

South African Drug Policy Initiative

Position statement on responsible legal regulation of drugs in South Africa

The South African Drug Policy Initiative's position statement aims to inform the public and advise government of the urgent need to change the misguided, outdated, and harmful laws governing the use of "recreational" drugs from the existing punitive model to one based on scientific evidence and human rights ethics aimed at the reduction of harm.

The existing laws that allow the production and commercial trade of extremely harmful recreational drugs such as alcohol and tobacco, yet ban far less dangerous substances such as cannabis and psilocybin ("magic" mushrooms), are irrational. They are based on the United Nations 1961 Single Convention on Narcotic Drugs and related UN conventions, to which South Africa is a signatory. Although the stated aim of the conventions was to achieve a "drug free world", their adoption has instead created a massive, global, illicit trade in drugs.

The criminalisation of the drug trade has encouraged the growth of powerful organised crime syndicates that distribute drugs of unpredictable purity and safety. Competition among drug syndicates has generated "drug wars" that have cost innocent lives, threatened the safety and security of whole communities, corrupted police services and overwhelmed criminal justice structures.

The enforcement of punitive drug laws on drug users has caused human rights abuses, increased prison populations, criminalised and stigmatised the most vulnerable in society, and deprived them of access to much needed health and social care.

This model of drug law has been enforced in many countries, including South Africa, under the banner of "War on Drugs" over many decades. It has not achieved its aims. Instead, it has done far more individual, social, and economic harm than good. It is time to completely change our approach to regulating drug use.

All people deserve the freedom to make informed decisions about their own bodies. All people deserve to be governed by laws that are rational, evidence-based, and aimed at reducing harm. All people deserve to exercise their human rights with the minimal possible intrusions, while respecting the rights of others.

To this end, the South African Drug Policy Initiative proposes the following starting principles for the responsible legal regulation of drugs in South Africa.

- The substances that an adult individual chooses to consume are not a matter for their government to prohibit. Drug consumption is a victimless crime. It should not be a crime. Neither should the regulated sale of a drug for which there is a demand.
- The responsible way to reduce the harms associated with drug use is through legal regulation.
- There should be no criminal or administrative penalties for adult consumption of drugs, or purchase or possession of drugs for personal use.
- The purpose of drug policy should not be to eliminate drug use, but to reduce the harms associated with drug use.

- Drug policy that relies on the threat or use of punishment may have some limited deterrent effect, but it increases the harms associated with drug use.
- Drug policy should work to protect the welfare, health, autonomy, and human rights of all people, including people who use drugs.
- Some forms of drug use are more harmful than others. Not all drug use is harmful.
- It is not possible to eliminate drug use from a society. It is not desirable to eliminate all drug use from a society.
- All those currently incarcerated for non-violent incidents of drug possession should be released.
- All criminal records for drug possession for personal consumption should be expunged.
- The legal regulation of drugs should prioritise public health and social support over law enforcement strategies.
- Legal regulation will not eliminate all the harms associated with drug use but will promote public health by providing people who use drugs with consumer protection rights.
- Legal regulation is a continuous and iterative process, which should be based on the best available evidence on how to reduce harms.
- The production, cultivation, transportation, sale, and purchase of drugs should be legally regulated with a view to equity and social justice.
- Different drugs will require different forms of legal regulation. Potential models include unregulated cultivation (like that in place for vegetable crops), regulated commercialisation (like that in place for nutritional supplements), licensed sale (like that in place for alcohol and tobacco), over-the-counter pharmacy sales, or provision upon prescription from a licensed medical practitioner.
- Legal regulation should be designed and continuously evaluated on the basis of existing scientific knowledge and with the input of drug users and health, legal, academic and other professionals involved with drug use and users.
- Efforts should be made to allow a transition into legality for members of groups marginalised by their participation in, or proximity to, historically illegal drug markets.
- Contravention of the legal regulations by drug users that does not involve criminal activity should attract alternatives to coercive sanctions, consistent with good public health praxis, rather than imprisonment.
- The funds currently allocated by the state for the criminal justice response to drug use should be repurposed to support comprehensive social intervention, harm reduction, and treatment programmes.
- Drug use does not necessarily result in drug use disorders (“addiction”). Just as legal regulation has not eliminated alcohol use disorders, legal regulation will not eliminate other drug use disorders. However, it will reduce harms by facilitating access to safe supply and social support.
- Treatment of drug use disorders should prioritise improving drug users’ quality of life over eliminating or reducing their drug use.
- Treatment of drug use disorders should respect drug users’ autonomy and human rights.
- Drug users should be provided with the means to reduce their risk of contracting communicable diseases.
- Drug users should receive non-stigmatised access to public health.