

Commission on Crime Prevention and Criminal Justice

The question of decriminalizing drug use



Forum	Commision on Crime Prevention and Criminal Justice
Issue:	The question of decriminalising drug use
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Introduction

Drugs have been a consistent issue for law enforcement over the centuries, yet effective solutions to limit their consumption, spread, and supply are decidedly lacking. In 2017, it was estimated that 271 million people used an ‘illicit’ drug, in accordance to about 5.5% of the global population aged 15-64. In the process of attempting to ‘solve’ this issue, human rights are violated, giving leeway to further issues such as mass incarcerations, drug market violence, and even contributing to HIV and Hepatitis C transmissions. Consequently, this has caused many people to call for drug decriminalisation in numerous countries over the world, with over 25 nations currently having decriminalised drug use in some way.

Due to the multiple nuances of the topic, debates around the decriminalisation of drug use have been present for many years. Additionally, due to the widespread use of social media, the rise of misinformation has led to multiple false claims—most notoriously pertaining to drugs such as cannabis and its health effects. This is also due to the connotations of the word ‘drug’ itself, leading to the belief that they are all inherently harmful, when the word can also simply refer to medicines taken to calm a fever or a headache.

The perpetual debate on the ethics behind drug use also leads to different laws put in place by different governments; ranging from no laws on certain drugs, *de jure* decriminalisation to some previously illegal, or outright imprisonment when caught with them in possession. With so many different perspectives, it is extremely difficult to come up with conclusive solutions.



Definition of Key Terms

CNS

The Central Nervous System, consisting of the brain and spinal cord, is the body's processing centre. This can be affected by drugs in many different ways. For example, neurotransmitter levels can be altered, as well as the speed of which respiration occurs, and the temperature of the body.

Depressants

A category of drugs which slow down the function of the CNS. These can affect response times and coordination. Small doses can relax and calm someone, however large doses can lead to nausea and even death. Examples include heroin, Valium, cannabis, and morphine.

Hallucinogen

A category of drugs that affect the senses. As the name suggests, these cause hallucinations and can affect or distort thoughts and feelings. Small doses can cause disorientation or dizziness, but large doses can lead to memory loss, anxiety, panic, or aggression. Examples include LSD, PCP, and psilocybin (colloquially referred to as magic mushrooms).

Stimulants

A category of drugs which speed up the function of the CNS. These can increase heart rate, blood pressure, and body temperature. They assist in keeping awake and staying alert, but large doses can lead to seizures. Examples include caffeine, cocaine, nicotine, ecstasy (MDMA), or amphetamines.

Opioids

A commonality between opioids is that most are either produced from the poppy plant (an example of which is heroin) or is produced synthetically (such as with fentanyl). They are painkillers, known for being extremely addictive.

Controlled Substances



A substance (typically a drug) that is controlled by the government as it can be abused or cause addictions. The way the substance is made, used, handled, and distributed is all strictly controlled. Drugs with medicinal use can be available through valid prescriptions.

Pharmaceutical Drugs

These drugs can either be purchased over-the-counter or with a prescription, and cure diseases or alleviate symptoms.

Soft Drugs

Soft drugs are less harmful health-wise than their counterpart, hard drugs. Of course, they are not harmless, however comparatively, their risks are not as great. These can sometimes interchangeably be referred to as 'gateway drugs'. Examples of soft drugs include marijuana or sleeping pills.

Hard Drugs

Hard drugs have increased health dangers and can cause greater harm than soft drugs. Examples of these include heroin, cocaine, LSD, and ecstasy.

Decriminalisation

The act of changing the law so something is no longer considered a crime.

De Jure Decriminalisation

Criminal penalties are removed and are replaced by civil penalties instead, an example of which would be a fine.

General Overview

Drug Laws Throughout the Decades

Throughout prior centuries, there were many laws against drugs and 'intoxicants' (including the likes of alcohol and coffee), or attempts to stop the general public against consuming certain



substances. Over the years, many different legislative actions have been taken to regulate drugs, with various results.

19th Century Drug Laws

The first 'modern' law against drugs was in 1868 with the Pharmacy Act in the United Kingdom, an attempt to control poison and drug distributions throughout the country, though with only a mild decrease in opium-related deaths as a result.

However, a few years after the Pharmacy Act, a new law in San Francisco was passed in 1875, banning smoking opium in opium dens. What followed was a series of laws on the issue of opium distribution by Chinese immigrants, targeting them specifically for their method of ingestion: smoking. This law, predictably, did not apply to white Americans (due to their tendency of using opium with different methods). This divide and the specific nature of the law was a form of racial discrimination.

Throughout the 19th century many restrictions were placed internationally on opium, however the number of people addicted to it was ever-growing. This was, for the most part, due to the common use of it medicinally, an example being its use as a menstruation pain treatment.

20th Century Drug Laws

At the turn of the century, changing attitudes towards opium led to the International Opium Commission (est. 1909). Three years later, a treaty was signed by 13 nations in the Hague, on January 23rd, 1912, during its first international conference. This marks the first international drug control treaty, ensuring that *"all persons manufacturing, importing, selling, distributing, and exporting morphine, cocaine, and their respective salts, as well as the buildings in which these persons carry such an industry or trade"* would be controlled by those who had signed it (such as Germany, China, Italy, Persia, USA, and some more). In 1919, the treaty became international law when it became a part of the Treaty of Versailles. It was made in response to the opium wars and rising criticism against the opium trade.

In 1914, the UK passed the Defence of the Realm act, allowing the government temporary ability to criminalise specific activity and requisition buildings or land. Two years later, the press alleged the sale of drugs to the British Indian Army, creating a moral panic amongst the



masses. This led to harsher laws against drugs specifically, such as banning the spread and possession of all narcotics. The United States passed the Harrison Act in 1914, an act made initially to regulate the opium trade, but ended up being prohibitive.

During the early 1920s, both Finland and the United States prohibited alcohol, due to its increasing recreational popularity. While there were no such qualms against other drug prohibition laws (due to their association with ethnic minorities and criminal activity), the general public did not view the alcohol prohibition laws favourably, and it was repealed in both Finland and the States after about 13 years of being put in place.

In the 1950s, the Mao Zedong government nearly eradicated the consumption and distribution of opium in China. Drug dealers were executed and addicts were forced to compulsory treatment. As such, opium trade moved to Southeast Asia, spreading to American soldiers during the Vietnam War. Many soldiers were addicted and the peak of the opium epidemic was in 1971.

War on Drugs

From the 1960s onwards, drug prohibition laws only strengthened—particularly in the United States—as a response to the increasing drug use within the youth. In 1972, President Richard Nixon announced the inception of the ‘War on Drugs’, and a year later New York implemented a mandatory minimum sentence of 15 years (to life imprisonment) for anyone caught in possession of more than 113 grams of ‘hard drugs’. Laws similar to this were implemented throughout the country.

Decriminalisation and Legalisation of Drugs

Modern day perspectives on drugs are dissimilar to those of the past, and calls and promotions to decriminalise drugs internationally are becoming more recognised. Opponents to drug prohibition believe it to be an act of suppression. An avid proponent of prohibition laws is the World Federation Against Drugs, supporters of the United Nations narcotics conventions.



In February of 2008, President Manuel Zelaya of Honduras, called for the legalisation of drugs, claiming it was assist in the prevention of the majority of the violent murders occurring in the country. The country deals with an estimated 8-10 murders a day, 70% of which occurring due to the international drug trade. Four years later, a similar plea was issued from Colombian President Juan Manuel Santos to begin global debates on drug legalisation, a plea that was echoed by Guatemalan President Otto Pérez Molina.

In June of 2014 in a report on HIV, the World Health Organisation (WHO) called for the decriminalisation of drugs, particularly those that could be injected, putting it at odds with the general UN policy, which at the time was favouring its criminalisation.

In recent years, many countries (and even US states) have decriminalised the use of some drugs for recreational use (particularly marijuana). This is a huge step in the ongoing debate on drugs.

Effects of Drug Decriminalisation

It is important to state the difference between decriminalisation and what is part of legal regulation. Decriminalisation is not full legalisation, meaning that if drugs are decriminalised within a certain nation, it does not insinuate that it could be easily acquired the same way something like alcohol may be purchased. Decriminalisation can provide a legal framework to control supply, distribution, and production of a substance—an example of which being Canada, with its *Cannabis Act*. Illegal drug markets will still be considered criminal, but it is still a necessary step.

Benefits

One of the most important things drug decriminalisation can do for a nation is reducing the stigma. By reducing its association with criminal activity and more so on the health and social factors, the conversation surrounding the topic can expand to become more helpful — improvements in the education surrounding the topic can be such a result, as well as less hesitance when contacting emergency services during an overdose as there will be a lower fear of police intervention. In Portugal, the amount of overdoses did decrease significantly at the start of the drug reform, however the numbers have been fluctuating since. Regardless, these numbers are visibly much better than they were beforehand, and Portugal has some of the lowest drug-related death rates in the EU. This is most likely due to the health-related approach decriminalisation focuses on.



Drawbacks

Decriminalisation is not the end of the fight against drugs. It is an extremely important step to take, however it is only the first of many to take. Many counter-arguments to decriminalisation claim that decriminalisation can be a leeway to further experimentation. With less legal repercussions, it could encourage further use, and current treatment programmes are not equipped to deal with such a huge influx of people. In a similar vein, drug prices would reduce, making it more accessible. Many also believe that decriminalisation can lead to legalisation, especially considering the benefits to legalisation of soft drugs (such as marijuana). However, these are not facts proven by prior instances of decriminalisation, but rather concerns voiced by opponents of the idea. Regardless, it is true that decriminalisation is not the end of the war on drugs, but rather a small step to ensure the safety and health of the people.

Major Parties Involved

Commission on Narcotic Drugs (CND)

Established by the Economic and Social Council (ECOSOC) in 1946, the Commission on Narcotic Drugs supervises national drug treaties and their application. In 1991, it became a governing body of the UNODC.

Portugal

In 2001, Portugal decriminalised the possession of all drugs to some extent. While it is still considered an offence, the penalty is that of a fine or community service. However, possession does not lead to imprisonment or a criminal record. These penalties are applied by the Commissions for the Dissuasion of Drug Addiction, panels made up by legal, health, and social work professionals. This helped treat drug abuse as a health issue rather than a criminal justice one, helping those struggling with addiction and decreasing HIV and Hepatitis C transmissions.

United States of America

Many US states have taken steps to decriminalise the use of drugs. The USA has high numbers of incarceration, and even those in possession of a small amount of drugs are imprisoned.



The nation is particularly notorious for its extreme racial bias in this matter, with Black communities and those of Latin American descent targeted the most. Within the USA, 18 states have reduced or even eliminated criminal penalties for possession of marijuana. 14 states, as well the federal government, have already begun treating personal possession of other drugs as a misdemeanour and not a felony.

The Netherlands

The Netherlands has low addiction rates, especially in comparison to the likes of the USA and Western Europe. Recreational use of drugs are tolerated in an attempt to focus efforts on minimising the harm caused by drug use instead. Additionally, the difference between hard drugs and soft drugs is strongly distinguished in the Dutch drug policy.

United Nations Office on Drugs and Crime (UNODC)

The United Nations Office on Drugs and Crime keeps tabs on all drug trends and practices internationally. The United Nations Office on Drugs and Crime's (UNODC) *World Drug Report* is an exhaustive report spanning multiple booklets containing meticulous detail on the current nature of drug usage globally, and highlights the increasing rise in addictions and demands for more drugs. World Drug Reports are an annual release from the UN office, with the latest being the *World Drug Report 2021*, providing intricate knowledge and analysis on drug trafficking trends, drug usage, and more.

World Health Organisation (WHO)

The WHO has on multiple prior occasions called for the decriminalisation of drugs. This is due to the positive health effects this can have on the greater community as a whole, especially considering how HIV/AIDs rates can be affected due to these laws. As demonstrated by Portugal, decriminalisation of drugs does have a noticeable positive impact, aligning with WHO policies.

Timeline of Key Events

Date	Description of event
July 31 st , 1868	Pharmacy Act passed in Great Britain.



1875	A new law in San Francisco is passed, banning smoking opium in opium dens.
January 23 rd , 1912	First international conference of the International Opium Commission. Marks the creation of the first international drug treaty.
1971	Peak of the opium epidemic, many American soldiers in Vietnam became addicted.
June 18 th , 1971	President Richard Nixon declares drug abuse as 'public enemy number one' at a press conference. The term the 'war on drugs' was later popularised by the press.
1976	Dutch parliament decriminalises possession of cannabis under 5 grams.
2001	Drugs in Portugal decriminalised in an attempt to curb the health crisis in the country.
2004	Russia decriminalises drug use. This is a different model to Portugal's however.
February, 2008	President Manuel Zelaya of Honduras calls for the legalisation of drugs.
June, 2014	In a report on HIV, the World Health Organisation (WHO) called for the decriminalisation of drugs.
2018	South Africa decriminalises possession and cultivation of cannabis only.
2019	Kyrgyzstan decriminalises drug use.
November 3 rd , 2020	Oregon voters approve Measure 110, the USA's first all-drug decriminalisation measure.

UN Involvement, Relevant Resolutions, Treaties, and Events

- Enhancement of the United Nations structure for drug abuse control, 21 December 1990 (A/RES/45/179)
- Strategy for the period 2008-2011 for the United Nations Office on Drugs and Crime, 23 December 2004 (E/RES/2007/12)
- International cooperation against the world drug problem, 8 February 2005 (A/59/495)

Possible Solutions



There are many different, viable solutions to this issue. An example of such could be the recommendation of the spread of educational materials on drugs. This is extremely pertinent to reducing drug stigma, which is the main goal of decriminalisation itself. This can include workshops, mandatory lessons in school, and the spread of pamphlets/brochures. Additionally, adapting a similar system to countries such as Portugal can assist in this regard, with reforms focused on health and improving current rehabilitation programmes within the nation. Current nations that have decriminalised drugs have different models, each assisting with the specific issues the country faces in terms of drug abuse. As such, nations with similar problems can adopt similar models.

The creation of UN-affiliated programmes, most likely under the supervision of UNODC, could also be another way of handling these problems. These programmes could oversee situations in different countries and also provide volunteers. Furthermore, the construction and improvement of healthcare systems—particularly in regards to rehabilitation programmes and their effectiveness—are extremely important to facilitate the recovery process of addicts, especially when considering the main goal of decriminalisation is to improve social and health responses to drug abuse.

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Appendices

Both World Annual Drug Reports (2021) 1 & 2 are listed in the bibliography above (as *Executive Summary Policy Implications* and *Global Overview: Drug Demand Drug Supply* by the UNODC) where they can be accessed. The others can be found here:

- i. World Annual Drug Report 3 (2021), Drug Market Trends: Cannabis and Opioids.
https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_3.pdf
- ii. World Annual Drug Report 4 (2021), Drug Market Trends: Cocaine, Amphetamine-type Stimulants. https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_4.pdf



- iii. World Annual Drug Report 5 (2021), COVID-19 and Drugs: Impact and Outlook.

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