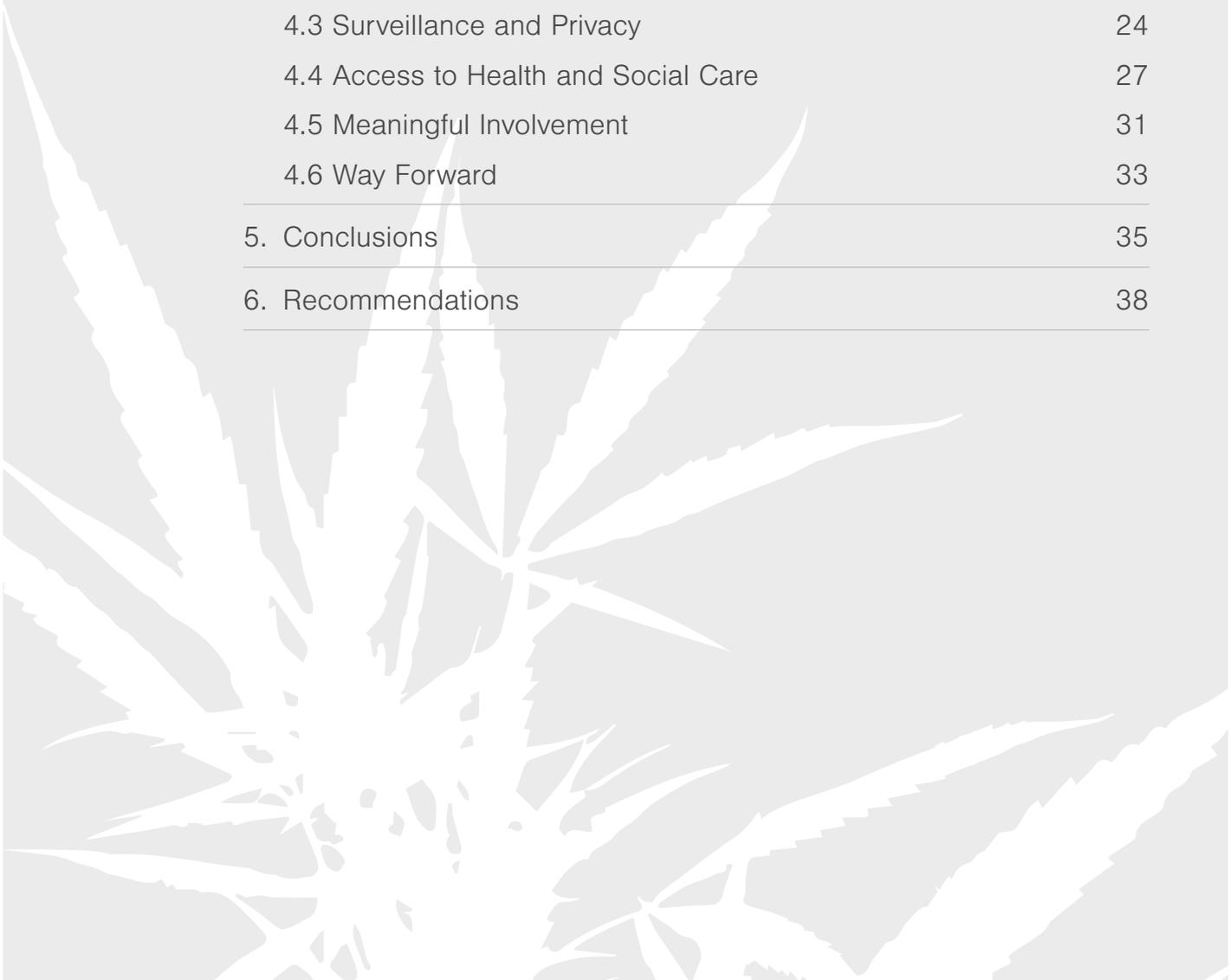


Drug Decriminalisation: Progress or Political Red Herring?

Assessing the Impact of Current
Models of Decriminalisation on
People Who Use Drugs

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Acknowledgements

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. As an organisation, INPUD is focused on exposing and challenging stigma, discrimination, and the criminalisation of people who use drugs, and their impact on the drug-using community's health and rights. INPUD works to achieve its key aims and objectives through processes of empowerment and advocacy at the international level; and by supporting empowerment and advocacy at community, national, and regional levels. www.inpud.net

This publication was supported through Bridging the Gaps – health and rights for key populations. This unique programme addressed the common challenges faced by sex workers, people who use drugs and lesbian, gay, bisexual, and transgender people in terms of human rights violations and accessing much-needed HIV and health services. Go to www.hivgaps.org for more information.

INPUD is grateful for the financial support it received from Bridging the Gaps and from the Robert Carr Civil Society Networks Fund.



Love Alliance



INPUD and the authors would also like to thank all representatives from national organisations representing people who use drugs who participated in the interviews for this consultation process. Their insights and experiences have been invaluable in informing the preparation of this report.

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March 2021



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First published in 2021 by

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Section 1: Introduction

In 2018, at a time of much debate about drug law reform and growing global interest in decriminalisation, INPUD published a ground-breaking analysis of the Portuguese decriminalisation model – *Is Decriminalisation Enough? Drug User Community Voices from Portugal*¹. For the first time, this landmark report sought to assess the impact of decriminalisation in Portugal from the perspectives of those most affected by the reforms – people who use drugs. The report noted that:

The lived experiences, perspectives, and rights of the drug-using community are equally important, and these considerations are rarely taken into account in assessing the outcomes of decriminalisation [...]. Interactions with the state and the police, and issues of violence, social exclusion, stigmatisation, and discrimination, are often entirely omitted from discussion and analysis of decriminalisation.²

Over the past decade there have been increasing claims that we are moving towards a critical turning point in international drug policy. This is based on a growing recognition that the so-called war on drugs is futile and that it is time for governments to consider alternative approaches including decriminalisation.³ More recently, this shift has come to be celebrated as a virtual ‘new dawn’ of drug policy reform liberalisation, especially in the face of mounting evidence of the failures of repressive drug policies where countries are finally said to be rethinking their approaches to addressing drug use in society.⁴ In the case of Portugal this has involved a shift from viewing people who use drugs as criminals to treating them as patients.⁵

This shift away from criminalising responses and towards more public health-oriented approaches is said to be a sign of progress. But one might rightly question the extent to which a shift from criminalising people to pathologising them as patients can really be classified as progress. In this context, INPUD believes there are some important and much overlooked questions that need to be asked about this so-called progress in relation to decriminalisation. For example, how is progress being

...one might rightly question the extent to which a shift from criminalising people to pathologising them as patients can really be classified as progress...

1. International Network of People who Use Drugs. 2018. *Is Decriminalisation Enough? Drug User Community Voices from Portugal*. (www.inpud.net/sites/default/files/Portugal_decriminalisation_final_online%20version%20-%20RevisedDec2018.pdf)
2. International Network of People who Use Drugs. 2018. *Is Decriminalisation Enough? Drug User Community Voices from Portugal*. (www.inpud.net/sites/default/files/Portugal_decriminalisation_final_online%20version%20-%20RevisedDec2018.pdf)
3. Global Commission on Drug Policy. 2011. *War on Drugs: Report of the Global Commission on Drug Policy*.
4. Rosmarin, A. and Eastwood, N. 2012. *A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe*. Release. www.opensocietyfoundations.org/uploads/8c6213b8-9a9f-453a-9702-ff832f29afa5/release-quiet-revolution-drug-decriminalisation-policies-20120709.pdf and Global Commission on Drug Policy. 2016. *Advancing Drug Policy Reform: A New Approach to Decriminalization*. www.globalcommissionondrugs.org/wp-content/uploads/2016/11/GCDP-Report-2016-ENGLISH.pdf and Daly, M. 2020 *Was the Year that Drug Reform Became Normal*. Vice World News. www.vice.com/en/article/y3gn9w/2020-was-the-year-that-momentous-drug-reform-became-normal
5. Domostawski, A. 2011. *Drug Policy in Portugal: the Benefits of Decriminalizing Drug Use. Lessons for Drug Policy Series*. Global Drug Policy Program. Open Society Foundations.

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defined and measured? Whose interests are being served by current definitions of progress associated with decriminalisation? Has there really been progress and has it gone far enough? These questions also raise issues about how these said changes have been experienced by people who use drugs, and the extent to which the needs and rights of people who use drugs are being foregrounded in countries that are said to have decriminalised drug use.

Although several recent reviews and assessments have sought to measure and compare the outcomes and impact of various decriminalisation models,⁶⁻⁸ none have specifically included the perspective of people who use drugs in their analyses. Such a glaring oversight points to the historical exclusion of the voices of people who use drugs within drug policy discussions and serves to further underscore both the importance of and the need for this study by INPUD. In this context, we suggest that this report acts as a much-needed counterpoint to existing policy and research narratives on the impacts and outcomes of current approaches to decriminalisation, and the narrow focus on government priorities at the expense of real lives and perspectives. It will also interrogate what we currently refer to as decriminalisation and how the vast majority of this so-called reform relates to cannabis only and/or involves administrative sanctions that may sound innocuous, but in reality, are too often based on excessive fines, forced treatment, surveillance, intrusion on privacy, and other unjust and arbitrary interventions that continue to stigmatise, humiliate, and remove basic rights and freedoms.

INPUD believes it is time to disrupt the misconception that current decriminalisation efforts unquestionably represents progress, especially when they have been developed with little or no consultation with people who use drugs. Not only do these policy reforms continue to discount their lives and experiences, but still rely on methods that, at their heart, are about social control. This report is designed to amplify the voices of people who use drugs through a series of interviews conducted with these members of the community and their representatives in countries that have implemented various approaches to decriminalisation. The findings from these peer interviews have been combined with INPUD's drug policy expertise to develop a report designed to support organisations representing people who use drugs in their advocacy efforts towards more inclusive, progressive, participatory, and transparent drug policies.

Such a glaring oversight points to the historical exclusion of the voices of people who use drugs within drug policy discussions...

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6. Stevens, A. et al. 2019. "Depenalization, diversion and decriminalization: A realist review and programme theory of alternatives to criminalization for simple drug possession" in *European Journal of Criminology*. (<https://journals.sagepub.com/doi/full/10.1177/1477370819887514>)
 7. Hughes, C. et al. 2019. "Models for the decriminalisation, depenalisation and diversion of illicit drug possession: An international realist review" in *International Society for the Study of Drug Policy Conference*. (<https://harmreductioneurasia.org/wp-content/uploads/2019/07/Hughes-et-al-ISSDP-2019-Models-for-the-decriminalisation-depenalisation-and-diversion-of-illicit-drug-possession-FINAL.pdf>)
 8. Scheim AI, Maghsoudi N, Marshall Z, et al. Impact evaluations of drug decriminalisation and legal regulation on drug use, health and social harms: a systematic review. *BMJ Open* 2020;10:e035148. doi:10.1136/bmjopen-2019-035148

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...threshold amounts are too low, because urine testing and registries are used as a form of surveillance and control...

Too often, decriminalisation is discussed as if there is only one model. This leads to a view that decriminalisation anywhere equals progress. However, there are many different models of decriminalisation in operation, all with different impacts. Ultimately, INPUD was moved to publish this report because current reforms have not gone far enough. This situation means that in the overwhelming majority of countries, people who use drugs continue to be criminalised, punished, and stigmatised despite decriminalisation because they cannot pay exorbitant fines due to many reasons –because threshold amounts are too low, because urine testing and registries are used as a form of surveillance and control, or because they are being forced into compulsory drug detention centres, where practices such as forced labour masquerades as ‘drug treatment’.

With these and many other issues in mind, INPUD has produced this report in order to open up the debate and to make clear our recommendations for future action on drug policy reform. Most important of all, this includes a call for full decriminalisation without sanctions as the new baseline for measuring progress on decriminalisation in the future.





Section 2. Methodology

This report is underpinned by a peer-driven research project. This means that not only was the study commissioned by INPUD — a global peer-based organisation — but the researchers/report authors are peer researchers who are embedded in the global community of people who use drugs. They bring their lived and living experiences of the issues under investigation, along with their unique connections and relationships with local communities to bear in the research conducted.

The methodology employed for this project included a two-pronged approach. An initial review of the available literature (relevant systematic reviews, research studies, and policy analyses) was conducted to identify existing models of decriminalisation, the countries/jurisdictions where these models have been adopted, and the key aspects of their implementations. Based on this review, INPUD identified a number of countries that have decriminalised the personal use of all drugs to inform the focal countries for the second stage of the project.

The second stage of the project involved conducting a series of qualitative interviews. In line with INPUD's fundamental commitment (see Introduction above) to full decriminalisation of **all drugs** without sanctions as the only acceptable form of decriminalisation, INPUD opted in the interview stage **not to include** countries that have focused on reform in relation to **cannabis only**. The only exception is the case of Uruguay that, as table 1 below outlines, has decriminalised the possession of all drugs. It is also one of very few examples of full regulation and legalisation without sanctions for cannabis, and it was therefore considered an important example to investigate in relation to impacts for people who use drugs. In this regard, INPUD suggests that Uruguay potentially represents a model for full legalisation and regulation that could be used for other drugs (which are currently only decriminalised) and can act as an example for how a stepwise approach to full legalisation might be implemented in practice.

While all countries meeting the above criteria (decriminalisation of all drugs) were eligible to be considered for the interview stage, the interview respondents were selected using a purposive sampling approach.⁹ The approach was designed to ensure balance in representation across different regions and coverage of different models of decriminalisation. In this context, INPUD acknowledges that there can be significant social, political, and cultural differences — both between different countries, and within and between regions. While it is not our intention to minimise the potential importance of such differences for the implementation of decriminalisation, it is beyond the scope of this report to explore these implications in detail.

...to full decriminalisation of all drugs without sanctions as the only acceptable form of decriminalisation...

9. Rice, P.L. and Ezzy, D. (1999) *Qualitative Research Methods: A Health Focus*. Oxford. Oxford University Press. P.42.

Section 2. Methodology

...policing, detention, threshold levels and other sanctions, human rights, stigma and discrimination, surveillance and privacy issues, health and social impacts, consultation and engagement...

As outlined above however, we have been thoughtful about the selection of countries for the interview stage and used this as an opportunity to ensure the participant accounts reflect a diversity of experiences and contexts.

In total, eight interviews were conducted with n=12 respondents from Costa Rica (1), Estonia (1), Kyrgyzstan (1), the Netherlands (1), Norway (1), Portugal (1), Uruguay (1), and Vietnam (4).¹⁰ Those who participated in the interview stage were all people working at organisations representing people who use drugs, and the majority of respondents were people who use drugs themselves. Although potential participants were also identified from Columbia, Mexico, and Brazil, unfortunately interviews could not be arranged in these instances. While there can be numerous reasons why individuals do not and/or cannot participate in research, one of the far-reaching implications of criminalisation is that participation in research of this kind can carry significant risks, particularly for individuals. Such risks, accompanied with intense stigma and discrimination, can create ongoing barriers to participation due to fears of being identified as a person who uses drugs (even in countries where possession and/or use of drugs have been decriminalised).¹¹

In addition to the collection of basic demographic data, all respondents were asked to provide their views on the impact of decriminalisation on people who use drugs in their context in relation to a range of key areas/topics. These areas and topic include policing, detention, threshold levels and other sanctions, human rights, stigma and discrimination, surveillance and privacy issues, health and social impacts, consultation and engagement, and possible responses and solutions to issues raised.

Finally, as we lead into the chapters presenting the results and analysis from the interviews, it is important to once again highlight that as this is an INPUD report, the testimony from representatives of people who use drugs from various countries is foregrounded and interwoven throughout this document. Utilising respondent testimony in this way not only addresses the absence of drug user voices in much of the existing literature in this space, but also provides a community-driven experiential and evidential backbone to the findings, conclusions, and recommendations contained in this report.

10. The respondents from Vietnam were interviewed as one group, with support of an interpreter, at their request.

11. To minimise barriers to participation, INPUD assured all individual respondents that their confidentiality would be protected. To protect the identity and preserve anonymity of all individual respondents, attributions for the quotes included in the 'Results & Analysis' section below are limited to organisational affiliations and countries, rather than using individual identifiers.



3: Decriminalisation Models

There are increasing claims that the so-called international consensus on drug control – especially in relation to the use and possession of drugs – has been fractured,¹² with some pointing to the fact that almost 50 countries and jurisdictions across the world have now adopted some form of decriminalisation for drug use and possession as the evidence of this change in direction.¹³ Most recently, during the 2020 electoral process in the United States, a further four states legalised (cannabis) and one state decriminalised (all) drugs.¹⁴ Around the same time, Vancouver, Canada also declared its intention to decriminalise personal use of all drugs, which has further led British Columbia to consider exploring the same policy on the provincial level.¹⁵ Others also believe that more countries and jurisdictions might follow suit in the wake of the UN Common Position on Drugs issued by the executive coordinating body of the United Nations in 2019, urging all member states to:

Promote alternatives to conviction and punishment in appropriate cases, including the decriminalisation of drug possession for personal use.¹⁶

In the context of this apparent growing global momentum towards decriminalisation, efforts have been made to categorise the different models in order to better assess results and guide decision-making on policy reform. In this regard, the typology of models presented by Hughes, Stevens, Hulme, and Cassidy in a review conducted for the Irish Government provides a useful framework for understanding some of the different models of decriminalisation.¹⁷ In this work, Hughes et al. identify six models of decriminalisation – depenalisation, de facto police diversion, de jure police diversion, decriminalisation with civil penalties, decriminalisation with targeted health/social referrals, and decriminalisation with no sanctions – drawing out what they see as the potential advantages and challenges associated with each in their analysis. (For a definition of ‘de facto’ and ‘de jure’ see footnote 19 in Table 1 on page 12.)

12. Jelsma, M. 2019. UN Common position on drug policy: Consolidating system-wide coherence. (<http://fileserv.idpc.net/library/UN-Common-Position-Briefing-Paper.pdf>); Bewley-Taylor, D. R. 2012. International Drug Control: Consensus Fractured.

13. Talking Drugs, Release & the International Drug Policy Consortium. 29 January 2020. “29 countries. 49 models of drug decriminalisation. One handy web-tool” online at: <https://www.talkingdrugs.org/decriminalisation>.

14. Lopez, G. 4 November 2020. “Election day was a major rejection of the war on drugs” in Vox, online at: <https://www.vox.com/2020-presidential-election/2020/11/4/21548800/election-results-marijuana-legalization-drug-decriminalization-new-jersey-arizona-oregon-montana>.

15. Winter, J. 3 December 2020. “Vancouver Plan to Decriminalise Street Drugs Sets Up Battle with Ottawa” online in The Guardian at: <https://www.theguardian.com/world/2020/dec/03/vancouver-plan-decriminalize-street-drugs-canada>

16. United Nations Chief Executives Board for Coordination. 18 January 2019. Second regular session of 2018, Manhasset, New York, 7 and 8 November 2018: Summary of Deliberations. (<https://digitallibrary.un.org/record/3792232?ln=en>)

17. Hughes, C. et al. 2019. “Models for the decriminalisation, depenalisation and diversion of illicit drug possession: An international realist review” in International Society for the Study of Drug Policy Conference. (<https://harmreductioneurasia.org/wp-content/uploads/2019/07/Hughes-et-al-ISSDP-2019-Models-for-the-decriminalisation-depenalisation-and-diversion-of-illicit-drug-possession-FINAL.pdf>)

...almost 50 countries and jurisdictions across the world have now adopted some form of decriminalisation for drug use and possession...

Section 3: Decriminalisation Models

...those most affected by decriminalisation – people who use drugs – were not specifically included in the review...

As the six models of decriminalisation from the Hughes et al. review represented a good summary of the models currently in operation in various countries and jurisdictions, INPUD decided to broadly utilise this approach. It should be noted however, that INPUD made one adaptation to the Hughes et al. framework, which was to collapse the de facto police diversion and the de jure police diversion into a single model rather than retain them as two distinct models. This reduced the framework to five rather than six models in total. The main reasons for this change were that INPUD did not feel the distinction between the two forms of police diversion was material to the analysis.

Within this context, Table 1 below provides a summary of the key features of each of the five models used, the countries where these models are being implemented, as well as the countries selected by INPUD to inform this research and the associated report. In addition to the details of each model, the table also provides a brief outline of how the model is being implemented in the INPUD study countries to provide readers with further insight into why specific countries were selected by INPUD.

Finally, it is important to note, that although the Hughes et al. review provided a useful basic framework for the study, a major limitation seen from INPUD's perspective is that the perspectives of those most affected by decriminalisation – people who use drugs – were not specifically included in the review. While we note that the authors themselves acknowledge that this is one of a number of areas needing further investigation, this does not remove the concern and in fact, only serves to further highlight the gaps in the current literature and the need for this study. It is INPUD's view, that while there has been some progress, it has not been enough. Further, INPUD believes there is an urgent need to bring a more critical lens to the notion of decriminalisation and to interrogate perceptions of progress. A task made more pressing, because of the unacceptable impacts and outcomes that these models continue to have for the health and human rights of people who use drugs.



Section 3: Decriminalisation Models



Right:
Table 1. Typology
of decriminalisation
models for drug
offences involving
simple possession¹⁸

Type	Legal Basis ¹⁹	Pathways to Health and Social Care	Administrative Sanctions	Examples	INPUD Study Countries	Some Details on INPUD Study Countries
Depenalisation	de facto	No	No	<p>Netherlands - <i>Gedooogbeleid</i> 'tolerance policy' (cannabis only).</p> <p>United States - police 'deprioritisation' – (cannabis only in LA County).</p> <p>United Kingdom - police warnings for first time offenders (cannabis and khat).</p> <p>Denmark – police warnings for first time offenders (only between 1969 – 2004).</p>	Norway	Enforcement of drug possession laws and policies has been deprioritised in Norway based on a formal order from the Attorney General. It is expected that decriminalisation will come into law in 2021.
Police diversion	de facto or de jure	Yes	No	<p>Australia – police diversion schemes for cannabis (most states & territories).</p> <p>Netherlands - police diversion ("hard drugs" only).</p> <p>United Kingdom - police diversion schemes (Durham, West Midlands, & Avon).</p> <p>United States - Law Enforcement Assisted Diversion (LEAD) program refers people to education and treatment (all drugs), pre-booking scheme with initial arrest but no formal charges (Baltimore).</p>	Netherlands, Estonia	In Estonia and the Netherlands, police have the power to divert people intercepted with small quantities of drugs towards health and social care services.
Decriminalisation with administrative sanctions	de jure	No	Yes	<p>Czech Republic – criminal penalties as a 'last resort' & use of civil fines for possession of small amounts (all drugs).</p> <p>Jamaica – replaced criminal penalties with civil fine (cannabis only).</p> <p>Australia - Cannabis Expiation Notice Schemes in 3 states & territories (Australia Capital Territory, South Australia, Northern Territory).</p> <p>United States - decriminalisation (cannabis only in 11 – 16 states e.g. Ohio, Mississippi, Massachusetts, Rhode Island).</p>	Kyrgyzstan, Vietnam	Both Kyrgyzstan and Vietnam have decriminalised drug possession, but the government imposes extremely punitive administrative sanctions, like exorbitant fines in Kyrgyzstan and compulsory drug detention in the name of treatment in Vietnam.

18. Hughes, C. et al. 2019. "Models for the decriminalisation, depenalisation and diversion of illicit drug possession: An international realist review" in International Society for the Study of Drug Policy Conference. (<https://harmreductioneurasia.org/wp-content/uploads/2019/07/Hughes-et-al-HSSDP-2019-Models-for-the-decriminalisation-depenalisation-and-diversion-of-illicit-drug-possession-FINAL.pdf>)

19. According to the International Drug Policy Consortium, decriminalisation processes can be classified in two types – de jure and de facto. In the first type, the removal of criminal sanctions takes place through a legislative process – via the repeal of criminal legislation, the creation of civil law, or a constitutional court decision leading to legislative review. In a de facto model, although drug use remains a criminal offence in a country's legislation, in practice people are no longer prosecuted (for example in the Netherlands). See IDPC Drug Policy Guide (http://fileservr.idpc.net/library/IDPC-drug-policy-guide_3-edition_FINAL.pdf).

Section 3: Decriminalisation Models



Right:
Table 1. Continued

Type	Legal Basis	Pathways to Health and Social Care	Administrative Sanctions	Examples	INPUD Study Countries	Some Details on INPUD Study Countries
Decriminalisation with diversion to health and social care services	de jure	Yes	Yes	<p>Portugal – administrative offence with diversion to health commissions (all drugs).</p> <p>United States – targeted diversion to health & social services (cannabis only in several US states i.e. Maryland, Connecticut & Nebraska).</p>	Portugal	In Portugal, people intercepted with quantities of drugs below the legal thresholds must appear before the dissuasion commissions ²⁰ that have the power to refer users to treatment and other social care services.
Decriminalisation with no sanctions	de jure	No	No	<p>Germany – non-prosecution by virtue of Constitutional ruling (all drugs).</p> <p>United States – decriminalisation Oregon (all drugs) Vermont (cannabis only)</p>	Costa Rica, Uruguay	Both Costa Rica and Uruguay have decriminalised drug possession of all drugs with no sanctions. In Costa Rica, there are no official thresholds for distinguishing possession from dealing. Uruguay has regulated and legalised the cannabis supply chain though some quantity thresholds are still in place.

20. Dissuasion Commissions have replaced the criminal courts as the state's forum for responding to drug use. The commissions have the power to impose civil sanctions for noncompliance and to refer consenting persons to treatment. Each of Portugal's 18 provinces has a Dissuasion Commission consisting of three people nominated by the Ministries of Health and Justice. The member appointed by the Ministry of Justice has to be a legal expert, and the other two are usually a health professional and a social worker. The commissions are supported by a team of psychologists, sociologists, and social workers. If a person fails to attend the Dissuasion Commission, an administrative sanction may be applied in their absence, such as a fine, revocation of a driving license or license to bear arms, community service, or a prohibition from being in a certain place. Source: Domostawski, A. 2011. Drug Policy in Portugal: the Benefits of Decriminalizing Drug Use. Lessons for Drug Policy Series. Global Drug policy Program. Open Society Foundations.



Decriminalisation certainly created an environment that is safer and facilitated better relationships with police...

4: Results & Analysis - Impact Of Decriminalisation

This section provides an overview of the key issues explored with participants in the qualitative interview stage and presents some of the main findings from that research. As noted elsewhere, this study is qualitative and peer-based in its approach and therefore draws on a small number of in-depth conversations with key relevant individuals from the perspective of people who use drugs. As such, this approach has an added value in that it supports a foregrounding of opinions and perspectives that are frequently absent from more formalised evaluations.

4.1 Policing, Detention & Other Sanctions

Policing practices:

One of the key areas of potential impact in relation to decriminalisation is that of policing practices. All interview respondents were asked to reflect on the impact of decriminalisation approaches on policing practices in their context. From the responses, it shows that in some contexts decriminalisation policies have had an impact on policing practices in relation to people who use drugs as some respondents indicated a potential improvement in the quality of encounters with police:

Police officers are not as aggressive, not as harsh as before. Our police force is not so militarised and has become more community focused. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

Police interaction with people who use drugs became friendlier with introduction of the police diversion programmes that started in 2015-16. Police now accept that arrest and punishment are pointless given that many people who use drugs were being arrested on a regular basis, which led to frustration among the police. Police are now much happier knowing that they can send people who use drugs to a good programme. Police understand that the goal is not to stop drugs or stop people who use drugs from using, but rather to reduce the number of arrests. *(Respondent from LUNEST [Estonia])*

Decriminalisation certainly created an environment that is safer and facilitated better relationships with police and reduced problems in the community. Police practices changed: they received training, they were sensitised about human rights, reforms were introduced to focus policing of social problems based on achieving positive social impacts. So people who use drugs don't feel the same stress as before or as in other countries. *(Respondent from CASO [Portugal])*

In addition to their impressions on how decriminalisation may have impacted the quality of interactions between police and people who use drugs in their context,



the above accounts draw our attention to the type and scale of change that must accompany reform measures. While as mentioned earlier, INPUD has ongoing concerns about existing models of decriminalisation and the so-called progress being made, it is worth noting that the above accounts highlight the critical role of good information, education, and training as an integral part of any genuine reform process.

Specifically, the final comment above speaks to the importance of proactive and ongoing training and education for police, particularly in relation to eliminating stigma and promoting human rights. These accounts underscore not only the importance of operational police fully understanding the goals and intentions of policy and legislative changes associated with decriminalisation, but how such reforms will also require active changes to policing practices on the ground, including the approaches taken and the skills and mindsets required to undertake these roles. In short, genuine reform is not about superficial changes that mask a business-as-usual approach for police or others. Rather, full decriminalisation requires a meticulous dismantling of the structures, policies, and practices of prohibition and its associated harms, including the power dynamics that typically govern the relationship between police and people who use drugs.

In addition, the above comments also highlight a related issue that is rarely discussed in relation to drug policy reform measures. This being the ongoing importance of ensuring that people who use drugs, particularly people who spend a good deal of their time in public spaces, are also provided with practical and useful information on reforms. This needs to include accessible information on changes to the law and the implications such changes have for people's rights particularly when dealing with police, especially in contexts where the drug laws are in the process of changing and individuals may not be aware of new or increased legal rights. Indeed, several respondents made comments about people who use drugs not being provided with adequate information on legal changes associated with decriminalisation and that many people are not even aware that the laws have changed:

Decriminalisation occurred in 2005 but it was so subtle that I only learned about it 3 or 4 years after the fact. *(Respondent from LUNEST [Estonia])*

Despite the potential for improvement in the quality of encounters between police and people who use drugs in some contexts, other respondents reported that one of the hidden implications of implementing limited rather than full decriminalisation (including retaining administrative sanctions), is that it can lead to an increase in the frequency of interactions between police and people who use drugs:

There's probably been an increase in frequency of contact with the police. People who use drugs are still being stopped and frisked by police. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

There's probably been an increase in frequency of contact with the police. People who use drugs are still being stopped and frisked by police...



police often see issuing a fine as easier and faster than pursuing formal charges...

Since policy changes were introduced in 2019, fines for possession have increased dramatically. Police are definitely more motivated to target people who use drugs because of higher fines. (*National Harm Reduction Network [Kyrgyzstan]*)

The above comment highlights some of the less visible problems frequently associated with ill-designed models of decriminalisation that replace criminal charges with administrative sanctions, such as fines. These approaches have been shown in numerous contexts to have potential ‘net widening’ effects largely because police often see issuing a fine as easier and faster than pursuing formal charges²¹, and in this way, can perversely work as a form of incentive for police in meeting arrest or other performance related quotas. This can have an even greater impact on highly marginalised drug users who are homeless and/or spend time in public spaces as they are more visible to police and are often overtly targeted.

For other respondents, it was less about what has changed and more about what has not changed in relation to policing and other practices, although their concerns still relate to the problems caused by approaches that do not equate to full decriminalisation without sanctions:

But police still arrest people who use drugs. Drug possession is still criminalised. And police still oppose decriminalisation and regulation. The state attorney issued an order to deprioritise arrests of people who use drugs, especially in the lead up to the formalisation of the decriminalisation law, but police ignore the order and continue to target people who use drugs instead of traffickers... (*Respondent from the Association for Humane Drug Policy [Norway]*)

Also, this account from Vietnam underscores the problems with sanctions of any kind:

Policing frequency has not changed. People detected with drugs are still taken to police station and risk being sent to compulsory centres, and if the quantity is above the legal threshold, they risk being sent to prison. (*Respondent from the Vietnamese Network of People who Use Drugs*)

The above account highlights how de facto decriminalisation models that are designed around non-criminal sanctions do not necessarily result in meaningful change. This is particularly so when powerful state actors, such as police and elements of the criminal justice system more broadly, are empowered to use existing forms of punishment and/or incarceration (such as sending people to compulsory centres for so-called treatment) under the guise of a more humane approach. These concerns are further exacerbated by the fact that in addition to having been universally con-

21. Jessman, R. and Payer, D. 2018. Decriminalization: Options and Evidence - Policy Brief. Canadian Centre on Substance Use and Addiction <https://www.ccsa.ca/sites/default/files/2019-04/CCSA-Decriminalization-Controlled-Substances-Policy-Brief-2018-en.pdf>



demned for their abuses of human rights,²² many of these centres operate for commercial profit further exposing people to exploitation as cheap or forced labour.

Although respondents reported that documented cases of abuse by police were rare, there is widespread recognition that some of the most serious cases go unreported due to fear and distrust and/or are not taken seriously even when they are reported. Several respondents provided details of cases of police abuse — and while we have opted not to include the details of these cases due to the sensitive nature of the material involved and the potential risk to individuals (due to the small number of interview participants) — suffice to say, these cases highlight the often gendered, racial, and/or cultural dimensions of drug policies and laws. Once again, these experiences underline why full decriminalisation without sanctions will be necessary to address the complex and multifaceted problems associated with decades of prohibition and criminalisation.

Indeed, even in countries that are considered to be leading the way in global decriminalisation efforts, concerns about abuses of police power continue as highlighted by the participant from Portugal:

We still have a lot of unnecessary (police) brutality but not at the same level as before. *(Respondent from CASO [Portugal])*

The accounts above show that although decriminalisation with administrative sanctions have had some positive implications for policing practices particularly when they were accompanied by targeted training and education for police, these benefits were frequently over-shadowed, and even undermined by the problems caused by the limitations of the models themselves. In this context, INPUD believes these accounts only serve to reinforce the fact that without full decriminalisation (no sanctions, no exceptions) many of the entrenched problems between law enforcement and people who use drugs will largely continue unabated, albeit in a less obvious manner in some contexts.

Threshold amounts:

Threshold quantities are one of the main ways that the ‘seriousness’ of drug offences are measured.²³ In many countries, application of decriminalisation procedures is based on arbitrary quantity thresholds. In theory, the thresholds are designed to funnel people who use drugs away from the criminal justice system, by objectively distinguishing users from dealers, but the outcomes often do not align with the original intent:

...many of the entrenched problems between law enforcement and people who use drugs will largely continue unabated...

22. United Nations. 2012. “Joint Statement: Compulsory Drug Detention and Rehabilitation Centres” http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March-12FINAL_en.pdf.

23. Hughes, C., & Ritter, A. (2011). Monograph No. 22: Legal thresholds for serious drug offences: Expert advice to the ACT on determining amounts for trafficable, commercial and large commercial drug offences. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre.



negative impacts and serious rights violations ... including miscarriages of justice, police corruption, forced confessions, and inappropriate use of police and prosecutorial discretion...

As a cannabis user, I consider the thresholds relatively lenient. For people using opioids, the thresholds are stupid and contribute to discrimination. Specifically, the dose for an opioid user who has been using for 10 years is not going to be the same as for someone who is not using regularly. The thresholds therefore discriminate against people who have been using for a long time and may be clinically dependent. *(Respondent from LUNEST [Estonia])*

Large cities have higher thresholds compared to rural areas. *(Respondent from LSD [Netherlands])*

The thresholds are totally bad. The original decriminalisation model introduced in 2008 did not have quantity thresholds. The threshold quantities were set arbitrarily by judges, rather than based on individual needs. Quantity thresholds are often inadequate (too low). *(Respondent from CASO [Portugal])*

Thresholds are very low, not even enough for a single dose for personal use, so people who are caught with drugs still risk arrest and prison. Most people who use drugs don't know the threshold quantities and police force people to sign confessions. People who are arrested are scared so they often just sign whatever documents they are given. *(Respondent from the Vietnamese Network of People who Use Drugs)*

The respondent accounts outlined above underscore how critical threshold quantities are to realising the key aims and objectives of decriminalisation. Low threshold amounts at best undermine the whole premise of liberalising punitive drug laws and policies and fail to reduce the negative costs of prohibition, such as incarceration for an aspect of human behaviour and activity that should not be criminalised. Furthermore, they also highlight the potential for negative impacts and serious rights violations associated with inadequate threshold amounts including miscarriages of justice, police corruption, forced confessions, and inappropriate use of police and prosecutorial discretion. These findings accord with a study about 'intent to supply laws' based on threshold amounts in Australian jurisdictions. This study showed that such laws "contribute towards harms to users and miscarriages of justice and increase pressure to use police and prosecutorial discretion in ways that may ultimately adversely affect community confidence in the administration of the criminal law."²⁴ Ultimately, this study concluded that the laws relating to threshold amounts should at a minimum be subject to legislative review and preferably, abolished. In line with the present study and the respondent accounts above, INPUD also strongly supports the abolition of threshold amounts, including the use of arbitrary quantity thresholds or inadequate threshold amounts that can result in criminal records for personal

24. Hughes, C., Cowdry, N. and Ritter, A. (2015). Deemed Supply in Australian Drug Trafficking Laws: A Justifiable Legal Provision? *Current Issues in Criminal Justice* 27(1) pp.1 – 20. DOI: 10.1080/10345329.2015.12036028



use and supply which includes user-dealing. Many people who use drugs also deal drugs in order to survive and for purposes of sustaining livelihoods.

Administrative sanctions & fines:

As already discussed, instead of criminal penalties, several countries have introduced civil or administrative sanctions. Theoretically, under such systems when people are caught with quantities below the legal thresholds, they are not burdened with a criminal record. Fines are the most commonly used form of administrative penalties imposed on people who use drugs. Respondents from Estonia, Kyrgyzstan, Netherlands, Norway, Portugal, and Uruguay all reported that their governments impose fines for possession of drugs. The views on these fines among respondents however highlighted that many think these sanctions are problematic and, in some cases, highly problematic:

It's a catastrophe! The fines have increased in 2019, from about USD 25 before to USD 500 today. If the person does not pay the fine, it doubles after one month. Again, if the person still can't pay, the fine doubles again after three months. After that, if the fine is not paid, the person is sent to prison for two and a half year to five years. The fines are stupid. *(National Harm Reduction Network [Kyrgyzstan])*

The fines are not useful. *(Respondent from LSD [Netherlands])*

The fines are useless. The government uses the fines and the cost of growing licenses to cover their fees and expenses but it's insufficient. The fines are low so the government can't provide effective oversight. *(Respondent from the Cannabis Growers' Association [Uruguay])*

The comment from the respondent from Kyrgyzstan in particular highlights how the problems being caused through the administration of these sanctions can have many and varied impacts on the lives of people who use drugs. In Kyrgyzstan, the recent increased fines are so steep that they are likely to increase rather than decrease the number of people who use drugs who are incarcerated for simple possession, primarily because people can't afford to pay their fines. Indeed, the majority of people who use drugs would be unlikely to be able to pay fines of \$500 USD in any country context. In Kyrgyzstan, a \$500 fine represents more than an average month's wage. This situation draws our attention once again to the fact that decriminalisation measures that fall short of full decriminalisation because they retain administrative penalties, also retain many of the negative impacts of prohibition including punishing and stigmatising people who use drugs.

...fines are so steep that they are likely to increase rather than decrease the number of people who use drugs who are incarcerated for simple possession...

Other respondents spoke to how governments have been creative with designing alternative administrative penalties beyond fines. For example, in Norway, people sent to drug treatment automatically lose their drivers' licence, a penalty that is not only



...those who are forced into drug treatment can often end up burdened with a criminal record.

an unfair and arbitrary form of punishment (particularly for a country that purports to be taking a more progressive approach to drug policy matters) but one that could have significant personal and/or financial implications for the individuals concerned. But as the comment below from the participant from Norway also highlights, even those who are forced into drug treatment can often end up burdened with a criminal record. This is because the system is not designed to address their specific needs:

Administrative sanctions might be better for people who use recreationally or experimentally. But it's still really bad for people who are dependent on drugs. Those who are dependent are forced into treatment, but they need negative results on regular urine tests, which won't happen if they use [to avoid the withdrawals]. If they test positive, they get kicked out of treatment and get the criminal penalties.
(Respondent from the Association for Humane Drug Policy [Norway])

Ultimately, whether the punishments imposed on people who use drugs are administrative sanctions or criminal penalties, most respondents agreed with the spirit of the statement by the respondent from Norway below – that the only reform that will truly and meaningful impact the lives of people who use drugs is removal of *all sanctions*:

Every punishment [administrative or criminal] against people who use drugs increases stigma. (Respondent from the Association for Humane Drug Policy [Norway])

4.2 Stigma and Discrimination

In his seminal (and much cited) work on stigma in the 1960's, Erving Goffman defined stigma as “an attribute that is deeply discrediting” and that reduces the stigmatised person “from a whole and usual person to a tainted and discounted one”. Less known, is that even in this early work, Goffman included problematic alcohol and other drug use in a list of “discrediting attributes” that almost inevitably lead to stigma.²⁶ After decades of the war on drugs approach, experiences of stigma and discrimination are now so pervasive that they are considered an almost universal experience for people who use drugs.²⁷

Legal scholars in critical drugs research too have pointed out that in addition to the discrediting and exclusionary effects of stigma and discrimination, the law itself “has an inherently normative function”,²⁸ and plays a central role in defining what is con-

25. Goffman, E. 1963. *Stigma: Notes on the Management of Spoiled Identity*. New York: Prentice Hall.

26. Seear, K., Lancaster, K. and Ritter, A. 2017. A new Framework for Evaluating the Potential for Drug Law to Produce Stigma: Insights from an Australian Study. *Journal of Law, Medicine & Ethics* 45(4). Sage Publications.

27. Room, R. (2005). Stigma, social inequality and alcohol and drug use. *Drug and Alcohol Review*, 24(2), 143-155.

28. Seear, K., Lancaster, K. and Ritter, A. 2017. A new Framework for Evaluating the Potential for Drug Law to Produce Stigma: Insights from an Australian Study. *Journal of Law, Medicine & Ethics* 45(4). Sage Publications.



sidered acceptable or desirable behaviour in society. Therefore, when these prevailing attitudes towards drug use and existing punitive approaches to drug laws come together, the stigmatising effects for people who use drugs are profound. When all of the above is taken into account, it is hardly surprising then that issues of stigma and discrimination were repeatedly raised by those interviewed for this study.

Although interview respondents generally agreed that stigma and discrimination against people who use drugs may have somewhat decreased in their country post-decriminalisation, many raised concerns that these decreases were not directly associated with their country's purported decriminalisation policies per se:

This is more a political issue regarding Europe than related directly to decriminalisation. Today people are afraid of terrorism and migrants so people who use drugs are no longer in the line of sight of policymakers or the general public. (Respondent from LSD [Netherlands])

The decrease in stigma and discrimination associated with cannabis use is more the result of global policy change and the push towards harm reduction than due to local policy reforms towards decriminalisation. (Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])

Attitudes were heavily affected by the HIV law that supports harm reduction. The HIV law came after decriminalisation law, and the changes were not specifically related to decriminalisation law. (Respondent from the Vietnamese Network of People who Use Drugs)

The above accounts once again highlight INPUD's central concern that any reform short of full decriminalisation without sanctions is always going to compromise the potential benefits and exacerbate the potential harms. The participants above also raise some important issues about the broader context of decriminalisation, and how full decriminalisation is the only model that encourages us to attend to the broader policy landscape as well as the policies and laws specifically relating to drugs.

Furthermore, several respondents noted that in some contexts — rather than reductions in stigma and discrimination toward people who use drugs — they have noticed a distinct increase in the negative attitudes towards certain new or emerging groups of people who use drugs:

Stigma and discrimination against people who use drugs has changed. People who use drugs are no longer considered 'dirty' people. The community is more concerned about people who use methamphetamines. For example, if people who use methamphetamines cause disturbances in community, people consider them as

...people are afraid of terrorism and migrants so people who use drugs are no longer in the line of sight of policymakers or the general public.



such approaches work to reinforce – rather than challenge – entrenched negative attitudes and values towards people who use drugs.

a threat to the security of the environment. Their fear is no longer about disease and death, which was associated with injecting heroin before, but now it is more about the fear of drug psychosis and violence. That is the reason why people will report them to the police so that they will be tested and sent to the detention centres if they test positive. *(Respondent from the Vietnamese Network of People who Use Drugs)*

Stigma and discrimination is different today. Heroin volume in the country is decreasing, and so is the number of heroin users. But there's an increase in the use of new psychoactive substances. People who use these novel drugs are more often victims of stigma and discrimination. *(National Harm Reduction Network [Kyrgyzstan])*

The accounts above identify that even though the focus and levels of drug-related stigma and discrimination may have shifted and changed with the ebbs and flows of local drug markets, the core reasons that underpin and drive stigma and discrimination against people who use drugs have remained constant. Once again, this brings us back to the fundamental problems associated with models of decriminalisation that rely upon the use of administrative or civil sanctions that continue to punish, stigmatise, and humiliate people who use drugs through the use of social control, surveillance, and diversion. INPUD would argue so because such approaches work to reinforce – rather than challenge – entrenched negative attitudes and values towards people who use drugs. Taking the above into account, it is therefore not surprising that respondents are identifying continuing patterns of stigma and discrimination in these settings.

During the interviews, this idea of shifts in focus associated with decriminalisation measures was also raised by the respondent from Portugal. As previously indicated in the INPUD 2018 study of the Portuguese decriminalisation model,²⁹ despite being regarded as global leaders in drug decriminalisation, there are growing concerns among people who use drugs that the Portuguese dissuasion model has simply taken drug-related stigma once based on criminalisation, and replaced it with stigma based on pathologisation instead:

The risk of disease labelling and medicalisation of the community of people who use drugs is increasing as a result of the most recent policy changes. There's been a shift in people's perception of people who use drugs as being "criminals" to being "sick," particularly "mentally disturbed." I personally consider the stigma associated with mental illness worse than the stigma associated with criminalisation. *(Respondent from CASO [Portugal])*

29. International Network of People who Use Drugs. 2018. Is Decriminalisation Enough? Drug User Community Voices from Portugal. (https://www.inpud.net/sites/default/files/Portugal_decriminalisation_final_online%20version%20-%20RevisedDec2018.pdf)



This conceptualisation of people who use drugs as being sick is stigmatising and disempowering. Pathologisation undermines the agency and self-determination of people who use drugs and can be used to imply that they are unable to make meaningful decisions about their own lives, and unable to provide reliable testimonies as to their lived experiences. This has real consequences and implications in terms of the human rights of people who use drugs and on the design of health and social care services they receive. This kind of pathologisation justifies compulsory dissuasion and medicalised interventions and interference in the lives of people who use drugs.

Furthermore, the above situation in Portugal shines a light on the importance of the 'detail' when it comes to decriminalisation and other models of drug law reform. How people who use drugs are positioned within decriminalisation approaches (and other models of reform) is, from INPUD's perspective, one of the most important considerations in the law reform process. The Portuguese experience draws our attention to how laws and policies make us think about people who use drugs in particular ways with important implications for how people who use drugs see themselves, and for how they are viewed and treated by others.

Finally, and in line with the issues raised above, several respondents also spoke about the persistent and intersectional nature of stigma and discrimination, and how it can manifest in different ways in different sectors and is not simply limited to interactions with police or the criminal justice system:

Despite drugs being decriminalised, being caught with drugs on school or university premises can lead to expulsion. One of my friends was caught with cannabis on the university grounds and his scholarship was made conditional for six years. Despite changes in the law, some institutional practices don't change to align with the reforms. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

A trans woman living with HIV volunteered to go to rehab so that she could access antiretroviral treatment. Once she was in the inpatient treatment facility, she could not express her gender identity. They made her wear men's clothes, for example. This was a famous case because she sued the rehab centre and won her case in court, which led to policy changes. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

They see us as dirty or dangerous. They want nothing to do with us. They don't want to give us jobs. But we need to put food on the table, to feed our kids. So the less they hire people who use drugs, the more they are forced into dealing to be able to provide for their families. *(Uruguay)*

The accounts outlined above highlight the need for a greater understanding of the multi-dimensional aspects of stigma and discrimination, and its relationship with the

Pathologisation undermines the agency and self-determination of people who use drugs and can be used to imply that they are unable to make meaningful decisions about their own lives...



...a shared perception that decriminalisation policies have led to an increase in monitoring and surveillance...

myriad policies and structures that produce and give rise to stigma and discrimination towards people who use drugs. It also serves to highlight that models of decriminalisation that continue to use sanctions and other forms of punishment do not reduce stigma and discrimination against people who use drugs. On top of that, it can work to reinforce negative attitudes and simply trade one form of stigma for another.

4.3 Surveillance and Privacy

Of the eight countries represented via the respondent interviews, one of the emerging themes was a shared perception that decriminalisation policies have led to an increase in monitoring and surveillance of people who use drugs and an invasion of their privacy. Although such negative outcomes are often referred to in the formal literature as “unintended consequences” of certain legal and policy approaches, INPUD would argue that such impacts are far from unintended. Instead, they are part of a deliberate effort to maintain social control over people who use drugs through the implementation of ill-designed models of decriminalisation that continue to use invasive and punitive monitoring and surveillance mechanisms.

Urine drug testing:

Of all the mechanisms that are used, urine drug testing is perhaps one of the most common monitoring and surveillance mechanisms employed in relation to people who use drugs. Despite its ongoing and widespread use, there continues to be a lack of medical consensus on both the frequency and efficacy of such testing, particularly in the drug treatment context.³⁰ From the perspective of people who use drugs, urine drug testing is heavily criticised as a tool of control and punishment that violates basic human rights³¹. For example, a 2016 study conducted in Estonia showed that people who use drugs had been fitted with catheters after refusing or being unable to provide a urine sample for drug screening purposes³². A recent global social media campaign by INPUD also advocated for ending the use of punitive measures such as urine drug testing on the grounds that it is used as a form of surveillance and social control, and that it violates the basic human rights of people who use drugs, including their rights to bodily integrity and privacy.³³

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30. DiBenedetto, D. J., Wawrzyniak, K. M., Schatman, M. E., Shapiro, H., & Kulich, R. J. (2019). Increased frequency of urine drug testing in chronic opioid therapy: rationale for strategies for enhancing patient adherence and safety. *Journal of Pain Research*, 12, 2239–2246. <https://doi.org/10.2147/JPR.S213536>
31. Matthew Bacon, Toby Seddon, Controlling Drug Users: Forms of Power and Behavioural Regulation in Drug Treatment Services, *British Journal of Criminology*, Volume 60, Issue 2, March 2020, Pages 403–421, <https://doi.org/10.1093/bjc/azz055>
32. Kontautaitė, A., Matyushina-Ocheret, D., Plotko, M. et al. Study of human rights violations faced by women who use drugs in Estonia. *Harm Reduction Journal* 15, 54 (2018). <https://doi.org/10.1186/s12954-018-0259-1> (Note: this study also found that punitive drug laws and their enforcement practices are driving systematic and serious human rights violations and gender-based violence towards women who use drugs or who are drug dependent in Estonia).
33. #PeersinthePandemic Global Advocacy Campaign. 9 November - 11 December 2020. International Network of People Who Use Drugs (INPUD) <https://www.inpud.net/en/peersinthePandemic>



Despite the lack of professional consensus and medical evidence to support its routine use as a public health intervention, urine drug tests are often implemented without informed consent, by untrained law enforcement and other non-medical personnel to pressure, impose, or coerce people who use drugs into decisions or actions. For example, the respondent accounts below highlight how this disciplinary and invasive monitoring approach is increasingly being used, alone or in combination with other monitoring and surveillance mechanisms by law enforcement, under the guise of decriminalisation:

Police definitely use urine testing and follow-up interviews as a strategy to increase control and surveillance over people who use drugs. This then increases the risk that people who use drugs will be criminalised. *(Respondent from the Association for Humane Drug Policy [Norway])*

Our clients do report that they feel a loss of privacy and increased surveillance. There haven't been any formal complaints filed against the cops because they are afraid of repercussions and reprisals. But interrogations, follow-ups, urine testing, etc., are happening. It's not widespread, and it's decreasing, but it's still happening. *(Respondent from LUNEST [Estonia])*

Respondents from Vietnam also recounted how police may show up at people's homes to coercively conduct urine drug tests, especially if the community has reported that a resident is using drugs. Respondents also stated that positive urine tests are used to compel people who use drugs to 'volunteer' for drug treatment. Similarly, people who have been released from compulsory centres³⁴ are often required to report to the police station on a regular basis for urine testing to identify those who relapse. Those who relapse often will not dare show up at health centres or access harm reduction services due to fear of being identified and intercepted by police.

The account below from the respondent from Costa Rica highlights how these monitoring and surveillance mechanisms can also find their way well beyond health and law enforcement contexts and are increasingly being used in wider settings with significant implications for the lives and rights of people who use drugs.

Urine testing is increasingly being used in employment settings as part of the hiring process or as part of random spot checks. People who test positive for drugs are denied promotions and salary increases, or used as an excuse to fire employees. It's not really a drug policy mechanism per se but it's a tool that companies use to

...positive urine tests are used to compel people who use drugs to 'volunteer' for drug treatment.

34. Note: In Vietnam, despite an official policy of 'decriminalisation' extremely punitive administrative sanctions such as sending people to compulsory detention centres for so-called 'treatment' and 'rehabilitation' continues – see further detail at 4.4 below. Also see: https://www.hrdp.org/files/2013/10/24/HRW.Vietnam_Detention_Center_Report_2011_.pdf and https://www.hrw.org/reports/HHR%20Drug%20Detention%20Brochure_LOWRES.pdf



...reforms must be situated or embedded in a much broader process of systemic change that is both thoughtful and deliberate.

advance their economic agenda. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

The above response takes us back to the problems with models of decriminalisation that include the use of punitive surveillance and the wide-ranging implications not just for the lives and health of people who use drugs, but for their families, communities, and society as a whole. It further highlights that for drug law reform to have genuine positive impacts on the lives and human rights of people who use drugs, such reforms must be situated or embedded in a much broader process of systemic change that is both thoughtful and deliberate.

General loss of privacy & surveillance:

Finally, several other respondents interviewed referred to a more general sense of loss of privacy and increased feelings of monitoring and surveillance, despite many years of so-called decriminalisation measures. Practices such as police monitoring and surveillance, onerous reporting requirements associated with treatment and breaches of privacy and confidentiality associated with issuing of administrative sanctions continued:

There's been more monitoring of people who use drugs, especially in rural areas, but it's uncommon. Sometimes the police show up at your workplace and ask to take you to the station. This damages the relationship with the employer and intentionally 'outs' people who are using drugs. *(Respondent from the Cannabis Growers' Association [Uruguay])*

I can't think of a case of positive impact from going to the commission [referring to the 'Dissuasion Commissions']. Maybe some accept help and change their behaviour, but most people feel harassed. *(Respondent from CASO [Portugal])*

Although these respondents noted that monitoring and surveillance practices were either uncommon or decreasing, the fact that they have raised them at all should be sufficient cause for concern among all people who support the need for drug law reform. It is beyond contestation that people who use drugs are a highly marginalised and stigmatised community as a direct result of decades of criminalisation and associated policies and practices. For this reason alone, we must attend not only to the urgent work of progressing full decriminalisation without sanctions, but also to ensure that this includes removing all traces of punitive monitoring and surveillance mechanisms that have been unjustly promulgated under the guise of reform and public health for way too long.



4.4 Access to Health and Social Care

Harm reduction services:

All interview respondents were asked a series of questions about the impact that de-criminalisation measures have had on access to health and social care in their context. Some respondents indicated that decriminalisation laws and policies had contributed to a positive sense to facilitating access especially to harm reduction services:

Decriminalisation facilitated access to health services, especially harm reduction services. Access was safer and there was a measurable increase in uptake after decriminalisation. Attitudes of OST providers have improved. *(Respondent from LUNEST [Estonia])*

Decriminalisation definitely helped access to harm reduction services. *(Respondent from LSD [Netherlands])*

The new policies have certainly increased access to health services, including harm reduction and overdose prevention. *(Respondent from the Association for Humane Drug Policy [Norway])*

It is important to note however, that this was not the case everywhere. Despite decriminalisation efforts, respondents in some countries said that in their opinion, there had been no real or significant improvement in harm reduction or access to other health services for people who use drugs. The comments below however also highlight that understandings of harm reduction can vary significantly from one context to another, and that perceptions of coverage and access are very much tied to how harm reduction is understood among people who use drugs and the broader community:

Not a lot of harm reduction service coverage. Harm reduction as it is understood from international advocacy, is for opioid injectors. I don't know anyone who injects! So there's still a lot of stigma associated with harm reduction. For example, in prison, I have a machete under my bed, no problem. I show someone a syringe and there will be a riot! *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

Some respondents indicated that decriminalisation laws and policies had contributed to a positive sense to facilitating access especially to harm reduction services...

There hasn't really been an increase in access to harm reduction here. Pharmacy access to cannabis is not working well so there is no real referral system towards harm reduction for cannabis users. *(Respondent from the Cannabis Growers' Association [Uruguay])*

The above accounts highlight that although decriminalisation efforts can potentially act as an important catalyst for opening up discussions about improved access to health and social care services, this does not occur automatically. Increasing the



...respondents raised concerns about a lack of informed consent and ongoing problems of people being forced into treatment.

availability of services and ensuring they are adequately funded and provided in ways that accord with people's needs require targeted efforts. This is an area that needs a clear strategic focus alongside, and in addition to any legal or policy reform related to drugs. This includes ensuring that services are appropriate for the local context and designed with the full and meaningful involvement of people who use drugs with a priority focus on the funding and provision of community-led services.³⁵

Even where respondents felt that some positive changes had occurred following decriminalisation, they highlighted just how fragile these gains can be. This depends on the model of decriminalisation implemented and the broader political situation in the jurisdiction involved. In Kyrgyzstan, for example respondents expressed concern that the benefits associated with the initial decriminalisation policy including better access to harm reduction services, could be undone by more recent policy changes that have introduced harsh financial penalties through administrative sanctions:

After the decriminalisation law was passed in 2007/08, people were more willing to identify as drug users and that facilitated access to harm reduction services.
(National Harm Reduction Network [Kyrgyzstan])

With the most recent policy changes in 2018/19, it's likely that we'll be seeing a decrease in access to harm reduction services. I expect that people will be less willing to identify as drug users and access harm reduction or other health services.
(National Harm Reduction Network [Kyrgyzstan])

Once again, this example brings us back to the inherent problems associated with decriminalisation models that fall short of full decriminalisation and the wide-ranging implications of poorly designed models that rely on punitive sanctions³⁶. Such models impact and impede people's ability to access essential harm reduction and other services.

Drug dependence treatment:

Equally concerning as well were the views expressed by respondents regarding drug dependence treatment in their countries. Multiple respondents raised concerns about a lack of informed consent and ongoing problems of people being forced into treatment. Respondents also identified important issues associated with the definitions used, including what is meant by 'voluntary' and 'compulsory' treatment and how these can be used to obscure what is really happening:

35. UNAIDS. 2021. Global AIDS Monitoring 2021: Indicators for Monitoring the 2016 Political Declaration on Ending AIDS. UNAIDS 2020 Guidance https://www.unaids.org/sites/default/files/media_asset/global-aids-monitoring_en.pdf p.31

36. Drug law reform in Kyrgyzstan changed the possession of small quantities of drugs from being a criminal offence to an administrative offence punishable by a fine. In 2018 new legislation was adopted under a false pretext of 'humanisation', whereby fines for drug possession were increased. Under the law, if a person cannot pay a fine, it is a criminal offence punishable with a term of imprisonment of up to 2.5 years. See <http://afew.org/eecaids2018/kyrgyzstan-fines-growth-eng/> for more information.



Drug treatment is a forced medical intervention without consent. The distinction between voluntary and compulsory treatment is problematic. What is voluntary treatment? If your job wants you to go into treatment, is that voluntary? If your family wants you to go into treatment, is that voluntary? *(Respondent from the Association for Humane Drug Policy [Norway])*

Most people who go before the commission don't need treatment, but they don't want to pay the fine so they volunteer for treatment and are sent to centres with more problematic and hardcore users. *(Respondent from CASO [Portugal])*

The above accounts return us to the important question of “in whose interest?” that we raised in the introduction to this report, and the ways in which current approaches to decriminalisation have failed to put the needs and rights of people who use drugs at the centre of the models being implemented. Even where access to treatment is said to be on a voluntary basis, respondents however noted problems regarding its implementation in a number of countries:

Laws say that people who use drugs should be referred to treatment, but no police officer ever said 'go to treatment'. It never happens in practice. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

Drug use is legally understood as a public health issue, where people should 'in theory' be referred to free voluntary drug dependence treatment. There is no compulsory treatment for (adult) people who use drugs here. Drug treatment is mostly abstinence based, focused on inpatient services, and relies on pharmacological treatment: most clients in drug treatment rehabs are there for cocaine use and they are prescribed benzos as part of a substitution-like treatment that often leads people to become dependent on benzos instead of cocaine. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

There are so many problems with the drug treatment system. Voluntary and compulsory drug treatment is dehumanizing, it treats adults like children, keeps them in prison-like conditions in inpatient institutions where they [doctors] decide when you [people who use drugs] can go home. *(Respondent from the Association for Humane Drug Policy [Norway])*

Compulsory detention:

Even more concerning and problematic is the ongoing implementation of compulsory detention for so-called treatment in some of the countries represented by the respondents. There are now multiple reports and papers highlighting the injustices and human rights violations routinely associated with compulsory treatment and detention particularly in Asia³⁷ which have led to widespread calls at the international level for the closure of these centres. For example, in March 2012, twelve United Nations

Voluntary and compulsory drug treatment is dehumanizing, it treats adults like children...



...many don't have access to medications, some don't even have access to drinking water and some are beaten by the guards as part of detox.

agencies issued a joint statement calling for the closure of drug detention centres and the release of detained individuals “without delay.”³⁸ However, further reports on these compulsory detention centres in Vietnam, China, Cambodia, and Lao PDR in 2012 titled: “Torture in the Name of Treatment”, Human Rights Watch stated that:

In spite of such calls for closure, little practical progress has been made towards ending the arbitrary detention of drug users and expanding effective, community-based, voluntary drug dependency treatment. Many international donors continue to fund activities inside drug detention centers, effectively helping to build the capacity of the centers, reducing operating costs, and maximizing centers' profits.³⁹

This has been followed by further reports in 2015⁴⁰ and 2019⁴¹ continuing to show insufficient progress in closing down these compulsory centres. The ongoing detention of people who use drugs in compulsory detention centres was also raised by respondents interviewed for this study:

After decriminalisation, drug use is (still) considered as a ‘social evil’ and many people who use drugs are sent to compulsory centres. Inside, conditions are not good, people are forced to work long hours, many don't have access to medications, some don't even have access to drinking water and some are beaten by the guards as part of detox. People released from those centres often relapse quickly.
(Respondent from the Vietnamese Network of People who Use Drugs)

The above account draws attention to a serious problem associated with decriminalisation measures in Vietnam and across countries in Southeast Asia. Although officially Vietnam is said to have decriminalised drug possession, the government continues to impose extremely punitive administrative sanctions that include sending people to compulsory detention for so called treatment and rehabilitation. This act of forced treatment and detention is defined as decriminalisation because the punishment has moved from the criminal law to an administrative penalty. Despite this, the result for the individual remains the same, if not worse. This issue highlights the dangers associ-

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37. Kamarulzaman A, McBrayer JL. Compulsory drug detention centers in East and Southeast Asia. *Int J Drug Policy*. 2015 Feb;26 Suppl 1:S33-7. doi: 10.1016/j.drugpo.2014.11.011. PMID: 25727259 and Lunze K, Lermet O, Andreeva V, Hariga F. Compulsory treatment of drug use in Southeast Asian countries. *Int J Drug Policy*. 2018 Sep;59:10-15. doi: 10.1016/j.drugpo.2018.06.009. Epub 2018 Jun 29. PMID: 29966803.
38. United Nations. 2012. “Joint Statement: Compulsory Drug Detention and Rehabilitation Centres” http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March-12FINAL_en.pdf.
39. Human Rights Watch. 2012. “Torture in the Name of Treatment: Human Rights Abuses in Vietnam, China, Cambodia and Lao PDR” https://www.hrw.org/report/2012/07/24/torture-name-treatment/human-rights-abuses-vietnam-china-cambodia-and-lao-pdr#_ftn14
40. Tanguay, P., Stoicescu, C. and Cook, C. 2015. Community-Based Drug Treatment Models For People Who Use Drugs: Six Experiences on Creating Alternatives to Compulsory Detention Centres in Asia. Harm Reduction International. https://www.hri.global/files/2015/10/19/Community_based_drug_treatment_models_for_people_who_use_drugs.pdf
41. IDPC. 2019. Ten Years on Drug Policy in Asia: How Far Have We Come? A Civil Society Shadow Report. http://fileserv.idpc.net/library/10-year%20review_ASIA.pdf



ated with simplistic arguments that drug use should be treated as a health rather than criminal issue. In fact, some have argued that this debate is little more than a “political red herring”⁴², distracting us with a contest over what is more or less harmful or more or less punitive, instead of focusing on the need to fundamentally reform the system.

The idea that ill-conceived, partial decriminalisation approaches might be obscuring what is really going on in various contexts is a major theme throughout this section. In this regard, the issues raised above again highlight that any reform other than full decriminalisation without sanctions is unacceptable. That compulsory treatment, in any form including compulsory drug detention centres, fines, or diversion to compulsory health and social services is not acceptable and is not progress from the perspective of people who use drugs.

4.5 Meaningful Involvement

The meaningful participation and involvement of people who use drugs is the cornerstone of effective interventions designed to address drug-related issues. INPUD and other regional and national organisations work to enable and empower people who use drugs to survive, thrive, and exert their voices in order to have meaningful input into and influence on all decisions that affect their lives.⁴³ Meaningful participation and genuine leadership by and for people who use drugs ensures the specific needs and concerns of people who use drugs are identified and addressed in ways that are beneficial and acceptable to people who use drugs.⁴⁴

Despite these now well-established principles, unfortunately many respondents indicated that decisions regarding decriminalisation were made without their participation and in many circumstances, without their knowledge:

When I tried to approach authors of the new criminal code, they said everything said would be fine, so I was not able to influence the legislators before new law passed.
(*National Harm Reduction Network [Kyrgyzstan]*)

There is no official representation of people who use drugs in SICAD [General Directorate for Intervention on Addictive Behaviours and Dependencies] or in the dissuasion commissions, which is something that should change to make those mechanisms more relevant to people who use drugs and more effective and cost effective in general. (*Respondent from CASO [Portugal]*)

...enable and
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exert their voices...

42. Brook, H. and Stringer, R. 2005. Users, Using, Used: A Beginners Guide to Deconstructing Drugs Discourse. *International Journal of Drug Policy* 16 (5) pp. 316-325. <https://doi.org/10.1016/j.drugpo.2005.05.002>.

43. International Network of People who Use Drugs. 2006. Vancouver Declaration: Why the world needs an international network of activists who use drugs. (<https://www.inpud.net/en/vancouver-declaration>)

44. Canadian HIV/AIDS Legal Network, International HIV/AIDS Alliance and Open Society Institute. 2008. “Nothing about us without us” – Greater, meaningful involvement of people who use illegal drugs: A public health, ethical, and human rights imperative: International edition. (<https://www.opensocietyfoundations.org/publications/nothing-about-us-without-us>)



When I advocated for the rights and more participation of people who use drugs ... the authorities promised that they would punish me for this.

When the new law was passed, people who use drugs were still working through PLHIV self-help groups, so there was no meaningful participation at the time. *(Respondent from the Vietnamese Network of People who Use Drugs)*

Even when there was involvement of people who use drugs, their recommendations were not always taken seriously or taken into consideration at all:

People who use drugs are invited to official meetings and they participate as equal partners. But the recommendations they submit are not always taken into consideration. It depends on the recommendation and on who is making the decision. *(Respondent from LSD [Netherlands])*

In other contexts, respondent accounts highlighted that there is still a great deal of work required to create an environment where the views and perspectives of people who use drugs are heard and valued by government authorities, and where community-led organisations are not existing in an environment of fear and distrust:

There are few organisation representing people who use drugs in Costa Rica or in Latin America and the Caribbean. It is simply not strategic to present as people who use drugs or drug user led organisations here because the authorities do not take us seriously. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

When I advocated for the rights and more participation of people who use drugs in a government meeting, the authorities promised that they would punish me for this effort. *(National Harm Reduction Network [Kyrgyzstan])*

Once again, these accounts highlight the problems and limitations associated with models of decriminalisation that fall short of the full decriminalisation approach. For INPUD, community empowerment means more than the involvement or engagement of communities: it requires community ownership and actions that are explicitly aimed at social and political change. This accords with the globally agreed definition of community-led responses in relation to HIV/AIDS and the importance of supporting key populations to lead and govern their own organisations and to be respected and listened to in representing the experiences, perspectives, and voices of their constituencies.⁴⁶

45. United Nations Office on Drugs and Crime, International Network of People Who Use Drugs, Joint United Nations Programme on HIV/AIDS, United Nations Development Programme, United Nations Population Fund, World Health Organization, United States Agency for International Development. 2017. Implementing comprehensive HIV and HCV programmes with people who inject drugs: practical guidance for collaborative interventions. (<https://www.inpud.net/sites/default/files/IDUIT%205Apr2017%20for%20web.pdf>)

46. UNAIDS. 2021. Global AIDS Monitoring 2021: Indicators for Monitoring the 2016 Political Declaration on Ending AIDS. UNAIDS 2020 Guidance https://www.unaids.org/sites/default/files/media_asset/global-aids-monitoring_en.pdf p.31.



4.6 Way Forward

When respondents were asked for solutions to further improve the response and safeguard the health and human rights of people who use drugs, many prioritised greater, more meaningful involvement, and empowerment of people who used drugs:

We need more drug user organisations. There are very few here. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

People who use drugs are not part of the problem; they are part of the solution. They are invaluable resources that need to be treated like anyone else. We need to be included. *(Respondent from the Association for Humane Drug Policy [Norway])*

I'd like to see more meaningful engagement and participation of people who use drugs across all levels, in all pillars, with financial and technical investments to make that effective and genuine. *(Respondent from CASO [Portugal])*

We recommend that people who use drugs should be involved in policymaking process. Development and implementation of laws and policies about people who use drugs should involve people who use drugs. *(Respondent from the Vietnamese Network of People who Use Drugs)*

Some respondents also indicated the need for more unity and solidarity within the drug users' movement itself:

The cannabis movement is too focused on weed and some of the ideological differences lead to discrimination between people who use cannabis and those who use other drugs. We need more unity and solidarity. People over politics! *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

We need to celebrate international drug user day, to acknowledge the achievements of the community... and to party and enjoy together, ideally at the international level. *(Respondent from LSD [Netherlands])*

Some respondents also saw the opportunities created by decriminalisation to scale up harm reduction services and significantly expand investment in services:

Harm reduction needs to be expanded, but focusing on reducing harms associated with drug policies and criminalisation rather than on impact and effects of drugs. This should help bring about more collaboration between key populations and civil society groups. *(Respondent from the Costa Rican Association on Drug Studies and Interventions [ACEID])*

We need to celebrate international drug user day, to acknowledge the achievements of the community... and to party and enjoy together...



...the government should remove all penalties for use and possession. In the meantime, the government should reduce fines...

Harm reduction service scale-up should be a priority, especially in terms of improving service quality and introducing new interventions and commodities like drug checking, heroin assisted treatment and buprenorphine, all with support from national budgets. *(Respondent from LUNEST [Estonia])*

Harm reduction needs to be integrated in the approach to all drug-related matters, with the recognition that drug use can be pleasurable, without focusing exclusively on harms and problems. This means putting resources in place, ideally from domestic sources, to expand service delivery and to support the further professionalisation of people who use drug to allow them to contribute their knowledge and expertise on their own terms. *(Respondent from CASO [Portugal])*

Several respondents also identified the need to remove non-criminal penalties or administrative sanctions associated with decriminalisation policies:

Ideally, the government should remove all penalties for use and possession. In the meantime, the government should reduce fines that have led to an increase in incarceration of people who use drugs. *(National Harm Reduction Network [Kyrgyzstan])*

It will be important to remove all quantity thresholds and create an understanding that these can be very harmful. *(Respondent from CASO [Portugal])*

Threshold quantities are too small and need to be increased to allow people who use drugs to carry at least one dose. *(Respondent from the Vietnamese Network of People who Use Drugs)*

For others, the main priority remains elimination of laws, policies, and practices that reinforce and entrench stigma, discrimination and human rights violations:

Our main concern is regarding compulsory centres that need to be closed. *(Respondent from the Vietnamese Network of People who Use Drugs)*

In the same context, many respondents noted that decriminalisation was insufficient, and that regulation of the drug market and legalisation should be the ultimate goal:

Ideally, ultimately, we need regulation of the drug market, but I don't believe my country is ready for this step at this stage. *(Respondent from LUNEST [Estonia])*

We need to move beyond decriminalisation towards full regulation of the drug market. *(Respondent from CASO [Portugal])*

All drugs need to be legalised and the market needs to be regulated. *(Respondent from LSD [Netherlands])*



5. Conclusions

This report shows that decriminalisation policies have had a positive impact on policing of people who use drugs and some respondents indicated that the frequency of interactions with police has decreased and the quality of those encounters has improved. But despite these developments, respondents also reported that the situation is far from perfect. Decriminalisation policies, police discretion, and better attitudes have not necessarily or consistently translated into better outcomes for people who use drugs. This is because the models of decriminalisation that have been adopted are not full decriminalisation and continue to utilise strategies of control and surveillance and/or to pathologise people who use drugs as victims in need of treatment and rehabilitation.

In many countries, the implementation of decriminalisation approaches continues to be based on arbitrary quantity thresholds that do not recognise the reality of drug use or dependence. In theory, the thresholds are designed to move people who use drugs away from the criminal justice system by distinguishing ‘users’ from ‘dealers’, but these intentions do not recognise that drug use does not conform to such strict categories. Not only are thresholds often set too low, but the stereotypes associated with illicit drug use often bear little resemblance to the lives of people who use drugs who frequently need to sell small amounts of drugs to support their own drug use primarily due to the illicit nature of the drugs market.

On the surface, it might seem that not burdening people with a criminal record when caught with quantities below the legal thresholds would be a positive development. The problem is that instead of criminal penalties, several countries have introduced administrative sanctions. Fines are probably the most commonly used form of administrative penalties imposed on people who use drugs. Respondents from several countries reported that their governments impose fines for possession, but many think these sanctions are highly problematic. In some countries, fines are too high and when combined with poverty and other factors, these fines can lead to more criminalisation including charges, arrests, arbitrary detention without trial, and more incarceration than prior to decriminalisation efforts. That said, respondents generally agree that decriminalisation has led to a decrease in incarceration of people who use drugs. But whether the punishments imposed on people who use drugs are administrative sanctions or criminal penalties, ultimately respondents agreed that removing these sanctions completely — that is, full decriminalisation without sanctions — would significantly improve the situation overall.

...fines can lead to more criminalisation including charges, arrests, arbitrary detention without trial...

One of the key issues identified by respondents was the impact of ongoing stigma and discrimination on the lives, health, and rights of people who use drugs. Although some respondents felt that stigma and discrimination against people who use drugs may have decreased somewhat since decriminalisation, these positive outcomes were ultimately undermined by poorly conceptualised models of decriminalisation

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that many believed had given rise to new or additional forms of stigma. For example, some respondents spoke about how stigma against methamphetamine users had significantly increased, or that stigma based on criminalisation and viewing people as dangerous and deviant had transformed into stigma based on pathologisation and treating people who use drugs as victims of an unrelenting disease.

In many countries, people who use drugs shared the perception that decriminalisation policies have led to an increase in surveillance of people who use drugs and further invasions of their privacy. For example, several respondents spoke of how urine drug testing is still being routinely implemented without informed consent by untrained law enforcement personnel to pressure, impose, or coerce people who use drugs into decisions or actions. Regardless of how frequently it might be used (or reported), the use of urine drug testing in any context or to any extent still represents an insidious form of social control that is humiliating and this needs to cease.

Most respondents indicated that decriminalisation laws and policies had contributed to facilitating access to harm reduction services. However, that was not the case everywhere. In some countries, there was no real perceived improvement in harm reduction or access to other health and social care services for people who use drugs. Many respondents expressed concerns regarding drug dependence treatment in their countries. Multiple respondents underlined the ongoing problems associated with forced and compulsory treatment. Even where access to treatment is said to be voluntary, respondents noted problems regarding its definition and implementation.

Many respondents indicated that decisions regarding decriminalisation were made without their participation. The majority of respondents noted that decriminalisation policies were designed and implemented with little or no consultation with people who use drugs. In some countries, respondents noted significant push back from authorities in regard to the meaningful participation of people who use drugs. Even when there was meaningful involvement and participation of people who use drugs, their recommendations were not always taken into consideration and several respondents referred to the fact that many people who use drugs do not even know that decriminalisation had been implemented in their countries.

When respondents were asked for solutions to further improve the response and safeguard the rights and dignity of people who use drugs, perhaps unsurprisingly many prioritised the need for greater, more meaningful involvement, participation, and empowerment of people who use drugs. Similarly, respondents indicated the need for more unity and solidarity in the global drug users' movement and for the scaling up of essential harm reduction services for people who use drugs. Ultimately, they called for the removal of non-criminal penalties that have been either introduced or reinforced by poorly designed decriminalisation policies, and for the regulation of the drug market with full legalisation as the ultimate goal.

...many prioritised the need for greater, more meaningful involvement, participation, and empowerment of people who use drugs...

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It is time for governments to cease the punitive approaches based on surveillance and control regardless of how they are disguised...

The overview above underscores what peer-based drug user organisations have been stating for decades. Drug use is a reality — not a reality to be accepted reluctantly or based on pathologising people who use drugs as victims — but a reality to be accepted fully without exceptions. It is time for governments to cease the punitive approaches based on surveillance and control regardless of how they are disguised (often under the guise of ‘support’) and to acknowledge that the war on drugs has been and continues to be a disastrous failure that has caused a plethora of harms that we now have to reverse. That reversal starts with full decriminalisation and ends with the legal regulation of substances that are currently illicit, and treating people who use drugs with full dignity, rights, and respect. Recent developments in Oregon in the United States where all drugs have been decriminalised for personal use and Vancouver in Canada (currently considering full decriminalisation which may be expanded to the entire province of British Columbia)⁴⁷ provide some hope that change is on the horizon but as always, the proof will be in the detail of these models and whether they deliver genuine and lasting reform in practice.



47. Pivot Legal Network ‘Act Now! Decriminalizing Drugs in Vancouver’ Report calling for immediate action on law reform and the need to go beyond “partial” decriminalisation models such as Portugal. The report draws on previous work by INPUD & VANDU https://www.pivotlegal.org/act_now_report_urges_local_drug_decriminalization



6. Recommendations

Based on the key themes from this study and the conclusions drawn above INPUD's primary recommendations from this report are:

1. That all models of decriminalisation must **fully decriminalise** people who use drugs by:
 - a. removing all administrative sanctions and mechanisms of monitoring, surveillance, coercion, and punishment for use and possession of drugs including fines, warnings, revocation of rights and privileges (such as revoking drivers licenses, voting rights, etc.), confiscations, diversion, forced treatment, drug urine testing, police surveillance, and any other non-criminal penalties or punishments – this includes the immediate closing of all compulsory detention centres as used in several countries in Asia Pacific;
 - b. removing the use of arbitrary quantity thresholds or threshold amounts that can result in criminal records for personal use and/or small-scale user-dealing (this includes repealing 'deemed supply' or 'intent to supply' laws that use threshold amounts);
 - c. ensuring that operational police fully understand the policy and legislative changes associated with full decriminalisation including what this means for policing practices on the ground through targeted and ongoing education and training; and
 - d. establishing independent and ongoing monitoring for criminal justice systems to reduce the potential for corruption, inappropriate use of discretion and miscarriages of justice, and to ensure that violations can be safely reported and addressed where they occur.
2. That people who use drugs and their community-led organisations must be involved in **all stages** of the reform process including the provision of clear, accessible, and credible information to community on any policy or legal changes;
3. That full decriminalisation must also include specific strategies to end stigma and discrimination among people who drugs and ensure adequate funding for such interventions;
4. That full decriminalisation must include scale-up and expansion of access to harm reduction and social care for people who use drugs relevant to the local context and needs; and
5. Once full decriminalisation is adopted within jurisdictions, it should only be as a step along a continuum that has as its clear and ultimate goal the **full legal regulation of all drugs** in a timely manner.

