



International Drug Policy Consortium

A global network promoting objective and open debate on drug policy

The decriminalisation of drugs and the HCV epidemic

Prevalence of HCV infection amongst PWID varies greatly between countries. There is growing evidence that those countries that pursue zero-tolerance, repressive 'war on drugs' policies have higher prevalence figures than those with pragmatic, health and human rights-informed drug policies. The mechanism parallels that for HIV



Russia, with its repressive approach to drug treatment and its culture of fear and loathing with regard to drugs, is one of the worst examples. It is estimated that in some Russian cities, percentage of PWID who are HCV infected is 90% or higher. In addition to its narcophobic culture, Russia specifically denies HCV treatment to PWUD, and also bans the use of Opioid Substitution Therapy. It also incarcerates PWUD on a mass scale. (Andrey Rylkov Foundation, 2013)

By contrast, the National Hepatitis C Action Plan in Scotland begun in 2006 has begun to show a clear reduction in HCV infection. The project centres on harm reduction and treatment, and includes a four to six-fold expansion of sterile injecting equipment, increased testing (especially in prisons), expansion of treatment, and increased political and social awareness of the Hepatitis epidemic.

Nonetheless, greater attitudinal change with regard to

How does the criminalisation of drugs exacerbate the spread of HCV?

- Social and cultural marginalisation.
- PWID are discouraged from attending healthcare facilities for harm reduction, testing, treatment and support.
- PWID are denied access to sterile injecting equipment (needles, syringes, filters etc) and hygienic facilities.
- HCV+ people are often denied treatment if they are active drug users.
- Where NSPs are available, repressive police culture means that PWUD can have sterile injection equipment confiscated by police.
- All of these unnecessary problems are made more acute in prisons, which represent a distillation of the risk environment.

What *is* decriminalisation?

Decriminalisation involves the modification of the drug control system so that laws do not make PWUD into criminals.

Instead of a criminal offence, drug use can be viewed as a health issue, as has been the case in Portugal since 2001.

Responses to drug possession can involve administrative measures (like a parking ticket), a referral to healthcare services, etc.

These responses are, in Portugal, optional. That means that the state can take no action at all if it feels this is appropriate.

Can drugs be decriminalised under the UN Drug Control Conventions?

It is sometimes said that the international drug control treaties to which nearly all countries are signed up preclude the decriminalisation of drug use and possession. This is not the case.

The 1961 Single Convention specifically permits governments to deploy alternative measures in the case of drug possession.

Single convention on Narcotic Drugs 1961, as amended by the 1972 protocol

1(a) 'Subject to its constitutional limitations, each Party will adopt such measures as ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, etc... .. shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.'

(b) 'Notwithstanding the preceding subparagraph, when abusers of drugs have committed such offences, **the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration** in conformity with paragraph 1 of article 38.'

'The Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall co-ordinate their efforts to these ends.'

Commentary on Single Convention on Narcotic Drugs, 1961

'It appears that it is left to the discretion of each Party to decide whether it wishes to penalize the non-medical consumption of narcotic drugs by addicts, or whether it prefers to prevent such abuse solely by administrative and penal measures by which the production, manufacture and distribution of drugs must be controlled under the terms of the Single Convention.'

World Health Organisation: *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations, 2014.*

'Laws and policies can help to protect the human rights of key populations... Legal reforms, such as decriminalizing sexual behaviours and drug use...are critical enablers that can change a hostile environment for key populations to a supportive environment. Specific consideration should be given to such legal reforms as part of any revision of policies or programmes for key populations. For example, in many countries possession, use and sale of clean needles and syringes or of condoms remains justification for arrest. If so, this warrants review.'

'Without protective policies and decriminalization of the behaviour of key populations, barriers to essential health services will remain; many people from key populations may fear that seeking health care will expose them to adverse legal consequences.'

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