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# *From "Single-Track Punishment" to "Dual-Track Coordination" — An Integrated Pathway of Legal Regulation and Public Health Intervention in Drug Governance*

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***Abstract.*** The governance of drug offenses has long been confronted with the challenge of balancing criminal justice interventions and public health approaches. Traditional criminal law-centered regulatory models face limitations such as the risk of overcriminalization, labeling effects, and resource allocation pressures when addressing addictive behaviors. From a legal policy perspective, this article proposes a governance framework consisting of "targeted stratification—diversion—continuity of care." Through a comparative analysis of Portugal's decriminalization system and the U.S. drug court model, it demonstrates the institutional experience of coordinating legal regulation and public health systems. The study argues that such coordination helps balance public safety and individual health, offering institutional insights for refining China's existing drug governance system.

***Keywords:*** drug governance, coordinated governance, public health, decriminalization, drug courts

## 1. Introduction

Drug issues have long been recognized as a global and complex social problem with both criminal justice and public health dimensions. In traditional governance models, states have primarily relied on criminal law to maintain public order and social security by suppressing drug production, trafficking, and possession. However, research on drug dependence indicates that drug use is not merely an illegal act but is also closely related to mechanisms of addiction, psychological factors, and social environment. Governance models that rely solely on punitive measures face numerous practical challenges.

In civil law systems, drug offenses are often defined as abstract endangerment offenses, whose illegality is based on potential risks to public health and social safety. This definition may expand the scope of criminal law and upset the balance between public and individual interests. Moreover, for drug-related behaviors involving addictive factors, reliance on incarceration does not necessarily reduce recidivism rates. Instead, IT consumes significant criminal justice resources. According to labeling theory, criminal proceedings may impose long-term stigmatization on individuals, subjecting them to greater restrictions in employment, social interaction, and other areas, reinforcing

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deviant identities and increasing the likelihood of reoffending [1]. When the collateral consequences of punishment deviate from its specific preventive function, it becomes necessary to reconsider the proper boundaries of criminal law in drug governance—a space where public health interventions can play a significant role.

This study employs a combination of normative analysis and comparative case studies to propose a governance framework of "targeted stratification—diversion—continuity of care." Through a comparative analysis of the Portuguese and U.S. cases, it explores the institutional conditions for coordinating legal regulation and public health intervention. Theoretically, this study aims to enrich discussions on coordinated governance in drug policy research; practically, it seeks to provide a reference for building a governance model that balances public safety and individual health.

## 2. The complementary value of public health intervention

### 2.1. Addiction medicine perspectives and therapeutic jurisprudence

Medical research indicates that drug dependence is a chronic condition involving neurobiological mechanisms, shaped by a combination of individual psychological states, social environments, and biological factors [2]. Punitive measures alone are often insufficient to alter addictive behaviors effectively, which is why an increasing number of countries have begun integrating treatment into their drug control legal frameworks. In therapeutic jurisprudence models, drug users are often regarded as having multiple identities—patients, victims, and offenders—requiring a balance between legal constraints and medical interventions. Through measures such as medication-assisted treatment, psychological therapy, and behavioral interventions, relapse risks can be reduced to some extent, thereby enhancing the effectiveness of specific prevention.

### 2.2. Harm reduction principles and social reintegration support

Public health interventions focus not only on individual treatment but also emphasize the critical role of social environments in facilitating behavioral change. Measures such as family support, employment training, and community services can help individuals with substance use disorders gradually restore their social functioning, thereby reducing the risk of reoffending. Such social reintegration-oriented policies help mitigate the labeling effects associated with punishment and achieve risk control over a longer timeframe. Harm reduction theory posits that policies should focus on reducing the health and social harms associated with drug use since it is currently realistic to eliminate drug use entirely. Public health measures hold unique advantages in this regard.

### 2.3. The core value of coordinated governance

Overall, legal regulation and public health intervention are not substitutes for one another but play complementary roles at different levels: the law curbs drug supply and maintains public order through its coercive power, while public health interventions reduce health risks and social harms on the demand side through therapeutic approaches. The essence of their coordination lies in the institutional integration of two distinct logics. Embedding comprehensive health assessments within criminal procedures, while retaining judicial oversight in treatment measures, creates a dual-faceted governance approach. This avoids both the labeling dilemmas associated with purely punitive models and the risk of regulatory ineffectiveness that may accompany purely welfare-oriented pathways, thereby striking a dynamic balance between public safety and individual health.

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## 3. Comparative case study

This study selects Portugal and the United States as comparative cases. Portugal's 2001 decriminalization reform made it the first EU country to decriminalize the personal possession and use of all drugs, reflecting a "health-first" governance approach. The United States, following the "war on drugs" of the late 1980s, began exploring drug court models, embedding health interventions within the criminal justice framework, representing a "law-first" approach to coordination. These two countries occupy opposite ends of the governance spectrum regarding drug offenses, and their experiences offer valuable insights for exploring mechanisms that coordinate legal regulation and public health intervention. Based on this, this article proposes a "targeted stratification—diversion—continuity of care" framework for comparing the two countries' practices and exploring feasible pathways to coordinated governance.

### 3.1. The portuguese case

Portugal's Law No. 30/2000 established a targeted stratification mechanism centered on "quantity presumption." The law sets "ten days' personal use" as the presumptive standard for distinguishing between supply and demand sides: possession below this threshold is presumed to be for personal use and enters the health intervention pathway; possession above this threshold is presumed to involve trafficking and enters criminal proceedings [3]. Police may override the quantity presumption based on other circumstances, such as packaging or cash carried. This design ensures that drug supply-side behaviors remain subject to strict criminal enforcement, while demand-side drug users are treated as patients rather than criminals, transferred to the administrative offense category and handled by the Commissions for the Dissuasion of Drug Addiction (CDTs).

In the diversion process, Portugal established a three-stage structure of "police screening → commission assessment → diversion." Police determine whether an offense falls within the personal possession category. Where trafficking is suspected, the case enters criminal proceedings. For personal possession, it is referred to the CDT. The CDT is managed by the Ministry of Health rather than the Ministry of Justice, reflecting the core philosophy of treating drug use as a public health issue. Its members include legal, medical, and social work professionals, with the primary responsibility of investigating whether the drug user is dependent and deciding on punitive, assistive, or therapeutic measures based on the degree of dependence, circumstances of consumption, and economic situation [4]. Drug users are classified into three categories: occasional or low-risk users receive a warning; medium-risk users are advised to participate in community education programs; high-risk users are advised to receive professional treatment. The commissions' recommendations are not mandatory, but individuals who refuse may face administrative fines or license restrictions. Overall, between 1999 and 2003, the number of people receiving medication-assisted treatment increased from 6,040 to 14,877—a 147% increase—while the proportion of drug offenses in the prison population fell from 44% to 21% [5]. This demonstrates that Portugal's diversion mechanism effectively transfers drug users from the criminal justice system to health intervention channels.

However, Portugal lacks continuity of care mechanisms after drug users enter treatment and upon completion of treatment. First, there is a lack of ongoing follow-up and case management during the treatment process. After the CDT refers drug users to treatment facilities, the law requires quarterly reporting on treatment status to the commission. However, this reporting only confirms "whether in treatment," lacking professional assessment of treatment quality and progress. Unlike the U.S. drug courts, which establish a case management system under judicial supervision lasting 12–18 months,

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Portugal lacks multidisciplinary teams to conduct comprehensive follow-up assessments. After the process, drug users exit the system's view entirely until their next arrest. Second, there is a lack of post-treatment social reintegration support. Portugal's continuity of care ends with treatment completion; there is no systematic follow-up assistance mechanism for issues such as how to return to society or the job market after treatment, which may lead to social exclusion and stigmatization, thereby increasing the likelihood of drug use and reoffending.

Since implementing decriminalization in 2001, Portugal has achieved significant results: the number of people who inject drugs has decreased by over 40%, and the proportion of drug offenses in the prison population has fallen from 44% to 21%, while reallocating judicial resources to the public health sector has achieved fiscally neutral reform [6,7]. This experience shows that clear targeted stratification is the foundation of coordinated governance. Using quantity presumption to distinguish between supply and demand sides provides a clear operational basis for subsequent diversion. However, clear stratification and diversion alone are insufficient for effective coordination. The lack of continuity of care mechanisms results in drug users lacking ongoing follow-up during treatment and failing to receive social reintegration support after treatment. This is precisely the area where the Portuguese model needs strengthening.

### 3.2. The U.S. case

Since the late 1980s, the U.S. prison population has grown explosively, prompting exploration of drug court models in the 1990s. The U.S. maintains strict criminal enforcement against drug supply-side behaviors, while adopting a "selective diversion" strategy on the demand side, diverting some eligible drug users to drug courts as an alternative to traditional criminal proceedings.

In terms of targeted stratification, the U.S. model relies heavily on judicial discretion, and the lack of uniform state laws leads to significant variation in adjudicative standards. Unlike Portugal's quantity presumption approach, U.S. stratification standards rely heavily on case-by-case discretion by prosecutors and judges; the same drug-related conduct may lead to different admission outcomes in different states [8]. The drug court admission process involves multiple decision points and gatekeepers, including formal and informal eligibility criteria, forming a complex screening mechanism. This double fluctuation, deriving from interstate legal differences and judicial discretion, leads to significant regional disparities and concerns about fairness.

U.S. drug diversion is characterized by a "dual-track" system: some individuals remain in the traditional criminal justice system facing conventional prosecution and incarceration, while eligible defendants are diverted to drug courts to receive treatment under judicial supervision. Drug courts aim to reduce recidivism and substance abuse by subjecting defendants to judicially supervised substance abuse treatment. Participants typically attend regular review hearings before a judge for 12–18 months, undergo weekly drug testing, and progress through clearly defined stages with a team consisting of a judge, treatment provider, and probation officer assessing their progress. Treatment progress, in turn, directly affects sentencing or probation decisions.

U.S. drug courts have established a relatively mature continuity of care system. Multidisciplinary team collaboration is a hallmark of drug courts, with team members including practitioners from the criminal justice system, mental health services, and addiction treatment services. They work together to integrate community resources, providing support to participants and their families while maintaining accountability [9]. Many drug court participants lack the basic foundation for community reintegration; therefore, providing supportive services helps achieve "whole-person treatment" rather than merely treating addiction [10]. Supportive services encompass housing assistance, education and vocational skills training, childcare, and parenting support. Participants

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who receive such supportive services spend fewer days in treatment after drug court, have higher employment rates, and lower recidivism rates [11]. Federal funding guidelines explicitly include such support services as core functions of drug courts.

Mature diversion and continuity of care mechanisms can effectively help participants achieve recovery and social reintegration. However, the heavy reliance on judicial discretion in targeted stratification leads to inconsistent admission standards and interstate disparities, compromising fairness and coverage. The U.S. experience demonstrates that diversion and care require uniform stratification standards as a foundation; without them, universal coverage is difficult to achieve.

In summary, Portugal's experience demonstrates that clear targeted stratification alone is insufficient for effective coordination. The U.S. experience demonstrates that mature diversion and care mechanisms require uniform stratification standards as their foundation. Examining the two countries' cases side by side reveals a significant complementarity between their experiences, precisely illustrating the internal logic of the "targeted stratification—diversion—continuity of care" framework: targeted stratification is the foundation of coordinated governance, diversion is its key, and continuity of care is its guarantee—three indispensable elements.

## 4. Implications for China

China has established a "full-chain regulation + diversified treatment" drug rehabilitation model, forming a system of five parallel measures: community-based rehabilitation, compulsory isolation rehabilitation, community-based recovery, voluntary rehabilitation, and medication-assisted treatment [12]. This model recognizes drug users as having multiple identities—offenders, victims, and patients—reflecting a people-centered legislative philosophy, and has achieved notable results in curbing drug spread and rehabilitating drug users. However, compared with the "targeted stratification—diversion—continuity of care" framework and the case study findings, China's model still has room for improvement in the professional coordination of diversion and the social reintegration support of continuity of care.

Lack of cross-sector comprehensive assessment platforms. The five current measures are implemented by different entities—township governments, public security organs, health institutions, etc.—creating a pattern of "multiple jurisdictions, segmented responsibilities" [13]. Due to the lack of effective coordination among departments, grassroots areas generally lack the human, financial, and material resources to ensure the implementation of community-based rehabilitation, let alone to guarantee professional guidance, supervision, and evaluation throughout the rehabilitation process. Consequently, it is difficult to comprehensively assess drug users' addiction status, social dangerousness, and rehabilitation needs. Diversion decisions often rely on "frequency standards" rather than "needs-based standards," leading to mismatches between intervention measures and individual needs. Drawing on Portugal's information-sharing mechanism between the CDT and treatment facilities, or the U.S. drug court's multidisciplinary case conferencing system, a cross-sector information-sharing platform and comprehensive assessment platform involving public security, health, civil affairs, and human resources departments could be established. This would enable a shift from "frequency standards" to "needs-based standards" and achieve dynamic management throughout the entire process from detection and assessment to treatment and social reintegration.

Lack of institutionalized social reintegration support systems. Current compulsory isolation rehabilitation overemphasizes punishment and correction while relatively neglecting treatment and education, with psychological rehabilitation remaining weak. As individuals in rehabilitation are isolated in closed facilities and disconnected from their families, it is difficult for them to keep pace

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with social information and developments, making it very challenging to reintegrate into family and society upon release [14]. Employment assistance and skills training have not yet been explicitly incorporated into the legal framework of rehabilitation, leaving individuals completing rehabilitation without systematic transitional support. Drawing on the U.S. drug court model, which integrates employment support, skills training, and housing assistance as core functions, social reintegration support services should be clearly defined as legal components of drug rehabilitation. Existing rehabilitation facilities could be transformed into "social reintegration support centers," providing comprehensive services such as transitional employment, skills training, and psychological counseling for individuals completing rehabilitation.

## 5. Conclusion

This article, from a legal policy perspective, proposes a governance framework of "targeted stratification—diversion—continuity of care." Through a comparative analysis of Portugal and the United States, it demonstrates the institutional logic of coordinating legal regulation and public health intervention. The study shows that single-punishment models cannot adequately address the complexity of addictive behaviors. In contrast, coordinating between the two approaches—maintaining strict criminal enforcement on the supply side and embedding treatment and social support on the demand side—helps achieve a dynamic balance between public safety and individual health. Portugal's experience demonstrates that clear targeted stratification is the foundation of coordination, while the U.S. experience shows that mature diversion and care mechanisms require uniform stratification standards as support. The complementarity between the two countries' experiences precisely confirms that the three elements—targeted stratification, diversion, and continuity of care—are indispensable.

However, this study is primarily based on normative analysis and case comparison, lacking empirical data on outcomes. Future research could be deepened through methods such as surveys and policy pilot evaluations. Additionally, future studies could explore localized adaptation of this framework by combining lessons from foreign institutional experiences with China's domestic legal environment and social resources.

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