DRUG POLICY IN THE ANDES

SEEKING HUMANE AND EFFECTIVE ALTERNATIVES

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Foreword

The threat posed by drugs, delinquency, and organized crime is one of the most serious challenges that Andean democracies face today. Although efforts to counter the problem have made some inroads, many obstacles remain.

The Carter Center and the International Institute for Electoral Assistance (International IDEA) have supported a dialogue forum among prominent citizens from the five Andean countries and the United States. The members of the forum have noted with concern how drug policy has monopolized the diplomatic and economic agenda comromracies

Table of Contents

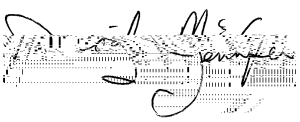
3.6 Explore options for developing legal, regulated cannabis markets

3.7 Implement an “alternative livelihoods” approach to reducing the cultivation of crops for illicit markets and end aerial and manual forced eradication

3.8 Respect the traditions and practices of local cultures: recognize the traditional, cultural, medicinal and other attributes of plants such as the cult C4'o9m2ipnal and other attributeaal,

Preface and Acknowledgements

Lanusse coordinated the working group on drug policy and assisted the authors. Additionally, María Inés Calle, Barbara Fraser, David Traumann, Enrique Bossio, Kelley Friel, Carolina Teillier, Ruperto Pérez Albela and Richard Gaines all provided valuable support during the production phase of the report.



Executive Summary

The Andean-U.S. Dialogue Forum, which is supported by The Carter Center and the International Institute for Democracy and Electoral Assistance (International IDEA), met in 2010 and 2011 with the participation of 35 prominent citizens who are involved in various social processes and the shaping of public opinion and dialogue with governments. Participants came from a variety of sectors in six countries (Bolivia, Colombia, Ecuador, Peru, the United States and Venezuela). The working group on drug policy and organized crime was established at the first meeting of the Forum and implemented a plan for national consultations through meetings, events and interviews in the five Andean countries, to analyze drug policy successes, failures and alternatives. Two members of the working group, Socorro Ramírez and Coletta Youngers, were asked to develop a report as a contribution to the current discussion of the issue and efforts to develop effective, humane policies.

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Fifty years after signing the United Nations Single Convention on Narcotic Drugs, and 40 years after the U.S. government de72d anr

The regional dynamic has changed with the "left turn" that has occurred in the majority of South American countries, as well as the diversification in these countries' international relations. Countries are seeking their own platforms, such as the Andean Community (CAN) and the Union of South American Nations (UNASUR), to discuss policies and respond to priority issues on the international agenda.

The limitations of the current drug policy is causing increasing frustration, leading policy makers, experts and activists in the region to seek new strategies to contain the escalation of illicit markets and minimize the harm done to people, communities and states by drug production and use.

The work of the Latin American Commission on Drugs and Democracy and of the Global Commission on Drug Policy has begun to break the taboo that has blocked progress in discussions of policy assessment and alternatives. In the present report, the authors describe a series of alternatives being considered and, in some cases, implemented in Latin America. These alternative policies are reflected in the following recommendations.

The authors recommend that governments, shapers of public opinion and civil society in the Andean countries and the United States:

1. Take the proposals of the Latin American Commission on Drugs and Democracy and the Global Commission on Drug Policy as points of departure when formulating drug policy, and launch an educational and media campaign to help remove ideological biases from the debate while promoting a more evidence-based and regional approach to drug policy.

2. Include additional state institutions (not just those related to police or military activities) in this shared task, along with the widest possible range of eminent individuals, communications media, health experts, non-governmental organizations, civil society and community organizations, churches and academics.

3. Support the Global Commission on Drug Policy's call for a deeper debate on new approaches that focus on reducing the harm caused to the most vulnerable sectors of society affected by the production, trafficking and consumption of drugs, which would benefit the Andean countries in their efforts to develop humane and effective policies.

4. Take into consideration efforts to implement new policies based on specific national situations and local cultural or social circumstances.

5. Support the August 10, 2009, declaration by the governments of the UNASUR countries, in which they "recognize that the chewing of coca leaves is an ancestral cultural manifestation of the Bolivian people which must be respected by the international community."

Strengthen dialogue and agreements among the Andean countries and within the frameworks of CAN and UNASUR, and ensure the participation of civil society in these regional entities; implement UNASUR's South American Council on the World Drug Problem; and hold a regional meeting to discuss the development of a common agenda on drug policy.

Implement solid drug use prevention, treatment and harm-reduction policies that respect human rights and offer adequate care to those who need it, treat drug use as a public health problem rather than a crime, and allocate the necessary resources to achieve this goal.

Support the recommendation of the Latin American Commission on Drugs and Democracy to evaluate "the convenience of decriminalizing the possession of cannabis for personal use."

Decriminalize personal consumption, use alternatives to incarceration for perpetrators of minor, non-violent crimes, and apply humanitarian considerations to confront the devastating impact the increase of women incarcerated for drug trafficking is having on their lives, their families and their communities.

Advance towards an agreement among the Andean countries to end the forced eradication of small farmers' crops and redirect resources toward rural development.

Adopt an "alternative livelihoods" approach that involves an appropriate sequence of actions: once other sources of income are established, crops for illegal markets can be reduced. This strategy implies decriminalizing relations with small farmers, instead making them partners in the effort to foster integrated rural development.

Redirect law-enforcement efforts toward dismantling criminal organizations and networks linked to drug trafficking,

List of Acronyms

Bolivarian Alliance for the Americas (Alianza Bolivariana para los Pueblos de Nuestra América)

Andean Trade Promotion and Drug Eradication Act

The Andean Community (Comunidad Andina)

Inter-American Drug Abuse Control Commission (Comisión Interamericana para el Control del Abuso de Drogas)

National Council for the Fight against Illicit Drug Trafficking, Bolivia (Consejo Nacional de Lucha contra el Tráfico Ilícito de Drogas)

National Council to Control Narcotics and Psychotropical Substances, Ecuador (Consejo Nacional

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G8	The eight most industrialized countries in the world (Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States). The G8 was replaced by the G20 in 2009.
HIV	Human Immunodeficiency Virus
IDPC	International Drug Policy Consortium
INCB	International Narcotics Control Board
INCSR	International Narcotics Control Strategy Report
NGO	Non-governmental Organization
OAS	Organization of American States
ONA	The National Anti-Narcotics Organization, Venezuela (Organización Nacional Antidroga de Venezuela)
ONDCP	Office of National Drug Control Policy, United States
PAHO	Pan-American Health Organization
TNI	Transnational Institute
UDESTRO	Corporation for Economic and Social Development in the Tropics (Unidad de Desarrollo Económico Social del Trópico, Bolivia)
UN	United Nations
UNASUR	Union of South American Nations (Unión de Naciones Suramericanas)
UNDCP	United Nations Drug Control Programme
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WOLA	Washington Office on Latin America

Introduction

The Andean-U.S. Dialogue Forum, with support from The Carter Center and the International Institute for Democracy and Electoral Assistance (International IDEA), held a

evaluations to come out of the Andean region in 1992,[5] which provided evidence that certain tendencies were being exacerbated by the advance of the lucrative illegal drug trade, such as a persistent weakness of the state and wavering societal attitudes on the issue.[6] In addition, the report includes opinions on the situation in the region that have been put forth in other reports and research, including studies by the International Crisis Group,[7] as well as articles that appeared in the social science journal Nueva Sociedad.[8] Finally, it includes aspects of the evaluation of the "war on drugs" in the Andean countries carried out in 2009 by Juan Gabriel Tokatlian, which included each of the five Andean countries as well as Brazil, the United States and the European Union (EU).[9]

This paper is not the result of systematic research and fieldwork, as are some of the above-mentioned publications that were consulted as this text evolved; rather, it reflects the results of the

realities in the current relations between the United States and Latin America, which both stimulate progress in and create barriers to examining current strategies. Along the same lines, the contributions made by the Latin American Commission on Drugs and Democracy and the Global Commission on Drug Policy are described. Third, the authors analyze the degree of international openness surrounding the discussion of alternative policy proposals and offer examples of efforts to apply harm reduction policies in Europe, the United States and Latin America. Finally, a number of specific recommendations are made, which are directed towards governments, the media and civil society in the Andean sub-region and in the United States.

1 Andean assessments

The increase in the demand for drugs in the United States after the Vietnam War and its subsequent expansion to other parts of the world created supply-side opportunities in some Andean countries, first for cannabis and later for cocaine and, to a lesser extent, heroin. Indigenous communities have cultivated coca for ritual, cultural and medicinal uses since time immemorial. However, the economic, institutional and social conditions in the sub-region were conducive to cultivation of the crop for the manufacturing and trafficking of drugs.

In response to the increase in drug use in the United States, the Nixon Administration launched the “war on drugs” in 1971. Since then, Washington has carried out a policy of eradication and crop substitution, interdiction of shipments and criminalization of consumption. In 1986, President Ronald Reagan officially stated that illicit drugs constituted a threat to U.S. national security, and in 1989, President George H. W. Bush launched the “Andean Initiative,” which increased U.S. aid to the military and police in “source” countries Bolivia, Colombia and Peru. At the same time, the U.S. Congress tapped the Department of Defense as the “lead agency” in charge of detecting and monitoring illicit drug shipments to the United States. Although not everyone in the Pentagon agreed with the expansion of its role, the war on drugs became a means of legitimizing the presence and influence of the U.S. Southern Command in the region after the end of the Cold War.[15] During this militarization of the war on drugs, some Andean governments expressed concern about the mission assigned to the military, which went far beyond external defense and allowed them to participate in maintaining domestic public order; they also disagreed with the increased presence of U.S. military forces in their countries and in the region in general.

For many years, the war on drugs has allowed

determine whether they are implementing the UN conventions and agreements with Washington to combat drugs.[18] The president can decertify countries that, in his judgment, have not fully cooperated in that fight, and, until changes occur in the process described below, decide whether they will be subject to any of the following sanctions: suspension of bilateral assistance, except humanitarian aid or assistance related to drug trafficking; automatic denial of loans from multilateral banks; or trade sanctions in the form of higher tariffs or exclusion from exemptions.[19] On the grounds of national interest, he can also certify or authorize the continuation of aid to countries that do not cooperate strongly enough. This “vital national interests” option eliminates the sanctions carried by complete decertification, but retains the intention of stigmatizing the country. With this mechanism, policy

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Table 1
Latin American Countries Declared “Non-cooperating”

Fiscal year	Decertification/Determination	Sanctions not imposed because of national interests waiver

Defenders of certification may have seen this as a positive step because it forced governments to implement policies that they might not have adopted otherwise.[24] Critics note that the “decertification” and subsequent “determination” processes undermine the idea of cooperation, have a negative impact on the “decertified” country[25] and provide an incentive to arrest innocent people and petty criminals to demonstrate compliance with targets set by the U.S. government.[26] For those reasons, the determination process is rejected in all the Andean countries, as the consultations and interviews carried out for this study repeatedly showed. Nevertheless, the Obama Administration has followed its predecessor’s policy much more closely in this area than on any other issue related to the sub-region.

The most notable case is that of Bolivia, which produces about 20 percent of all Andean coca crops (the rest is produced in Peru and Colombia). The government of Evo Morales has increased cocaine interdiction and implemented a strategy for controlling coca crops, taking the country’s cultural characteristics and economic factors into consideration. In response to the expulsion of the U.S. ambassador (who was accused of interfering in Bolivian affairs) from Bolivia in September 2008 and the removal of the U.S. Drug Enforcement Administration (DEA) in November of that year, Washington decertified Bolivia four times (for fiscal years 2009, 2010, 2011 and 2012, which was issued on Sept. 15, 2011). It also suspended Bolivia’s access to the Andean Trade Promotion

and Drug Eradication Act (ATPDEA); in the proposed budget for 2012, funds for interdiction in Bolivia were cut by 50 percent to US$10 million. Venezuela has been decertified six consecutive times amid political disagreements between the two countries.

1.2 Crop eradication

Forced eradication (manual or mechanical, militarized or by spraying) of coca and poppy crops was imposed as the cornerstone of the strategy to control supply, and the main criterion for measuring the compliance of the three Andean producer countries. Despite these efforts, the amount of coca cultivated there has remained above 150,000 hectares over the past eight years, according to the UN Office on Drugs and Crime (UNODC). And because of improvements in the cocaine production process made in recent years, more illicit drugs can be produced with fewer coca leaves (see Figure 1).

In Bolivia, Law 1.008 on coca and controlled substances, which has been in effect since 1988, put a ceiling of 12,000 hectares on coca grown for traditional consumption. The rest was considered excess to be eradicated. Forced eradication was initiated with economic and other assistance from the U.S. government. The expansion of the Bolivian armed forces' role in drug control increased social conflict, caused confrontations between the army and police

When he took office in January 2006, President Evo Morales—a leader of the coca growers—adopted a policy of "coca yes, cocaine no." In addition to emphasizing a consensus-based approach to reducing coca crops, the Morales Administration has continued to implement other strategies. The number of interdiction and confiscation operations has been significantly higher than under the preceding government, even after the expulsion of the DEA. Since taking office in 2006, the Morales Administration has announced its intention to replace Law 1.008 with two different laws, one related to coca and the other to drug trafficking, to call attention to the crucial difference between the natural leaf and illicit substances.

Bolivian government policies on coca production are based on recognition of the leaf's cultural and religious significance and other positive attributes, the industrialization of coca leaves for legal uses and cooperation efforts to reduce coca crops that supply the illicit market. Forced eradication occurs only rarely and in national parks and areas of expansion, where the government prohibits coca cultivation. With some exceptions, the new approach has eliminated the violence and conflict that characterized earlier eradication efforts.

The Morales government has continued a policy adopted in 2004, under President Carlos Mesa, who signed an agreement with coca growers in Chapare, allowing each family to produce a cato (1,600 square meters) of coca. There is ambiguity about the scope of this provision, because the government calculates catos by family, while coca grower organizations assume that one cato is allowed for every coca grower who is affiliated with an organization of coca producers. The monthly income ensured in this way offers an economic cushion that enables coca growers to engage in other income-producing activities. Compliance with the rule is based on a policy of "social control," which appears feasible in Chapare because of the strength of the coca growers' federations, which must monitor crops and sanction anyone who does

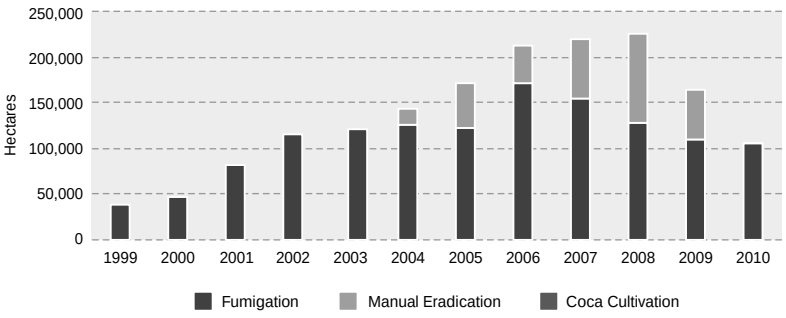
Peru has had a long history of forced eradication, with occasional interruptions. Nevertheless, the amount of coca grown in the country has been increasing steadily, reaching 61,200 hectares in 2010,

number had expanded to 23, precisely during the implementation of Plan Colombia, which emphasized spraying as a priority. Spraying in Colombia also contributed to an increase of coca crops in Peru and Bolivia and to the deterioration of relations with Ecuador, which took Colombia to the International Court of Justice over spraying near the border.

UNODC found that the total area under coca cultivation shrank by 18 percent between 2007 and 2010, while in the last decade (2000 to 2010), the decrease was 33 percent.[33] But the lack of agreement between UNODC figures for crops for illicit drug markets and those of the U.S. Office of National Drug Control Policy (ONDCP)—the data sometimes differ by as much as 20 percent—makes it impossible to determine the exact extent of the decrease and leads to contradictory conclusions. In a 2005 assessment and a 2008 report by its director, UNODC stated that there is little evidence that eradication reduces the amount of cultivation in the long run.[34] Besides an increase in productivity, factors other than eradication or spraying could explain a decrease in cultivation. In Colombia's Putumayo region, for example, "financial pyramids" helped reduce coca crops for a time, as people preferred to invest their goods or savings in those illegal schemes, which had massive payouts, and stayed in urban areas, keeping their money there.

In June 2011, the U.S. government issued its estimates of coca crops in Colombia. Figure 2 shows those statistics since 1999, the year before the start of Plan Colombia (yellow line). The bars show the amount of coca eradicated each year by spraying (red) and forced eradication (blue). According to Adam Isacson of the Washington Office on Latin America (WOLA), despite a billion dollars in U.S. aid and a massive eradication campaign, there has been little change in the coca crop.[35]

Figure 2
Coca Cultivation and Eradication in Colombia



Compiled by Adam Isacson, Washington Office on Latin America

dispersion to more remote areas to avoid detection or eradication. The effects can be measured in the destruction of forests and water sources.[36]

Pressure to suppress coca and poppy crops has led to the criminalization of the plants that provide the raw material for the production of cocaine. Coca was included in the list of the most dangerous narcotics in the 1961 United Nations Single Convention on Narcotic Drugs. In Colombia, the official advertising campaign "Don't plant the plant that kills" was broadcast widely between 2008 and 2010, until a legal case filed by an indigenous leader successfully showed that it violated the constitution and indigenous people's individual and collective rights because of the cultural importance of the coca leaf for their communities.

1.3 Crop substitution and alternative development

Coca crop substitution and so-called alternative development have been the other pillar of drug policy, but their results have been minimal, temporary or counterproductive. One leader of a coca growers' organization who was interviewed for this study complained that drug policy in Peru "is a vicious circle that, in the long run, lines the pockets of those involved in the war on drugs, but hurts the small farmer, because they eradicate his crop and the next day he has nothing to eat, because those famous alternative development projects haven't worked at all."

The three Andean countries in which coca is grown have tried various methods of eradication (including manual eradication before compensation and forced eradication without compensation) and crop substitution and alternative development programs. The vast majority of funds have been devoted to eradication and law enforcement, rather than to economic assistance, in coca-growing areas. In Colombia, for example, researchers have identified four phases during which only two methods were actually used: crop substitution as a complement to spraying (1982-1993); alternative development as both a part of the drug control strategy and a response to agrarian problems (1993-1998); reorientation of crop substitution and its inclusion in Plan Colombia (1998-2002); and crop substitution with aid conditioned on prior—complete—proven eradication (2002-2010).[37]

Whichever method has been used in the three Andean countries, crop substitution and alternative development efforts to date have done more to set eradication targets than resolve agricultural problems such as land tenure and land use, infrastructure, transportation, basic and social services, commercialization of farm products, local and regional markets, governance and citizen security. The lack of a sustainable rural development strategy that addresses rural poverty strongly contributed to the spread of coca crops for illicit markets and increased the movement of settlers, with the cutting and burning of forests for new coca crops and monocropping of export products.[38]

In initiatives designed by USAID between 1997 and 2003 for Bolivia's Chapare region, farmers could only receive assistance after crops were eradicated completely. Although most of the coca is grown by small farmers, USAID focused on export crops—such as bananas, citrus fruits, pineapple, palm and timber—from large farms that use capital more intensively than labor, and large-scale infrastructure projects (referred to as "white elephants" by local farmers), which have negative environmental impacts. It also promoted private businesses, which failed to help small farmers. In short, the projects created a few poorly paid jobs, often without benefits, and generated debt. Because of the lack of roads, transportation and markets, it was cheaper for coca

and

took shape, benefiting members of alliances that were made up, in many cases, of local businesspeople, agro-industry, financiers, paramilitaries and drug traffickers. These “productive alliances” for cropsopo.,snrs.

sentences of 12 and 25 years, respectively, for anyone accused of drug trafficking;

12. The quantity and quality of information from government sources is unreliable and irregular. In Ecuador, the 2008 prison census was a marked improvement in government data collection.

In Venezuela, according to figures from the ONA, the percentage of prisoners being held on drug charges rose from 8.89 percent in 2000 to 34.68 percent in 2008. The Venezuelan congresswoman who participated in the forum in Caracas called it a monstrosity that prisons are full of people arrested for carrying small amounts of drugs. Venezuela faces a serious crisis because of overpopulation, overcrowding, poor conditions and violence in its prisons.

Andean courts are especially overloaded with drug-related cases. Prisons are plagued by overcrowding, drug consumption, crises and corruption that allow some prisoners to continue committing crimes while in prison. Incarceration has not decreased drug trafficking, because those who are sentenced are low-level dealers (who are easy to replace), while the mid- and high-level traffickers go unpunished. Instead of decreasing, crime levels escalate: the overwhelming number of people who are sentenced have no direct connections with drug-trafficking organizations when they go to prison, but end up involved in criminal networks.

1.6 Destruction of laboratories, interdiction of traffic and control of money laundering

For many years, most of the cocaine originating in the Andean sub-region has been produced in Peru and Colombia. Studies and interviews in Bolivia show that both coca paste and cocaine hydrochloride are being produced there, and that production of the latter has increased because of changing dynamics in drug trafficking, increased consumption in Brazil and improved production processes. It is no longer necessary to dig a maceration pit or to set up a large-scale laboratory; drugs are prepared in small “kitchens” and the process requires less labor, fewer precursor substances, and less risk and time. Although Ecuador is mainly a transshipment country for illicit drugs, some interviews carried out for this study indicated that cocaine production is increasing there.

In all five Andean countries, there has been an increase in seizures of both cocaine and the precursor substances used to manufacture the drug, which could indicate increased interdiction capacity and/or a rise in drug production and trafficking. In 2009, Colombia registered the greatest interdiction of cocaine and inputs.[50] In Venezuela, seizures doubled from 30,258 kilos of cocaine and cannabis in 2000 to 60,555 in 2009.[51]

UNODC’s 2011 report states that worldwide cocaine seizures have held relatively steady, and that since 2006, seizures have shifted from consumption markets in the United States and Europe to

source areas in South America. In other words, the region's countries appear to be improving their ability to intercept illicit drugs. The report also notes that high levels of seizures could indicate a significant increase in cocaine production, because traffickers have made clandestine laboratories more efficient. UNODC acknowledges, however, that it is difficult to measure that efficiency.

The following figure (Figure 3) shows UNODC estimates of potential cocaine production in Bolivia, Colombia and Peru. Due to a review of its reporting procedures, UNODC did not present specific statistics for 2009 and 2010, but provides [illegible] 0.0000 -.0000 TD(in)Tj8.9756 0.00owever

interdiction[52] and strike at the profitability of the business.[53] But the peaks of "efficiency" in interdiction have not made a substantial dent in the cocaine supply. Even better strategies have a limited chance of success if the global demand for drugs holds steady or continues to increase. Efforts to reduce the demand for drugs should therefore take a much higher priority in all countries with a consumption problem.

1.7 Organized crime

Like a "shadow globalization," crime expands at the same rate as technology, communications and global markets. It involves various types of contraband, networks and illegal flows, such as weapons, organs, human trafficking, prostitution networks, etc. Although it is not limited to drug trafficking, it includes drugs, and drug trafficking is its main catalyst. Drug trafficking gave impetus to delinquency, organized crime and the accompanying violence—which involves gangs and hired killers, murder, extortion and arms trafficking—as highlighted in many interviews and consultations carried out for this report.

Thus it is important to have a better understanding of the relationships between violence, crime and drug trafficking in the Andean sub-region. For example, there are several interpretations of violence related to drug trafficking in Ecuador. Sandra Edwards, a research associate for WOLA and TNI, notes in an interview for this report that in Ecuador, violence among drug traffickers rarely targets ordinary citizens. Nor is there much violence by problematic drug users. Most of the violence comes from gangs organized to commit robberies, and many of those robberies are violent and involve murders. Violence that is directly related to drugs is rare, and occurs more frequently on the border, where there are turf battles among drug traffickers. On the other hand, Fernando Carrión of Flacso says the increase in violence (homicides) in Ecuador is associated with the expansion of drugs in the country. There is, however, no empirical basis for a better understanding of the situation.

In Bolivia, there is concern about the increase in drug trafficking and related crimes, particularly in Santa Cruz, as noted in some of the interviews. Because of its strategic location on the border with Brazil, the Santa Cruz region has been a drug-trafficking base since the 1980s. The situation appears to be worsening due to several factors: a significant increase in the consumption of cocaine and its derivatives in Brazil and Argentina, the increase in Peruvian cocaine passing through Bolivia, the emergence of West Africa as an entry point for drugs being shipped to Europe and the arrival of traffickers from Brazil and Colombia. Until now, small family groups, which are harder to detect, were

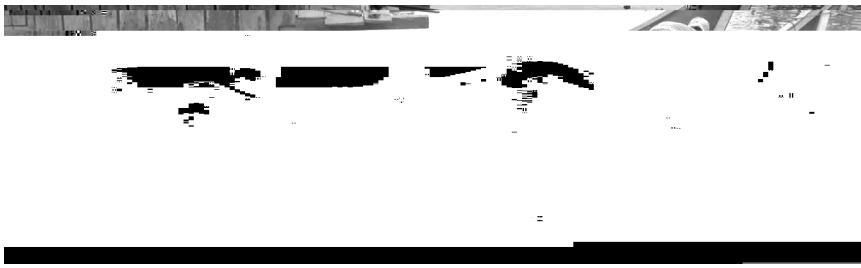
government of Alan García paid little attention to combating drug-related organized crime and reducing the high levels of corruption that allowed drug trafficking to grow.

As long as organized crime in the Andean sub-region takes advantage of all types of illicit interaction with the state (corruption in public administration; impunity; infiltration to block action by the police and the courts; and the co-opting or assassination of public officials, legislators and prosecutors), in addition to increasing crime and violence, it will end up perverting politics, destroying institutions and capturing states. There is also a "reverse capture," in which criminal operations and networks emerge from positions of power that have been co-opted by criminal groups, which then increase their control over the political system and further their private interests. That was the "narco-strategy" of Vladimiro Montesinos[55] in Peru that he managed from a position in the government, which enabled him to pull the strings of organized crime while controlling the country's drug policy. In Colombia, political, economic and security networks—along with criminal organizations—have used power, land, drug trafficking and violence to accumulate resources, to try to partly reconfigure the state, to influence elections and reelections, to paralyze political reform and to neutralize part of the actions against organized crime.[56] "War on drugs" strategies do not address the convergence of drug trafficking, paramilitarism and politics.[57]

Because they claim to be victims, rather than part of the problem, transshipment countries tend not to examine the conditions in their countries that allow the operation of networks connected to the flow of various types of illicit goods. At the forum held in Venezuela, the opposition congressman who participated stated that local conditions enabled transshipment and helped create criminal organizations, citing the case of Walid Makled, who was extradited from Colombia on May 9, 2011, at the Venezuelan government's request to face charges related to drug trafficking and organized crime. The congressman said that Makled had penetrated the state to gain an advantage in his involvement in various facets of drug trafficking—obtaining IDs from security and intelligence agencies and concessions for urea (a cocaine precursor), controlling activities in Puerto Cabello and the company Aeropostal, acquiring petroleum bonds and intervening in politics by distributing goods. The congressman therefore proposed bringing charges against public officials and private figures who facilitate drug traffickers' activities. Interviews in Peru revealed the complicity of certain sectors of the state with drug trafficking, particularly the judiciary and the armed forces. Several interviews in Bolivia mentioned the case of Gen. René Sanabria, former head of the Special Anti-Drug Forces, who was arrested in Panama for drug trafficking.

Discussion in the event on organized crime, described previously, showed that taking specific actions against money laundering or criminal gangs is not enough if ties between organized crime and political parties and those in political or economic power are not addressed. Regardless of who captures whom, the symbiosis between the state and organized crime exacerbates the weakness of the state, citizen insecurity and constraints on democracy. And although responses to transnational crime will have to be appropriate for each situation, participants insisted that in general, it is crucial to: move away from an overemphasis on military action and criminalization of the

weakest links in the chain; increase intelligence; take power away from criminal networks; break up the alliances between politics and crime; give power to communities, especially in border regions; and strengthen institutions.[58]



2 A contradictory context

Fifty years after the signing, in 1961, of the UN Single Convention on Narcotic Drugs, and 40 years after the U.S. government declared its “war on drugs,” the scenario has changed. Many studies show that there are elements of continuity, but also of change, in the situation in the hemisphere and in the debate over the failures of and alternatives to the current prohibitionist paradigm.

These new, undeniable situations are occurring in a contradictory context. This is the topic of chapter two, which is organized around three main themes: the situation in the United States, changes in Latin America, and the contributions of the Latin American Commission on Drugs and Democracy and the Global Commission on Drug Policy.

As he had promised during the election campaign, in August 2010 the Obama Administration and the U.S. Congress took an initial step with a fair sentencing law that reduced part of the sentencing disparity between users of crack (80 percent of whom are African Americans) and cocaine powder, and eliminated the mandatory five-year minimum sentence for simple possession. To fulfill another campaign promise, the State Department announced in the autumn of 2009 that it would end the harsh application of federal drug laws in states that had adopted laws legalizing cannabis use for medical purposes. Raids on therapeutic cannabis centers fall under the DEA, however, which expressed its disagreement with the measure and continued the raids, although less frequently than before. Obama also fulfilled his third campaign promise. In late 2010, he signed a law that lifted the prohibition on the use of federal funds for needle exchange and sterilized needle programs for HIV prevention.

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Those changes, however, have had little impact on actual policy implementation beyond Afghanistan. The bureaucracy that made a career out of the “war on drugs” and drug control programs is still in place. The officials responsible for eradication in Afghanistan are divided on the issue, and there has been tepid political support in Congress for the change of strategy in that country. In addition, the allocation of federal funds has not changed: three-fifths of the funding goes to controlling drug supply—including coca crops in Bolivia, Colombia and Peru—and only two-fifths to prevention and treatment programs. Official assessments of the effectiveness of U.S. drug policy are still based on arrests, seizures and incarceration, not on social, health or crime indicators.

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alternatives that are emerging in the region. Aside from the fact that President Obama is more open to dialogue, however, the United States is not demonstrating great interest in a region whose stability

Most South American governments are diversifying their relations, forging ties particularly with Asian countries, mainly with China—which has become the second most important trading partner for many countries in the region, and whose demand for natural resources has pushed up prices for raw materials exported from Latin America—but also with Russia and Iran, for economic and military reasons, or out of a desire to bolster a multipolar world. Another significant factor in the changes in Latin America is Brazil's new role in the region and the world, partly because of its size and population, but also because of its economic performance and political interest. Brazil's new role and its transformation into a strong investor in and trade partner of many countries in the region has begun to counterbalance, to some extent, the decline in U.S. presence in Latin America and has enabled

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the problem in Central America can be reduced to the displacement to that region of cartels from Mexico and Colombia as a result of Plan Colombia and the Mérida Initiative; however this simplistic explanation ignores internal factors in the sub-region that facilitate the operation of criminal organizations. That was the prevailing view at the International Conference in Support of the Central America Security Strategy, held June 21-22, 2011, in Guatemala, with the participation of all the presidents from the isthmus and from Mexico and Colombia, as well as the U.S. Secretary of State and the foreign minister of Spain.

Despite these circumstances and fears, some sectors in Mexico are seeking alternatives. In Central America, some voices insist that instead of reproducing Plan Colombia and the Mérida Initiative, it is important to identify the lessons learned from those programs. There is a growing awareness of the way in which weak states, corruption, and ties between politics and crime are conducive to the development of various types of businesses linked to organized crime, which makes those countries easy prey. In El Salvador, there has been

Andean countries that debate over drug policies or more flexible approaches could lead to increased drug use and violence and weaken efforts to combat organized crime. The growing wave of crime creates public demand for harsher policies.

There is also still widespread support for prohibitionism, which has proven resistant to change. This support is nourished

the alternatives suggested were: treating drug consumption as a public health issue, launching innovative information and prevention campaigns (especially targeting youth), focusing law enforcement actions on organized crime, reorienting repressive strategies for controlling crops, and using advanced medical science to analyze the advisability of decriminalizing the cultural use of coca leaves and the possession of cannabis for personal consumption.[72] It also recommended discussing not only alternative crops, but social development in rural areas, as well as jobs, democratic education and the participatory design of solutions.

In June 2011, the Global Commission on Drug Policy, made up of 19 members who represent various sectors from all regions of the world, and with support from scientific and advocacy networks involved in the issue, presented its report in various international forums.[73]

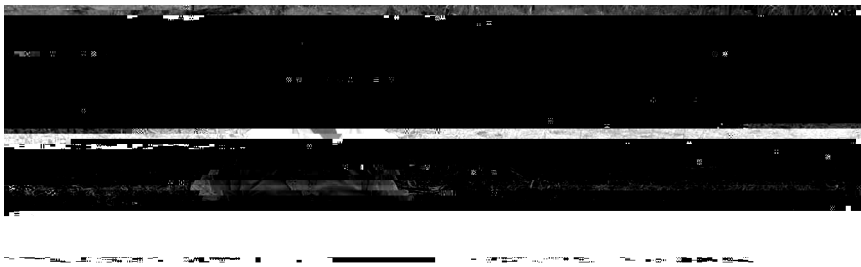
The mere existence and nature of the Global Commission, as well as the content of the report, helped revive and invigorate international debate on the issue. In the most important European, U.S. and Latin American media, there has been a proliferation of editorials and articles by public figures and columnists who have commented on the Global Commission report and examined in greater depth the failure of the global war on drugs, the consequences for individuals and societies and the need for a change in approach. The Global Commission has also received support from a wide range of professional networks, including judges from across Latin America, whose Rome Declaration of 2011 addressed public policy on drugs and human rights.

A second area in which the Global Commission has made a valuable contribution is in legitimizing the discussion of alternatives. Among the eight cases examined by the Commission and presented to illustrate its principles and recommendations are five that exemplify the negative effects of the current policies and three that show concrete progress in the design and implementation of alternatives. The latter highlight the relationship between early implementation of harm reduction and public health strategies and a decrease in HIV transmission among intravenous drug users, and effective and more humane management of problematic drug use by treating users as patients rather than criminals. The Commission also compared best practices in decriminalization, which have not increased drug use.

A third significant contribution is the Commission's recognition of the need to investigate the outcomes of both the policies implemented and the alternatives tried, to ensure that drug strategies are based on scientific evidence, rather than on ideology or political expediency. Also noteworthy is its effort to glean best practices from successful models and its call to "break the taboo on debate and reform" because "the time for action is now."

A fourth point that merits attention is the insistence that shared international responsibility for the drug problem cannot overshadow each country's political, social and cultural situation, on which drug policies must be based. It also cannot block experimentation and the development of alternatives that reduce harm and respect the rights and needs of people affected by the production, trafficking and use of drugs.

A fifth contribution is the Global Commission's leadership in stimulating widespread debate involving diverse sectors: not only those who have traditionally dominated the discussion from a security standpoint at the national and international levels, but also other governmental sectors and multilateral bodies involved in



3 The regional debate on alternatives

The failure of current drug policies to make a dent in the illicit drug trade —while at the same time generating a range of political, social and economic costs— is leading policy makers, experts and activists across the region to search for new strategies to contain the scale of illicit markets and minimize the harm caused to individuals, communities and states by drug production and consumption —and by the drug policies themselves. In the search for a new paradigm, there is a growing recognition that drug policies should be evidence based and grounded on human rights, public health and social development principles. The region's evolving paradigm no longer relies on a militarized approach stemming from national security concerns, but on public health and welfare concerns and the recognition of the need to build strong communities.

At the same time, confronting organized crime requires effective, transparent and uncorrupt law enforcement agencies. The drug issue cuts across several sectors of society; therefore a range of state and local institutions need to be strengthened, including law enforcement agencies, judiciaries, public defenders and other offices designed to protect civil and human rights, and ministries and agencies that provide services or promote economic development in poor areas. Similarly, establishing a civilian state presence in areas where coca and poppy crops are cultivated and drug production and trafficking flourishes is crucial. In short, effective drug policies are intricately intertwined with the promotion of good governance, the rule of law and equitable economic development.

This approach calls for recognition that reducing drug production and consumption is a long-term project. Too often, politicians implement short-sighted policies in order to demonstrate immediate results. In the absence of longer-term strategies, any gains that are made are quickly reversed. This approach also requires recognition of the limitations on resources and expectations (i.e., what can reasonably be achieved). As pointed out by Andean Forum member Jorge Ortiz:

> In recognizing that the problem exists, we must also be conscious that as much as we want resources to confront this problem, they will always be limited. In other words, we cannot do everything, we cannot eradicate all of the crops, we cannot stop the distribution chain, and we cannot provide services to all consumers because resources are limited. What we need to do is be efficient.

The Latin American Commission on Drugs and Democracy has, for the most part, achieved one of its fundamental objectives: the taboo on drug policy debate in Latin America is being lifted. A range of policy alternatives is being considered and, in some cases, implemented. Ten specific

of problematic drug users and the associated delinquency, and improving health indicators. In addition, treatment is less costly than incarceration.

Distinguishing between recreational and dependent drug users is important in developing sound treatment programs. The vast majority of drug users worldwide are casual users who cause no harm to themselves or others. Some dependent or problematic drug users engage in criminal behavior—such as low-level dealing, property crime or prostitution—to support their drug habit. The goal of policy makers should be to get problematic users into treatment and to implement social reinsertion strategies to ensure that they do not return to drug

unconstitutional. Various proposed laws to that effect are pending before the Argentine Parliament, and Argentine analysts believe that there is a good possibility that after the October 2011 elections, legislation will be approved that decriminalizes drug possession for personal use and allows the cultivation of cannabis for personal use. Mexico also enacted legislation in 2009 that decriminalizes the possession of very small amounts of drugs for personal use and mandates the provision of treatment and prevention programs.

In the Andean sub-region, Ecuador is the first country to constitutionally mandate treating drug consumption as a public health issue. Article 362 of the 2008 Constitution, in its section on health, states:

> Addictions are a public health problem. It is the State's responsibility to develop coordinated information, prevention and control programs for alcohol, tobacco, and psychotropic and narcotic substances; as well as offer treatment and rehabilitation for occasional, habitual, and problematic users. Under no circumstance shall they be criminalized or their constitutional rights violated.

However, since implementing legislation has not yet been enacted, the present law, which is ambiguous regarding consumption, remains in effect. Due to a reform of Law 108, it is no longer illegal to carry small amounts of drugs for personal use. This reform, however, does not define what is an acceptable amount of drugs, leaving it up to judges' subjective determinations about what constitutes drug trafficking. In Ecuador, all drug-related crimes require the immediate detention of the individual without the right to bail. Moreover, President Correa has criticized the new constitution for offering too many "guarantees" and, after having begun the process of changing the drug law as part of a broader reform of the penal code (for example, to make the punishments proportional to the crime), has backpedaled on the modification of these laws and other reforms to current drug policies in order to maintain a harder line. Therefore, the real impact of Article 362 is still not clear.

3.3 Invest more resources in evidence-based prevention and treatment programs

Preventing and treating drug dependence is a key responsibility of governments that has often been overlooked in Latin America. Private services are poorly regulated, and coercive and abusive practices are frequently carried out in the name of treatment. Government funds for prevention and treatment prog
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underscored the importance of including tobacco and alcohol in drug prevention and treatment progra

3.4 Implement legal reforms to ensure proportionality in sentencing, abolish mandatory minimum sentencing, and expand alternatives to incarceration for low-level, non-violent offenders

The comprehensive study

Abolish mandatory minimum sentences. The sentences for crimes committed in Ecuador, described previously, provide a vivid illustration of

issues of family and social reinsertion for dependent drug users and low-level offenders. According to the U.S.-based NGO Families Against Mandatory Minimums:

> Just because a certain punishment does not involve time in prison or jail does not mean it is "soft on crime" or a "slap on the wrist." Alternatives to incarceration can repair harms suffered by victims, provide benefits to the community, treat the drug-addicted or mentally ill, and rehabilitate offenders. Alternatives can also reduce prison and jail costs and prevent additional crimes in the future.[85]

Many countries in Latin America have drug laws that prohibit alternatives to incarceration for anyone accused or convicted of a drug offense. For example, Brazil's 2006 drug law specifically prohibits substituting prison with alternative sentences, even though Brazilian law allows this for other non-violent offenses, which are often very similar to drug offenses. However, in September 2010 Brazil's Federal Supreme Court ruled in favor of an appeal by a person accused of trafficking 13.4 g of cocaine, and determined that the prohibition of alternatives to incarceration as established in the 2006 law was unconstitutional and that the possibility of substituting the penalty of imprisonment should be considered on a case-by-case basis. The application of this decision may benefit other low-level traffickers and help reduce the nation's overflowing prisons.

3.5 Reorient law enforcement efforts towards medium- and large-scale drug traffickers and dismantling criminal organizations, rather than targeting consumers, small-scale farmers, low-level dealers and "mules"

As the problems associated with organized crime, including drug trafficking, continue to grow, there is an increasingly urgent need to reorient law enforcement efforts towards dismantling criminal networks. Local police tend to target low-level offenders for two reasons: 1) the need to meet arrest quotas or provide quantitative indicators to their superiors encourages them to go after those easiest to detain; or 2) low-level drug offenders, particularly those involved in robberies, are targeted as a response to community concerns about citizen insecurity and crime. However, numerous case studies show that on the contrary, reducing the focus on low-level offenders frees up scarce resources and time to allow law enforcement agencies to do the difficult detective work necessary to detain and prosecute drug traffickers. As already described, Portugal provides a good example of such an approach. The United Kingdom also adopted a policy of diverting dependent drug users, including those engaged in crimes such as property theft to support their drug habit, into drug treatment centers rather than prison. The evidence shows that this resulted in increased numbers of

Increasingly, experts agree that as long as the demand for drugs continues, law enforcement efforts will never be able to totally eliminate illegal drug markets. Hence the focus, according to IDPC, should be on “curtailing the operations of those groups and individuals who are causing the most harm to society, whether it be through the corruption of officials and institutions, violence and intimidation against law-abiding citizens, or the distortion or undermining of legitimate economic

In its February 2011 assessment of countries' commitment and ability to deter money laundering and terrorist financing, the FATF upgraded Ecuador's status in recognition of that country's development of an action plan to improve its compliance with the FATF recommendations. Bolivia is the only Andean country assessed by the FATF as not having made sufficient progress.[89] Nevertheless, the Bolivian government recently adopted Supreme Decree 0910, which includes improved control of the financial system to try to stop laundering of assets.

At the same time, it is important to recognize the limitations of aligning international legislation in order to prevent money laundering. According to Francisco Thoumi and Marcela Anzola, the "lack of congruence" among international legislative models and domestic environments has failed to obtain the desired results in Andean countries. Thoumi and Anzola point out that while international legislation focuses on the financial sector, "in those countries money laundering transcends the financial sector…a significant part of the influence of money gained money rom00 0.000022D

Ways to alleviate the complex situation of corruption include offering public financing to campaigns and sanctioning parties that include (confirmed) “narco-candidates” on their lists.[92]

The ultimate impact of all of the proposed policy reforms suggested above will be limited if intelligence gathering, interdiction or other actions are compromised by official corruption. Examples of successful efforts to combat corruption are scarce, particularly in Latin America, but rooting out such corruption is one of the most important tasks faced by all of those interested in reducing drug production and consumption.

In the United States, approximately three-quarters of a million citizens are arrested every year for simple marijuana possession, often causing significant harm to the person arrested and necessitating a huge expenditure of funds by the criminal justice system. As states face tighter

3.7 Implement an “alternative livelihoods” approach to

and

viable and sustainable livelihoods and that interventions are properly sequenced."[104] Once alternative sources of income are available to small farmers,

in Bolivia in 2007; 30,500 in 2008; 30,900 in 2009; and 31,000 in 2010. And it has achieved this without the high social, economic and political costs of forced coca eradication.

3.8 Respect the traditions and practices of local cultures: recognize the traditional, cultural, medicinal and other attributes of plants such as the coca leaf in international conventions

Andean peoples have consumed the coca leaf for centuries. Coca chewing is an integral part of traditional and religious ceremonies and it has many beneficial attributes, such as helping to alleviate the symptoms of high altitude, cold and hunger. It is a mild stimulant and has nutritional value. Matede coca, or coca tea, is widely consumed. Coca chewing is popular in middle class, urban areas of Bolivia and in northern Argentina. In Bolivia, Peru and Colombia, a variety of coca-based products are available, including soft drinks, coca flour (used for making bread and muffins) and lotions and creams.

Nonetheless, the 1961 Convention on Narcotic Drugs includes coca in its List 1 of dangerous narcotics, along with cocaine and heroin. Moreover, article 49 states that "coca leaf chewing must be abolished" within a 25-year period (which expired in 1989). The position taken by the international community at the time was based on the findings of the UN's 1950 Coca Leaf Enquiry Commission. Its report was later criticized as racist, inaccurate and culturally insensitive.[107] The position was subsequently debunked by scientific research showing that consumption of the coca leaf in its natural state can in fact be beneficial.[108] The 1988 Trafficking Convention sought to address this error by stating that any measures "shall take due account of traditional licit uses," but at the same time limited its application by stating that this could not undermine obligations assumed under previous treaties. As a result, the International Narcotics Control Board (INCB) continues to berate countries such as Bolivia in its annual reports for allowing the continued licit use of the coca leaf.

Since 1961, the UN has also promoted much stronger protections for indigenous and cultural rights. Article 31 of the 2007 UN Declaration on the Rights of Indigenous Peoples states that "indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions." In May 2009, the Permanent Forum on Indigenous Issues, an advisory body

IDPC points out that: “Peru has always maintained a legal coca market and the National Culture Institute declared coca chewing as immaterial cultural patrimony in 2005. Colombia allows traditional use of coca in its indigenous reserves and Argentina also legally recognizes coca leaf use and protects the rights of its consumers.”[110] However, Bolivia is the first country to enshrine recognition of the importance of the coca leaf in its national Constitution. Its 2009 Constitution declares coca to be a “cultural patrimony” and stipulates a period of four years for the government to “denounce and, in that case, renegotiate the international treaties that may be contrary to the Constitution.”

In 2009, the President of Bolivia sent a letter to the UN Secretary-General requesting an amendment to the Single Convention by removing Article 49, which obligates an end to the practice of coca leaf chewing. If no countries objected overj17.517

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3.9 Adopt new measures for evaluating success, based on human development and socio-economic indicators

The 1961 UN Single Convention on Narcotic Drugs states that the ultimate objective of the international drug control regime is the improvement of the “health and welfare of mankind.” Yet that is not how drug policies are evaluated. At the present time, the “success” of counter-drug efforts is measured in terms of activities or processes: the number of hectares of coca eradicated, the number of cocaine processing labs destroyed, the number of drug traffickers arrested, the amount of cocaine seized and the like. While such indicators may show the extent to which countries or agencies are engaged in counter-drug programs, they do not illustrate the impact of policies or programs on the drug trade or on the “health and welfare of mankind.” A new paradigm is needed for measuring the performance of drug policy strategies.

For several decades now, the U.S. government has relied on such statistics for determining whether or not countries are cooperating with U.S. drug control goals. Both ee0 TD20.381900.665000 TD(goals.)Tj25.4M2

3.10 Democratize the debate by involving a broad cross-section of society

Historically, drug policy-related decisions have been made by a small group of executive, military and police officials, with the limited involvement of legislatures. The focus on a supply-side approach to drug control has resulted in a situation in which, more often than not, officials involved in social and health programs are not included in decision-making processes or planning for drug control programs. Perhaps of greatest concern, the United States and other governments have often discouraged participation by civil society organizations and even local communities. As a result, the small farmers who grow coca or poppy have been stigmatized to the point where their participation in designing effective crop reduction strategies is now all but impossible, with the exception of Bolivia. The lack of transparency surrounding counter-drug programs and operations, particularly with regards to U.S. economic, law enforcement and military assistance, further thwarts the involvement of members of Congress and civil society organizations in drug policy debates.

The kind of information that is disseminated by much of the media on drug policy-related issues has further stifled reasonable debate; reporting is often sensationalist and emphasizes violence with graphic images. Far too often, reporters who are willing to investigate the intricacies of the workings of criminal organizations or their collaboration with state agents are threatened and killed. Countries such as Argentina and Ecuador, which have proposed significant drug policy reforms, have faced serious political opposition—often supported by the mainstream media—as the drug policy debates are caught up in bigger ideological battles. Both those advocating reforms and those wedded to present policies tend to have strong views and therefore experience difficulty in communicating effectively with one another.

Fortunately, this situation is changing; space is opening up for meaningful debate on drug policy issues, and civil society actors are playing an increasingly active role in that debate. Of particular significance in the region is the work done by the Latin American Commission on Drugs and Democracy, which has sought input from drug policy experts and NGOs, creating linkages between the members of the Commission and people working on drug policy issues on the ground. The Global Commission on Drug Policy also adopted this model, and has sought significant input from a range of groups and actors. Through the work of these two commissions, more and more high-profile individuals from across the political spectrum are advocating more humane and effective drug policies. In Latin America, a drug reform movement has taken root, as more NGOs and coalitions have begun working on these issues or have been created precisely for this purpose.

Too often, the drug policy debate has been cast as a choice between legalization and zero-tolerance-oriented prohibition. Yet the growing discussion in the region on drug policy issues reveals that there is a range of options that falls in between, all of which should be on the table for

discussion. Many of

The results of alternative health- and rights-based approaches should be examined with an open mind, not from a perspective marred by prejudices and fear. Some governments and societies have dared to experiment with new policies designed to reduce the risks related to drug production and consumption—with encouraging results. We recommend taking into account these attempts to adopt policies based on specific national situations and local cultural or social circumstances.

Nature must not be the object of moral value judgments that define the existence of good or bad, legal or illegal plants. In 2009 Bolivia proposed an elimination of the 25-year prohibition (which expired in 1989) of the ancestral indigenous practice of chewing coca leaves from the 1961 UN Single Convention on Narcotic Drugs. As this proposal appeared to be

person than the consumption itself. More than three decades later, movements in the United States and Latin America are gaining momentum in favor of reforming cannabis laws. We recommend supporting the proposal of the Latin American Commission on Drugs and Democracy to evaluate the “convenience of decriminalizing the possession of cannabis for personal use.”

Prisons in the region are filling up with drug carriers or small distributors who have received extremely long sentences, many of whom end up becoming dependent users involved in crime while in prison. We recommend decriminalizing personal consumption, applying proportionality to prison sentences, and implementing alternatives to incarceration for minor, non-violent offenders. Furthermore, we recommend applying humanitarian considerations to confront the devastating impact the increase of women incarcerated for drug trafficking is having on their lives, their families and their communities.

The forced eradication strategy, and fumigation in particular, has not had sustained results and is counterproductive and socially and environmentally harmful. It has also affected relations between countries that share borders. We recommend advancing towards

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13. The symbiosis between the state and organized crime deepens institutional weakness and insecurity and constrains democracy. We recommend protecting democratic institutions from the corrosive influences of illicit political financing from drug trafficking by leveling the electoral playing field through measures such as public financing for parties and candidates, financial transparency during campaigns and sanctions against parties that include confirmed “narco-candidates” on their tickets.

End notes

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The meeting, called by Eleazar Díaz Rangel as part of the fora held by the newspaper Últimas Notícias, brought together top-level government officials responsible for drug policy (General Néstor Reverol, Vice-minister of Citizen Security), the Venezuelan Congress (deputies Iris Varela and Julio Montoya), the Office of the Attorney General (Leoncio Guerra, director of the Office against Organized Crime), public organizations (Rafael Sánchez, president of the José Félix Ribas Foundation), academia (Hernán Matute Broncés, coordinator of the Drug Prevention at the Caracas Pedagogical Institute), and social organizations (Mary Mogollón, president of the Comecuid Metropolitan Commission, which works on drug use prevention and the education and treatment of drug users).

From the Carter Center: Richard Gaines, Katiuska Lourenço da Silva, Joel Covelli and Emily Cohen; from WOLA: Adam Schaffer.

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