

Drugs and Democracy: Latin American Commission on Drugs and Democracy presents, for public debate, the principal conclusions of the Latin American Commission on Drugs and Democracy.

Conceived by ex-presidents Fernando Henrique Cardoso of Brazil, César Gaviria of Columbia and Ernesto Zedillo of Mexico, and formed by 17 independent thinkers, the commission evaluated the impact of policies on the “war on drugs” and developed recommendations for more efficient, secure, and humane strategies.

The proposals presented in this Declaration configure a profound change in paradigm in the understanding and means of facing up to the drug problems in Latin America.

DRUGS &
DEMOCRACY:
TOWARD A
PARADIGM SHIFT
Latin American Commission
on Drugs and Democracy

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the Latin American Commission
on Drugs and Democracy

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DRUGS & DEMOCRACY: TOWARD A PARADIGM SHIFT

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STATEMENT// A FAILED WAR

Violence and the organized crime associated with the narcotics trade are critical problems in Latin America today. Confronted with a situation that is growing worse by the day, it is imperative to rectify the “war on drugs” strategy pursued in the region over the past 30 years.

Prohibitionist policies based on the eradication of production and on the disruption of drug flows as well as on the criminalization of consumption have not yielded the expected results. We are farther than ever from the announced goal of eradicating drugs.

A realistic evaluation indicates that:

- Latin America remains the major global exporter of cocaine and cannabis, has become a growing producer of opium and heroin, and is developing the capacity to produce synthetic drugs;
- The levels of drug consumption continue to grow in Latin America while there is a tendency toward stabilization in North America and Europe.

The in-depth revision of current drug policies is even more urgent in Latin America in light of their enormous human and social costs and threats to democratic institutions.

Over the past decades we have witnessed:

- A rise in organized crime caused both by the international narcotics trade and by the growing control exercised by criminal groups over domestic markets and territories;
- A growth in unacceptable levels of drug-related violence affecting the whole of society and, in particular, the poor and the young;
- The criminalization of politics and the politicization of crime, as well as the proliferation of the linkages between them, as reflected in the infiltration of democratic institutions by organized crime;
- The corruption of public servants, the judicial system, governments, the political system and, especially the police forces in charge of enforcing law and order.

BREAKING THE SILENCE, OPENING UP THE DEBATE

Current drug repression policies are firmly rooted in prejudices, fears and ideological visions. The whole issue has become taboo which inhibits public debate. The association of drugs with crime blocks the circulation of information and segregates drug users in closed circles where they become even more exposed to organized crime.

Hence, breaking the taboo and acknowledging the failure of current policies and their consequences is the inescapable prerequisite for opening up the discussion about a new paradigm leading to safer, more efficient and humane drug policies.

This does not mean the outright rejection of policies that combat the narcotics trade which have consumed over the years vast economic resources and implied the sacrifice of countless human lives. Nor does it detract in any way from the urgent priority to strengthen the struggle against cartels and drug traffickers. The way forward lies in acknowledging the insufficient results of current policies and, without dismissing the

immense efforts undertaken, launching a broad debate about alternative strategies. It is also high time to involve in this discussion sectors of society that so far have remained at a distance from the drug problem under the assumption that its solution is a matter for public authorities.

The challenge at hand is to drastically reduce the harm caused by illegal narcotics to people, societies and public institutions. To move in this direction, it is essential to differentiate between illicit substances according to the harm they inflict on people's health and the social fabric.

The search for more efficient policies, rooted in the respect for human rights, implies taking into account the diversity of national situations and emphasizing prevention and treatment. These policies do not deny the importance of repressive actions – including the participation of the Armed Forces in extreme situations, according to the decision of each country – to confront the threats posed by organized crime.

LIMITS AND UNDESIRABLE EFFECTS OF REPRESSIVE STRATEGIES

It is imperative to review critically the deficiencies of the prohibitionist strategy adopted by the United States and the benefits and drawbacks of the harm reduction strategy followed by the European Union. It is also important to question the low priority given to the drug problem by both industrialized and developing countries in other parts of the world.

Colombia is a clear example of the shortcomings of the repressive policies promoted at the global level by the United States. For decades, Colombia implemented all conceivable measures to fight the drug trade in a massive effort whose benefits were not proportional to the vast amount of resources invested and the human costs involved. Despite the country's significant achievements in fighting the drug cartels and lowering the levels of violence and crime, the areas of illegal cultivation are again expanding as well as the flow of drugs coming out of Colombia and the Andean region.

Mexico has quickly become the other epicenter of the violent activities carried out by the criminal groups associated with the narcotics trade. This raises challenges for the Mexican government in its struggle against the drug cartels that have supplanted the Colombian traffickers as the main suppliers of illicit drugs to the United States market. Mexico is thus well positioned to ask the government and institutions of American society to engage in a dialogue about the policies currently pursued by the US as well as to call upon the countries of the European Union to undertake a greater effort aimed at reducing domestic drug consumption. The traumatic Colombian experience is a useful reference for countries not to make the mistake of adopting the US prohibitionist policies and to move forward in the search for innovative alternatives.

The European Union policy focusing on the reduction of the damages caused by drugs as a matter of public health, through the provision of treatment to drug users, has

proved more humane and efficient. However, by not giving appropriate emphasis to the reduction of domestic consumption in the belief that the focus on harm reduction minimizes the social dimension of the problem, the policy of the European Union fails to curb the demand for illicit drugs that stimulates its production and exportation from other parts of the world.

The long-term solution for the drug problem is to reduce drastically the demand for drugs in the main consumer countries. The question is not to find guilty countries and allocate blame for this or that action or inaction, but to reiterate that the United States and the European Union share responsibility for the problems faced by our countries, insofar as their domestic markets are the main consumers of the drugs produced in Latin America. It is, thus, pertinent for us, Latin Americans, to ask them as partners to design and implement policies leading to an effective reduction in their levels of drug consumption and, as a consequence, in the overall scope of the narcotics criminal activities.

THE VISION OF LATIN AMERICA: TOWARD A NEW PARADIGM

Taking into account our continent's experience in the fight against the narcotics trade and the seriousness of the problem, the Latin American Commission on Drugs and Democracy addresses the present statement to our countries' governments and public opinion, to the United Nations and the international community, proposing a new paradigm based on three main directives:

- Treating drug users as a matter of public health.
- Reducing drug consumption through information, education and prevention.
- Focusing repression on organized crime.

Our approach does not imply any complacency in regard to the drug problem. We acknowledge that narcotics are harmful to people and societies. Treating drug users as a matter of public health and promoting the reduction of drug consumption are actually the inescapable preconditions for focusing repressive action on two critical points: reduction of production and dismantling the networks of drug trafficking.

To translate this paradigm shift into concrete action, we propose the adoption by Latin American countries of the following initiatives in the framework of a global process of reframing the policies for fighting the use of illicit drugs:

1. Change the status of addicts from drug buyers in the illegal market to that of patients cared for in the public health system.

The enormous capacity of the narcotics trade for violence and corruption can only be effectively countered if its sources of income are substantially weakened. To accomplish this goal, the State must establish the laws, institutions and regulations enabling those who have become addicted to drugs to stop being buyers in an illegal market and to become patients of the health care system. This change of status, combined with informational and educational campaigns, might have a significant impact in terms of reducing the demand for illegal drugs, lowering its price and, as a consequence,

undermining the economic foundations of the drug business.

2. Evaluate from a public health standpoint and on the basis of the most advanced medical science the convenience of decriminalizing the possession of cannabis for personal use.

Cannabis is by far the most widely used drug in Latin America. Its consumption has an adverse impact on the user's health, including mental health. But the available empirical evidence shows that the harm caused by this drug is similar to the harm caused by alcohol or tobacco. More importantly, most of the damage associated with cannabis use - from the indiscriminate arrest and incarceration of consumers to the violence and corruption that affect all of society - is the result of the current prohibitionist policies.

It is also true that decriminalizing drugs as an isolated measure, disconnected from a strong investment in information and education to reduce consumption, could have the contrary effect of worsening the problems of drug addiction.

The United States is arguably the industrialized country that has invested the highest amount of resources in the fight against the narcotics trade. The problem lies in the effectiveness and consequences of its actions. Its policy of massive incarceration of drug users, questionable both in terms of respect for human rights and its efficiency, is hardly applicable to Latin America, given the penal system's overpopulation and material conditions. This repressive policy

also facilitates consumer extortion and police corruption. The United States allocates a much larger proportion of resources to eradication and interdiction as well as to maintaining its legal and penal system than to investments in health, prevention, treatment and the rehabilitation of drug users.

3. Reduce consumption through campaigns of information and prevention that can be understood and accepted by young people, who account for the largest contingent of users.

Drugs affect and undermine people's decision-making capacity. Statements by former addicts about these risks might have greater power to influence behavior than the threat of repression or virtuous exhortations against drug use. The far-reaching social and cultural changes that have led to profound reductions in tobacco consumption show the effectiveness of information and prevention campaigns based on clear language and arguments that are consistent with the experience of those they try to reach.

Educational campaigns also face the challenge of constantly alerting the population at large and the drug users in particular about each person's responsibility towards the problem, the dangers that come with "easy money" and the costs of the violence and corruption associated with the narcotics trade.

Most of the current prevention campaigns implemented all over the world have failed. There is much to be learned from the innovative experiences carried out by European countries, such as the United

Kingdom, the Netherlands and Switzerland. It is also important to share experiences and explore innovative approaches tested in other parts of the world.

4. Redirect repressive strategies to the unrelenting fight against organized crime.

Public policies should be targeted to fighting the most harmful effects of organized crime on society, such as violence, institutional corruption, money laundering, arms trafficking, and the control over territories and populations. Insofar as the drug trade is a transnational problem, it is important to articulate domestic policies with regional and global strategies.

5. Reframe the strategies of repression against the cultivation of illicit drugs.

Eradication efforts must be combined with the adoption of strongly financed alternative development programs adapted to local realities in terms of viable products and conditions for their competitive access to markets. It is important to speak not only of alternative cultivation but to envision a wide range of options, including the social development of alternative forms of work, democratic education and the search for solutions in a participatory context. Such initiatives must also take into account the legal uses of plants, such as the coca leaf, in countries with a long-standing tradition of ancestral use previous to the phenomenon of their exploitation as an input for drug production. Accordingly measures must be taken to strictly adjust production to this kind of ancestral use.

ENGAGING CIVIL SOCIETY AND PUBLIC OPINION

A new paradigm to address the drug problem must be less centered on repressive measures and more regardful of national societies and cultures. Effective policies must be based on scientific knowledge and not on ideological biases. This effort must involve not only governments but all sectors of society.

The social perception of the drug problem and the legislation on illicit drugs are going through an accelerated process of change in Latin America. A growing number of political, civic and cultural leaders have publicly called for a drastic policy shift.

The deepening of the debate concerning the policies on drug consumption must be grounded on a rigorous evaluation of the impact of the diverse alternatives to the prohibitionist strategy that are being tested in different countries, focusing on the reduction of individual and social harm.

This construction of alternatives is a process that requires the participation of a plurality of social actors: law and order institutions, educators, health professionals, spiritual leaders, families, opinion makers, and media.

Each country must face the challenge of opening up a large public debate about the seriousness of the problem and the search for policies consistent with its history and culture.

At the Inter-American level, Latin America must establish a dialogue with the United States government, legislators and civil society to jointly develop workable alternatives to the current “war on drugs” strategy. The inauguration of the Barack Obama Administration offers a unique opportunity to reshape a failed strategy and engage in the common search for more efficient and humane policies.

Simultaneously, at the global level, we must move forward with the articulation of a voice and vision of Latin America to influence the international debate on illicit drugs, especially in the framework of the United Nations and the Inter-American Drug Abuse Control Commission. Latin America’s active participation in the global debate would mark its transition from a problem-region to a pioneering-region in the implementation of innovative solutions for the drug problem.

BACKGROUND// THE INTERNATIONAL CONVENTIONS

The current international drug control regime is underpinned by three United Nations Conventions, the basis of International Law governing illicit drugs. These Conventions — the first was established in 1961 — were formulated with one underlying directive: all drugs determined to be illicit under the Conventions may exist only for medical and research purposes. This implies that production for any other objective constitutes a crime.

The policies derived from the Conventions envision the elimination of any recreational, ritual, experimental or self-medicating usage of coca, cocaine, opium, heroin, marijuana, and a variety of other drugs. The control system that emerges is based essentially on the politics of repression, sanction and punishment. The first Convention sets as a goal the elimination of opium consumption within 15 years and coca and marijuana consumption within 25.

As for drug consumption, the principles adopted leave room for initiatives in de-penalization or decriminalization of users even while the drugs remain illegal. Convention signatory countries can, therefore, be flexible in their treatment of consumers but should combat the production and commercialization of illegal drugs.

The three United Nations Conventions on the subject of drugs are:

- Single Convention on Narcotic Drugs, 1961, created the infrastructure for an international drug control regime or, the practices, the institutions and the orienting criteria that countries should follow with regard to an international policy on drugs. This dictated:
 - Which substances and their consumption should be monitored (opium, cocaine, marijuana);

- How to add new drugs to the treaty's list of controlled substances;
 - The role of the United Nations in the system of international drug control.
- Convention on Psychotropic Substances, 1971, was created to respond to the growing variety of drugs that emerged in the 1960s and 70s, such as: stimulants, amphetamines, and LSD (Lysergic acid diethylamide). The Convention defined methods of control for the preparation, use and sale of these new substances.
 - Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, dealt with specific questions directly related to drug trafficking, such as: how to control precursors (substances that are not dangerous in and of themselves but are used in the production of illicit drugs) or, how to combat money laundering. The Convention exemplifies the heightened expectation that repression can bring about a “world free of drugs” or, at least, significantly reduce illicit drug production and consumption.

RESULTS AND CONSEQUENCES OF “THE WAR ON DRUGS”

At present, 208 million people around the world use some kind of illicit drug at least once a year. Of this total, it is calculated that 15% suffer from chronic problems of dependency. Marijuana is the most consumed drug (160 million). Synthetic drugs, based on amphetamines, and ecstasy have already surpassed cocaine and heroin in their number of users¹. The illicit drug trade, controlled by organized crime, is estimated to be in the hundreds of billions of dollars.

1// UNODC, World Drug Report 2008. Published online: http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf

The latest *World Drug Report*² from UNODC (United Nations Office on Drugs and Crime) recognizes that implementation of United Nations Conventions on illicit drugs has produced various unexpected negative consequences:

2// UNODC, World Drug Report 2008. Published online: http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf

- The creation of a black market controlled by crime.
- The fight against crime, linked to drug trafficking, demands ever increasing resources, often to the detriment of investments in public health, which was the rationale of prohibitionist politics.
- Repression of production in one locale resulted in its transfer to other regions, keeping global production levels stable.
- Displacement of the types of drugs used as a result of relative price changes associated with repression.
- Finally, prohibitionist policies have generated the stigmatization of drug addicts who are socially marginalized and struggle to find adequate treatment.

The main objective turned out to be unattainable, and the United Nations' own organizing bodies recognize that they have moved from the original objective to eliminate drugs to a policy of containment in regard to levels of production and commerce.

The costs of maintaining prohibition proved to be enormous. The UNODC report underestimates what it calls unexpected consequences. Narcotics trafficking produced enormous increases in levels of violence. It corrupts institutions and democracy. It transforms millions of people who live in poor districts into hostages of organized crime. It pushes drug addicts to use syringes transmitting HIV and other contagious diseases. The international Conventions do not recognize traditional forms of coca use, criminalizing cultures and peoples. In many countries, punishments are disproportionate resulting in mass incarcerations and, in some countries, executions.

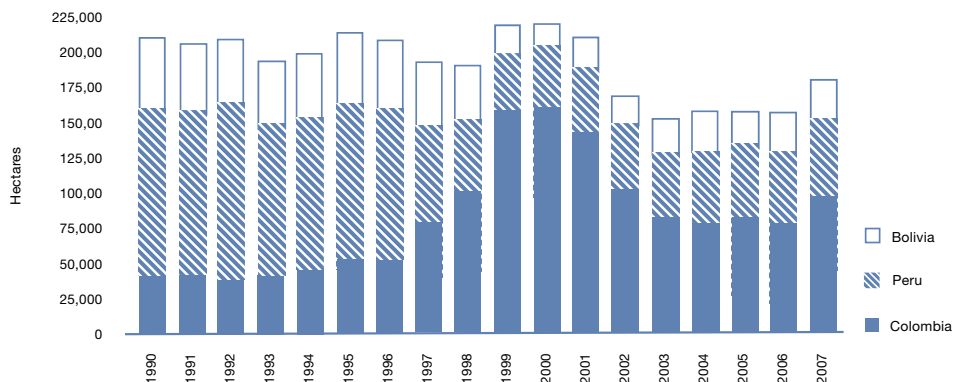
THE POLITICS OF ERADICATION IN LATIN AMERICA

3// Published online: www.unodc.org/documents/crop-monitoring/Andean_report_2008.pdf

Three Latin American countries (Colombia, Peru and Bolivia) produce the sum total of the world's cocaine supply³. In the past few decades with support from the United States government, these countries initiated policies of crop eradication, seizure and repression of drug trafficking. The most important program was the Plan Colombia that proposed to put an end to armed conflict in that country, to prepare a confrontation strategy for narcotics trafficking, to eradicate coca production, to revitalize the country's economy and to offer alternatives to rural drug producers.

The principal goals of the Plan Colombia, and of other eradication programs, were not reached. Production, even though it has suffered fluctuations, continues to be sufficient to supply the global market:

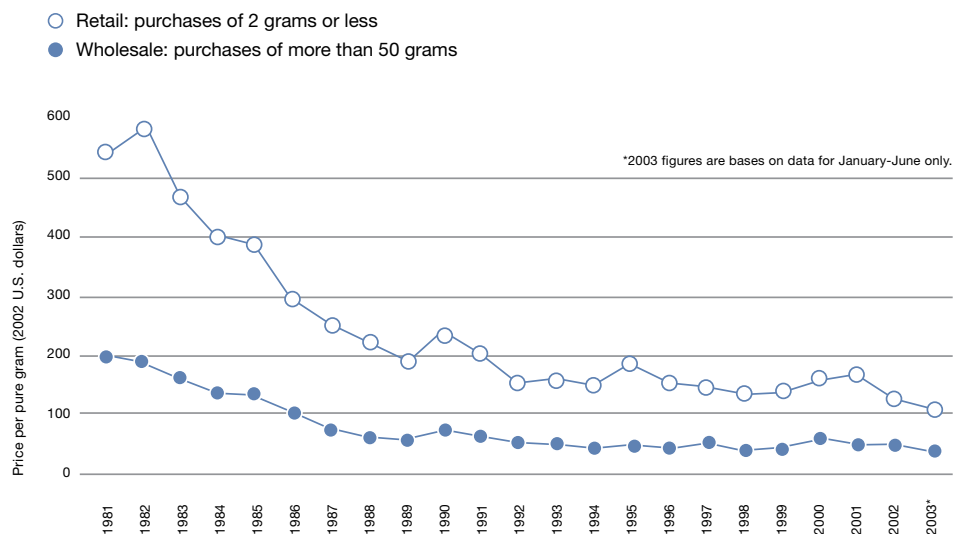
Figure 1: Coca Cultivation in the Andean Region (ha), 1997 to 2007



Source: *Coca Cultivation in the Andean Region: A survey of Bolivia, Colombia and Peru*, June 2008, United Nations Office on Drugs and Crime (Published online: www.unodc.org/documents/crop-monitoring/Andean_report_2008.pdf)

Despite a considerable rise in the levels of seizures in exporting as well as importing countries, this has not affected final supply, or even market price, for consumers. On the contrary, the price of cocaine has shown a predominant tendency to fall while the average grade of purity of the product is on the rise.

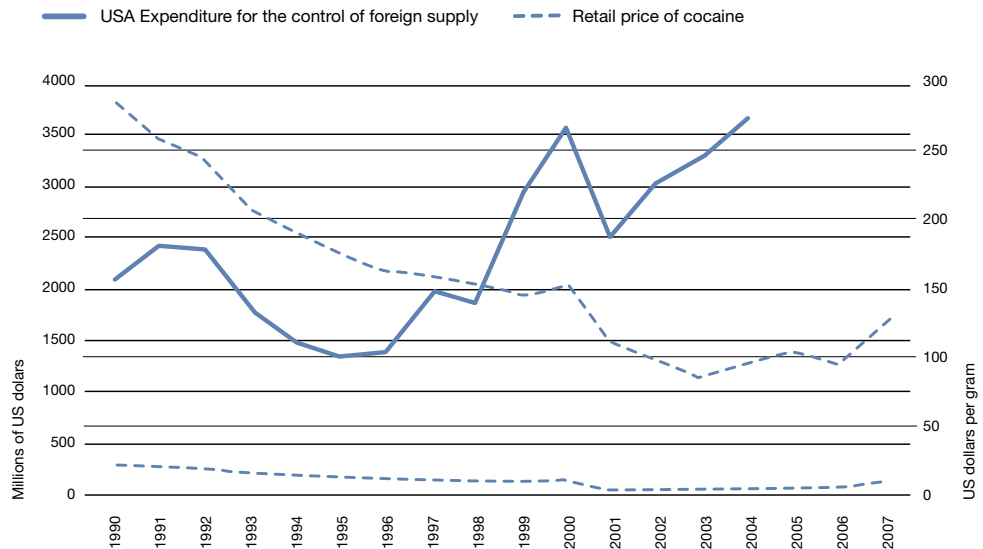
Figure 2: U.S. Wholesale and Retail Prices of Cocaine



Source: "U.S. Drug Policy: At What Cost? Moving Beyond the Self-Defeating Supply-Control Fixation," Statement of John M. Walsh, Senior Associate for the Andes and Drug Policy for the Washington Office on Latin America, to the Joint Economic Committee of the U.S. Congress, June 19, 2008. Published online: http://jec.senate.gov/index.cfm?FuseAction=Files.View&FileStore_id=745af217-b72f-4b0e-b596-30d171d03cbb

In conclusion, prohibitionist policy has shown itself to be ineffective. Not only have levels of supply remained stable, but also prices have fallen despite enormous expenditure on the part of the United States to repress exports from producing countries:

Figure 3: USA foreign expenditure on War on Drugs and the Retail Price of Cocaine, 1990-2006



Note: Data of expenditures in the control of foreign supplies is not available for the years 2005, 2006 and 2007.
Source: Expenditures: Washington Office on Latin America, 2005; Retail Prices: United Nations, 2008.

This situation is the result, first, of the difference between the cost of primary material and the price paid by the final consumer. Prohibition produces a market that offers exorbitant rewards:

Table 1: Cocaine Prices Through the Distribution System

| Product | Market Level | Effective Price/kg |
|-----------------------|-------------------|--------------------|
| Coca leaves | Farmgate/Colombia | \$300 |
| Coca base | Farmgate/Colombia | \$900 |
| Cocaine hydrochloride | Export/Colombia | \$1,500 |
| Cocaine hydrochloride | Import/U.S. | \$15,000 |
| Cocaine (67%) pure | Dealer/U.S. | \$40,000 |
| Cocaine (67%) pure | Retail/U.S. | \$150,000 |

Source: Reuter, Peter. "Assessing U.S. drug policy and providing a base for future decisions," School of Public Policy and Department of Criminology, University of Maryland, 2008. Published online: http://jec.senate.gov/index.cfm?FuseAction=Files.View&FileStore_id=712e7919-ea4e-4ead-b770-c9b656e531d8

Secondly, eradication programs have not succeeded, to any relevant degree, to diminish production, which moves to other locations. The effective result of repression was the constant movement of production sites and principal centers of commerce. Until the mid-1990s, coca leaves were cultivated primarily in Peru and Bolivia. These two countries contained 80% of the world's coca plantations and processed the leaves into paste. The paste was transported in small planes to Colombian territory in the Amazon rainforest where it was then mixed with chemical substances whereby it was converted, finally, into cocaine. It was subsequently sent to the United States — the country that consumes more than half of the world's cocaine.

The first substantial change in the geography of production occurred with the reduction of areas of cultivation in Peru and Bolivia. This was compensated by an increase in production in Columbia, which became the largest producer worldwide. In Columbia, some of the cultivated areas were located within territories under the control of FARC — Revolutionary Armed Forces of Columbia — who began themselves to organize producers and mediate product sales. Coca became an important ingredient in the recipe of the Colombian guerilla group. The paramilitary groups calling themselves United Self-defense Forces of Colombia (AUC), in turn, also began to participate in the coca trade⁴.

The cartels made up of Columbian traffickers controlled a major part of coca exportation to the United States until the 1990s, when these principal organizations were weakened. Death and imprisonment of Columbian narcotics traffickers resulted in the dismantling of the Medellín and Cali cartels. This produced fragmentation in narcotics trafficking and the dislocation, of part of the system of control over trade within the United States, to Mexico's organized crime.

Mexican traffickers expanded their domain of cocaine distribution in the United States gaining entry also into the European market. This has led to enormous growth of crime and violence linked to trafficking in Mexico with important ramifications for its public institutions.

4// Pecaut, Daniel. *Guerra contra la sociedad (War Against Society)*, Bogota, Editorial Espasa, 2001

NARCOTICS TRAFFICKING: VIOLENCE, CORRUPTION AND DEMOCRACY

The global levels of illicit drug consumption have experienced, over decades, a constant and persistent growth, but in the past few years have relatively stabilized. That is not what has happened in Latin America where the use of illicit drugs continues growing. Thus, not only does Latin America have to deal with organized crime associated with the international drug trade, the region must also simultaneously confront trafficking for domestic consumption.

The production and commercialization of illicit drugs has promoted the appearance of parallel powers operating outside the law, left public institutions in a degraded or failed state and, consequently weakened democratic order. Illegal drug markets represent a significant proportion of the economy in producer countries.

The principal consequences of a war on drugs in Latin American societies can be summarized in five major points:

- The development of parallel powers in susceptible areas of national States (poor districts within large cities and their periphery; regions far within the interior; frontier areas; and Amazonian territories);
- The criminalization of political conflicts;
- The corruption of public life (above all police, justice and penitentiary systems);
- The alienation of youth and, especially, poor youth;
- The dislocation of farmers (more than two million are internally displaced, thousands more are refugees from drug combat in Columbia) and the stigmatization of traditional cultures (a stigma thrown on coco cultivation, a staple plantation of the Andean cultures in Bolivia and Peru).

According to United Nations and World Bank data, Latin America currently has

the largest homicide rate in the world. Among youth in several countries, the death rate surpasses even those of many countries in a state of war in other regions of the world (Published online: www.ritla.net/index.php?option=com_docman&task=doc_download&gid=542). The five top ranked places in youth homicide per 100 thousand inhabitants worldwide are Latin American countries. El Salvador ranks first (with a rate of 92.3), second is Columbia (73.4), Venezuela (64.2), Guatemala (55.4) and Brazil (51.6):

Table 2: Rate of Youth Homicide

| Country | Rate | Ranking | Country | Rate | Ranking |
|---------------------|------|------------------|-------------------------------|------|------------------|
| El Salvador | 92,3 | 1 st | South Africa | 16,6 | 15 th |
| Colombia | 73,4 | 2 nd | Dominica | 15,4 | 16 th |
| Venezuela | 64,2 | 3 rd | USA | 12,9 | 17 th |
| Guatemala | 55,4 | 4 th | St.Vicente and the Grenadines | 12,1 | 18 th |
| Brazil | 51,6 | 5 th | Mexico | 10,4 | 19 th |
| Porto Rico | 46,6 | 6 th | French Guiana | 9,7 | 20 th |
| Virgin Islands | 27,1 | 7 th | Argentina | 9,4 | 21 st |
| Santa Lucia | 26,4 | 8 th | Costa Rica | 9,2 | 22 nd |
| Ecuador | 26,1 | 9 th | Dominican Republic | 9,1 | 23 rd |
| Paraguay | 22,3 | 10 th | Israel | 8,0 | 24 th |
| Trinidad and Tobago | 21,2 | 11 th | Chile | 7,9 | 25 th |
| Guiana | 21,2 | 12 th | Cuba | 7,7 | 26 th |
| Panama | 17,8 | 13 th | Uruguay | 7,0 | 27 th |
| Nicaragua | 16,6 | 14 th | | | |

The relationship between homicide, firearm and drug commerce is central. Drugs finance the purchase of firearms, which sustain gang wars for control of territories and trafficking. The geography of drug and arms trafficking does not respect national sovereignties or borders.

In Brazil, arms and drug trafficking now dominate the criminal activity in metropolitan areas and reaches into the nexus of society and its institutions. Drugs finance the acquisition of firearms that are used in gang struggles for control over territories and in confrontations with police.

Drug traffickers control large urban areas, where the poorest sectors live, acting as de facto authorities. Some of their earnings are routed to corrupt authorities

within the police and the public safety system. In certain states and municipalities, the influence of trafficking reaches into the array of public institutions.

The illegal firearms market, generally linked with drug sales, is the major culprit in the high rate of homicides particularly among youth. Even though violence and lack of security affect all citizens, homicide rates are significantly higher in low-income districts and where city services are most deficient. The drug trade systematically uses infant-juvenile populations—often children of ten years of age, many of them armed.

According to studies by the Favela Observatory (www.observatoriodefavelas.org), minors under 18 years of age represent between 50% and 60% of the workforce employed in this criminal sector. Children and adolescents carry out functions armed or non-armed.

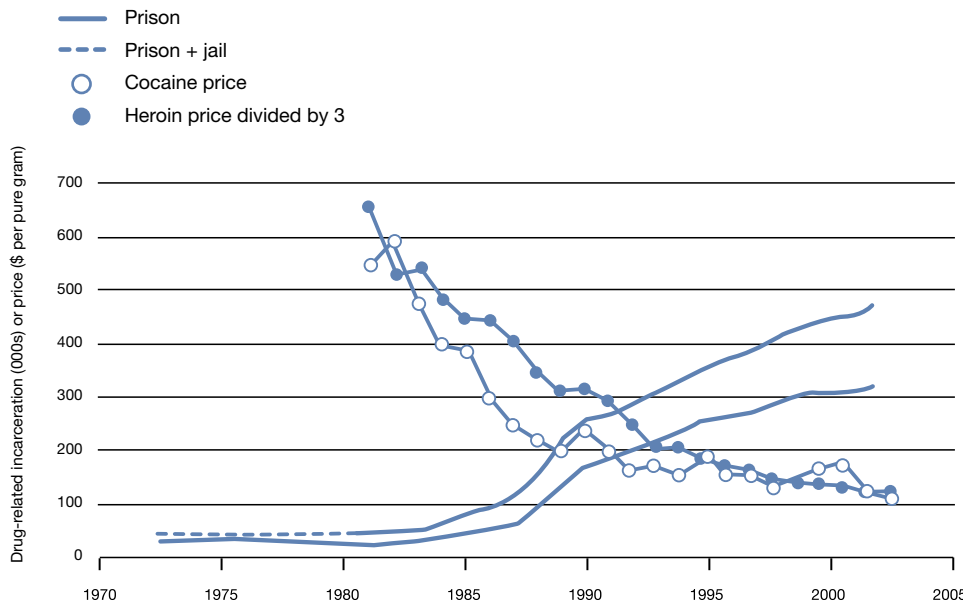
THE LIMITS OF PROHIBITIONISM

In a document prepared for the Commission, Professor Peter Reuter, University of Maryland, argues that the most notable consequence of the United States' emphasis on methods of repression was the incarceration of an enormous number of people for crimes related to drugs:

Whereas in 1980 fewer than 50,000 individuals were incarcerated, that figure had risen to 500,000 by 2007. The estimated half million (which includes those in local jails as well as federal and state prisons) consists only of those who have been convicted of drug selling or possession, not those property or violent crimes that may have been related to their drug dependence. What is particularly astonishing is that the number has kept on rising even though there is good reason to believe that the scale of drug dealing has been declining modestly for the last fifteen years (Published online: http://jec.senate.gov/index.cfm?FuseAction=Files.View&FileStore_id=712e7919-ea4e-4ead-b770-c9b656e531d8 (p. 8)).

Today in the United States, around 500 thousand people are incarcerated for crimes associated with drugs — 12 times more than arrested in 1980 —, even though no study demonstrates a positive relationship between the number of mass imprisonments and the evolution pricing of drugs. Indeed, as you can see in the diagram below, in the last 25 years, while the number of prisoners has grown the price of drugs has systematically diminished:

Diagram 4: Imprisonment related to drugs and the retail price of cocaine and heroin in the United States:



Note: prices have been adjusted for inflation Source: Reuter, Peter. "Assessing U.S. drug policy and providing a base for future decisions," School of Public Policy and Department of Criminology, University of Maryland. 2008.

Prohibitionism helped convert the United States into the country with the largest incarcerated population in the world. The total cost of maintaining a drug trafficker in jail in the United States can reach \$450,000: arrest and trial costs are calculated to be \$150,000; the cost of providing an additional space in the prison system is approximately \$50,000 to \$150,000, depending on the jurisdiction; maintenance costs for a single prisoner are roughly \$30,000 per year — with the medium prison term of five years, that's \$150,000. With this same amount of \$450,000, approximately 200 people could be given medical treatment or education.

A New York Times editorial from July 2, 2008 entitled *Not Winning the War on Drugs* (Published online: <http://www.nytimes.com/2008/07/02/opinion/02wed1.html>), seemed to describe a fresh North American social consciousness when it affirmed that:

Above all, the next administration must put much more effort into curbing demand — spending more on treating drug addicts and less on putting them in jail. Drug courts, which sentence users to treatment, still deal only with a small minority of drug cases and should be vastly expanded. Drug-treatment programs for imprisoned drug abusers, especially juvenile offenders, must also be expanded.

Over all, drug abuse must be seen more as a public health concern and not primarily a law enforcement problem. Until demand is curbed at home, there is no chance of winning the war on drugs.

HARM REDUCTION, DEPENALIZATION AND DECRIMINALIZATION

Over the last few decades, various countries developed innovative policies to confront the problem of illicit drug use, based on pillars of depenalization and/or decriminalization and the politics of harm reduction.

The policies of reducing damages constitute a strategy that treats drug consumption as a public health question in which the addict is seen as a person who needs auxiliary assistance rather than a criminal who should be punished. The initial objective of the countries which developed the policies of reducing damages was to regulate the distribution of syringes, needles and pipes to drug users with the end goal of reducing the number of cases of illness such as AIDS and hepatitis, of which there is very high risk when users share needles. In the past, this policy has included drug addiction support and treatment programs.

5// CERVINI, Raul.
*Os processos de
descriminalização
(The processes of
decriminalization)*.
2nd. ed., São Paulo:
Revista dos Tribunais,
1995, p.75, em
Boiteux, p.82-83.

Depenalization is defined by Cervini⁵ as “the act of diminishing punishment for an illicit (action) without decriminalizing it, meaning without removing from the act the illicit, penal (offense).” Or, if you will, legal prohibition of the use and possession of narcotics continues in force in penal law, but the criminal is no longer sanctioned with the privation of his liberty.

The problem put forth by depenalization of drug use while maintaining its criminality is the concession of discretionary power to a policy authority. In countries where corruption in the police force is endemic, criminalization can be used to blackmail the drug user, a practice that is common in Latin America.

The alternative to depenalization is decriminalization applied only to the consumer:

Decriminalization removes the status of criminal law from those acts to which it applies. This signifies that certain acts are no longer considered crimes.

In relation to drugs, generally this refers to the demand; acts of acquisition, possession and consumption. In accordance with decriminalization, it is still illegal to use, possess, acquire or, in some cases, import drugs but these acts are no longer considered crimes. However, it is still possible to apply administrative sanctions; these can be a fine, suspension of a driving license or the right to carry arms, or merely a warning. On the contrary, legalization is the process of bringing to the control of law a specific activity that was previously illegal or prohibited or strictly regulated⁶.

The drug-combat policy officially adopted by various countries, associates depenalization or decriminalization of consumption with a harm reduction policy. In contrast to the prohibitionist focus, this perspective is proving to be more effective and humane.

In the majority of European countries (the exceptions being, Sweden and Greece), Canada and Australia, possession of small amounts of marijuana will not constitute a criminal offense for the user. In both legal practice and the repression of commerce, a distinction between strong drugs and weak drugs is observed. In a majority of countries, traffickers, especially of heavy drugs, can be dealt heavy penalties.

Despite presenting many common features, national policies show variations:

- In Portugal, Spain and Italy, the possession of drugs for personal use was decriminalized. People can be subject only to administrative sanctions, such as fines (which in some cases can be removed if the user agrees to enter treatment). In Spain it is permitted to grow marijuana for personal use.
- The Swiss policy is based on “four pillars”: prevention, therapy, risk reduction and repression. In Switzerland, possession of any drug for personal use is treated as a violation (subject to administrative sanctions). In 2001, the Public Health Commission of the Council of States approved a law to legalize possession, cultivation and use of marijuana (for adults, 18 years or older). However, the measure was overturned by a few votes in the National Council and in a recent referendum. In spite of this, marijuana is tolerated by the police and can be practically bought openly. Switzerland also has a pioneer heroin prescription program, which was approved by national referendum.

6// “Decriminalization in Europe? Recent developments in legal approaches to drug use,” EMCDDA, ELDD Comparative Analysis, November 2001, European Legal Database on Drugs. Published online: http://eldd.emcdda.org/databases/eldd_comparative_analyses.cfm

- In Holland, the possession of small quantities of marijuana and small-scale harvests for personal use were depenalized and the selling and using in so-called coffeeshops — with an official license for the use and sale of marijuana in limited quantities — were decriminalized. The original objective was to permit access to marijuana for individual consumption, disassociating it from heavier drugs. Heroin is available with a medical prescription and safe injection rooms are available to drug addicts. The legal sale of marijuana has not produced a higher number of consumers compared to various European countries where commerce remains illegal. These coffeeshops have functioned regularly since 1976, although their continuation is being questioned because of the trouble caused by tourists who visit Holland exclusively to buy marijuana and, by the presence of small-time traffickers in search of tourists to whom they sell heavy drugs.
- In April 2001, Luxembourg decriminalized the use and transport of marijuana. Problems related to use, acquisition and planting of marijuana are treated as administrative sanctions rather than penalized crimes.
- Since 2002 in Belgium, the use of marijuana was decriminalized. Penal processes only develop, and arrests only happen, in grave cases of social disturbance or public disorder. Similar law is being adopted in the United Kingdom and, for a few years, has already been in force in Ireland.
- In Germany possession of limited quantities of any type of drug was depenalized (tolerance is in relation to weight and is determined by regional government). Since 1994 more than 50 medically supervised centers for safe heroin injection were opened. A sophisticated program that provides heroin to users with major addiction has functioned in major cities since 2002.
- In Denmark possession of small amounts of marijuana is treated with a police warning while the possession of small amounts of cocaine, or heroin, is treated with a legal reprimand and seizure. Fines are imposed on repeat offenders. Sometimes in certain cases of heavy drugs, users in possession of a single dose for their own use receive permission to keep the drug. In these cases, the reasoning given by police is that the effect of a seizure would be minimal and the consequences high since the user could commit a crime or offense to obtain money for another dose.

- In France, even though the use of narcotics has not been depenalized, inspectors decide, on a case-by-case basis, whether to give a warning for a first infraction, apply criminal penalties or direct the user to treatment. In 1999, a director of the Ministry of Justice recommended not to try cases of individual illegal drug use when there did not exist other aggravating infractions. She also determined that prison should only be used as a “last resort”.
- In May 2004, Russia introduced a new law that substituted user prison terms with administrative fines for possession of up to two doses of any type of drug for personal use. Even so, foreigners can be expelled from the country, or have future entry denied, if they are involved in cases of infraction for possession of drugs.

In North America the politics are also changing. In Canada the debate over war-on-drugs policy has been rapidly evolving in the past few years. A commission of the Canadian Senate proposed legalizing marijuana along with attaining important reforms in drug prevention and repression legislation.

Even in the United States various state and municipal legislatures guarantee differential treatment for light drug users. More than 35 years ago, in October 1973, the state of Oregon reduced the infraction of possessing less than 30 grams to a “civil violation,” the maximum penalty being a \$100 fine. Ten other American states (including Alaska which has decriminalized drug possession for personal use) have promulgated laws reducing the maximum penalty for possession of marijuana to a fine. In the state of California, marijuana is not only legally produced for “medical use,” it is also already taxed.

Medical and therapeutic usage of marijuana was decriminalized in the state of Michigan at the beginning of December 2008. Michigan became, in this way, the 13th state in the country to legalize marijuana for clinical and therapeutic use despite the law being unclear with regard to the means for obtaining the herb. Approved by voter referendum, the law allows patients with cancer, AIDS, glaucoma and a few other illnesses to use medically prescribed marijuana as a means of reducing symptoms of illness as well as their respective treatments. People who qualify can officially register with their state government to receive special identity cards. People in possession of an identity card, “will be able to acquire, possess, transport and cultivate a

limited quantity — not surpassing 2.5 ounces and 12 plants — of marijuana. Those given this right of possession, cultivation and consumption, can even nominate another person — on whom they are dependent or from whom they receive care — to receive the “marijuana card.”

Depending on whether issued by state or municipality, the law is applied very differently. In the city of San Francisco, for example, there is a proliferation of small establishments — almost always cafés or snack bars — that are set up to sell cigarettes, teas and limited quantities of marijuana. In spite of its being illegal, the police rarely intervene with this kind of commerce.

In addition to the changes in national legislation, mobilization has begun to modify the international Conventions, in particular in relation to the exclusion of marijuana as an illicit drug. The *Global Cannabis Commission Report*⁷ prepared by The Beckley Foundation introduces various alternatives in this vein. The report argues that marijuana has fewer negative effects on health — whether direct or indirect — than alcohol or tobacco. The Cannabis decriminalization proposal is linked to public policies on control and information about its use, the same case with other legal drugs.

If we compare the impact of United States and European policies on consumption, the trends are generally the same. In other words, policies that are less repressive, more humane and carry lighter social cost do not result in raised consumption.

7// Feilding, Amanda, ed. “Cannabis Policy: Moving Beyond Stalemate,” *The Global Cannabis Commission Report*, The Beckley Foundation and Oxford University Press, 2008. Published online: http://www.beckleyfoundation.org/pdf/BF_Cannabis_Commission_Report.pdf

NEW TRENDS IN LATIN AMERICA

In Latin America various countries have implemented — or are on their way to implementing — policies to depenalize possession of illicit drugs for personal use. Among them are Venezuela, Argentina, Colombia and Brazil. Additionally, among Andean region countries with ancestral traditions in the use of coca, the demands are growing for respect of local culture as well as for the search for alternative uses. Small cultivations of coca leaves in Bolivia are differentiated from the deposits of drug traffickers. The motto of president Evo Morales is “Zero cocaine, but not coca zero” — an objective still to be reached as long as Bolivia continues to be an important producer of coca for illicit usage. Since 1988 Bolivia has permitted up to 12 thousand hectares by law for cultivation of coca as chew or to make tea infusions. The parcel was increased in 2004. What extends beyond the area must be eradicated. While dissatisfied, and pressuring for lower limits on the fields of cultivation, the White House yielded to the format and continued sending aid to the government to carry out their antidrug campaign. The cooperation, however, was suspended when La Paz vetoed the forced eradications.

In Brazil, the first national drug control policy was created by president Fernando Henrique Cardoso’s government. The creation of the National Drug Secretariat was intended to develop a plan that reconciled methods of repression, plans of prevention and reduction of demand. In 2006, under the governance of president Luis Inácio Lula da Silva, the drug policy was realigned with Law nº. 11,343, strengthening prevention programs and guaranteeing educational measures instead of user penalties, and providing space for the cultivation of plants for confirmed personal use.

In March 2003 in Mexico, ex-president Vicente Fox made the following commentary: “My opinion is that, in Mexico, it is not a crime to possess or carry a small quantity of drugs in one’s pocket. [...] One day, humanity will see the legalization of drugs as the more sensible alternative.” Already

last October, in an attempt to keep his crusade against narcotic trafficking alive and to quell violence on the streets, president Felipe Calderón passed a bill into law that decriminalizes possession of drugs in small quantity. Calderón's initiative proposes that users found in possession of up to two grams of marijuana, 50 milligrams of heroin, 5000 milligrams of cocaine and 40 milligrams of methamphetamines, should not be punished

The measure is intended to legally differentiate between consumer, supplier and seller. "The goal here is not to treat the drug addict like a delinquent but, yes, like someone who is infirm and to provide them with psychological or medical treatment," said senator Alejandro González, president of the Justice Commission of the Mexican senate.

The Argentine government, in turn, promises to introduce a bill soon that decriminalizes drug consumption. The minister of justice, Aníbal Fernández, declared that the government seeks "a modern, intelligent standard that concedes responsibility to the judiciary to resolve the problem as it presents itself." The Argentine president, Cristina Fernández Kirchner, recently criticized those who "condemn the drug addict without understanding the personal and social problem," and, she insisted that, "those who sell narcotics should be punished, not those who use them."

In Medellín and Cali, Colombia, social reinstatement programs for drug users have had good results, with a considerable reduction in the rate of homicide.

Recently, the governments of Brazil and Bolivia signed an agreement that launches a regional anti-drug strategy. Argentina, Peru and Chile will likely also take part. The agreement foresees joint actions with police, locating and destroying laboratories and vestiges of clandestine runways, and support of the Armed Forces and sharing information about drug trafficking.

In conclusion, as these examples demonstrate, Latin American countries, with their diverse rhythms and characteristics, are heading in the same direction. They are seeking alternatives to the policies of indiscriminate repression while recognizing that the complexity of themes and variety of social players involved will require innovative responses that mobilize all of society's resources and a wide range of public policies.

FACING THE FUTURE

The increase of violence in Latin America, which is in large part linked to drug trafficking, has become one of the principal problems for citizens and democratic institutions in the region in recent years. The orientation of battling drugs with prohibition, repression, sanctions and punishment not only does not resolve the problem, but generates new and more serious ones. The experience with legal drugs, such as nicotine addiction and alcoholism, indicate that highly positive results can be reached using information campaigns, education and consciousness building, and when necessary, therapeutic support.

Even with heavy military police repression, eradication of plantations, disruption to drug traffickers' physical infrastructure and the constant seizure of considerable drug supplies, organized crime maintains margins of profit that easily overcome its losses. The supply of coca was sufficient to meet market demands and even to lower prices.

As has already been said, the conflicts involving illegal production for export and for internal consumption have given the region the highest levels of homicide on the planet. Drug profit is the principle financier of the illegal arms trade. Thousands of youth die in internal wars for control of commerce or in battles with the police or military who are also fatal victims of this singular war. Some of the powers responsible for maintaining order and structure have been co-opted by organized crime, and the corrupting power of drug money penetrates all levels of public authority and corrodes the basis of democracy.

How to confront this problem? The strategy fundamentally centered on repression failed in Latin America. The wish for a world without drugs does not constitute a realistic vision and, therefore it cannot be the basis for public policies whose priority objectives should be prevention, treatment and reduction of harm for society, individuals, families and institutions.

Despite the importance and the seriousness of the theme presents to citizens in the region, it is dealt with marginally in electoral campaigns, in the media and in public debate in general. Advances in the region — many of them important — made by diverse countries in their laws or in practical means of dealing with the question, as well as public declarations by political leaders, while representing important steps are still insufficient. Governments and Latin American societies should deepen the debate about the drug phenomena. In the absence of ample and well-informed discussion, problems related to violence, corruption and the erosion of public power tend not only to become aggravated but, become more difficult to resolve.

The politics of war against drugs adopted officially by diverse countries, particularly in Europe, with a focus on depenalization or decriminalization of consumption, drug addiction treatment, prevention of extremely injurious secondary effects (like the use of contaminated syringes as vehicles of contagious disease such as HIV) have proven to be a more effective and humane model.

In Latin America, diverse countries have implemented or (or are on their way to adopting) policies of depenalization of possession of drugs for personal use, among them Uruguay, Venezuela, Colombia, Argentina and Brazil. Moreover, new ways of thinking and acting in the fight against drugs are growing in the region. They focus on human rights, respect of ancestral cultures and the search for new types of crops and alternative uses.

Part of the legislation and public policy, in the from different countries in the region prove themselves insufficient and/or ineffective in curbing drug use and drug trade. Changes in legislature, education campaigns, drug addiction treatment, information and consciousness building are central elements for dealing with the cited problems. Clear declarations in favor of depenalization or even decriminalization, regulation and treatment of the drug problem as a public health question, emerge today from personalities from diverse countries in the region and from different ideological perspectives and parties.

Leaders in communication, public opinion, education and from civil society organizations should participate in consciousness raising campaigns about the harmfulness of drugs using effective and realistic messages that reach

the public. Mobilizing recovering addicts who can transmit the drama of their lives is certainly more impacting than statements of principle.

The public health system should be prepared and endowed with resources to support drug addicts, just as it is necessary to support civil society organizations dedicated to drug addiction treatment.

Public security forces should focus their efforts and resources on the fight against organized crime and arms trafficking associated with it, seeking to dismantle the great web of drug and arms trade and money laundering. Excessive force to repress the user represents a waste of limited resources and it opens the door unnecessarily to corruption in the military and police forces.

A security policy should be guided by a solid intelligence system. Without it, repression is ineffective and its social effects can even be counterproductive. New policies should make use of expertise about the quality of illicit drugs used and studies about their health impact. Knowledge gained at a national level should be shared between countries in the region, which will permit identification of the drug's origin and route.

New policies and education campaigns should be accompanied by systemic research that supports decision making for effective action in prevention, information dissemination, education and treatment. Research centers should regularly study standards and changes of illicit drug use, according to type, age group, and social stratum of users. This requires constant surveillance of what is happening with consumers, including indirect consequences such as HIV transmission (whether by sexual transmission under the effect of drugs, whether by blood in the sharing of syringes.)

The search for alternatives to rural development that create viable markets and infrastructures for the actual producers of illicit drugs should not exclude the a priori possibility of lawful utilization of the same. New scientific research might valorize the use of cannabis and coca as ingredients for medicinal applications, culinary use, chewing gum, production of extremely resistant fibers for use in textiles and rope, hygiene products, bio-combustible fuels and vegetal plastics.

The construction of a common good requires courageous solutions that may only be developed through an open debate that strengthens the disposition

to experiment with new solutions. It is a complex theme that requires mobilization of the most diverse areas of knowledge and coordinated action of various institutes and public policies.

Parliamentarians, governments, judicial authorities, public security organizations, health sector specialists and civil society organizations should take part in an open and informed debate that transcends corporate interests. A complex problem demands mobilization of the most diverse experts and institutions that deal with the problem through integrated policies.

The problem of drugs should be debated straight on — through discussions, debates, studies and research — by each country and across the region. It does not only affect each respective society but creates spaces of criminality that do not recognize national borders. The subject demands, therefore, new forums of debate in each country and at the regional level that facilitate free and intense discussion and the exchange of local experiences that seek out cooperative solutions to a regional problem. As the region that has most suffered the negative effects of the “war on drugs”, Latin America can effectively contribute in the search for new paradigms to face the problems posed by the illicit drug trade and consumption.

