – like decisions regarding public health, taxes, trade and labour – governments should consider the following:

- What are the racial equity impacts of this particular decision?
- Who will benefit from or be burdened by the particular decision?
- Are there strategies to mitigate the unintended consequences?²⁵

Examples of initiatives from cannabis reforms in the USA

- **Pardons and Expungement:** Several states, such as California, Maryland, and Massachusetts have implemented policies to clear records or forgive cannabis-related offenses.²⁶ However, when relief is limited to certain offenses or is not automated, many individuals are unable to benefit.
- **Community Reinvestment:** Many states like New York, Illinois and New Jersey have established community reinvestment programs, dedicating hundreds of millions of dollars to communities disproportionately harmed by the ‘war on drugs’.²⁷ However, in many jurisdictions a significant portion of cannabis tax revenue continues to fund law enforcement activities, which can undermine equity goals if governments prioritise funding enforcement instead of investing in communities.²⁸
- **Business Licensing:** Governments in states such as Michigan, Nevada and Colorado have policies purportedly designed to help individuals arrested and convicted of cannabis offenses participate in the legal market – like priority or special licensing, education, technical assistance, and financial support.²⁹ Without a license, participation in the cannabis industry is illegal. Yet, the United States commercial cannabis market remains dominated by large corporations, primarily owned by white, male entrepreneurs, limiting opportunities for marginalised communities.³⁰

“Because of the social, economic, and health effects of drug policies, the work of ending the drug war cannot be situated within criminal legal reform efforts alone.

Drug Policy Alliance, USA³¹

While these reforms demonstrate what is possible, the United States and other colonial powers and governments have an obligation to take comprehensive action to dismantle the systemic racism embedded in today’s drug policies.

Racial justice in a legal drug trade – key principles

- **Repair:** Recognise the racialised impacts of past drug policies and their roots in slavery, colonialism, systemic racism and ongoing disparities. Expungement for those who have been criminalised or incarcerated. Respect the spiritual and cultural relationships that communities have with certain plants. Return appropriated lands including compensation for loss of livelihoods. Establish land rehabilitation programmes for lands that have been damaged, financial support for affected individuals and communities and reinvest tax revenue into public services for all.
- **Government accountability:** Establish mechanisms to hold law enforcement, regulators, and policymakers accountable for meeting racial equity goals, ensuring new inequities are not introduced and that the benefits from legal markets are used to strengthen equity. Conduct regular reviews and make adjustments as needed.
- **Whole-of system-response:** Address broader determinants of health and opportunity, including housing, education, employment (including alternative employment opportunities for those currently in the trade who want to pursue other options) and criminal justice reform, as part of a comprehensive approach to equity.
- **Data collection and transparency:** Collect and disaggregate data by race and ethnicity to monitor racial disparities in drug policy outcomes. Publicly share data to ensure transparency and accountability for equity goals.
- **Inclusive Policy Development:** Engage affected communities in policymaking to ensure their needs and priorities are reflected. Centre equity goals in the design and implementation of drug policies.
- **Remove barriers to and provide support for small farmers, traders and traditional herbalists:** Reforms could include affirmative licensing, reduce or exempting small farmers from fees and taxes, 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.
- **Protect against corporate capture:** Protect small and local operators against corporate monopolies. Support and strengthen Indigenous and marginalised communities' agency to retain land tenure and reduce corporate capture. Champion agroecological practices.
- **Support public health:** Shift the focus from punishment to harm reduction, ensure public health education, equitable access to treatment, harm reduction services, and social support for all communities.
- **Alternatives to commercial access:** Allow for individuals to access cannabis through personal (home grow) and community-based cultivation and sharing (social clubs) to commercialised cannabis products.
- **Preventing future inequities:** Proactively design policies to avoid perpetuating or creating new racial disparities (health, legal, economic, social etc). Conduct equity impact assessments to identify potential barriers and address them before implementation.
- **Sustainable change through education and policy evolution:** Build public awareness about the legacies of racism in drug policy and the need for systemic reform. Ensure policies are adaptable and responsive to evolving community needs.

What comes next? Let's shape it.

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

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

Author: Cat Packer. Edited by Natalie Sharples and Clemmie James. Thanks to Kojo Koram and Tamar Todd.

Cover image: A woman holds up sign at a Black Lives Matter protest in Washington DC, June 2020. Photo: Clay Banks on Unsplash

Endnotes

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