

# DECRIMINALISATION AND YOUNG PEOPLE WHO USE DRUGS RIGHTS

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*This report was developed following two educational workshops for young advocates on decriminalisation and the rights of young people who use drugs (YPWUD), funded by **UNAIDS** and delivered by **André Belchior Gomes** with the support of **Youth RISE**.*

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# INTRODUCTION

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Drug decriminalisation is a policy approach that **removes criminal penalties for personal drug use and possession, shifting the focus from punishment to health and social support.** Over the past few decades, this approach has gained traction worldwide, backed by evidence demonstrating its effectiveness in reducing harm, improving health outcomes, and alleviating the burden on criminal justice systems.

Despite its growing support from international bodies such as the **United Nations** (UN), **World Health Organization** (WHO), and **leading human rights organisations**, decriminalisation remains a contested issue. Opponents often argue that it encourages drug use or fails to address broader drug-related issues.

However, **real-world examples** from countries that have implemented decriminalisation – such as Portugal and Czechia – **show** that it can reduce problematic drug use, decrease drug-related deaths, and foster better relationships between people who use drugs and public health services.

This report is the result of a workshop on decriminalisation and young people who use drugs, organised by Youth RISE in February 2025 with the support of UNAIDS. **It explores what decriminalisation is – and what it is not – while examining different models of implementation, and presents key arguments for and against the approach.**

By highlighting successful and failed decriminalisation models, it provides insights into best practices and the potential for future drug policy reform.



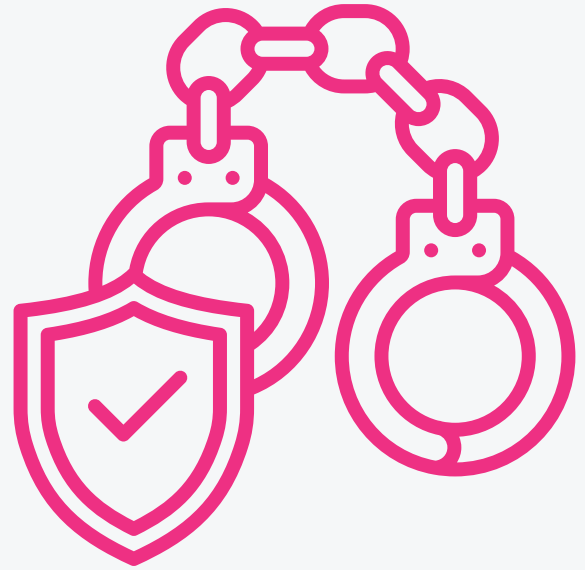
# WHAT IS DECRIMINALISATION AND WHAT IS IT NOT?

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Decriminalisation is not a new policy: **it's been in place since the 1970s, trialled in the Netherlands and now implemented in 29 countries and 39 jurisdictions worldwide.** In some nations, only certain regions, cities or states have implemented it. You can see an updated version of global decriminalisation in TalkingDrugs [map of decriminalisation](#).

Decriminalisation generally refers to the **legal** removal of **criminal sanctions** for personal drug use and possession (decriminalisation is always understood as **use and possession**; only decriminalising one beats its purpose).

Each underlined part in the definition represents a key aspect of decriminalisation.

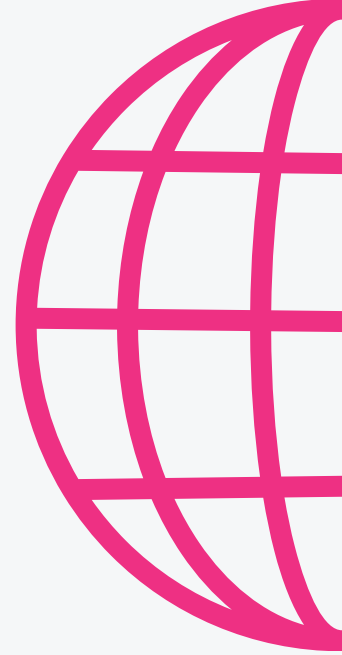


## Decriminalisation is backed by many international organisations:

- [UNAIDS](#), [Amnesty International](#), [UNICEF](#), and [global health experts](#) support the implementation of decriminalisation to improve health and social outcomes.
- Decriminalisation is included in the UN's [Common Position](#), which outlines all UN bodies' position across multiple issues: "To promote **alternatives to conviction and punishment in appropriate cases**, including the decriminalisation of drug possession for personal use."
- It is also supported by the [2019](#) International Guidelines on Human Rights and Drug Policy, which encourage states to use UN drug control convention flexibilities to **decriminalise possession, purchase, or cultivation for personal use**.

# DECRIMINALISATION VS. OTHER MODELS

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Decrim is **different** from depenalisation, diversion, and legalisation.

These systems all have different characteristics:

| MODEL          | DEFINITION   | EXAMPLE  |
|----------------|--|--|
| DEPENALISATION | Reduction of existing criminal sanctions, <b>often without changing laws.</b>  | Dutch gedoogbeleid (cannabis tolerance policy). Drug use <b>remains a legal violation but is not enforced.</b> |
| DIVERSION      | Those caught with drugs are offered non-criminal sanctions instead of prison time; <b>these are usually education courses, entering treatment, or attending social service meetings.</b> | Scotland's diversion scheme for <b>people who use drugs.</b>   |
| REGULATION     | The state intervenes in drug markets using various control models. <b>Can range from highly regulated access to a free market approach,</b> depending on the drug type and jurisdiction. | <b>Open alcohol sales, where only age restrictions apply;</b> prescription medication, such as methadone.      |

# KEY COMPONENTS OF A SYSTEM OF DECRIMINALISATION

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## Threshold quantities

Establishing threshold quantities (i.e., how much of a drug can someone legally carry) can help determine maximum limits for personal use compared to what is considered for sale or trafficking. These thresholds can be explicit or subjective.

- **Examples:**
  - **Explicit:** Although no longer used, Portugal had exact weights of drugs that people, law enforcement, and others could consult.
  - **Subjective:** Terms like "small amounts" in [Russia](#), [Mexico](#), and [South Africa](#)—leading to potential corruption and discrimination.
- **Best practice:** Thresholds should be guidelines, not strict cutoffs, to avoid criminalising people who buy in bulk due to tolerance or market realities.

## Decision-making authority

All systems have someone who decides whether the quantity you possess is for personal consumption, which in turn impacts whether you will be arrested or not. These are usually one of these three:

- **Police:** Most cost-effective but prone to abuse, extortion, and arrest quotas.
- **Prosecution:** Can lead to lengthy detention while cases are reviewed.
- **Judiciary:** Provides legal oversight and appeal options but causes delays and long detentions.



# KEY COMPONENTS OF A SYSTEM OF DECRIMINALISATION

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## Activities decriminalised

Systems of decriminalisation can be customised in various ways to adjust to a country or region's reality of drug use.

- **One drug or all? Example:**



**Bermuda:**

Only the possession of 7g of cannabis is decriminalised.



**Portugal:**

All drugs are decriminalised, including new psychoactive substances (NPS).

- **Social supply & low-level sales:** Some decrim models (**like Spain**) allow non-financial sharing to avoid unfair "intent to supply" charges.
- **Cultivation/production:** Some countries (e.g., **Bolivia** with coca, **Spain** with cannabis) decriminalise limited personal cultivation.
- **Use, possession, and consumption:** Some systems separate these (e.g., **Japan** decriminalised use but not possession until 2024).
- **Retroactive decriminalisation:** Best practice includes expunging past criminal records (e.g., **Belize** for cannabis).



# KEY COMPONENTS OF A SYSTEM OF DECRIMINALISATION

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## Sanctions under decriminalisation (from least to most severe):

Sanctions or punishments for using drugs should always be avoided. However, if they are to be retained, then the system should seek to reduce the harm from being involved with the criminal system.



### No response:

Best approach: no increase in use seen.



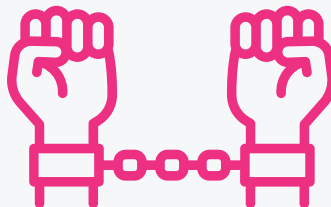
### Fines or administrative penalties:

Should be proportionate to drug prices to avoid penalising poverty.



### Treatment referrals:

Should be voluntary, drug-specific, age-specific, and not require abstinence as a measure of success.



### Administrative detention:

Should be avoided due to the **inherent risks of human right abuses**, such as testing people without a warrant, interrogating them whilst under the influence, and many more.

# DECRIMINALISATION AND CHILDREN

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Most decriminalisation systems continue to criminalise drug use by children (understood as those under the legal age within countries, usually 18), **with some systems offering special treatment options for children.** However, maintaining drug criminalisation can lead to several traumatic impacts or adverse outcomes for children – see [Holland, Etches, and Gander \(2023\)](#).

The [UN Convention on the Rights of the Child](#) (CRC) recommends pursuing policies that reduce drug use by children but also prevent involving them in the criminal justice system. This includes taking “appropriate measures to ensure that **the child is protected against all forms of discrimination or punishment on the basis of the status, activities**, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.”



## Key CRC articles relevant to decriminalisation include:

- **Article 3.1:** The best interests of children should be a primary consideration.
- **Article 3.3:** State parties should ensure children's safety and health are protected by institutions or facilities (like prisons or treatment centres).
- **Article 6:** State parties will ensure the maximum possible survival and development of a child.
- **Article 17:** State parties shall ensure children have access to information and material from national and international sources that may promote their physical or mental health (which can include harm reduction materials in case harm reduction is criminalised).
- **Article 33:** States Parties shall take all appropriate measures to protect children from the illicit use of drugs.

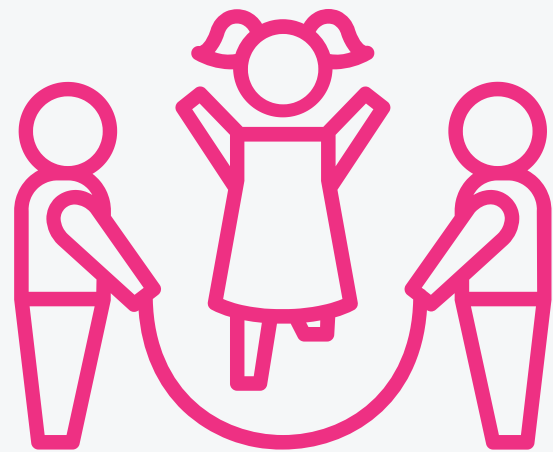
# DECRIMINALISATION AND CHILDREN

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Several UN CRC reports have outlined their support for decriminalisation since the early 2000s. For example, [CRC/C/AFG/CO/1](#) states that governments should “prevent and end drug use among children and their parents, as well as make sure that children are not criminalised, and that any measures taken, including rehabilitation, duly take into account the best interests of the child.”

The UN CRC **states** that the minimum age of criminal responsibility should be **over 14** and should continue to be increased. All children under 18 should be protected through **juvenile justice systems, and juvenile detention should always be avoided** to prevent young people from being involved in criminal justice systems at an early age. Globally, the age of criminal responsibility varies, and is often lowered for what are considered “serious” crimes—including drug trafficking.

For children above the age of criminal responsibility, **decriminalisation models should apply if they exist**. However, some countries (e.g. [Costa Rica](#)) apply **mandatory treatment for children who use drugs**, while applying **voluntary treatment for adults**. This contradicts human rights standards on **informed consent** and healthcare being **truly voluntary**.



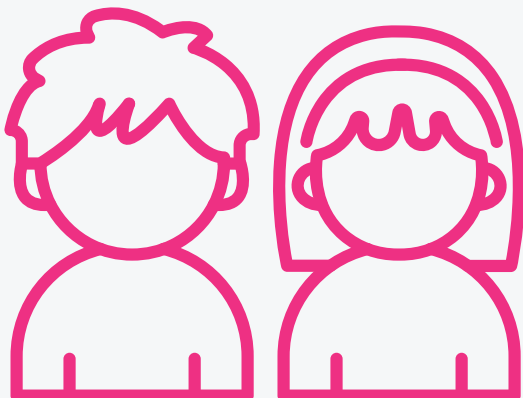
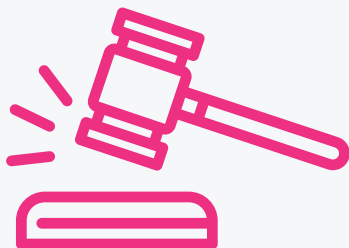
# INTERNATIONAL JUVENILE JUSTICE GUIDELINES

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The **Beijing Rules** (United Nations Standard Minimum Rules for the Administration of Juvenile Justice) emphasise reducing reliance on the juvenile justice system and instead promoting children’s welfare through positive measures:

- A juvenile justice system shall **“emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.”**
- Juvenile detention should always be a last resort, for the shortest period possible.
- The age of criminal responsibility should be “reasonable” and not too low.

The **Havana Rules** (United Nations Rules for the Protection of Juveniles Deprived of their Liberty) reinforce this by calling for **juvenile imprisonment to be used only as a last resort.**



## What does this mean?

There is significant **evidence and international support** for systems that promote **support, education, and non-mandatory treatment** for children who use drugs, rather than punishment and criminalisation.

Parts of the **UN CRC** (e.g., Articles 24 and 33) underscore that for a child to achieve their highest possible level of health, they **should avoid drug use**. However, **drug prohibition can also create worse outcomes** for children by exposing them to unregulated markets, poor drug education, and punitive legal consequences.

# GETTING DECRIMINALISATION IN PLACE

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There are various arguments that support **drug decriminalisation, which sit on a spectrum of support** and can be used depending on your audience's priorities.

## Public health arguments

- Decriminalisation **removes** legal consequences from seeking drug treatment, and promotes a less stigmatized environment.
- It can **reduce** riskier drug use practices by enabling a legal environment where harm reduction interventions can be deployed, such as needle and syringe programs (NSPs), **drug checking, safer sex materials, and naloxone provision.**
- The mental health costs of incarceration and the stigma of the "criminal" label are **reduced** by **removing people's contact with the criminal justice system.**
- De jure decriminalisation **creates** a legal environment that facilitates health interventions, rather than requiring **each policy to be individually reviewed.**

## Cost savings arguments

### Health savings:

- Redirects funding from the criminal justice system to health and social services, **including harm reduction services.**
- Preventative and drug treatment interventions within a system of decriminalisation **can be less costly** than emergency interventions or acute care, **usually needed when people don't want to admit to using drugs.**

### Criminal justice savings:

- **Decreases** the number of arrests for drug-related offences.
- **Reduces** judicial backlog and bureaucratic costs of enforcing low-level offences like drug possession, reducing **the need for associated criminal justice staff and premises** (from courts to prisons).
- **Facilitates** the expungement of criminal records.

# COMMON ARGUMENTS AGAINST DECRIMINALISATION AND RESPONSES

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**“Decriminalisation sends the wrong message that using drugs is okay.”**

Drug criminalisation has consistently failed to stop drug use, causing more harm than good. **It pushes people to use drugs in riskier environments, discourages them from seeking help** due to fear of legal repercussions, and leads to preventable deaths.



**“Decriminalisation will lead to greater drug use.”**

There is ample evidence that decriminalisation does not increase drug use. In fact, **it facilitates health interventions, reduces problematic drug use, and improves health outcomes** without leading to higher rates of drug use, as seen in countries like Czechia and Portugal.



**“Decriminalisation won’t solve all our drug issues.”**

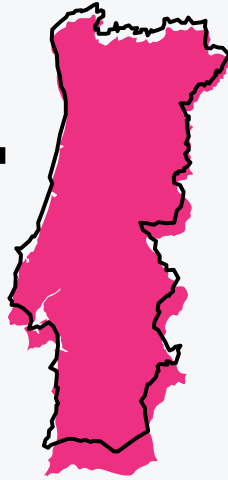
Decriminalisation is not a silver bullet but a crucial first step. **It must be accompanied by health and social investments** to improve people’s lives and address the worst consequences of drug use.

# EXAMPLES OF DECRIMINALISATION MODELS

## HOW DECRIMINALISATION CAN BE DONE WELL

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### PORTUGAL (2001)



Portugal faced a severe opioid crisis in the 1990s, prompting public health experts to advocate for decriminalisation. In 2001, **the country implemented a model that focuses on public health rather than criminal punishment.** It was updated in September 2023 to end explicit threshold quantities.

- **Youth Involvement:** Adolescents aged 16-18 caught with drugs are treated as adults and sent to dissuasion committees. Children under 16 are referred to the National Committee for **Protection of At-Risk Children (CNPDPJC)**, to assess potential abuse or mistreatment.
- **Outcomes:** A **2018 study** found that 17% of people aged 14-24 had used drugs at least once, with 1.8% using regularly. These rates were lower than in criminalised settings like France and similar to decriminalised countries like Spain.
- **Criticisms:** The Portuguese health system is **not trusted** by youth for substance use counselling. Many non-problematic cannabis users are unnecessarily sent to dissuasion committees, and social sharing of drugs remains criminalised.
- **Threshold Quantity:** Up to 10 days' worth of personal supply (higher if dependency is established). This was later reformed to have no explicit limit; any quantity could be decriminalised if there is evidence that it is for personal consumption.
- **Decision Maker:** Police are the first point of contact, with dissuasion committees evaluating the situation.
- **Activities Decriminalised:** Possession of any drug.
- **Sanctions:** Confiscation, fines, or voluntary treatment.
- **Treatment and Harm Reduction Support:** Expansion of Opioid Substitution Therapy (OST), Needle and Syringe Programs (NSP), and Drug Consumption Rooms (DCRs).

# EXAMPLES OF DECRIMINALISATION MODELS

## HOW DECRIMINALISATION CAN BE DONE WELL

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### CZECHIA (1990)

Decriminalisation in Czechia initially aimed to address rising drug use. **The approach was later adapted to define small amounts of drugs**, which was not determined until 2013.

- **Youth Involvement:** Adolescents aged 16-18 may be placed into **rehabilitative care** (voluntary and forced models exist), while younger children are monitored for social protection.
- **Outcomes:** Drug use among adolescents has been decreasing. **“Drug addiction prevention schemes”** are funded through the Ministry of Education, separate from crime prevention.

- **Criticisms:** Lack of significant social support for PWUD, with many remaining homeless or unstably housed.
- **Threshold Quantity:** Indicative thresholds exist for small amounts, with cannabis cultivation for personal use decriminalised up to five plants.
- **Decision Maker:** Police determine the quantity and intent.
- **Activities Decriminalised:** Possession and small-scale cannabis cultivation.
- **Sanctions:** Confiscation and fines.
- **Treatment and Harm Reduction Support:** OST, NSP, and OST in prisons.

# EXAMPLES OF DECRIMINALISATION MODELS

## HOW DECRIMINALISATION CAN BE DONE BADLY

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### RUSSIA (2004)

Despite claiming decriminalisation, Russia's model is highly punitive, particularly for PWUD. **Forced treatment, long sentences, and a commitment to a drug-free** Russia dominate the approach.

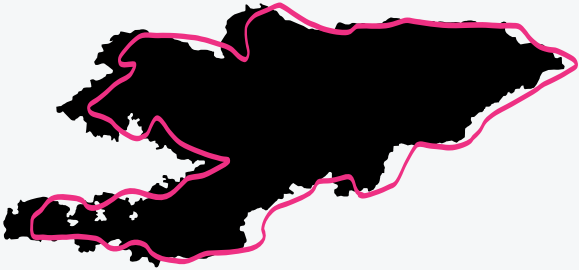
- **Youth Involvement:** Children under 16 who use drugs face **mandatory treatment** without a comprehensive child protection system.

- **Criticisms:** Harm reduction information is **criminalised** as drug propaganda. Social stigma is reinforced through policies and **mandatory drug testing**.
- **Threshold Quantity:** **Strict limits**, with small amounts classified as "large" and resulting in **criminal charges**.
- **Decision Maker:** Police **inflate seizure** amounts to ensure arrests; "narcologists" (usually psychiatrists) determine treatment needs.
- **Activities Decriminalised:** Possession of any drug.
- **Sanctions:** Forced treatment, fines, detention, imprisonment.

# EXAMPLES OF DECRIMINALISATION MODELS

## HOW DECRIMINALISATION CAN BE DONE BADLY

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### KYRGYZSTAN (2019)

Despite decriminalising drugs, **Kyrgyzstan maintains low thresholds and punitive measures for large amounts**, often leading to continued criminalisation.

- **Youth Involvement:** Children can be **held** without parental consent, often denied legal representation.
- **Criticisms:** **Information restrictions** on harm reduction, strict **parental custody loss** for drug use.

- **Threshold Quantity:** Very low, with possession of more than a few grams leading to criminal charges.
- **Decision Maker:** Judiciary.
- **Activities Decriminalised:** Possession of any drug.
- **Sanctions:** **Fines**, administrative detention, passport confiscation.

**Treatment and Support:** Limited OST availability despite a high number of users that need it. **Very few** doctors are able to prescribe it. Receiving treatment is **dependent on registering as a drug user in the Narcology Centre**, where data is stored for five years.

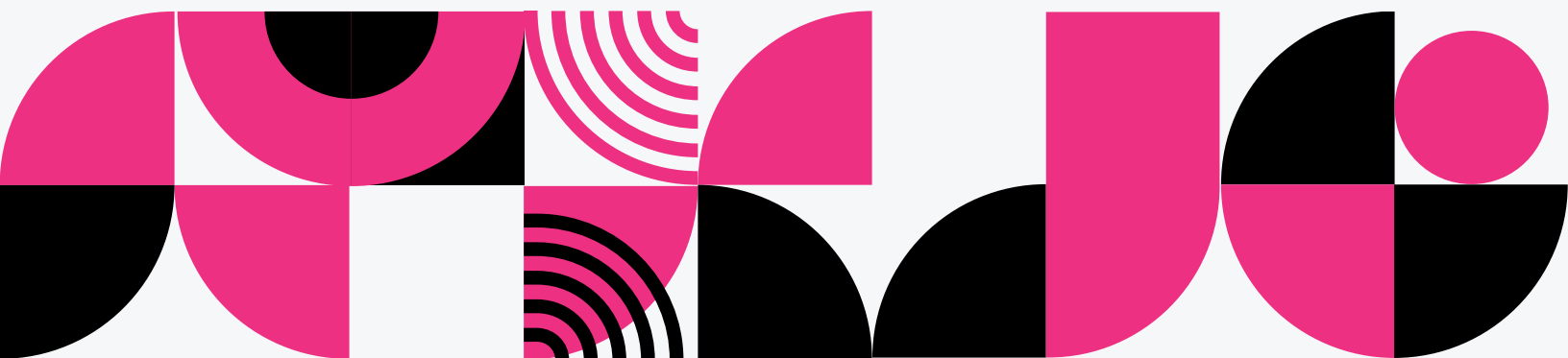
# CONCLUSION

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Drug decriminalisation is not a one-size-fits-all solution, nor is it a silver bullet for all drug-related challenges. However, **evidence highlights that it can be a crucial step towards reducing the harms associated with drug use**, improving public health, and alleviating the social and economic costs of criminalisation. This is because decriminalisation can create the **political and legal environment that promotes policies that support, rather than punish, PWUD**.

**Countries that have successfully implemented decriminalisation have seen reductions in drug-related deaths, improved access to healthcare and harm reduction services**, and decreased incarceration rates. No system of decriminalisation is perfect: but there are certain **features and aspects** that can be advocated for to create the best outcomes for society. The most effective models combine decriminalisation with strong public health and social support measures, ensuring that people who use drugs and their surrounding communities are **supported through health and social services, and are not locked out from economic participation**.

While opposition remains, largely rooted in misconceptions about its impact on drug use rates, **decriminalisation offers a pragmatic, evidence-based alternative to punitive drug policies that have failed to achieve their intended goals**. The path forward requires not only legal reform but also investments in harm reduction, mental health services, and social inclusion initiatives.



# CONCLUSION

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Ultimately, decriminalisation is about recognising the dignity and rights of people who use drugs and creating policies that prioritise health, justice, and human rights over punishing them for their lifestyle, choices or behaviors.

Some useful further reading sources on the costs and issues with drug criminalisation, as well as the benefits of decriminalisation, include:

- Release (2016): [\*\*A Quiet Revolution: Drug Decriminalisation Across the Globe\*\*](#)
- Transform (2016): [\*\*The Alternative World Drug Report\*\*](#)
- Council of Europe (2017): [\*\*Costs and Unintended Consequences of Drug Control\*\*](#)
- Drug Policy Alliance: [\*\*Uprooting the Drug War\*\*](#)
- TalkingDrugs: [\*\*Global Map of Decriminalisation\*\*](#)
- Harm Reduction International (2024): [\*\*Global State of Harm Reduction Report\*\*](#)
- Office of the United Nations High Commissioner for Human Rights (2023): [\*\*Human rights challenges in addressing and countering all aspects of the world drug problem \(A/HRC/54/53\)\*\*](#)
- International Drug Policy Consortium (2022): [\*\*Decriminalisation of People Who Use Drugs: A Guide for Advocacy\*\*](#)

