

Risks And Advantages of Decriminalization: Balance Aspect in Criminal Law

 ¹ Nazrin Karimli,  ² Atilla Ozturk
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Keywords	Abstract
decriminalization criminal law legal risk balancing justice criminalization policy reform	Decriminalization in criminal law refers to the removal of penalties for certain offenses, particularly minor legal violations, and shifting the focus from punishment to rehabilitation. This approach can help reduce prison overcrowding, improve public health outcomes, and allow law enforcement resources to be redirected toward more serious crimes. Additionally, it may contribute to reducing social inequalities and mitigating negative perceptions surrounding certain offenses. However, decriminalization also carries potential risks, as it may lead to the wider spread of harmful behaviors in some cases.

Introduction

Decriminalization in the context of criminal law

1. Decriminalization refers to the process of removing certain acts from the criminal law, effectively reducing or eliminating the legal penalties associated with those acts. The concept is often applied to conduct that society considers less harmful or no longer warrants criminal punishment. In the context of criminal law, decriminalization is distinguished from legalization; legalization refers to the regulation of an activity and the removal of all restrictions, while decriminalization refers only to the reduction of legal penalties or the assessment of certain crimes without criminal liability (Duff, R.A. 2017). The principle of decriminalisation is often based on the idea that certain acts, such as possession of small quantities of drugs, do not pose a serious threat to public order and safety.

Advantages of decriminalization

Decriminalizing crimes that are not high-risk crimes, such as drug possession or drunkenness, can help reduce prison overcrowding and free up law enforcement resources for more serious crimes. By eliminating criminal penalties for acts that do not pose a significant threat to public safety, fewer people are condemned. Decriminalization also helps reduce the number of people in prisons and jails, allowing law enforcement agencies to focus on more serious crimes. In addition, the financial burden of the state is being eased.

¹ Karimli, N. 3rd Year Student of Jurisprudence, Nakhchivan State University. Email: nazrin_karimli@mail.ru. ORCID: <https://orcid.org/0009-0000-2314-8380>.

² Ozturk, A. Lecturer, Department of Private Law, Nakhchivan State University. Email: atillaozturk@ndu.edu.az. ORCID: <https://orcid.org/0000-0002-9686-713X>.

Accommodation, nutrition and medical care for prisoners requires significant resources. By diverting convicted individuals from the prison system, funds are directed toward initiatives such as rehabilitation programs or preventive measures that reduce crime in the long term. Decriminalization also ensures a more effective functioning of the law enforcement system. Courts can focus on cases involving more serious offenses, while law enforcement agencies can devote their time and resources to more pressing public safety issues. Overall, a balanced approach to criminal law that prioritizes the decriminalization of less socially dangerous crimes can create a more equitable, cost-effective, and practical criminal justice system. It is an approach that addresses the root causes of overcrowding while promoting justice and rehabilitation instead of punishment.

Decriminalizing a range of crimes could significantly reduce the existing social stigma surrounding such acts. Traditionally, when criminal penalties are imposed, individuals who engage in these activities experience shame, stigma, and social isolation, which weakens their ties to society and further alienates them. Instead of it, eliminating penalties leads to society viewing these behaviors not as crimes but as health and social issues. As a result, the absence of criminal history increases people's opportunities to find work, obtain housing, and build social connections, which makes it easier for them to integrate into society. At the same time, reducing social stigma allows addiction and other problems to be addressed with more compassionate and supportive approaches. Furthermore, reducing social stigma encourages more compassionate and supportive approaches to addressing underlying problems, such as addiction or exploitation. In turn, states and society can promote the rehabilitation of individuals and improve their quality of life by investing in health, employment, and other support programs. As a result, this approach not only create conditions for the accused, but also for the formation of a more inclusive and understanding society that prioritizes rehabilitation over punishment. (Öztürk, A. 2024).

Risks of decriminalization

2. One of the main risks of decriminalization is the potential normalization of certain behaviors, which could lead to an increase in their prevalence. For example, removing penalties for drug use could signal to the public that such behaviors are socially acceptable and encourage more people to engage in them. This particularly refers to substances with known health risks, as wider use could exacerbate public health problems, including addiction and overdose. However, this risk can be reduced through preventive measures. Decriminalization should be combined with education, harm reduction programs, and accessible treatment options, so that the focus continues to support individuals rather than condoning harmful behaviors. Public health campaigns can raise awareness of the risks associated with drug use, and treatment programs can help individuals address addiction before it causes long-term harm. It is important to note that decriminalization does not imply approval of these activities or deregulation (Herring, J. 2019). For example, it is possible to reduce criminal penalties by maintaining strict laws on the distribution and sale of harmful substances. However, one of the main risks of decriminalization, especially in controversial issues such as drug use, is the possibility of public backlash and social discontent. Some segments of society may perceive the decriminalization of previously criminal behaviors as a "soft" approach to crime by the legal system. Such a perception may lead to concerns that the government is failing to protect public safety and moral values, and to increased opposition from conservative groups and communities. As a result, these reactions can reduce trust in the government and law enforcement agencies, further polarizing public opinion, and making it more difficult to implement effective criminal justice reforms. To reduce this risk,



decriminalization initiatives should be supported by comprehensive public education campaigns, explaining the benefits to society of reducing incarceration rates, improving public health, and more efficient use of law enforcement resources.

The role of law enforcement agencies in a post-decriminalized society

1. The risk of decriminalization is related to the potential normalization of behaviors that were once considered harmful to society, such as drug use or certain types of economic crime. After decriminalization, it is important to strike a delicate balance between public safety and the focus of law enforcement agencies. Law enforcement agencies need to adapt to the changing legal environment and develop a new approach against some acts that were previously considered crimes. However, this process should not undermine public safety, but rather pave the way for more effective strategies to protect the rule of law and the well-being of society. Police and judicial authorities should be particularly careful to ensure that decriminalization does not lead to legal loopholes or disruption of public order, and should demonstrate a balanced and responsible approach to law implementation. While the focus may be on preventing more serious crimes, such as violent or organized crime, decriminalized areas still require monitoring to ensure that they do not become larger societal problems (Ashworth, A.2019). For example, in the case of drug decriminalization, law enforcement agencies may shift from arresting individuals to providing access to treatment and rehabilitation. This requires not only a change in law enforcement tactics, but also a reassessment of how resources are allocated within law enforcement agencies. The challenge is to ensure adequate support systems that prevent the emergence of new forms of criminal behavior as a result of decriminalization. In fact, while decriminalization may be a progressive step, legislative and judicial authorities must maintain a vigilant and balanced approach, emphasizing public health and safety over punitive measures.

Consequences of decriminalization in different jurisdictions

2. In countries such as Portugal, the decriminalization of drug use in 2001 led to a decrease in drug-related deaths and transmission of human immunodeficiency virus (HIV). This policy change focused on treating addiction as a public health problem, not a crime, demonstrating a successful model of harm reduction. However, there problems arose in balancing the need for implementation with the availability of treatment programs in cases of trafficking and proliferation. On the other hand, in the United States, where several states have decriminalized marijuana, the results are more complicated. While some states have reported positive results from reduced arrests and a shift to tax-based regulation, others face challenges such as continued racial disparities in enforcement and the fact that marijuana is still illegal under federal law. In December 2013, Uruguay became the first country to legalize the sale, cultivation, and distribution of recreational marijuana, a move that has brought it to the forefront of the list of countries and states in the United States that have liberalized marijuana laws in recent years (Simester, A.P. 2016). At the same time, the decriminalization of euthanasia under strict conditions in the Netherlands has sparked widespread debate about the ethical and legal limits of such policies (Ashworth, A. 2019). The risk of decriminalization makes it difficult to balance public support with unintended consequences, between issues such as increasing public harm or straining the resources of law enforcement agencies. Switzerland's decriminalization of drug use has successfully reduced public health risks and improved harm reduction



services. Each jurisdiction's unique legal framework and societal values strongly influence these outcomes. (Atilla Öztürk, Ismayil Garibli, 2025).

Conclusion

Decriminalization offers a promising approach to criminal justice reform by addressing problems such as overcrowding in prisons and jails, racial and social inequality, and the overstretching of the resources of law enforcement agencies. Decriminalization policies can be implemented primarily by reducing punishments for crimes that do not pose a significant public threat and instead prioritize rehabilitation programs. This approach reduces the financial burden on the justice system by reducing the number of prisoners and at the same time relieves social tension. It also provides a more effective way for criminals to be reintegrated into society. However, as with any legal reform, decriminalization comes with potential risks that must be carefully managed. One of the main concerns is that removing criminal penalties for certain behaviors may normalize or encourage activities such as drug use or euthanasia. However, if this approach is not supported by public health initiatives from the appropriate people, public health problems may be exacerbated and lead to an increase in harmful behaviors. (Garibli, I.2025) Furthermore, decriminalization, especially in controversial cases, can provoke a public backlash, which can undermine trust in law enforcement agencies. Legal uncertainty and confusion also pose serious problems, as the distinction between decriminalization and full legalization is sometimes unclear, which can lead to inconsistent application of the law and misunderstanding of what is permitted by the law. To minimize these risks, legislators should clearly define the parameters of decriminalization, implement effective rehabilitation programs, and educate the public widely about the main reasons for these reforms.

Finally, decriminalization requires a thoughtful and balanced approach, taking into account the social, economic, and psychological impacts on society.

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