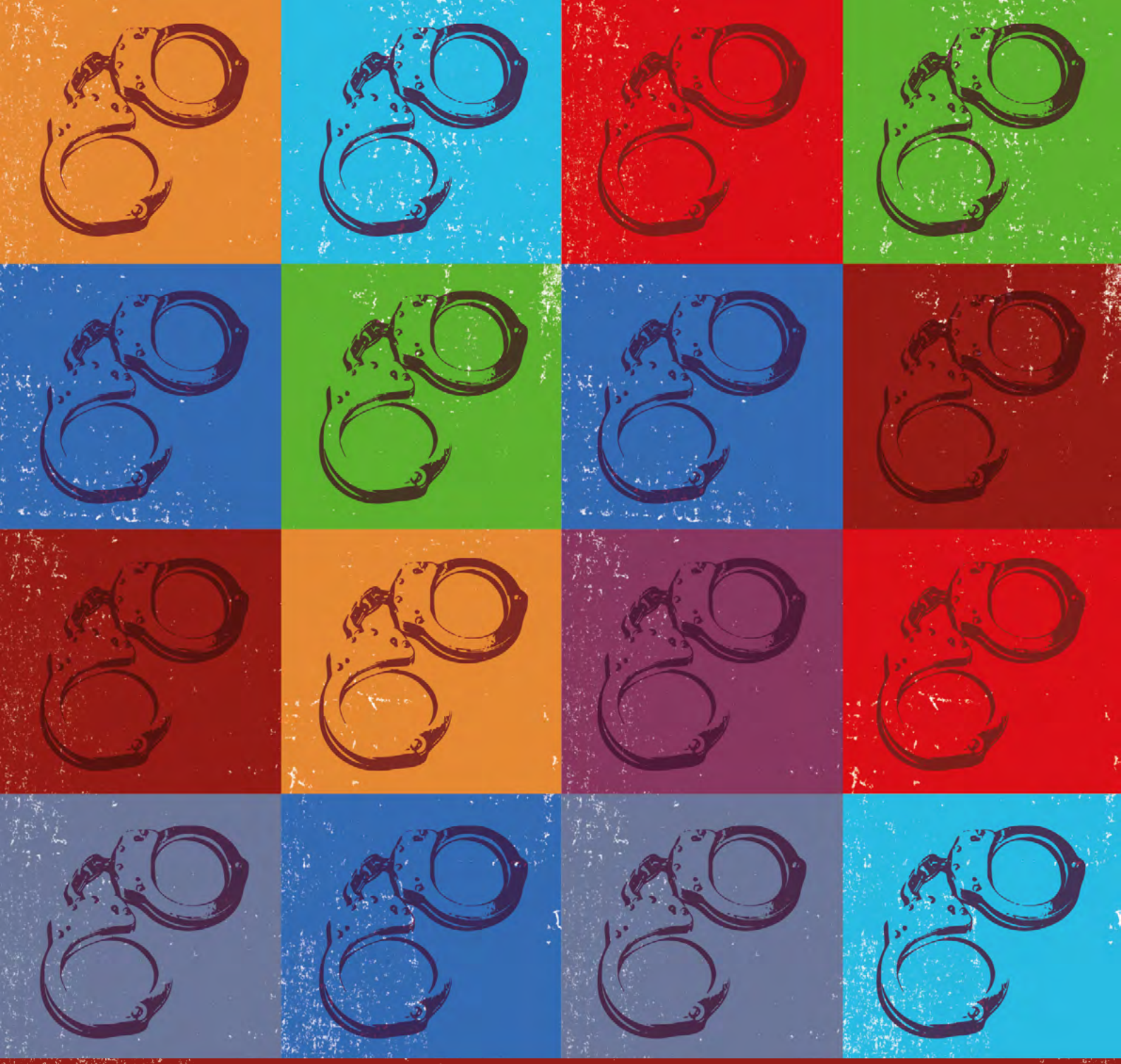

Not another red herring! Full decriminalisation of all drugs is non-negotiable

A Community Brief: The voices, positions, and statements of the international network of people who use drugs

INPUD

International Network *of* People *who* Use Drugs

Supported by the **Open Society Foundations**

Contents

1.0 Purpose of the community brief

In March 2026, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Programme (UNDP), and the International Network of People Who Use Drugs (INPUD), in partnership with the International Centre for Human Rights and Drug Policy (ICHRDP) and Release, published *Decriminalization of drug use in the context of HIV: a guidance note*, the first official United Nations (UN) document dedicated to this issue. This document represents significant progress for the drug users' rights movement by recognising and acknowledging that criminalising people who use drugs in any form worsens HIV outcomes, while approaches grounded in human rights, health, dignity, and respect can help prevent HIV, viral hepatitis, and other blood-borne viruses and improve the wellbeing of people who use drugs and their communities. This breakthrough signals a growing international consensus that ending the criminalisation of drugs is an essential component of an effective rights- and evidence-based response to HIV and to end AIDS as a public health threat by 2030.[1]

Lessons from around the world highlight both the opportunities and limitations of current drug decriminalisation models. While the Guidance Note provides a thorough analysis of the different models, INPUD's Community Brief provides a perspective from the other side of the coin: the experiences and voices of people who use drugs. Our brief speaks from years of experience, expertise, and resilience, while resisting systems of oppression, criminalisation, stigma, discrimination, surveillance, and social control embedded in laws, policies, and practices.

Our brief challenges the misconception that any decriminalisation effort automatically represents progress when the rights, health, wellbeing, and lives of people who use drugs continue to be discounted. **Full decriminalisation of all drugs, without criminal, civil, administrative, or other punitive sanctions, must become the new baseline for measuring progress.**

> *"No group of oppressed people ever attained liberation without the involvement of those directly affected by this oppression. Through collective action, we will fight to change existing local, national, regional and international drug laws and formulate an evidence-based drug policy that respects people's human rights and dignity instead of one fueled on moralism, stereotypes and lies."* - *Vancouver Declaration (2006)*

1. See Sustainable Development Goal 3.3, which commits countries to ending the AIDS epidemic as a public health threat by 2030.

2.0 Overview

For decades, our communities have lived under the global "war on drugs". Prohibition, criminalisation, and punitive drug laws have driven violence, stigma, discrimination, and human rights violations against people who use drugs, including arbitrary arrest, gender-based violence, and barriers to lifesaving health and social protection services.

The Vancouver Declaration, developed by international drug user activists, established a foundational principle of the global drug users' rights movement. It called for the self-representation, empowerment, and meaningful involvement of people who use drugs in decisions affecting our lives. Alongside the statement of essential demands of INPUD's Consensus Statement on Drug Use Under Prohibition, **the leadership, decision-making power, and sustainable resourcing of people who use drugs in reforms such as decriminalisation are non-negotiable.**

In the context of drug policy, decriminalisation means the full removal of criminal, civil, administrative, and other punitive sanctions for drug use, possession of drugs for personal use, possession and provision of drug-use equipment, and other related survival, peer support, and harm reduction programmes. In the HIV response, decriminalisation should not be limited to only a legal reform or a public health intervention. It is a structural condition for people who use drugs to live with safety, autonomy, dignity, and equal access to services without fear of punishment, surveillance, coercion, or exclusion. This brief examines decriminalisation as a critical component of an enabling environment for HIV responses and programmes for people who use drugs.

Decriminalisation of drugs is a necessary step towards protecting the human rights, health, and dignity of people who use drugs. Combined with sustained investment in harm reduction programmes, services led by people who use drugs, as well as healthcare, housing, and social protection, it can reduce stigma and discrimination and improve health outcomes for people who use drugs. **However, services must never be used as a substitute for punishment or control.** Access to these services must be voluntary, rights-based, non-coercive, meaningfully designed, and led by and for people who use drugs.

The Global AIDS Targets recognise that punitive laws and policies are major barriers to ending AIDS. **These targets must not be weakened or treated as optional**. Studies have consistently demonstrated that punitive drug laws are associated with higher rates of needle sharing, reduced engagement with harm reduction services, and increased HIV incidence and prevalence.[2]

2. The 2026 Political Declaration on HIV and AIDS: the 10–10–10 targets: "by 2030, less than ten per cent of countries have restrictive legal and policy frameworks that lead to the denial or limitation of access to services." This target includes removing laws that criminalise drug use. The Global AIDS Strategy for 2026–2031: United Towards Ending AIDS.

Decriminalisation alone is not enough. Our report, *Drug Decriminalisation: Progress or Political Red Herring*, highlights that many reforms presented as progress continue to leave systems of policing, surveillance, and exclusion intact.

The experiences of British Columbia, Oregon, and Australia demonstrate a shared lesson: decriminalisation fails when it is designed without the leadership of people who use drugs. These examples show that reforms fail when governments treat people who use drugs as objects of policy rather than as the people with expertise, leadership, and the right to shape the decisions that affect our lives.

While the examples below focus on specific reforms in high-income settings, communities of people who use drugs across all regions have long documented how criminalisation operates through policing, incarceration, compulsory treatment, detention, extortion, violence, denial of services, and social exclusion. Any assessment of decriminalisation must therefore be grounded in the diverse realities of people who use drugs globally, including those facing poverty, racism, colonial legacies, gender-based violence, migration controls, homelessness, incarceration, and the death penalty.

British Columbia, Canada

In 2023, British Columbia introduced a time-limited exemption under the Controlled Drugs and Substances Act, removing criminal penalties for possession of up to 2.5 grams of certain drugs for personal use. The exemption, initially approved to run until 31 January 2026, was intended to reduce stigma and encourage people to access health and social protection services without fear of criminal sanctions. While an important shift away from punishment, the reform was limited by restrictive thresholds, police discretion, exclusions from many settings, and the absence of broader changes to provide safer drug supply services. In 2024, further restrictions recriminalised possession in many public spaces. British Columbia shows that removing some criminal penalties does not end criminalisation. Without leadership from people who use drugs, the reform failed to address the realities facing our communities, including the need for safe supply, harm reduction, healthcare, and housing services.

Oregon, United States

In 2021, Oregon implemented Measure 110, becoming the first US state to decriminalise possession of small amounts of drugs and redirect funding toward health and social protection services. While a historic step, implementation failed to deliver the promised transformation. Delays in funding, inadequate housing and healthcare supports, and continued stigma and policing contributed to growing backlash. In 2024, Oregon recriminalised personal drug possession. Oregon demonstrates that removing criminal penalties without community leadership, sustained investment, and structural change leaves the foundations of criminalisation intact.

Australia

Across Australia, reforms towards decriminalisation have expanded, including recent legislative changes in the Australian Capital Territory. Many jurisdictions continue to rely on diversion schemes, police discretion, and inconsistent thresholds rather than fully removing criminal penalties. These partial reforms continue to expose people who use drugs to surveillance, stigma, and punishment, with disproportionate impacts on marginalised communities. Australia demonstrates that decriminalisation cannot succeed when it excludes the people most affected from shaping policy.

Across these examples, the message is clear: governments cannot claim meaningful progress while excluding people who use drugs from leading the reform. Decriminalisation must be more than a change in legal wording. It must dismantle punitive systems, invest in community-led responses, and recognise people who use drugs as experts.

This is how we must measure progress on decriminalisation: not by whether governments announce reform, but by whether our communities experience real improvements in our lives, liberty, health, safety, dignity, and security. A reform that leaves people exposed to policing, coercion, forced treatment, fines, confiscation, displacement, or exclusion is not full decriminalisation.

This brief provides a framework of what decriminalisation must look like in practice. Removing criminal penalties is an essential first step, but meaningful reform requires the leadership, decision-making power, and resourcing of people who use drugs, alongside the dismantling of punitive systems and investing in community-led harm reduction, healthcare, housing, income support, and social protection services.

03. Part 1: Understanding the need for decriminalisation in the HIV response

Criminalisation is a political choice that causes harm. It drives HIV, fuels stigma and discrimination, increases violence, undermines access to harm reduction and healthcare, and strips the rights, dignity, autonomy, and safety of people who use drugs. These harms are not new to our communities. They reflect the experiences and realities of people who use drugs across all regions, who have resisted criminalisation, policing, coercion, and social exclusion for generations.

Area of Impact	Criminalisation Model	Decriminalisation Model
Global HIV Prevalence	Higher: People who inject drugs face a significantly higher risk of HIV acquisition due to unsafe, rushed injecting practices and needle sharing.	Lower: HIV incidence and prevalence drop sharply among people who use drugs, as interventions halt outbreaks before they spread.
Impacts of the Legal Environment	• Drives HIV transmission by fueling fear of police and incarceration. • Undermines social determinants of health such as employment and housing. • Causes overcrowded prisons where HIV transmission is high.	• Removes penal barriers, reducing stigma and discrimination. • Recognises drug use as a public health issue rather than a moral failing. • Addresses systemic inequities and racism in drug policing.
Harm Reduction & Health Service Access	• Syringes and harm reduction are viewed as evidence of a crime. • People who use drugs avoid health services for fear of their confidential information being used against them. • Low access to Antiretroviral Therapy and testing.	• Services are integrated, low-barrier, and easily accessible. • Higher rates of trust in healthcare workers. • Expanded testing, treatment, and retention in HIV care.

Table 1. Comparison of the impacts of criminalisation and decriminalisation on HIV, the legal environment, and access to harm reduction and health services

International standards and commitments provide an important foundation for advocating for decriminalisation, but they do not go far enough. Although UN agencies and human rights bodies have increasingly recognised the harms of criminalisation, recognition alone has not protected our communities. Across the world, people who use drugs continue to face arrest, imprisonment, police violence and brutality, compulsory treatment and detention, stigma, discrimination, and denial of harm reduction and healthcare despite decades of international guidance.

Instrument	Exact Reference	Relevance to Decriminalisation & HIV
Single Convention on Narcotic Drugs, 1961 (as amended by the 1972 Protocol)	Article 36(1)(a): "...each of the Parties shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery ... shall be punishable offences..."	Does not explicitly list personal drug use as a punishable offence. For possession, Article 36(1)(b) and Article 33 permit states to provide "treatment, education, after-care, rehabilitation and social reintegration" as alternatives to conviction or punishment.
Convention on Psychotropic Substances - 1971	Article 22(1): "...each Party shall treat as a punishable offence... any action contrary to a law or regulation adopted in pursuance of its obligations under this Convention..."	Similar to the Single Convention, it focuses on supply and trafficking. Article 22(1)(b) allows states to impose alternatives to conviction or punishment for personal possession, and penal provisions are subject to domestic constitutional limits.
UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances - 1988	Article 3(2): "Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption..."	The phrase "Subject to its constitutional principles" provides flexibility. Article 14(4) also allows states to adopt measures that reduce drug demand and provide alternatives to punishment, favouring public health approaches.
UNAIDS/WHO Guidance Note: Decriminalisation of Drug Use in the Context of HIV	Recommends reviewing and repealing punitive laws, as highlighted in the Global AIDS Strategy and the Political Declaration on HIV/AIDS, which call for the removal of discriminatory laws that create barriers to HIV services.	Defines decriminalisation as a critical element of the HIV response. Eliminating criminal penalties prevents higher HIV incidence and removes barriers to harm reduction and treatment.
International Guidelines on Human Rights and Drug Policy	Guideline 5 (Decriminalisation): "States should utilize the available flexibilities in the UN drug control conventions to decriminalize the possession, purchase or cultivation of controlled substances for personal consumption..."	Affirms that decriminalisation expands access to care and ensures human rights. It directly addresses the HIV-related vulnerabilities exacerbated by repressive policing and criminalisation.

Table 2. International treaties and HIV decriminalisation

Across regions, criminalisation takes different forms: arrest and imprisonment, police harassment and extortion, compulsory treatment and detention, denial of harm reduction and other healthcare services, surveillance and mandatory reporting, denial and loss of custody, loss of housing or employment, and, in some contexts, the death penalty and extrajudicial violence and killings. **The global HIV response must not ignore these realities**.

International standards and commitments are important advocacy tools, but they cannot be the endpoint. The human rights, health, dignity, and autonomy of people who

use drugs cannot remain limited to commitments on paper. Governments must move beyond recognition and take concrete action to dismantle punitive systems, implement full decriminalisation without criminal, civil, administrative, or other punitive sanctions, and ensure that people who use drugs have leadership, decision-making power, and sustainable resources in all reforms.

3.1 Understanding decriminalisation

In the context of drug policy, decriminalisation means the full removal of criminal, civil, administrative, and other punitive sanctions for drug use, possession of drugs for personal use, possession and provision of drug-use equipment, and other related survival, peer support, and harm reduction programmes. Decriminalisation can take different forms, with varying implications for the rights, health, and wellbeing of people who use drugs.

The table below outlines key models of decriminalisation, including *de jure* decriminalisation, *de facto* decriminalisation, and depenalisation, and explains how they differ in practice.

Policy Model	Legal Status of Possession	Enforcement Mechanism	Consequence / Outcome
Depenalisation	Remains a criminal offence.	The law is closed or relaxed, reducing the use of existing criminal sanctions.	Criminal penalties are downgraded, often resulting in small fines rather than prison.
De Facto Decriminalisation	Remains technically illegal in law.	Police or prosecutors use administrative discretion to not enforce the law.	Formal non-enforcement, informal warnings, or voluntary police diversion.
De Jure Decriminalisation	Officially removed from criminal law.	Statutory amendments or new legislation formally repeal the criminal classification.	Replaced by non-criminal administrative sanctions like mandatory health assessments or civil fines.

Table 3. Models of decriminalisation

Decriminalisation is not the same as legalisation. Drugs may remain regulated by the government, but people are no longer subjected to criminal punishment simply for using drugs or possessing them for personal use. This distinction is important because public debates often confuse the two concepts. We need to move beyond political ideology and focus on the evidence.

Countries may adopt different models of drug decriminalisation. No single approach applies to every jurisdiction. However, the overarching objective should remain the same: reduce harm, protect human rights, and improve health outcomes.

The next section outlines the foundational principles of decriminalisation, setting out the essential elements required to ensure reforms are grounded in human rights, health, dignity, autonomy, and the leadership of people who use drugs.

3.2 Implementing the foundational principles of decriminalisation of drug use and possession for personal use in the context of the HIV response

When implementing decriminalisation of drugs in the context of the HIV response, the following foundational principles are non-negotiable. Decriminalisation will only be meaningful if it enables people who use drugs to claim and realise their human rights, access HIV prevention, treatment, care, and harm reduction without fear, and live with dignity, autonomy, safety, and self-determination.

These principles are not abstract values. They are practical requirements for reform that change people's lives. Without them, governments risk replacing one form of criminalisation with another through fines, police discretion, compulsory treatment, surveillance, service conditions, or other forms of coercion and control.

The following section introduces each principle and explains what it means and what it looks like in practice.

3.3 Human rights

Decriminalisation must protect, promote, and fulfil the human rights of people who use drugs. This means recognising that people who use drugs are entitled to the same rights, dignity, and freedoms as everyone else. This requires removing laws and policies that criminalise our community, and ensuring equal access to healthcare, housing, employment, and justice without fear of punishment or discrimination.

Right to health

Drug use must never be treated as a crime. Responses to drug use must be grounded in human rights, health, autonomy, and social justice, not punishment, coercion, or control. Criminalisation pushes people away from harm reduction and healthcare services, increasing preventable harms, including HIV transmission and overdose. This means replacing punitive responses with voluntary, evidence-based health and social protection that meet people where they are, respect their autonomy, and respond to the priorities they define for themselves.

Meaningful involvement of people who use drugs

People who use drugs must have leadership, decision-making power, and sustainable resources in the development, implementation, monitoring, and evaluation of laws, policies, and services that affect our lives. This means moving beyond consultation to shared decision-making, where our expertise and experience shape policy from the outset. "Nothing about us without us" is one of our core foundational principles in everything we do.

Evidence-based policy

Drug policy should be informed by scientific evidence, public health, and the experience of people who use drugs, not ideology, stigma, or political convenience. This means implementing reforms that are proven to improve health, reduce harm, and uphold human rights, and rejecting approaches that continue to harm our communities.

Equity and non-discrimination

Decriminalisation must address the disproportionate harms experienced by communities facing intersecting forms of discrimination, including women, young people, Indigenous peoples, people of colour, LGBTQIA+ people, migrants, and people living in poverty. Reforms must actively reduce inequities rather than reproduce them, ensuring everyone can benefit equally from decriminalisation.

Voluntary access to health and social protection services

Harm reduction, healthcare, treatment, housing, and social protection services should always be voluntary. These services must be accessible and free from coercion. Decriminalisation should not replace one form of control with another; it must ensure people can access the services they need without fear of arrest, mandatory treatment, or other punitive measures.

Ending stigma and discrimination

Decriminalisation must challenge the stigma and discrimination that people who use drugs continue to experience across healthcare, policing, employment, housing, and society. Removing criminal penalties is only one step. Long-lasting reform requires changing the attitudes, policies, and practices that continue to harm our communities.

Community leadership

People who use drugs are experts in their own lives and must be recognised as leaders in shaping drug policy and the HIV response. This means investing in community-led organisations, supporting peer-led services, and ensuring networks of people who use drugs have the sustainable resources and power to influence decisions that affect their communities.

Community leadership also requires protection from retaliation, legal recognition, and sustainable funding for networks and organisations led by people who use drugs, particularly in regions where civic space is criminalised and politically restricted.

Accountability

Accountability must be defined with and by people who use drugs. Governments should be assessed not only on whether laws have changed, but on whether arrests, police harassment, incarceration, compulsory treatment and detention, stigma and discrimination, exposure to HIV and viral hepatitis infections, overdose-related deaths, and barriers to services have been reduced in practice.

These principles remind us that decriminalisation is not simply about changing laws; it is about dismantling the systems and power structures that have harmed people who use drugs for decades. Removing criminal penalties without these foundations risks replacing one form of control with another.

A rights-based approach must centre the dignity, autonomy, health, and leadership of people who use drugs, ensuring that reform creates meaningful change rather than symbolic progress.

4.0 Part 2: Implementing legal reforms to support the community of people who use drugs

Drug decriminalisation is gaining momentum around the world as governments increasingly recognise the harms caused by punitive drug policies. The question is no longer whether drug use should be decriminalised, but how decriminalisation must be designed, implemented, monitored, and resourced to protect the rights, health, dignity, and safety of people who use drugs.

Not all models of decriminalisation are equal. Some reforms reduce criminalisation and improve access to harm reduction, healthcare, housing, and social protection. Others simply replace criminal penalties with fines, mandatory reporting, treatment orders, surveillance, police discretion, or other forms of punishment and control.

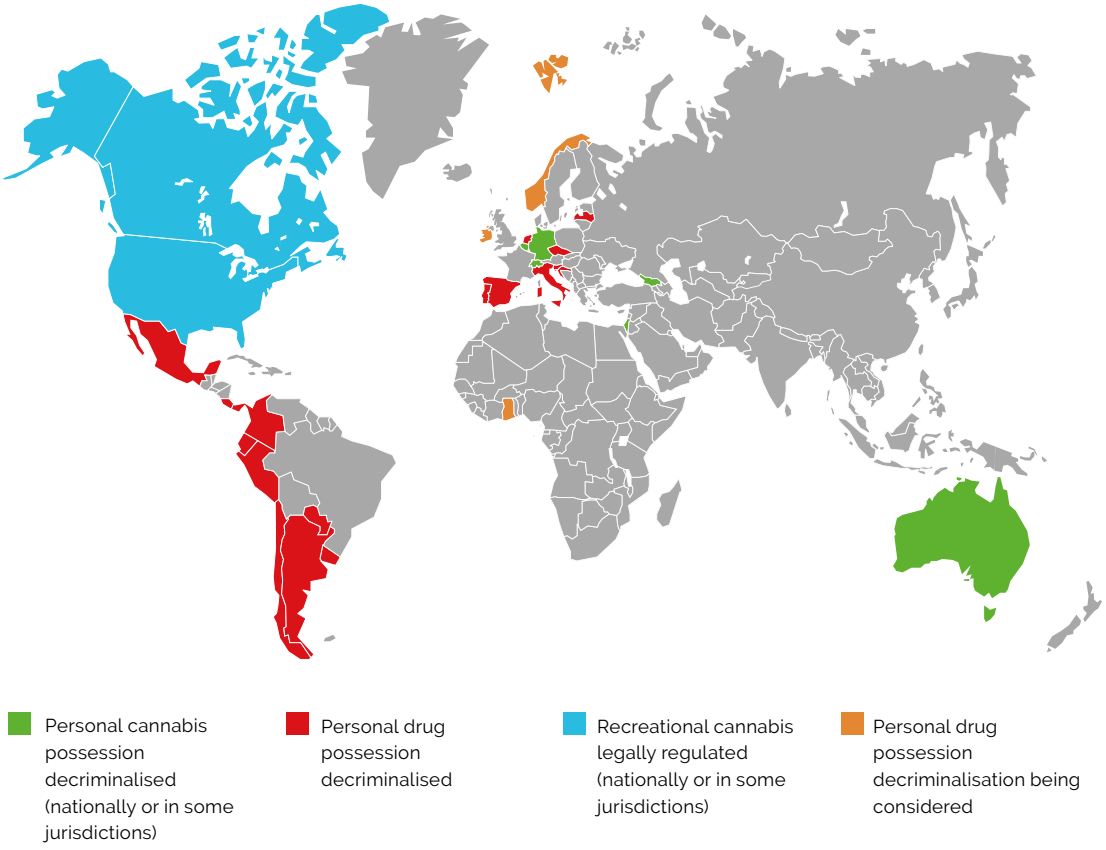

Figure 1. Drug possession: a global perspective

Decriminalisation must be understood as more than a change in law. It is a process of dismantling systems that criminalise, punish, exclude, and control people who use drugs.

Decriminalisation models must create an enabling environment where people can access HIV prevention, treatment, care, harm reduction, healthcare, housing, employment, income support, social protection, and justice without fear of arrest, detention, discrimination, coercion, or violence from law enforcement or other state actors.

The following section examines the key areas of law and policy reform needed to decriminalise drug use, possession of drugs for personal use, harm reduction, and related survival and peer support activities.

4.1 What laws and policies need to be reviewed?

Criminalisation does not only target drug possession. Laws and policies can criminalise everyday realities of drug use, pushing people away from harm reduction and healthcare services while increasing stigma, discrimination, and human rights violations.

For decriminalisation to be meaningful, governments must review and reform all laws, policies, and practices that create harms or undermine access to services, including those related to:

- possession of drugs for personal use;
- consumption of drugs, including public use, use by young people, and use during pregnancy;
- purchase, cultivation, and access to drugs for personal use;
- sharing, splitting, or selling drugs for survival or to support personal use;
- possession, distribution, and use of harm reduction equipment and supplies;
- police powers, stop-and-search practices, surveillance, confiscation, and public order laws;
- drug registries, forced testing, mandatory reporting, and compulsory treatment;
- housing, employment, education, migration, child custody, and parenting restrictions; and
- administrative penalties, including fines, mandatory assessments, treatment orders, or other measures that replace criminal sanctions but continue punishment and control.

Decriminalisation cannot simply replace criminal charges with new forms of control. It must dismantle the systems that create stigma, surveillance, and exclusion and place the expertise and leadership of people who use drugs at the centre of the reform.

4.2 Defining threshold quantities

Threshold quantities are one of the most common decriminalisation approaches used to define possession “for personal use”. They aim to distinguish personal possession from supply and determine who is exempt from criminal penalties. While intended to provide legal certainty and reduce criminalisation, arbitrary or poorly designed thresholds often fail to reflect the realities of drug use and continue to expose many people who use drugs to policing, prosecution, and other human rights violations.

Pros of threshold quantities

- Can protect people found in possession of drugs below the threshold from criminal prosecution.
- May provide greater legal certainty by defining what is considered possession for personal use.
- Creates an opportunity for people who use drugs to influence how threshold quantities are developed and reviewed.

Cons of threshold quantities

- Thresholds that are set too low continue to criminalise people who use drugs more frequently, those with higher tolerances, and people who buy drugs in bulk for personal use.
- Artificially separates "people who use drugs" from "dealers", ignoring the reality of user-dealing and other forms of low-level supply that many rely on to survive.
- Expands police and prosecutorial discretion, increasing the risk of arbitrary arrest, corruption, coercion, and other human rights violations.

INPUD strongly supports the abolition of arbitrary threshold quantities and any model that continues to criminalise people who use drugs based on the quantity they possess. Thresholds must not be based on police seizure patterns, moral assumptions, or unrealistic ideas of "average" consumption. They must reflect the realities of people who use drugs, including tolerance, poly-drug use, bulk purchasing to reduce risk, shared purchasing, rural access barriers, and the realities of unstable supply even when threshold quantities are being adopted as a political compromise.

4.3 Determination of offence

A key feature of any decriminalisation model is determining who decides whether possession is for personal use or whether an offence has occurred. In many jurisdictions, police, prosecutors, or the courts make these decisions. When broad discretion is given to law enforcement, decisions are often influenced by stigma, bias, and unequal power, resulting in inconsistent outcomes and ongoing criminalisation. Clear and concise safeguards are essential to ensure decisions are fair, transparent, and do not undermine the purpose of decriminalisation.

Pros of determination of the offence

- Clear legal criteria can promote greater consistency and transparency in decision-making.
- Limiting police discretion can reduce arbitrary enforcement and unnecessary contact with the criminal justice system.
- Independent review or oversight mechanisms can strengthen accountability and protect human rights.

Cons of determination of the offence

- Broad police or prosecutorial discretion can perpetuate profiling, discrimination, and unequal enforcement.
- Decisions based on subjective assessments of suspicion create opportunities for arbitrary arrests and rights violations.
- Inconsistent decision-making can undermine legal certainty and weaken confidence in decriminalisation reforms.

We oppose decriminalisation models that rely on police, prosecutors, or courts as gatekeepers to decide who deserves protection from criminalisation. Decriminalisation should create a presumption that possession is for personal use unless clear, objective, rights-based evidence shows otherwise. It should reduce contact with the criminal legal system, not create new opportunities for surveillance, profiling, policing, coercion, and punishment.

4.4 Alternatives to criminal sanctions

Many decriminalisation models replace criminal penalties with administrative or civil sanctions, such as fines, mandatory reporting, compulsory treatment, or referrals to health and social services. While these approaches are often presented as less punitive than criminal sanctions, they can continue to control people who use drugs and create new barriers to health, autonomy, and human rights. Decriminalisation should not replace one form of punishment with another.

Pros of alternatives to criminal sanctions

- Can reduce criminal convictions, imprisonment, and the long-term consequences of a criminal record.
- May increase opportunities to connect people with voluntary harm reduction, healthcare, and social services.
- Can reduce some of the harms associated with criminal justice involvement.

Cons of alternatives to criminal sanctions

- Civil or administrative penalties, including fines, disproportionately impact people experiencing poverty.
- Mandatory treatment, education programmes, or service referrals undermine autonomy and may discourage people from seeking support.
- Replacing criminal penalties with coercive or punitive alternatives fails to achieve genuine decriminalisation and can perpetuate stigma and social control.

We oppose replacing criminal sanctions with coercive civil or administrative penalties. Harm reduction, healthcare, housing, treatment, and social protection services must be available directly in the community, without requiring police contact, court involvement, arrest, citation, assessment, or any other coercive measures. Decriminalisation should reduce state control over people who use drugs, not simply change the form it takes.

4.5 When harm reduction is criminalised

Decriminalisation is incomplete if harm reduction services remain criminalised. Laws that prohibit or restrict the possession, distribution, or use of items such as needles and syringes, safer smoking supplies, drug checking equipment and reagents, naloxone, safer consumption spaces, peer distribution, outreach, and community-led harm reduction education. Criminalising harm reduction undermines the goals of decriminalisation and weakens the HIV response.

Pros of decriminalising harm reduction

- Decriminalising harm reduction commodities improves access to lifesaving services and reduces barriers to HIV prevention and care.
- Protects people who use drugs and harm reduction workers from unnecessary policing and criminalisation.
- Strengthens user-led harm reduction programmes and public health outcomes.

Cons of criminalising harm reduction

- Criminalising harm reduction commodities discourages people from carrying or accessing lifesaving supplies.
- Creates ongoing opportunities for police harassment, arrest, confiscation of equipment, and other human rights violations.
- Undermines trust in health services and increases the risk of HIV, hepatitis C, overdose, and other preventable harms.

We believe that decriminalisation must extend to all harm reduction services, supplies, and community-led responses. No one should face criminal, civil, administrative, or other punitive sanctions for possessing, carrying, distributing, or accessing equipment intended to protect health and save lives. Decriminalisation that excludes harm reduction is incomplete and continues to place people who use drugs at unnecessary risk.

4.6 Public drug use versus private drug use

Many decriminalisation models distinguish between drug use in public and private spaces, with public drug use often remaining subject to criminal or administrative penalties. While these laws are frequently justified based on public order, they disproportionately impact people who have no safe or private place to use drugs. Decriminalisation should not create a two-tiered system where only those with housing and privacy can benefit from reform.

Pros of distinguishing public versus private drug use

- May reduce criminal penalties for people with access to private space, while exposing the inequity of reforms that exclude people who are displaced or living in unstable conditions.
- Can encourage investment in safer consumption spaces and other health-based responses to public drug use.
- Provides an opportunity to shift public drug use away from punitive approaches.

Cons of distinguishing public versus private drug use

- Continues to criminalise people experiencing homelessness, poverty, or unstable housing.
- Maintains police discretion and enforcement against people who use drugs in public spaces.
- Reinforces stigma and fails to address the structural reasons why people use drugs in public.

We oppose the criminalisation of public drug use. No one should face punishment because they lack access to safe, private spaces or appropriate harm reduction services. Governments must address the underlying social and structural factors that lead to public drug use by investing in housing, safer consumption spaces, and community-led health and social protection services rather than relying on policing and punishment.

4.7 Clearing criminal records

Many drug decriminalisation approaches focus on preventing future criminal convictions but fail to address the lasting impact of past criminal records. Criminal records continue to restrict access to employment, housing, education, travel, and healthcare long after any sentence has been served. Decriminalisation efforts must not only prevent new criminal records but also provide pathways to expunge or erase past convictions for offences that are no longer considered criminal.

Pros of clearing criminal records

- Prevents new criminal records for people covered by decriminalisation reforms.
- Expungement or automatic record clearance can remove long-term barriers to employment, housing, education, and social inclusion.
- Supports health, dignity, and reintegration by reducing the ongoing harms of criminalisation.

Cons of clearing criminal record

- Many drug decriminalisation models do not automatically erase existing criminal records.
- Complex or costly application processes can prevent people from accessing record expungement.
- Retaining criminal records for offences that have been decriminalised perpetuates stigma, discrimination, and lifelong punishment.

We believe drug decriminalisation must include expunging criminal records for offences that are no longer criminalised. Record clearance should be automatic, free, and accessible and include removal from drug registries, release from custody where relevant, restoration of rights, and protection from disclosure in employment, housing, education, migration, and child custody systems. People who use drugs should not continue to face lifelong consequences for conduct that governments have recognised should never have been

treated as a crime. Decriminalisation requires both ending future criminalisation and repairing past harms.

4.8 Drug use amongst adolescents and young people

Decriminalisation should protect the rights, health, and wellbeing of adolescents and young people who use drugs. Young people often face heightened stigma, criminalisation, and barriers to accessing confidential, age-appropriate harm reduction and health services. A rights-based approach recognises that punishment does not prevent drug use and instead prioritises developing youth-friendly harm reduction and health services, equal opportunity to engage in decision-making spaces meaningfully, and supporting and sustaining programmes led by young people who use drugs.

Pros of decriminalising drug use among adolescents and young people

- Reduces young people's involvement with the criminal justice system and the lifelong consequences of criminal records.
- Improves access to confidential, youth-friendly harm reduction, health, and protection services.
- Encourages earlier engagement with voluntary services by reducing fear of punishment and stigma.

Cons of decriminalising drug use among adolescents and young people

- Many decriminalisation models continue to apply criminal or punitive responses to adolescents and young people.
- Mandatory treatment, parental notification, or coercive interventions can discourage young people from seeking help.
- Restricting access to harm reduction and health services increases the risk of HIV, overdose, and other preventable harms.

Confidentiality is essential. Young people should not be denied harm reduction or healthcare services because of age, parental consent requirements, mandatory reporting, or fear of punishment.

Decriminalisation, regardless of age, must ensure access to voluntary, confidential, and youth-friendly harm reduction, healthcare, housing, and social protection services while safeguarding young people's dignity, privacy, evolving autonomy, and right to participate in decisions affecting their lives.

5.0 Call to action

Criminalisation has failed to protect health, reduce harm, or support effective HIV responses. Punitive drug laws create barriers to harm reduction and healthcare, fuel stigma and discrimination, increase risks of HIV and viral hepatitis infections, preventable deaths from overdose, violence, and incarceration, and undermine the rights, dignity, autonomy, and safety of people who use drugs.

Meaningful decriminalisation is a human rights, health, and community-led intervention. It must remove all forms of punishment, not replace them with fines, mandatory assessment, compulsory treatment, police referrals, surveillance, coercion, or other forms of control. Reforms must be led by people who use drugs and must address the real-world harms created by criminal legal systems.

Decriminalisation must also be recognised as one step towards the responsible legal regulation of drugs. Criminalisation has allowed unregulated markets to flourish, increasing the risks of toxic drug supplies, violence, exploitation, corruption, and preventable deaths. Evidence-informed regulation can reduce these harms by prioritising health, safety, quality control, access, autonomy, and community-led services over punishment. People who use drugs must have the leadership, decision-making power, and sustainable resources in shaping any regulatory framework to ensure it responds to the realities of our communities.

Governments must act now to:

- remove criminal, civil, administrative, and other punitive sanctions for drug use, possession for personal use, harm reduction, and related survival activities;
- end police harassment, surveillance, confiscation, forced testing, compulsory treatment and detention, and punitive public order enforcement;
- automatically expunge criminal records and repair the ongoing harms of criminalisation;
- invest in voluntary, accessible, evidence-based, community-led harm reduction, healthcare, housing, income support, and social protection;
- ensure people who use drugs have leadership, decision-making power, and sustainable resources in all reforms; and
- move towards responsible legal regulation of drugs grounded in human rights, health, safety, quality control, and community leadership.

Decriminalisation is not the end goal, but it is a critical step towards drug policies grounded in human rights, health, dignity, community leadership, self-determination, and responsible legal regulation of drugs. The evidence is clear, and our communities have said this for generations: no drug policy reform can be legitimate, effective, or just unless people who use drugs lead the decisions that affect our lives.

The International Network of People who Use Drugs (INPUD) is a global peer-based organisation that seeks to promote the health and defend the rights of people who use drugs.

INPUD will expose and challenge stigma, discrimination, and the criminalisation of people who use drugs and its impact on the drug-using community's health and rights. INPUD will achieve this through processes of empowerment and advocacy at the international level, while supporting empowerment and advocacy at community, national, and regional levels.

This community brief is dedicated to honouring the lives lost to the unjust "war on drugs." We remember, and we will never forget, those whose lives were stolen by state oppression and this failed "war on drugs." We stand in solemn memory of every individual lost to the violence of drug criminalisation.

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