
Fragile Gains, Persistent Setbacks: The Muddled Arc of American Drug-Law Reform

Ifetayo Harvey

FOREWORD

INTRODUCTION

This Collection, which analyzes the legal, social, and political dimensions of drug decriminalization in the context of current debates, comes at a pivotal moment for advocates of drug-policy reform. Two narratives of drug-policy reform have emerged in recent decades. One is a story of swift but fragile gains. Since 2012, twenty-four U.S. states and the District of Columbia have legalized cannabis for adult recreational use.¹ Since 2019, more than a dozen cities have de-prioritized criminalization for psychedelics like entheogenic plants and fungi.² In the wake of increasing overdose deaths since the 2020 COVID-19 pandemic, the Biden-Harris Administration endorsed the view that “people should not be incarcerated for drug use but should be offered treatment instead,” and emphasized

-
1. Athena Chapekis & Sono Shah, *Most Americans Now Live in a Legal Marijuana State – And Most Have at Least One Dispensary in Their County*, PEW RSCH. CTR. (Feb. 29, 2024), <https://www.pewresearch.org/short-reads/2024/02/29/most-americans-now-live-in-a-legal-marijuana-state-and-most-have-at-least-one-dispensary-in-their-county> [https://perma.cc/XZT5-KQ5R].
 2. Layla McMurtric, *Ann Arbor Hosts Fourth Annual Entheofest Promoting Psychedelic Legalization*, DET. METRO TIMES (Sept. 9, 2024, 3:23 PM), <https://www.metrotimes.com/weed/ann-arbor-hosts-fourth-annual-entheofest-promoting-psychedelic-legalization-37298127> [https://perma.cc/YQ82-PRH4]; German Lopez, *Denver Just Voted to Decriminalize Psychedelic Mushrooms*, VOX (May 8, 2019, 8:16 PM EDT), <https://www.vox.com/future-perfect/2019/5/8/18535475/denver-psilocybin-psychedelic-magic-mushrooms-decriminalization-vote> [https://perma.cc/6TAH-QVGT] (explaining that Denver was the “first US city to effectively decriminalize mushrooms containing the psychedelic psilocybin” in 2019).

the need to “[a]dvanc[e] racial equity issues in [its] approach to drug policy.”³ And as one of the Essays in this Collection discusses in depth, the Biden-Harris Administration recently proposed a new rule that would reschedule cannabis from Schedule I to Schedule III of the federal Controlled Substances Act (CSA), which would legalize the drug for some medical uses.⁴

Yet, as drug-policy reform has advanced in some respects, a second story has emerged: one of setbacks and backsliding. States have started recriminalizing drugs. As discussed in Part II of this Foreword, for example, Oregon recently recriminalized drug possession after passing the groundbreaking Measure 110 in 2020, a first-of-its-kind decriminalization effort. And Californians recently passed Proposition 36, a ballot initiative that reclassified certain misdemeanor drug crimes as felonies.⁵ As a result, California’s prison population will likely increase.⁶ Along with approving Proposition 36, Californians voted against Proposition 6, which would have eliminated the constitutional provision allowing forced labor for prisoners.⁷ These measures increasing the prison population and reinforcing forced labor have caused the system of mass incarceration to regress, making it easier for drug users to go to prison. These are just two of many examples of recent drug-policy regression. And as Professor Jennifer D. Oliva argues in her contribution to this Collection, even the Biden-Harris Administration’s ostensibly progressive rescheduling proposal might be counterproductive because it threatens to disrupt state regulatory regimes without making a helpful federal intervention.⁸

This Foreword situates the contributions of this Collection in these stories of progress and backsliding, and it offers Oregon’s recent brush with decriminalization as an example of the problems plaguing the drug-policy reform movement. The Foreword proceeds in two Parts. Part I reviews the three contributions of the Collection and examines how they fit into the two opposing

-
3. Off. of Nat’l Drug Control Pol’y, *The Biden-Harris Administration’s Statement of Drug Policy Priorities for Year One*, EXEC. OFF. OF THE PRESIDENT (Apr. 1, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/03/BidenHarris-Statement-of-Drug-Policy-Priorities-April-1.pdf> [<https://perma.cc/X7JA-RF7F>].
 4. See Jennifer D. Oliva, *Decriminalizing Cannabis*, 134 YALE L.J.F. 942, 944 (2025).
 5. Tiffany Olin, *California Proposition 36 Passes: Here’s How It Will Impact the Community*, ABC30 (Nov. 7, 2024), <https://abc30.com/post/california-proposition-36-passes-heres-how-will-impact-community/15519570> [<https://perma.cc/XB7L-DTAV>].
 6. Sarah Staudt, *California May Take a Big Step Backwards Towards More Incarceration with Proposition 36*, PRISON POL’Y INITIATIVE (Oct. 17, 2024), <https://www.prisonpolicy.org/blog/2024/10/17/prop-36> [<https://perma.cc/ZW8K-Q2CQ>].
 7. Cayla Mihalovich, *Anti-Slavery Measure Prop. 6 Fails, Allowing Forced Labor to Continue in California Prisons*, CALMATTERS (Nov. 11, 2024), <https://calmatters.org/politics/elections/2024/11/california-election-result-proposition-6-fails> [<https://perma.cc/7Z88-3LXW>].
 8. Oliva, *supra* note 4, at 970-71.

narratives. And Part II describes Oregon’s attempt at decriminalization and unpacks what it can teach us about the promise and perils of initiatives like the ones discussed in this Collection.

I. DRUG POLICY IN POLYCRISIS

This Collection of Essays offers readers a broad perspective on the possibilities and potentials of U.S. drug-policy reform. The authors challenge the current paradigm to serve its people better and to meet the current moment. Drug overdose deaths continue to be one of the leading causes of death for adults under the age of fifty.⁹ And notwithstanding setbacks like Oregon’s, drug reform remains urgent because it is increasingly converging with other issues like immigration, cartel violence, and mental health.

The term polycrisis¹⁰ aptly describes how climate change, ongoing pandemics, genocides, inflation, lack of housing, and increased homelessness are all converging to create more complex and unprecedented problems. In 2020, with the onset of the COVID-19 pandemic, “drug and alcohol treatment services around the world had to swiftly revise operating procedures to attend to the acute pressures of COVID-19 infection control and ever-changing social distancing requirements while ensuring continuity of care.”¹¹ Since then, more crises have emerged that compound the harms of existing drug policy, including economic recession,¹² an “enormous” number of people living with long COVID,¹³ and negative mental-health impacts.¹⁴

This polycrisis demands robust changes and a multipronged strategy to lower the rate of overdose deaths and homelessness. Drug decriminalization and harm reduction must be a part of that approach because research shows that

-
9. Kevin Flower & Meera Senthilingam, *Odds of Dying from Accidental Opioid Overdose in the US Surpass Those of Dying in Car Accident*, CNN (Jan. 14, 2019, 10:06 AM EST), <https://www.cnn.com/2019/01/14/health/opioid-deaths-united-states-surpass-road-accidents/index.html> [<https://perma.cc/Y25L-9NZE>].
 10. Kate Whiting & HyoJin Park, *This Is Why “Polycrisis” Is a Useful Way of Looking at the World Right Now*, WORLD ECON. F. (Mar. 7, 2023), <https://www.weforum.org/agenda/2023/03/polycrisis-adam-tooze-historian-explains> [<https://perma.cc/8E5Y-83RG>].
 11. Hannah Carver, Teodora Ciolompea, Anna Conway, Carolin Kilian, Rebecca McDonald, Andia Meksi & Marcin Wojnar, *Substance Use Disorders and COVID-19: Reflections on International Research and Practice Changes During the “Poly-Crisis,”* 11 FRONTIERS PUB. HEALTH, July 16, 2023, at 2.
 12. See K.S. Jomo & Anis Chowdhury, *COVID-19 Pandemic Recession and Recovery*, 63 DEV. 226, 226 (2020).
 13. David M. Cutler, *The Costs of Long COVID*, 3 JAMA HEALTH F. art. no. e221809, at 1 (2022).
 14. See W. Cullen, G. Gulati & B.D. Kelly, *Mental Health in the COVID-19 Pandemic*, 113 QJM 311, 311 (2020).

criminalization results in worse health outcomes.¹⁵ Given that the war on drugs has raged on for over fifty years now, we know that punishment does not solve the problem of drug use – if anything, it exacerbates the problem.¹⁶ Each Essay in this Collection lends its own contribution to the web of solutions that drug-reform advocates must embrace to address the polycrisis.

First, Professor Oliva’s Essay, *Decriminalizing Cannabis*, focuses on federal cannabis legalization and how the Biden-Harris Administration’s recent proposal to reschedule cannabis is insufficient and even counterproductive. This Essay is grounded in the history of the CSA and drug scheduling, a ranking used by law enforcement to describe a drug’s addictive potential and associated risks.¹⁷ According to the Drug Enforcement Administration (DEA), drugs ranked Schedule I have a high potential for abuse.¹⁸ However, many drug-policy reform advocates argue that the scheduled ranking is mainly arbitrary and not rooted in science.¹⁹ Professor Oliva contends that the proposal to reschedule cannabis would cause more issues than it is worth because rescheduling does nothing to protect recreational users, has the potential to increase tension between federal and state policies, and fails to account for a long racialized history of cannabis regulation and criminalization.²⁰ Professor Oliva’s Essay underscores the need to go further than just rescheduling and to decriminalize cannabis at the federal level, which would open up new possibilities for regulating cannabis and put an end to this inhumane practice of incarcerating people for using a plant.²¹

Second, Professor Mason Marks’s Essay, *Separation of Drug Scheduling Powers*, interprets how the CSA divides power between the Department of Health and Human Services (HHS) and DEA and how that division of labor is often misinterpreted, leading to scheduling issues. Professor Marks argues that scheduling defects stemming from this misinterpretation have ultimately hindered medical research and led to unscientific outcomes that contradict the text, purpose, and legislative history of the CSA.²² In particular, he argues this is so because powers properly meant for public-health experts like HHS are instead

15. *US: Disastrous Toll of Criminalizing Drug Use*, HUM. RTS. WATCH (Oct. 12, 2016, 12:01 AM EDT), <https://www.hrw.org/news/2016/10/12/us-disastrous-toll-criminalizing-drug-use> [<https://perma.cc/5JN6-YY4A>].

16. Donal Wilson Harve, *Evaluating the Effectiveness and Impact of Government Policies on Drug Eradication: A Comparative Analysis of Punitive, Harm Reduction, and Decriminalization Approaches*, 15 *INSPIRAT* 37, 41 (2024).

17. Oliva, *supra* note 4, at 950–53.

18. *Id.* at 950–51.

19. *Id.* at 950–53.

20. *Id.* at 944–45.

21. *Id.*

22. Mason Marks, *Separation of Drug Scheduling Powers*, 134 *YALE L.J.F.* 976, 980 (2025).

exercised by law-enforcement officials like DEA.²³ Professor Marks suggests that the shortcomings of the drug scheduling system can be at least partially remedied by proper interpretation of the separation of scheduling powers.²⁴ Accordingly, he charts a path forward for HHS and DEA to redirect their roles in the drug scheduling system.²⁵

Lastly, Professor Taled El-Sabawi and Professor Sarah Katz's Essay, *Deinstitutionalizing Family Separation in Cases of Parental Drug Use*, highlights how the United States's punitive drug laws have shaped the family policing system and perpetuated family separation. The Essay outlines the lineage of family separation originating from the trafficking of enslaved Africans and the removal of Native Americans from their ancestral lands; for both groups, the U.S. government allowed their children to be sold or institutionalized.²⁶ Providing evidence that parents with substance-use disorder can care for their children safely, this Essay advocates for family-centered approaches to substance-use disorder along with more funding for family services, abolition, and a separation of family policing from the provision of support and treatment.²⁷

Decriminalization, rescheduling, and family separation are all facets of drug reform with which this Collection grapples. Drug-policy reform's two narratives of progress and setbacks highlight the need for change that works and sticks. Nowhere is the tension between these two stories more apparent than in Oregon, where a recent brief stint with decriminalization provides a striking example of the challenges of progressive drug-policy reform. While there is no one-size-fits-all approach for municipalities reforming drug laws, advocates can learn from Oregon's mistakes.

II. DECRIMINALIZATION AND RECRIMINALIZATION IN OREGON

In 2020, Oregon voters enacted via ballot initiative Measure 110, which decriminalized the possession of controlled substances including heroin, methamphetamine, cocaine, PCP, LSD, and fentanyl.²⁸ Measure 110, also known as the Drug Addiction Treatment and Recovery Act, mandated the allocation of \$300

23. *Id.*

24. *Id.*

25. *Id.* at 1018-19.

26. Taled El-Sabawi & Sarah Katz, *Deinstitutionalizing Family Separation in Cases of Parental Drug Use*, 134 YALE L.J.F. 1022, 1031-37 (2025).

27. *Id.* at 1056-60.

28. Drug Addiction Treatment and Recovery Act, ch. 2, §§ 11-20, 2021 Or. Laws 1, 5.

million in state cannabis tax revenue for substance-use treatment and harm-reduction services.²⁹ It was the first state decriminalization effort of its kind.³⁰

Measure 110 redesignated drug use from a misdemeanor criminal offense to a civil violation punishable by a citation and fine of up to \$100.³¹ A person could avoid the fine by consenting to a health assessment.³² The measure also redirected funding into health services and increased funding to expand and improve Oregon's care infrastructure.³³

With Measure 110, Oregon was poised to be the first state to decriminalize drug use and possession. Measure 110's proponents hoped to decrease the jail and prison population dramatically, increase access to health services for people who use drugs, and minimize law-enforcement interactions. For drug users, law-enforcement interactions often mean experiencing the harms of criminalization, including jail or prison time, harassment, and police brutality.³⁴ Additionally, simply having a drug charge on one's record can be an obstacle to accessing public benefits and employment.³⁵ Proponents of Measure 110 aimed to help reduce overdose deaths and other risks associated with drug use.

But the hopes for Measure 110 were short-lived. In April 2024, Governor Tina Kotek signed into law House Bill 4002, which recriminalized possession of controlled substances and effectively repealed Measure 110.³⁶

-
29. Press Release, Drug Pol'y All., All \$300+ Million in Measure 100 Funding Approved to Expand Critical Addiction Services in Oregon (Aug. 31, 2022), <https://drugpolicy.org/news/all-300-million-measure-110-funding-approved-expand-critical-addiction> [<https://perma.cc/S4RA-BLCL>].
 30. Amelia Templeton, *Oregon Becomes 1st State in the US to Decriminalize Drug Possession*, OR. PUB. BROAD. (Nov. 4, 2020, 12:00 PM), <https://www.opb.org/article/2020/11/04/oregon-measure-110-decriminalize-drugs> [<https://perma.cc/GAF8-FGFG>].
 31. Kellen Russoniello, Sheila P. Vakharia, Jules Netherland, Theshia Naidoo, Haven Wheelock, Tera Hurst & Saba Rouhani, *Decriminalization of Drug Possession in Oregon: Analysis and Early Lessons*, 9 DRUG SCI., POL'Y & L., 2023, at 3-7.
 32. Templeton, *supra* note 30.
 33. Russoniello et al., *supra* note 31, at 3-7.
 34. See Bayla Ostrach, Vanessa Hixon & Ainsley Bryce, "When People Who Use Drugs Can't Differentiate Between Medical Care and Cops, It's a Problem." *Compounding Risks of Law Enforcement Harassment & Punitive Healthcare Policies*, 12 HEALTH & JUST., Feb. 6, 2024, at 2 ("People who use drugs in the U.S. are . . . by definition, a highly justice-involved population, at increased risk for law enforcement interaction, arrest, and incarceration.").
 35. Loren Siegel, *Report: The War on Drugs Meets Employment*, DRUG POL'Y ALL. 1 (2021), https://uprootingthedrugwar.org/wp-content/uploads/2021/02/uprooting_report_PDF_employment_02.04.21-1.pdf [<https://perma.cc/9MFH-PVEE>].
 36. Conrad Wilson, *Oregon Governor Signs Bill Recriminalizing Drug Possession*, OR. PUB. BROAD. (Apr. 1, 2024, 6:07 PM), <https://www.opb.org/article/2024/04/01/drug-possession-oregon-kotek-sign-bill> [<https://perma.cc/2FHG-PQ23>].

Measure 110's opponents argued that decriminalization was to blame for rising overdose deaths—even though overdose deaths “[had] been on the same high trajectory as in neighboring states before and after Measure 110 took effect.”³⁷ The “catastrophic” timing of Measure 110's passage—as overdose rates were simultaneously rising in the wake of the fentanyl crisis and the COVID-19 pandemic³⁸—made it an easy scapegoat for Oregon's drug-use and homelessness problems. For example, Keith Humphreys and Rob Bovett assert in an *Atlantic* essay that “open-air drug markets” and a “rise in violent crime” in Oregon caused voters to reconsider their decision.³⁹ But crime rates in Portland, Oregon's largest city, declined in 2023,⁴⁰ and reports show that narratives of a postpandemic “crime wave” are exaggerated.⁴¹

Critics also claim that the proponents' unfamiliarity with Oregon's political context played a role in Measure 110's purported failure and ultimate repeal.⁴² But this assumption does not capture the full story. While Measure 110 was written by the Drug Policy Alliance,⁴³ a national organization with aims to end the war on drugs, the Measure 110 campaign involved people in Oregon on the ground who have years of experience working in harm reduction and drug-policy reform.⁴⁴ For example, the Health Justice Recovery Alliance (HJRA) is a coalition comprised of Oregon-based community and addiction-service organizations in support of Measure 110.⁴⁵ HJRA's aim was to ensure that Measure 110

37. Tony Schick & Conrad Wilson, *Oregon's Drug Decriminalization Aimed to Make Police a Gateway to Rehab, Not Jail. State Leaders Failed to Make It Work*, OR. PUB. BROAD. (Feb. 16, 2024, 8:21 PM), <https://www.opb.org/article/2024/02/14/oregon-drug-decriminalization-plan-measure-110-leadership-failures> [<https://perma.cc/H2YZ-VA5K>].

38. Lydia Kiesling, *Oregon Revives the Drug War*, NATION (May 8, 2024), <https://www.thenation.com/article/society/oregon-drug-arrest-decriminalization> [<https://perma.cc/3ZRK-YJAM>].

39. Keith Humphreys & Rob Bovett, *Why Oregon's Drug Decriminalization Failed*, ATLANTIC (Mar. 17, 2024), www.theatlantic.com/ideas/archive/2024/03/oregon-drug-decriminalization-failed/677678 [<https://perma.cc/9RBG-ZU8M>].

40. Alex Zielinski, *Portland Crime Rates Dropped in 2023, Data Shows*, OR. PUB. BROAD. (Jan. 24, 2024), <https://www.opb.org/article/2024/01/24/portland-crime-violent-homicide-gun-statistics-reports-murder-oregon-police> [<https://perma.cc/Q2LP-52PW>].

41. E.g., K. Rambo & Jeremiah Hayden, *Years of Data Debunk Persistent Narrative of a Recent Portland 'Crime Wave'*, ST. ROOTS (Aug. 21, 2024), <https://www.streetroots.org/news/2024/08/21/portland-crime-data-part-1> [<https://perma.cc/5CZB-UCT2>].

42. E.g., Humphreys & Bovett, *supra* note 39.

43. I worked at the Drug Policy Alliance from 2016 to 2021. As Marketing Coordinator, I managed their social media accounts. Some of my tasks included posting about Measure 110 and attending meetings with partners in Oregon.

44. *Coalition*, HEALTH JUST. RECOVERY ALL., <https://healthjusticerecovery.org/coalition> [<https://perma.cc/R666-6CE2>].

45. *Id.*

was implemented in a way that helped those most harmed by drug prohibition and criminalization.

Furthermore, critics of Measure 110 misunderstand the nature of addiction and the way that Measure 110's civil-penalty scheme favored treatment over punishment. Humphreys and Bovett, for example, assume that most people who use drugs or struggle with addiction are not interested in getting help or receiving treatment because "[e]ven as it destroys a person's life, addictive drug use by definition feels good."⁴⁶ But this individualistic narrative misses the multiple crises and structural conditions that made it difficult for some to seek treatment while Measure 110 was in effect, from a homelessness crisis strained by the COVID-19 pandemic to "piecemeal funding systems" and a lack of existing treatment services that stalled implementation.⁴⁷

Finally, critics also fail to account sufficiently for bureaucratic missteps in implementing Measure 110. The Oregon State Health Authority (OHA) was tasked with implementing Measure 110 and managing the COVID-19 crisis in Oregon. This proved to be an untenable task for the agency as it struggled to process the hundreds of applications from drug treatment programs that it received.⁴⁸ OHA failed to integrate police departments adequately into the implementation of Measure 110's new programs and services, despite police officers being on the ground and likely to interact with drug users.⁴⁹ Because of this administrative blunder and others by legislative and bureaucratic leaders, there were "inconsistencies in how law enforcement issued tickets and a lack of communication with treatment providers."⁵⁰ A 2023 audit by the Oregon Secretary of State also emphasized the failures of OHA and other authorities to provide enough support for Measure 110's implementation, highlighting how OHA had not provided adequate support for the citizens' panel that was in charge of developing recommendations for how the treatment money would be spent.⁵¹ Former Governor Kate Brown blamed the implementation failures on limited options and an inadequate framework provided by Measure 110's drafters: "This was a theory that

46. Humphreys & Bovett, *supra* note 39.

47. Kiesling, *supra* note 38.

48. Schick & Wilson, *supra* note 37.

49. *See id.* (explaining that OHA "developed no programs to inform police of the expanded services available to people they ticketed").

50. *Id.*

51. *Id.*; Shemia Fagan & Kip Memmott, *Too Early to Tell: The Challenging Implementation of Measure 110 Has Increased Risks, but the Effectiveness of the Program Has Yet to Be Determined*, OR. SEC'Y OF STATE (Jan. 2023), <https://sos.oregon.gov/audits/Documents/2023-03.pdf> [<https://perma.cc/J4GG-3SBL>].

was put into practice in a state that was probably one of the least prepared to be successful,” Brown told Oregon Public Broadcasting.⁵²

Thus, while many Measure 110 opponents and Oregon officials will point to Measure 110 as the reason for increased crime and public drug use, the real issue is the refusal to invest fully in a multipronged strategy rooted in harm reduction to curb overdose deaths and reduce racial health inequities. This refusal has always lain at the center of the war on drugs, a set of formal and informal policies launched by the Nixon Administration that criminalized drug use, possession, and sale in an effort to demonize political opponents, particularly antiwar advocates and Black communities.⁵³ Today, the war on drugs—or more accurately, the war on people who use drugs—is ongoing, but the drugs have won. Overdose death rates have steadily increased, and even moderate gains in reducing this trend overall have resulted in still rising racial inequities.⁵⁴

Viewed in this light, Measure 110 is an example of an initiative that took an incremental step toward prioritizing racial justice in drug reform. It was part of a broader national effort to center racial justice in the fight against the war on drugs because of the harms that punitive policies have caused to marginalized communities. But as often happens to initiatives or leaders that attempt to implement progressive social change, Measure 110 was met with smear campaigns and misinformation. Those racist tactics, combined with bureaucratic inefficiency, turned Measure 110 into another cautionary tale in a lineup of failed drug-reform efforts.

CONCLUSION

Today, drug-reform advocates face countless converging challenges, from climate change to homelessness. In the midst of this polycrisis, advocates have

52. Schick & Wilson, *supra* note 37.

53. Dan Baum, *Legalize It All*, HARPER’S MAG. (Apr. 2016), <https://harpers.org/archive/2016/04/legalize-it-all> [<https://perma.cc/L67B-LS5M>].

54. See *Drug Overdose Death Rates*, NAT’L INST. ON DRUG ABUSE (Aug. 2024), <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates> [<https://perma.cc/W77F-4SQ5>]; see also *Opioid Overdose Deaths by Race/Ethnicity*, KAISER FAM. FOUND., <https://www.kff.org/other/state-indicator/opioid-overdose-deaths-by-raceethnicity/?dataView=1&activeTab=graph¤tTimeframe=0&startTimeframe=4&selectedDistributions=white--black--hispanic--asian&selectedRows=%7B%22wrapups%22:%7B%22united-states%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> [<https://perma.cc/7MUQ-M3TV>] (showing racial disparities in opioid-related deaths between 2018 and 2022).

made swift progress in some domains—but they have also experienced significant setbacks, as Oregon’s brief brush with decriminalization attests.

The common theme in this Collection is an underlying shift away from punishment as a solution to drug use toward a human-centered or public-health approach to drug use. As drug-reform advocates and stakeholders begin to translate these ideas into action, they must be able to anticipate potential roadblocks and generate buy-in from state and local leadership to maximize the success of future drug-decriminalization measures. And in the future, when there is another initiative like Measure 110, voters will hopefully choose the story of drug-reform progress over the story of backsliding and criminalization. By embracing harm reduction instead of relying on the same punitive policies that have failed Americans for the last fifty years, we can achieve crucial gains instead of incurring persistent setbacks.

Ifetayo Harvey is the Executive Director of the People of Color Psychedelic Collective, which is based in New York City. She is a graduate of Smith College and a native of Charleston, South Carolina. She is grateful to her parents, Dianne Freeman Swain and Dexter Harvey, her siblings, and the Yale Law Journal editors.