

## Legalization

Drugs stop being considered illegal substances. It is not a synonym of liberation, since production and trade can be regulated, as it happens today with alcohol.

## Liberalization or liberation

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## Regulation

Minimum state control over drug production, trade and use, which can thus be mostly regulated by the market.

Partial or complete state regulatory control, in order to generate conditions for the functioning and control of the psychoactive substances market.

## Decriminalization

Removes certain drug-related conducts from the list of crimes, either by law or by jurisprudential interpretation. Although certain drug-related activities are no longer crimes and, therefore, are no longer subject to criminal prosecution, their authors can still face administrative processes in certain cases.

Decriminalization does not mean that drugs are legal.

## Depenalization

Maintains drug prohibition and considers certain conducts as crimes, but excludes the prison sentence.

There is controversy about whether depenalization excludes only imprisonment or any penal sanction.

In Brazil, there are applicable administrative, educational or penal sanctions that do not restrict liberty. The Federal Supreme Court has decided that article 28 of Law 11.343/2006 depenalizes use, as it establishes right-restricting penalties for those who acquire, keep etc. drugs for personal consumption, without the possibility of restriction of liberty.

## Harm Reduction

It is a non-criminalizing public health policy.

In general lines, it consists on valuing protective actions and personal care in situations of possible vulnerability, with the purpose of reducing harm related to certain practices.

It can include actions ranging from information access to the promotion of measures of prevention of diseases transmissible by sharing needles.

In Brazil, information and syringe distribution campaigns are examples of official public health measures of the Ministry of Health's 2003 Integral Care for Users of Alcohol and Other Drugs Policy.

# Regarding the application of different drug policies, ITTC emphasizes that:

- ➔ Decriminalizing only the user does not solve massive imprisonment and police violence against specific sectors of the population.
- ➔ Establishing objective criteria as the only form of differentiation may cause people carrying amounts above permitted to be automatically prosecuted as dealers, without the possibility of defending themselves as users. If the amount of the substance that the law allows one to carry is too low, there is a high risk that, in practice, it continues to punish users.
- ➔ There is always a risk of arbitrariness in differentiating users and dealers. Merely subjective evaluations – by the police, social workers, doctors – can entail the creation of stigmatizing “profiles”, such as periphery users being considered dealers or people who live on the streets being considered problematic users. In the mere application of objective criteria by the Judiciary, the particularities of each case may be disregarded.
- ➔ Even if use is not penalized, users are commonly arrested for petty thefts carried out with the purpose of sustaining consumption. This kind of secondary criminalization of drug-related activities reflect a gap in the reach of the harm reduction policy, since it most markedly affects people with low purchasing power and users of substances considered to be “heavier” by medical and judicial speeches.
- ➔ It is difficult to differentiate between “problematic” and “non-problematic” use. If “non-problematic” use is the one made by people above the age of majority without causing public order disturbances or damages to a third party’s interests, then the use of substances by homeless or marginalized populations is characterized as “problematic”.
- ➔ People performing jobs as “mules” or “bagboys” (considered “human postal services” for illicit or state regulated substances, such as drugs and medication), regardless of the amount they carry, are completely replaceable employees for the functioning of the trade of psychoactive substances. They are, however, the main target of drug arrests in Brazil.

## Contents

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## References

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