GLOBAL COMMISSION ON DRUG POLICY

POSITION PAPER

DRUG POLICY IN COLOMBIA

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FOREWORD

Few countries experienced the violence Colombia went through in the 20th century, from civil wars to internal conflicts. Few countries have been able to build, in such circumstances, modern institutions and democratic rule of law. In the midst of multilayered conflicts, Colombia was not able to exert sovereignty over its own drug policies, mainly due to the regionalization of conflicts, aggressive drug trafficking, continuous pressure from the United States government to eradicate coca crops, and an insatiable demand of cocaine from consuming illegal markets.

According to United Nations data, more than 90 percent of the coca leaf grown in Colombia is manufactured into cocaine and exported around the world, the primary demand originating in the United States and Europe. In an illegal global market worth billions of dollars, Colombia's revenues from cocaine represent slightly more than 1 percent of the global market, according to the Organization of American States. Yet even that relatively small income, along with other factors explored in this paper, have succeeded in corrupting institutions, influencing policy and elections, degradating the rule of law, displacing millions of people and costing the lives of thousands.

Organized criminal groups and paramilitary groups have infiltrated the many levels of power, illegally buying complicity within institutions and willing individuals. As elsewhere in Latin America, it can be difficult to tell where the state intervention ends and the power of non-state actors begins.

Colombia is perhaps the longest running example of the failure of prohibition-based policies and their tendency to cause harm. According to the US Drug Enforcement Agency, Colombia is by far the country with the most cocaine interdictions. The police and soldiers undertake more than 170,000 operations every year against growers, small-scale dealers and people who use drugs. These operations account for only three percent of total interdictions, demonstrating that Colombia is utilizing its armed and police forces on small-scale distributors, making a miniscule dent in the international market while representing a heavy load for its security forces and criminal justice system.

Colombia has also faced external pressure to improve security, increase stability, and reduce corruption. Increased military aid, through initiatives such as Plan Colombia, has increased mobility in some areas of the country, provided security to certain sectors of the population, and strengthened one of the largest militaries in the region, yet with little impact on the global cocaine trade.

The 2016 Peace Agreement offered hope that a new era was on the horizon, but a shift in political power and thus political will has meant implementation has been uneven and primarily unsuccessful, paired with the limitations of prohibition itself. Colombia continues to experience a human rights crisis, with hundreds of social leaders assassinated primarily for their participation in the peace process and their support of the voluntary crop substitution program. While the reasons are diverse, including revenge, land issues and simple repercussions of human rights work, since 2016, more human rights defenders have been killed in Colombia than in any other country in Latin America, according to UN human rights experts.

The situation has become unacceptable. For this reason, we, together with our colleagues at the Global Commission on Drug Policy, decided to provide our first country-specific position paper, with our own analysis of the drug policy crisis in Colombia and recommendations on how to achieve better results. This paper describes the current legal and political situation related to drug control and analyzes possible paths towards drug policy reform while contextualizing the Global Commission on Drug Policy's recommendations for Colombia.

There is an urgent need for a paradigm shift in the country. Regulation is a means to strengthen institutions, whereas prohibition has weakened them. The costs of the war on drugs have been detailed in numerous reports by the Global Commission. Colombia is one of the countries most harmed by the punitive prohibitionist paradigm. Colombia cannot continue down a path on which violence related to the current drug control regime is threatening the future of young people, is actively violating human rights, threatening peace building and undermining the economic potential of the country. Reform is required, and the Global Commission is honored to put forward these recommendations to enhance the peace, health, security and development of Colombia.

César Gaviria
28th President of Colombia

Juan Manuel Santos
32nd President of Colombia

BETWEEN PRODUCTION AND DEMAND: THE ESCALATION OF THE WAR ON DRUGS

Colombia's complex past combines structural violence and internal armed conflict. Its power dynamics have been exacerbated by drug production and trafficking while international aid has been focused on eradicating illegal crops. In the 1970s, Colombians entered the global illegal drug trade by exporting cannabis to the United States provoking a large influx of capital into Colombia, increasing inequality and empowering the creation of large, organized criminal groups. This period became known as the bonanza marimbera[1] after the colloquial name for cannabis.

Along with great riches came widespread poverty. Along Colombia's Caribbean coast, the cultivation of cannabis in a location ideal for exports galvanized the expansion of the agricultural frontier.[2] The bonanza ended due to joint enforcement operations between the United States and Colombia and an increase in cannabis cultivation in places such as California in the US and elsewhere. Eventually cannabis production was substituted by the cultivation of coca leaf to produce cocaine. Colombia currently produces opium poppy, cannabis, and coca leaf - by far the largest producer and exportation hub for cocaine produced in the Andean countries.

Colombia's 54 year-long internal armed conflict, which remains ongoing , has deepened structural inequality and facilitated Colombia's emergence as a leading drug cultivation and trafficking country, resulting in the proliferation of non-state armed actors.[3] Those affected most have been rural communities that were displaced due to land appropriation in the 1940s and 1950s and have subsequently settled in areas with higher rates of coca cultivation. The 2020 Census of the Illicit Crop Monitoring System (SIMCI) identified 143,000 hectares of coca plantations in Colombia, with 27 percent of the crops concentrated in areas where they have been grown for over 10 years.[4]

The expansion of illegal cocaine production, based on stable demand from the international market, combined with continued socioeconomic inequality has left rural communities with few opportunities to earn a living. The internal armed conflict exacerbated deeply ingrained social problems, while the economic gains from the cocaine trade corrupted institutions without improving the living conditions of those growing crops.

Cocaine's share of Colombia's GDP

Accurate calculations of cocaine's share of Colombia's economy are hard to make, given the many barriers to retrieving data from illegal drug markets. However, studies suggest that the market economy behind the production and commercialization of coca leaf and cocaine contributes at least 2 to 3 percent of Colombia's gross domestic product (GDP), a figure that is increasing yearly.[5,6,7]

The value of the coca and cocaine market varies according to prices and quantities of inputs and products in different places. The price of cocaine hydrochloride, for example, increases from the observed levels at laboratory locations in the interior of the country to the estimated price at Colombia's international borders and again when it is ready for export.[8] Ending prohibition and enabling legal production and commercialization of industrial products derived from coca leaf with nutritional, culinary, agricultural and traditional uses would bring economic opportunities to cultivating communities and populations participating in the market.

From Stages of war to peacebuilding

Colombia's rise in international drug markets is marked by stages: the cannabis drug trafficking boom (1975-1984); the rise of large drug-trafficking groups associated with acts of terror (1984-1994); increased internal conflict (1994-2005);[9] the demobilization of paramilitary groups affiliated with the United Self-Defense Forces of Colombia - AUC (2003-2011); the parallel implementation of Plan Colombia; and the signing of the Peace Agreement between the government and the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP) in 2016, which resulted in the gradual demobilization of the guerrilla group.

During the first stage, bonanza marimbera,[10] neither society nor political elites visualized the structural implications of widespread drug trafficking. Rather, the entry and availability of foreign currency from the international illegal drug trade boosted (albeit unequally) the country's economy.[11]

The second stage was marked by the rise of drug trafficking groups – cartels – and drug traffickers in political life, along with violent tactics to influence judicial and legislative decision making. Public life was threatened, forcing Colombian society and political elites to acknowledge increasing challenges to state authority.[12] Prominent, charismatic figures dominated the scene, with organized criminal groups in Cali and Medellín playing a key role due to their increased wealth and power. The United States government applied pressure on the Colombian government, leading to an open, armed conflict between the state and organized criminal groups.[13] The war on drugs transitioned from theory to applied, violent practice. During this time, the FARC-EP consolidated its rural presence, controlled territories where coca crops were grown, and began a strategic move to guarantee financing and facilitate social support to communities active in the illegal market.

"Colombia, like many other countries of the region, believes that we must initiate a discussion and analysis [on drug policy], without prejudice or dogma, that considers various scenarios and possible alternatives for addressing this challenge more effectively."

JUAN MANUEL SANTOS, SUMMIT OF THE AMERICAS, 2012

The era of large drug-trafficking groups ended during César Gaviria's presidency, with the assassination in 1993 of Pablo Escobar, head of the Medellín cartel, after an enormous sacrifice of lives and destructive violence. Drug consumption continued to rise internationally, however, while drug trafficking alliances deepened between Colombian guerrilla and paramilitary groups. As Colombia failed to reduce production and trafficking of illegal substances, the United States raised the stakes by introducing sanctions against the country in the 1990s. Kingpins and members of the criminal elite were killed, captured or left power, and trafficking groups fractured, leading to smaller, more scattered and disconnected groups.[14] Even so, the violence did not end.

The traditional Caribbean trafficking route was disrupted by an increase in military operations and radar surveillance in the Pacific, and led to the establishment of new sea and land routes through Central America and Mexico to the United States through the Pacific ocean. Colombia increased its cocaine production, becoming the main supplier to European markets which in turn drove an increase in demand in the region.[15]

The AUC paramilitary groups emerged as a response to insecurity and forged alliances with drug traffickers, economic and state actors to eliminate left-wing opposition politicians and their followers in rural communities.[16] These paramilitary structures formed partnerships with regional elites, both institutional and political, in a phenomenon known as "Parapolitics" in the late 1990s and early 2000s.

To disarm, demobilize and reintegrate paramilitaries, the administration of Álvaro Uribe, who was president from 2002 to 2010, undertook a transitional justice process[17] with the AUC between 2003 and 2006.[18] Public ceremonies were held to demobilize and disarm over 30 thousand AUC combatants, a process that was highly criticized as many former paramilitary members became part of criminal gangs (known as Bacrim) and continued to traffic drugs.[19]

Plan Colombia: The escalation of the war on drugs

The United States escalated its involvement in Colombian policy in the 1980s and 1990s, increasing budget allocations and promoting strategies to tackle drug trafficking including aerial spraying of coca crops[20] and military and intelligence operations to capture kingpins.[21] Although distrustful of the Colombian state's capacity, the United States applied pressure through decertification[22] – a mechanism used to declare that a country is failing to comply with its obligations under international drug treaties – and by toughening its antinarcotics strategies.[23]

The United States had declared itself in favor of a peace process, even as it negotiated Plan Colombia. Due to its immense military component, by 1999 Colombia was the third largest recipient of US military assistance in the world, with an antinarcotics battalion operating in the Colombian army.[24,25] Plan Colombia came into force in 2000 and included a military component consisted of intelligence gathering, purchasing of equipment, capacity building of police and prosecutors to disrupt drug trafficking. Between 2000 and 2008, the military received $4.9 billion worth of Unites States government assistance primarily under Plan Colombia in addition to the resources invested by Colombia.[26] The humanitarian component focused on crop eradication, but the heavy reliance on aerial spraying of glyphosate devastated communities and the environment.[27]

"Never before in recent history has there been such an opportunity to strike at all aspects of the drug trade at the source. We also have an important opportunity because of the strong commitment of the Government of Colombia to fight narcotics trafficking. The United States should seize this rare enforcement opportunity by providing assistance to Plan Colombia."

JOE BIDEN, US CONGRESS, MAY 2000

Plan Colombia achieved mixed results. The United States considers Plan Colombia a highly successful military assistance program with significant political and economic participation by everyone involved, with a key result being that Colombia today has one of the largest military forces in Latin America. Violence levels increased under Plan Colombia. In 2002 a record 673,919 people were affected by internal conflict, primarily suffering from forced displacement.[28] While illegal coca crops were reduced considerably in the regions where eradication was carried out, such as Putumayo, they 'reappeared' in areas where they had never been seen before, such as the Pacific coast regions of Nariño and Chocó, a clear example of the 'balloon effect'. The almost exclusive focus on eradicating cultivation and trafficking amongst the FARC-EP meant that other illegal activities, such as those carried out by paramilitary groups, were left unaddressed. The rural poor suffered the most harm from these military and policy interventions. Mobility around the country improved greatly for the sector of the population with the resources to travel (not for the rural poor, for example). However, overall cocaine production was not reduced nor stifled.

THE IMPACTS OF PROHIBITION AND THE WAR ON DRUGS ON COLOMBIAN SOCIETY

Infiltration of civic and democratic institutions

One of the major contradictions of Colombia's situation is that, despite more than 50-years of conflict, democracy has remained stable[29] never giving way to dictatorship. From a structural viewpoint and in comparison to its neighbors, Colombia's democratic institutions are quite stable in terms of their level of development, with judiciary independence and civilian-led institutions.[30] Although the state has huge shortcomings, the country faces other serious deficits, primarly the power of organized criminal groups and paramilitary groups as well as human rights violations by legal authorities. Thus, the Colombian paradox is that the intensification of the conflict and the modernization of the state have taken place in parallel.[31]

Drug trafficking has caused the most radical ruptures in the country's recent history, changing regional social orders within Colombia, and the formal and informal institutions that govern the country's economic and political life.[32] The economic power of criminal organizations and the fragile state presence in some regions of the country have enabled players in illegal industries to assume positions of local political power and perform pseudo-state functions, either by replacing state actors or through sponsorship.[33]

The para-politics scandal

The most telling episode of infiltration of criminal structures in Colombian politics was the para-politics scandal. Paramilitary structures involved in the illegal drug economy were found to have reached the highest levels of political power. By 2008, 35 percent of senators and 13 percent of chamber representatives in Congress were being investigated for their links with paramilitary groups.[34] This crisis was also regional. By 2010, 101 regional politicians (governors, mayors, and local councilors) had been indicted for these alliances, which included collaborating in the assassination of opposition politicians and massacres of farmers, even after the reported demobilization of paramilitary groups.[35]

Paramilitary groups obtained significant resources from their involvement in the drug trafficking business and used it to finance their military and strategic ability to take control of civil and political life.[36] Several studies confirm that at a departmental level state delegated public security action to paramilitaries or tolerated unilateral actions undertaken by them.[37]

Armed groups as welfare providers

Although the FARC-EP had previously considered drug production and trafficking a capitalist activity – and therefore counter-revolutionary, in 1982, the group became involved.[38] It realized that its opposition to the drug business had turned local people against them.[39] The group's participation in drug trafficking consisted of acting an intermediary between coca growers and drug traffickers to protect production, collecting "taxes" from traffickers, fixing prices, and exercising control over the territory. It also functioned as a social regulator, providing governance mechanisms for agricultural and forest protection (when this served its interests), resolving disputes between neighbors, and enforcing its own law in economic and social life. The rule of the guerrilla were enforced by means of intimidation and punishment, all involving the use of weapons.

Illicit economies often represent a possibility for non-state actors to behave as 'proto-states' by regulating economic activity and social life.[40] If the political motivations of these armed groups are also considered, the social fabric that supported these illegal armed groups – despite their atrocities – can be analyzed. This is the case with the coca economy, in which the FARC-EP played an immense role in exercising control, where the state's ability to do so was tremendously weak in regions with coca cultivation and production.

Rural communities and small-scale farmers

Coca cultivating communities in Colombia consist of small-scale farmers who technically enjoy specific constitutional protection[41] due to the socioeconomic inequality they face -including their access to land and ownership. Colombia is the most unequal country in Latin America in terms of land distribution.[42] For small-scale farmers that grow coca, repressive drug policies have produced at least three primary negative impacts:

- First, the combination of the counterinsurgency strategy and the antinarcotics strategy made small-scale farmers into targets for all armed actors. The armed forces accused them of assisting the guerrilla groups, while the guerrillas accused them of tipping off the military as to their whereabouts. The paramilitaries focused on killing anyone in rural areas who was a human rights defender, community leader or who would oppose their activities.
- Second, rural communities have suffered the greatest harm from the spraying of crops with glyphosate. As a result of these operations, small-scale farmers have lost their livelihood crops, their income and the investments they had made in their farms. Chemicals have polluted water sources and the surrounding environment, and people have suffered serious damage to their health. Access to basic social services is scarce and communities often have to leave their territories to seek opportunities.[43]
- Finally, drug policies have given rise to new rifts in the social fabric and in levels of trust between the most marginalized communities and the state. The lack of follow-through on the implementation of the peace process, and the prioritization of forced eradication mechanisms over rural development strategies, have futher degraded the relationship. Social protests have become generalized in some coca growing regions around the country. Since 1996, coca growers have marched in protest, with their primary demand being the right to citizenship itself.[44]

Criminalization, over incarceration and barriers to health

The 1994 landmark Constitutional Court ruling C-221[45] set a precedent in Latin America by guaranteeing that people who use drugs are not criminalized, safeguarding the right to autonomy and the free development of personality. Despite this, Colombia's approach to people who use drugs is contradictory. The health response is weak, while continuous policing and the judicial system disproportionately threaten people with criminal punishment for having any involvement with drugs – an approach that is now being repeated by the current administration.

Colombia is no exception to the global explosion of the use of prison sentences for drug trafficking and the prosecutions of people with low economic resources, who are easily replaced within the trafficking chain and who are employed informally.[46] Between 2000 and 2015, the prison population in Colombia grew by 141 percent, but those incarcerated for drug crimes increased by a devastating 289 percent.[47] In 2015, the total number of people incarcerated was 120,444, with 24,374 (or 20.24 percent) of them for drug crimes.[48] The cost to individuals and communities of incarcerating people for low-level drug crimes is unquantifiable, however the cost to society to maintain people incarcerated in Colombia was estimated at $2.37

billion Colombian pesos or US$1.184 million in 2014.[49] Punitive approaches to drug policy do little to curb the global illegal market, but do undermine the health and livelihoods of those punished, as well as draining attention and resources from the social, economic and health programs that are desperately required.

The prevalence of drug use is high among people currently incarcerated in Colombia. The United Nations reported in 2007 that 60 percent of those incarcerated had used a drug in the last year, compared with 2.27 percent of the general population who had consumed cannabis in the previous year.[50] Among young people who are incarcerated, the numbers are also high: 25.4 percent of male adolescents and 30.1 percent of female adolescents who are incarcerated meet the criteria for drug dependency.[51]

People who use drugs are more likely to come in conflict with police officers resulting in human rights violations. A recent study of police brutality cases in Colombia found that compared with other risk factors, people who use drugs were the most likely population to experience abuse with 3,214 documented cases between 2017 and 2019, followed by 1,492 documented cases involving Afro-Colombians.[52] Vulnerable situations are exacerbated by a punitive approach and disproportionately impact those with fewer resources to defend themselves.

Harm reduction services and resources have not been scaled up with the same rigor as military spending. Although there are limited needle and syringe programs and methadone available, Opioid Substitution Therapy (OST) is primarily used as a detoxification strategy,[53] rather than as part of comprehensive therapy programs. Methadone access is severely limited as a "controlled substance" distributed only through the government, which can cause lengthy delays and barriers to access.

Peer distribution of naloxone remains highly restricted. One naloxone program operated between 2015 and 2017 but closed in January 2018. The government is currently retaining naloxone at customs[54] and no supervised consumption facilities are available for people who use drugs.

Funding for harm reduction services has fallen in recent years, as international support has been reduced and government funds have not been increased. Moreover, the COVID-19 pandemic has increased the barriers to access to both public health strategies such as harm reduction, and to essential medicines for pain relief.[55]

Access to essential controlled medicines for pain relief, particularly opioids under a controlled substances framework, continues to be difficult for much of the Colombian population. Administrative requirements mean that neither the government, nor the pharmaceutical industry, and much less medical workers, are willing to take on additional burdens to ensure access.[56] The stigma and lack of willingness to prescribe controlled medicines fuels cultural and social barriers that result in patients undergoing unnecessary pain. Rural communities are most likely to suffer avoidable pain, with their per capita consumption of opioid medicines being lower than in cities.[57]

COLOMBIA'S DRUG POLICY IN THE LAST DECADE

During the two Santos' administrations (2010-2018), Colombia promoted broad drug policy reform at a national and multilateral level.[58] Unfortunately, many of the rhetorical and practical advances achieved are being dismantled as the current administration (2018-present) takes a more conservative stance towards the international community, while domestically it brings back policies such as aerial spraying of crops with glyphosate and attempts to introduce administrative sanctions towards people who use drugs.

Colombia has played a crucial role in elevating the multilateral debate about drug policy and alternatives to a punitive approach. Beginning in 2009, former president César Gaviria formed part of the Latin American Commission on Drugs and Democracy, which broke many taboos as former heads of state and high-level authorities spoke out against prohibition and began proposing alternative drug policies. Former presidents Fernando Henrique Cardoso of Brazil and Ernesto Zedillo of Mexico, along with other intellectuals and well-known personalities, declared the so-called "war on drugs" a failure and provided strong moral authority and leadership for more balanced drug policies.

In 2012, the Organization of American States' (OAS) held the Summit of the Americas in Cartagena, where President Juan Manuel Santos succeeded in including drug policy in the agenda for the heads of state discussions. The final summit document provided the first mandate to the OAS to prepare a two-part report on drug control efforts and alternatives.

The groundbreaking report was twofold: The section 'The drug problem in the Americas' was presented to the Colombian administration in 2013.[60] The 'Scenarios' section laid out four paths that Member States might consider when constructing their national drug control strategies: "Together," "Pathways" "Resilience" and "Disruption".[61] The Pathways scenario explored what legal regulation could look like, and how states could exercise greater control over the market and reduce human rights violations. President Juan Manuel Santos received the report and ensured that all heads of state in the region did as well, to encourage a broader discussion on drug policy efforts.

In addition, Colombia joined Mexico and Guatemala in 2012 to call for a United Nations General Assembly Special Session on the World Drug Problem (UNGASS 2016),[62] where heads of state from the three countries argued for an approach based on human rights, public health, and sustainable development in the application of the international drug treaties.[63] This effort led to regional and global coordination to consolidate a group of reform-oriented countries that could provide a counterbalance to the prohibitionist bloc within the United Nations. Unfortunately, the final UNGASS outcome document was drafted and primarily agreed upon in Vienna at the Commission on Narcotic Drugs, with little to no negotiation occurring at the General Assembly meeting.

As the Colombian administration worked to solicit greater international debate on drug control issues, it began domestically undertaking delicate negotiations with the Revolutionary Armed Forces of Colombia (FARC-EP), from 2012 to 2016. The subsequent six-point Peace Agreement includes the "Comprehensive Solution to the Problem of Illicit Drugs" as its fourth point. Ambition and political will existed to turn the page on Colombia's troubled and violent past. Since then, however, the changing political landscape, the lack of policy continuity and a dynamic illegal cocaine market have prevented progress.

In comparison with the current national government efforts, from a legislative and civil society perspective, Colombia has been forward-thinking in its drug policy during the last few years. A broad cross-party alliance promoting a drug policy reform agenda tabled a bill on the strict, legal regulation of coca and cocaine that privileges reparations towards coca growers,[64] and initiatives have been introduced regarding the legal regulation of adult use of cannabis to complement the already burgeoning (and legal) medicinal cannabis market.

THE PEACE AGREEMENT: NEW IDEAS FOR DRUG POLICY

Between 2012 and 2016, the Santos Administration undertook an extensive peace process with the FARC-EP. The resulting Peace Agreement was signed on August 24, 2016, and ratified by the legislative branch between November 28 and November 30, 2016.* Reducing and dismantling illegal cultivation of coca leaf was a pillar of the accord, based primarily on voluntary crop substitution, accompanied by government programs to overcome structural conditions of poverty, including a comprehensive rural reform. These programs were to be implemented in areas of the country with higher levels of coca cultivation.

Colombia has suffered one of the longest-running internal conflicts in the world. Between 1958 and 2012, it was directly responsible for 218,094 deaths, with 81 percent of those civilians and 19 percent combatants.[65] Over this period, at least 5 million people were forcibly displaced.[66] At least 27,023 people were considered 'disappeared' – abducted and presumed killed, mostly by guerrilla groups, and 1,982 massacres were carried out, mainly by paramilitary groups. In some parts of the country, landmines, targeted assassinations, forced disappearances, and targeted attacks on civilians were the norm.[67]

The institutional frustration generated by failed policies to control cultivation, trafficking and consumption led to drugs and related policies being put on the agenda for the emerging peace talks between the Santos administration and the FARC-EP in 2012. The involvement of the FARC-EP in illegal drug markets, and the widespread consensus that drug trafficking had transformed and worsened the ongoing armed conflict, spurred action.[68]

The text of the Peace Agreement acknowledges that "the construction of a stable and long-lasting peace requires…everyone to contribute to clarifying the relationship between the conflict and cultivation, production and sale of illicit drugs and money laundering…so that drug-trafficking never again threatens the future of the country."[69]

Although the FARC-EP had previously been reluctant to admit its involvement in drug trafficking, the peace talks encouraged the group to acknowledge it. Similarly, the state accepted the persistence of illegal crops in certain regions of the country because a lack of effective rural development resulted in poverty, marginalization, a weak institutional presence, and the existence of drug-trafficking organizations.[70]

Point 4 of the Peace Agreement: Hopes for sustainable peace deferred

The implementation of the Peace Agreement was divided into three phases focused on short-term (2017-2019), medium-term (2020-2022) and long-term indicators (2023-2031).[71] Depending on the content and timeline of each component of the Peace Agreement, indicators and deadlines have been met to varying degrees.

The Peace Agreement is composed of six main points. Point 1 is the Comprehensive Rural Reform (IRR), which sought to address the structural necessity of land reform, a factor dating from the 19th century that has perpetuated the existence of illicit crops. Historic structural inequality within rural areas of the country permeates with 1 percent of the population owning 81 percent of the land in Colombia.[72] A primary and ongoing challenge of the Agreement is ensuring participatory and inclusive implementation that builds trust between the State and communities.[73]

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* The Peace Agreement was subject to a referendum, held on October 2, 2016, and was a means for direct approval (Yes) or rejection (No) of the totality of the Accord. The "No" won with 50,22% of the votes, against 49,78% votes to the "Yes". A round of re-negotiations with representatives of the opposition to the Agreement were held between October and November, and the final text was ratified via a congressional process.

The negotiations focused on promoting sustainable peace by reducing socioeconomic gaps between rural and urban areas reincorporating former combatants, guaranteeing the rights of victims, and ensuring ethnic and gender equality were at the center of the negotiations. The IRR and the National Comprehensive Prorgam for the Substitution of Crops Used for Illicit Purposes (PNIS) aimed to go beyond an exclusive focus on plants, understanding that living conditions, social and development programs, and land access and ownership in rural areas must be improved and transformed to overcome the problem of illegal coca crops. They failed to consider, however, the existing and stable global demand for cocaine.

Point 2 focused on political participation; by all indicators, Colombia has hardly implemented 50 percent of its participation goals. Point 3 sought to end the conflict, with a ceasefire being the clearest indicator. Challenges continue, although 43 percent of former combatants have received financial support for productive projects through specific mechanisms of the Agreement.[74] Close monitoring of these projects will be necessary to ensure successful reintegration. Violence against former combatants continues. More than 250 people were killed between the laying down of arms in 2016 and July 2020.[75]

Point 4 of the Peace Agreement is composed of three major components:
- 4.1: National Comprehensive Program for the Substitution of Crops Used for Illicit Purposes (PNIS);
- 4.2: Public health and prevention programs; and
- 4.3: Tackling the production and retail of psychoactive substances.

The PNIS was designed to be a key component of the Comprehensive Rural Reform (IRR). However, progress on Point 1 directly affects the success of Point 4. The voluntary crop substitution program was meant to assist families in developing and sustaining a productive project. While progress has been made in promoting dialogue and the signing of Comprehensive Communities Plans for Substitution of Crops and Alternative Development (PISDA), challenges continue due to a lack of coordination between the National Land Agency and the ministries responsible for implementing the PNIS.[76] Delays in productive projects to transition to legality reduce trust between the government and communities. The current Duque administration has used the low rate of implementation and increased cocaine production to justify returning to the use of glyphosate, ignoring the evidence of its links with cancer, skin affections and miscarriages.[77]

Point 5 puts victims at the center, proposing a transitional justice model that includes reparations, land restitution and the creation of a Truth Commission, which has heard from former combatants, paramilitaries, and armed forces, as well as other protagonists of the conflict.

The sixth and final point focused on implementation and verification. It shows profound delays in meeting the provisions with a gender approach (only 9 percent), and those related to ethnicity and race (only 10 percent).[78] As in other countries, women, indigenous people and Afro-Colombians have suffered the most from the lack of political will and implementation.

Implementation challenges and negative consequences

The ambitious program within Point 4.1 has encountered enormous difficulties, which have directly affected the lives and security of small-scale farmers who have decided to participate in the voluntary crop substitution program.

The primary problem is the lack of coordination of the IRR, particularly the approval of seven National Sectoral Plans for Comprehensive Rural Reform, as well as a failure to broaden the registry for land distribution and finding land for said distribution.[79] This means that significant funding has been allocated to subsidies for coca-growing families, but without ensuring legal access to land, means of transporting harvests to market, and access to basic public services. The Duque

administration reduced the number of participating families to 99,000, (although almost double of that number had expressed interest in participating). In addition, rather than honoring previous collective community agreements, the government sought out individual agreements. The distrust generated by these actions could prove to be irreparable.

A second structural problem is the weak institutional capacity to fill the gaps left by the FARC-EP after its withdraw from the territories. Insecurity is the norm in rural areas, with attacks on former combatants, social leaders, and human rights defenders occurring primarily where there is little state activity and where illegal actors and economies hold greater power.[80] According to the United Nations, 75 percent of the killings of former combatants in 2020 happened in rural areas, 75 percent in municipalities with the presence of illegal crops and 72 percent where development programs are currently being implemented. These percentages only increase when considering the killing of social leaders with 98 percent occurring in municipalities with drug production and illegal mining.[81] This reality threatens PNIS leaders and the reintegration process, and destabilizes peace-building efforts.

A third problem is the coexistence of conflicting strategies to eliminate coca, with voluntary substitution and a few productive projects on one side and forced eradication on the other. This has generated distrust among communities and fails to meet their needs, leaving them in a precarious position of illegality or displacement.

Coca crops were reduced from 154,000 in 2019 to 143,000 in 2020, a difference of 11,000 hectares. However, the potential production of cocaine hydrochloride increased by 15 percent, demonstrating that fewer crops do not necessarily mean less capacity of production due to technology advances. The Duque administration has invested more in eradication than in substitution programs, and Colombia today has almost seven times more eradication teams than during the Santos administration.[82]

Where eradication activities have escalated, so too has social conflict and violence. Local leaders and cultivators who defend crop substitution continue to be threatened and murdered, and the institutional response to this human rights crisis has been limited. Although there are differing statistics, the crisis remains clear. Between January 2016 and May 2019, 486 murders of community leaders were reported.[83] In the first six months of 2019, about 12 supporters, human rights defenders or community leaders were murdered every month.[84] According to the United Nations, 378 social leaders were killed since the signing of the Agreement.[85]

Components of the PNIS Implementation

Collective agreements	130,000 families, who are not automatically linked to the program, pledge to eradicate coca in exchange for subsidies, technical assistance and production projects.
Family agreements	99,000 families, 76% of those who signed collective agreements. High level of compliance: according to the UN, 40,506 hectares of coca have been eradicated voluntarily and with assistance, with a replanting rate of just 0.4%.
Challenges & difficulties	Registration has closed, even though many more families were expressing interest. Poor compliance by the state: three years after the signing of the Peace Agreement, only 46.8% of the families had received all due payments.

Sources: GCDP analysis based on the UNODC Executive report of the National Illicit Crop Substitution Program [86]

As per recent rulings, the Constitutional Court requires the following three Colombian administrations to implement the Peace Agreement, developing and designing plans on a departmental and local scale. However, the lack of political will to fully implement the Peace Agreement under the Duque administration has stifled progress and damaged trust between the state and participating communities. The current humanitarian crisis for social leaders and human rights defenders puts the peace process at even greater risk, particularly when the administration does little to ensure their security. The continued absence of the state and productive projects in rural areas facilitates and strengthens the presence of both FARC-EP dissident groups, as well as other non-state actors, including the National Liberation Army (ELN in Spanish), that may have political or social demands and are driven by economic interests.[87]

Forced eradication and glyphosate use in Colombia

Few countries[88] use aerial spraying with toxic substances to eradicate illegal crops, an anti-drug intervention that is controversial because of its economic, environmental and social costs. First used more than 20 years ago in Colombia, it has not produced sustainable results; instead, it causes environmental damage and endangers the health of thousands of people. Over the years, nearly 2 million hectares have been sprayed with a mixture of glyphosate and other chemicals to eliminate illegal coca crops.[89]

At the end of 2019, two years after the implementation of the Peace Agreement and under increasing pressure from the United States, the Duque administration presented a draft decree to resume aerial spraying, despite pleas from small-scale farmers not to return to this practice, widely recognized to cause cancer and other health issues.[90] Reinstating this policy without considering the process outlined in the Peace Agreement blatantly ignores the human rights violations highlighted by the Constitutional Court, reinforces the punitive policies proven ineffective due to the high rates of replanting of illegal coca crops and allocates scarce resources to an inefficient and costly policy.

The costs have been broad and disproportionate, affecting many facets of daily life. A drug policy spending study found that there are no disaggregated figures to determine the total cost of aerial spraying.[91] Estimations vary greatly. At a Constitutional hearing held on March 7, 2020, the Minister of Defense stated that spraying 1 hectare cost 2 million Colombian pesos (approximately US$570), while the Illicit Crop Substitution Office, which reports to the President, stated that the cost per hectare was 72 million Colombian pesos (approximately US$20,000).[92] An additional study estimated the cost per hectare at US$2,400, meaning that eradicating 50,000 hectares of coca cost the Colombian government US$120 million,[93] while another suggested that the costs of aerial spraying reaches US$74,000 per hectare.[94]

Aerial spraying also imposes high heath costs on already vulnerable communities, with increased rates of medical consultations related to dermatological or respiratory illnesses and an increased probability of miscarriages.[95]

COLOMBIA AT THE UNITED NATIONS: DIPLOMACY UNDER PRESSURE

Colombia has played an active role within the international drug control regime. Its consistent diplomatic work has included calling for the first UN General Assembly Special Session (UNGASS) on drugs which took place in 1990 following the assassination of the presidential candidate Luis Carlos Galán. When speaking about the need for the UNGASS, President Virgilio Barco highlighted the fact that wide-spread efforts to control drug trafficking in the country had met limited results due to the law of supply and demand and a lack of capacity to prosecute money laundering. He also underscored the importance of economic justice within legal international markets such as coffee.[96] The desired outcome of the 1990 UNGASS of a system-wide coherence on drug control efforts did not produce results over the following decade.[97] That said, it was thanks to the efforts of countries like Colombia that a dedicated secretariat was established in Vienna - the United Nations Drug Control Programme (UNDCP), later merged into was established into the United Nations Office on Drugs and Crime (UNODC) - to manage treaty obligations, policy implementation and research, and any operational activities. The UNDCP (and the current UNODC) has maintained a commitment to upholding the drug control conventions with little apetite for exploring alternatives to prohibition.

Between the two UNGASS on drugs, in 1995, the World Health Organization implemented a broad, global study on cocaine use, the Cocaine Project, which was never officially published. Colombia was mentioned as one of the countries "interested in examining a range of options to legalize and decriminalize the personal use and possession of cocaine and other related products"[98] in a Briefing Kit that was shared before the paper's planned publication. The paper was shelved by the international community, however, for fear of undermining efforts to eradicate cultivation of coca and cocaine use.

"International drug policy needs to reaffirm the importance of law enforcement and hard-law instruments against criminal bosses and violent traffickers, and shift focus to soft-power measures to assist vulnerable populations such as traditional farmers and dependent consumers." César Gaviria, Project Syndicate, 2021

The second UNGASS on drugs was held in 1998 to review the progress made to reduce supply and demand, while reaffirming commitments made by the international community for a drug-free world. Colombia and Mexico, both cultivating countries, supported the outcome document to contain language that would recognize a "shared responsibility" and lift the heavy burden placed on eradicating supply while ignoring the issue of demand. While they succeeded in including the term, the 1998 UNGASS negotiations maintained a strong focus on reducing supply, with the UNDCP promoting an ambitious and far-reaching project known as the Strategy for Coca and Opium Poppy Elimination (SCOPE) which sought to eradicate these two crops within 10 years. The United States fully supported the plan, convinced that strong language and bold action was needed to continue the ongoing "fight…against the production, trafficking, and abuse of illicit drugs".[99] While SCOPE did not pass international scrutiny and was not approved, the issue of supply continued to be at the center with the approval of the Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development. Colombia was caught in the middle, already committed to Plan Colombia on a national level and unable to deny foreign intervention while pressing for a reduced focus on crop eradication and shared responsibility on an international level.

"International drug policy needs to reaffirm the importance of law enforcement and hard-law instruments against criminal bosses and violent traffickers, and shift focus to soft-power measures to assist vulnerable populations such as traditional farmers and dependent consumers."

CÉSAR GAVIRIA, PROJECT SYNDICATE, 2021

In 2012, Colombia, Mexico and Guatemala called for a new UNGASS on drugs, which was scheduled for April 2016. The Santos administration played a key role in shepherding a strong group of 'like-minded' countries that could collaborate during the negotiations process and seek to balance the counter-narrative from status-quo member states. The Colombian administration hosted several governmental meetings, with support from civil

society, to map a strategy in the run-up to the meeting. Colombia also participated in regional discussions before the UNGASS within the Community of Latin American and Caribbean States (CELAC), the South American Union (UNASUR), and the Organization of American States (OAS), as well as leading processes at the Commission on Narcotic Drugs, the Human Rights Council, and the UN General Assembly.

UNGASS 2016 was seen as a historically decisive moment to either affirm the harmful strategies underway or evaluate and propose a new path forward. President Juan Manuel Santos declared at the meeting that "the prohibitionist approach has been a failure (…) the war on drugs has not been won, and will not be won, it is time to change our strategy".[100] The so-called 'Vienna Consensus' was fractured at UNGASS 2016. Colombia, Uruguay, Mexico, Guatemala, Costa Rica, Jamaica, Switzerland, the European Union, and others denounced the widespread human rights violations that were being wrongly justified in the name of drug control and called for, at least theoretically, policy reform. Colombia highlighted advances in the areas of health, human rights, and sovereignty for national policies (including flexibility in the international drug conventions) as key achievements of the meeting.[101] However, the UNGASS 2016 failed to provide a deeper evaluation that may have led to systemic change.

RECOMMENDATIONS

Colombia stands at a crossroads between a strategy that fuels an ongoing internal conflict or one that places a focus on the Colombian people and the achievement of sustainable peace. The latter is certainly a more difficult option and involves reducing corruption, rebuilding trust between the state and communities, and making ambitious policy choices regarding drug policy reform.

The domestic war on drugs in Colombia, supported by international partners, has distracted attention from widespread structural inequalities, in addition to causing great harm to society. Colombia should acknowledge the negative consequences of a repressive focus on drugs and recognize that prohibition fosters and strengthens criminal organizations. Negative impacts of the internal conflict include curtailing advances in governance, peace and democracy, without achieveing the desired security objectives. To guarantee social progress, achieve peace as envisaged in the historic Peace Agreement, and undermine transnational organized crime, the Global Commission on Drug Policy recommends six courses of action:

Recommendation 1

Colombia must adopt a balanced and comprehensive approach with an increased focus on undermining organized crime, combatting money-laundering and other criminal activities such as arms smuggling and human trafficking. The strategies adopted in this approach should be based on robust evidence and data, and for that end, Colombian authorities must collect, produce, and publish information and disaggregated data about the resources and economic revenue flows derived from a punitive approach, as well as the related use of force by public authorities and human rights violations.

Initiating an inclusive process of dialogue and debate on the strategies for implementing the Peace Agreement would allow for a diagnosis of the drug policy situation and feed national debates to support broad drug policy reform. The COVID-19 pandemic needs to be considered, as it has increased the presence of police and other security forces on the streets.

Investigations should be carried out to determine who is responsible for the systematic rise of violence and torture, supervised by civilians to ensure transparency. Every recorded case in which authorities have used lethal force should be fully investigated by civilian –rather than military- authorities. Key inputs to this process include official reports on the revenue streams of illegal markets, corruption channels and estimates of the benefits of more efficient public spending on alternative approaches such as the decriminalization of drugs. It is essential to also consider changes in market flows derived from COVID-19. The inclusion of marginalized communities and women is pivotal, since they pay the highest toll in the current repressive environment and have benefited least from the implementation of the Peace Agreement. Additionally, authorities should improve epidemiological and demographic data at a departmental level to understand trends in drug use and access to opioids and remove administrative and legal barriers.

Recommendation 2

The Colombian authorities must immediately de-escalate the militarized response to the cultivation, production, and consumption of drugs. Complementing this strategy, greater efforts must be made to advance land restitution and land reform as a means of reparation. Strengthening the implementation of Points 1 and 4 of the Peace Agreement would improve trust between communities and institutions with the intention of increasing security.

Drug policy should integrate and prioritize general efforts to fight corruption, money laundering and organized crime, but drug use should not be the primary focus. The military should not participate in drug control efforts, especially those that put civilian lives at risk, but rather focus on strategic actions related to disrupting drug-related violence and organized crime. Government agencies can and should advance financial strategies such as asset recovery and seizures that have a greater impact on organized criminal groups. De-militarization should take into consideration the security needs of different regions and cities, setting out timeframes needed to professionalize the civil authorities that would replace the military forces currently tasked with public security duties. Military budgets have only been increased in recent years. The emphasis should be inverted in favour of civilian authorities.

Despite the challenges involved in implementing Point 4 of the Peace Agreement, its adoption was necessary and provides some respite from punitive drug control in some rural areas. One of the essential achievements of the Peace Agreement is the commitment by the FARC-EP to suspend its activities in these areas. This commitment should continue to be supported to reduce dissident from leaving the process. It enables the state to provide these territories with public services and security but state must be ensure a strong presence to prevent other non-state actors from entering.[102] To support and complement voluntary crop substitution in the PNIS program, Colombian authorities should seek to recommend alternative coca uses as well, including regulating industrial coca and cannabis products, in order to benefit cultivating communities, increase stability in rural areas and reduce the illegal market with a social justice approach.

Recommendation 3

Colombian authorities must immediately end all penalties – criminal, administrative and civil – for the use, possession, and the cultivation of drugs, along with other non-violent drug-related illegal activities as it works to transition to a health and development focused policy. Such a step would comply fully with the Peace Agreement and provide greater security for community leaders.

People incarcerated for possession and non-violent participation in the illegal drug market should be immediately released and their criminal records reviewed or eliminated. People who had been previously incarcerated should benefit from social reintegration measures as well as public health services when needed, and their civil rights restored, in a non-discriminatory manner.

A repressive approach to drugs hinders the delivery of public services to vulnerable populations such as people who use drugs and crop farmers of illicit plants, as well as those who face the violent consequences of armed conflict between state authorities and criminal organizations.

Recommendation 4

The Colombian government must shift from a punitive focus to a public health and human rights approach to drug policies, by ensuring people who seek treatment for chronic or problematic drug use, as well as all people who use drugs, have equitable access to a broad range of substitution therapies and harm reduction services. Similarly, pain and palliative care patients need immediate access to controlled medicines to alleviate their pain.

People's health and needs must be at the center of drug control policies, prioritizing resources and policies go to health, socioeconomic and educational interventions. Offering the largest number of therapy options to people who experience problematic drug use allows each to choose, with their doctor, the most appropriate treatment. Exploring means of supplying controlled medicines should be a priority as the state is often the only distribution stream which can complicate the process. Investing in prevention of violence must be a priority.

A broad analysis of mental and physical healthcare, drug consumption and access to essential medicines is a first step to improving demographic and epidemiological data. Better data in turn are necessary to design adequate policies based on the medical needs of the population. Data may be used to estimate the need for opioid medications, and thus administrative barriers to accessing these medications can be eliminated. It is important to consider differences in trends before and after the COVID-19 pandemic, which affected both legal and illegal drug supply and demand trends.

Recommendation 5

Colombian authorities at the national, departmental and local levels must immediately design, legislate and implement policies to legally regulate all currently illegal drugs using criteria informed by evidence.

The state should assume control over illegal markets to establish strict and transparent parameters for the drug trade, with a focus on integrating into a legal framework communities that cultivate currently criminalized substances.

Establishing regulated access to substances for people who use drugs and other vulnerable populations is a priority. Each substance will need to be regulated according to its potential risks, benefits, availability, prevalence of use, and social and economic impacts, as well as the institutional capacity of the state apparatus to control access, while recognizing the cultivation of coca, cannabis and poppy for opium. Human rights and social justice could comprise the main axes of this policy, including the creation of mechanisms to dismantle the effects of previous prohibitionist policies, as well as assuring the transition and participation of affected populations, including cultivating communities to a legal market.

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    Acuerdo Final de Paz del Teatro Colón: https://www.cancilleria.gov.co/sites/default/files/Fotos2016/12.11_1.2016nuevoacuerdofinal.pdf
    Decreto Ley 896, mediante el cuál se crea el Programa Nacional Integral de Sustitución de Cultivos Ilícitos – PNIS. http://es.presidencia.gov.co/normativa/normativa/DECRETO%20896%20DEL%2029%20DE%20MAYO%20DE%202017.pdf
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REPORTS

http://www.globalcommissionondrugs.org/reports/

- War on Drugs (2011)
- The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic (2012)
- The Negative Impact of the War on Drugs on Public Health : The Hidden Hepatitis C Epidemic (2013)
- Taking Control: Pathways to Drug Policies That Work (2014)
- The Negative Impact of Drug Control on Public Health : The Global Crisis of Avoidable Pain (2015)
- Advancing Drug Policy Reform : a New Approach to Decriminalization (2016)
- The World Drug Perception Problem: Countering Prejudices against People Who Use Drugs (2017)
- Regulation: the Responsible Control of Drugs (2018)
- Classification of Psychoactive Substances: When Science Was Left Behind (2019)
- Enforcement of Drug Laws: Refocusing on Organized Crime Elites (2020)
- Time to end prohibition (2021)

POSTION PAPERS

http://www.globalcommissionondrugs.org/position-papers/

- The Opioid Crisis in North America (October 2017)
- Drug Policy and the Sustainable Development Agenda (September 2018)
- Drug Policy and Deprivation of Liberty (May 2019)
- Drug Policy and City Government (June 2021)

ADDITIONAL RESOURCES

List will be added later

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SECRETARIAT

Isabela Carvalho Barbosa
Ramon Sales Moura
Marilena Genco
Ivy Wandia

CONTACT

secretariat@globalcommissionondrugs.org
www.globalcommissionondrugs.org

GlobalCommissiononDrugs
GlobalCDP
Global Commission on Drug Policy

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GLOBAL
COMMISSION ON
DRUG POLICY

GLOBAL COMMISSION ON DRUG POLICY

The purpose of the Global Commission on Drug Policy is to bring to the international level an informed, science based discussion about humane and effective ways to reduce the harms caused by drugs and drug control policies to people and societies.

GOALS

- Review the base assumptions, effectiveness and consequences of the "war on drug" approach
- Evaluate the risks and benefits of different national responses to the drug problem
- Develop actionable, evidence-based recommendations for constructive legal and policy reform