



**GLOBAL COMMISSION
ON DRUG POLICY**

POSITION PAPER

DRUG POLICY IN COLOMBIA

THE ROAD TO A JUST REGULATION





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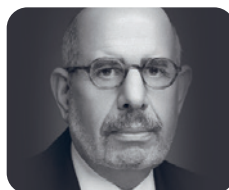
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FOREWORD

Few countries in Latin America experienced the violence Colombia went through in the late 20th century, from civil wars to internal conflicts. In the midst of these multi-layered 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 government of the United States of America to eradicate coca crops, and an insatiable demand for cocaine from consuming illegal markets.

According to United Nations' data,¹ more than 90% of the cocaine intercepted in the United States comes from Colombia. In 2021, following a few years of light decrease in the numbers of production, Colombia reached its historical maximum in the hectares of coca cultivated, moving from 143,000 hectares in 2020 to 204,000 hectares in 2021 – representing a 43% increase. In an illegal global market worth billions of dollars, Colombia's revenues from cocaine represent slightly more than 1% of the global market, in contrast with retail markets which retain up to 65% of the revenues, according to the Organization of American States (OAS).² Yet even that relatively small income, along with other factors explored in this paper, has succeeded in corrupting institutions, influencing policy and elections, degrading the rule of law, displacing millions of people and costing the lives of thousands, while leaving cultivating communities in poverty.

Organized criminal groups and paramilitary groups have infiltrated and corrupted many levels of power and, as elsewhere in Latin America, it can be difficult to know where 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, and has faced external pressure to improve security, increase stability, and reduce corruption. Increased military aid, through initiatives such as Plan Colombia, has increased internal displacement in some areas of the country, provided security to certain sectors of the population, and strengthened one of the largest military groups in the region, yet had little impact on the global cocaine trade.³

In the midst of the tensions between war and peace, Colombia has relatively low drug use in comparison to its neighbours, especially considering the availability of drugs domestically. According to the 2019 National Survey on Psychoactive Substance Use, just 9.7% of the population aged 12-65 had ever tried any illegal drug, with cannabis being the most widely used illegal drug (8.3% used ever in life and 2.6% used in the last month), and cocaine being used by only 2.1% ever in their life and a marginal 0.8% in the last month.⁴

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, especially when paired with the limitations of prohibition itself.

Colombia continues to experience a human rights crisis, with hundreds of social leaders assassinated mainly 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, between 2016 and 2021 the Office of the High Commissioner for Human Rights in Colombia verified 562 cases of homicides against human rights defenders, with progressive numbers each year on aggressions against them.⁵

As part of the Global Commission on Drug Policy, we have decided to provide a country-specific position paper, providing a detailed analysis of the drug policy crisis in Colombia. 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 to the situation in Colombia.

There is an urgent need for a paradigm shift in Colombia. Drug regulation is a means to strengthen institutions, as drug prohibition has weakened them. The costs of the «war on drugs» have been detailed in numerous reports by the Global Commission on Drug Policy. Colombia is one of the countries most harmed by the punitive prohibitionist paradigm on drugs. Colombia cannot continue down a path

in which violence related to the current drug control regime is threatening the future of young people, actively violating human rights, threatening peace building and undermining the economic potential of the country.

Reform is required, and the Global Commission is honoured to put forward these recommendations to enhance the peace, human rights, security and development of Colombia.

César Gaviria
28th President of Colombia

Juan Manuel Santos
32nd President of Colombia

GLOSSARY

Prohibition | The establishment of criminal sanctions for the production, distribution, and possession of certain drugs (for other than medical or scientific uses). This term is used in reference to the international drug control regime as defined by the UN conventions and treaties of 1961, 1971 and 1988, as well as domestic legislation (sanctions varying widely).

Decriminalization | Most commonly used to describe the removal or non-enforcement of criminal penalties for use or possession of small quantities of drugs or paraphernalia for personal use (sometimes also used in reference to other minor drug offences). While no longer criminal, possession remains an offence subject to administrative or civil sanctions, such as fines or referrals to services.

Legalization | The process of ending prohibitions on the production distribution and use of a drug for other than medical or scientific uses. In the drug policy context «legalization» is generally used to refer to a policy position advocating «legal regulation» of drugs or «legally regulated drug markets» of currently prohibited drugs.

Regulation | The set of legally enforceable rules that govern the market for a drug, involving application of different controls depending on drug risks and needs of local environments. Includes regulation of production (licensed producers), products (price, potency, packaging), availability (licensed vendors, location of outlets, age controls), and marketing (advertising and branding).

Harm reduction | Refers to policies, programs, and practices that aim to mitigate the negative health, social, and economic consequences of using legal and illegal psychoactive drugs and of drug laws and policies, without necessarily reducing drug use or conditioning abstinence.

Novel/New Psychoactive Substances (NPS) | Generally (although not exclusively) this term is used to describe recently emerging synthetically produced drugs used for nonmedical or scientific purposes, not subject to control under the United Nations Single Convention on Narcotic Drugs 1961 and the United Nations Convention on Psychotropic Drugs 1971 (although some nation states may act unilaterally and regulate or prohibit certain NPS under domestic legislation).



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

Colombia's complex past combines structural violence and internal armed conflict. Unjust 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»⁶ 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.⁷ 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 United States and elsewhere. Eventually cannabis production was substituted by the cultivation of the coca leaf, which can be used to produce cocaine. Colombia currently produces opium poppy, cannabis, and coca leaf and is by far the largest producer and exportation hub for cocaine produced in the Andean countries.

Colombia's 54 year-long internal armed conflict, which is 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.⁸

Rural communities have been the most affected, being displaced due to land appropriation in the 1940s and 1950s and subsequently resettled to areas where coca cultivation was the only viable livelihood. The 2021 Census of the Illicit Crop Monitoring System (SIMCI) identified 204,000 hectares of coca plantations in Colombia, with 86% of the crops concentrated in areas where they have been grown for more than 10 years.⁹

"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, EX-PRESIDENT OF COLOMBIA
AND MEMBER OF THE GLOBAL COMMISSION ON DRUG POLICY,
SUMMIT OF THE AMERICAS, 2012.*

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. In this context, the economic gains from the cocaine market corrupted state institutions, including armed forces and civilian institutions, with marginal gains for those who depend on the crop.

Cocaine's share of Colombia's Gross Domestic Product (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 2-3% of Colombia's GDP, a figure that is increasing annually.^{10,11,12}

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.¹³

Ending the prohibition of drugs and enabling the legal production and commercialization of industrial products which derive from the coca leaf (with nutritional, culinary, agricultural and traditional uses) would bring economic opportunities to the producers, who are currently forced to participate in the illegal drug market.

From 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);¹⁴ increased internal conflict (1994-2005); the demobilization of paramilitary groups affiliated with the United Self-Defence 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 groups.

During the first stage, «bonanza marimbera»,¹⁵ 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.¹⁶

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.¹⁷

Prominent, charismatic figures dominated the scene, with organized criminal groups in the cities of 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.¹⁸

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 from communities active in the illegal drug market.

The era of large drug trafficking groups ended during César Gaviria's presidency, with the 1993 assassination of Pablo Escobar, head of the Medellín cartel, after an enormous sacrifice of lives and extreme violence. While drug trafficking alliances deepened between Colombian guerrilla and paramilitary groups, drug use continued to increase internationally. 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.¹⁹ Even so, the violence did not end.

The traditional Caribbean drug 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 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.²⁰

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.²¹ 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 process²² with the AUC between 2003 and 2006.²³ Public ceremonies were held to demobilize and disarm more than 30,000 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.²⁴

Plan Colombia and its Impact on Drug Policy

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 crops²⁵ and military and intelligence operations to capture kingpins.²⁶ Distrustful of Colombia's capacity to address the problem, the United States applied pressure through decertification,²⁷ a mechanism used to declare that a country is failing to comply with its obligations under International Drug Control Conventions, and by toughening its antinarcotics strategies.²⁸

The United States had declared itself in favour 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 within the Colombian army.^{29,30} Plan Colombia came into force in 2000 and included a military component consisting of intelligence gathering, purchasing of equipment, and capacity building of police and prosecutors to disrupt drug trafficking.

Between 2000 and 2008, the military received USD\$4.9 billion worth of United States government assistance primarily under Plan Colombia in addition to the resources invested by Colombia.³¹ The humanitarian component of Plan Colombia focused on coca crop eradication, but the heavy reliance on aerial spraying of glyphosate devastated communities and the environment.³²

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. However, violence levels increased under Plan Colombia and in 2002 a record 673,919 people were affected by internal conflict, primarily suffering from forced displacement.³³

While illegal coca crops were reduced considerably in the regions where crop 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, but not the rural poor. Overall, cocaine production was neither reduced nor stifled.

“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



A farmer carries a sack of coca leaves in a field in the Guaviare department, Colombia, on Sept. 25, 2017. (Raul Arboleda/AFP/Getty Images)



A soldier provides security to peasants eradicating coca plantations in the mountains northeast of Medellín, Colombia in 2014.
© Raul Arboleda-AFP/Getty Images

THE IMPACT OF DRUG PROHIBITION 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,³⁴ never giving way to dictatorship. From a structural viewpoint and in comparison to neighbouring countries, Colombia's democratic institutions are stable in terms of their level of development, with judicial independence and civilian-led institutions.³⁵ While the state has huge shortcomings, the country also faces other deficits, including 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.³⁶

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.³⁷ The economic power of criminal organizations and the fragile state presence in some parts of the country have enabled stakeholders in illegal industries to assume positions of local political power and perform pseudo-state functions, either by replacing state actors or through sponsorship.³⁸

The Parapolitics Scandal

The most telling episode of infiltration of criminal structures in Colombian politics was the parapolitics scandal. Paramilitary structures involved in the illegal drug economy were found to have reached the highest levels of political power. By 2008, 35% of senators and 13% of chamber representatives in congress were being investigated for their links with paramilitary groups.³⁹ This crisis was also impacting other Latin America countries.

Paramilitary groups obtained significant resources from their involvement in the drug trafficking business, which they used to finance their military and strategic ability to take control of civil and political life.⁴⁰ Several studies confirm that at a departmental level, the state delegated public security action to paramilitaries or tolerated unilateral actions undertaken by them.⁴¹

Armed Groups as Welfare Providers

Although the FARC-EP had previously considered drug production and trafficking a capitalist activity, and therefore counter-revolutionary, nonetheless in 1982 the group became involved.⁴² By that time, the FARC-EP had also realized that opposition to the drug trade had turned local people against them.⁴³ The group's participation in the drug trade consisted of them acting as an intermediary between coca growers and drug traffickers, protecting production, collecting «taxes» from traffickers, fixing prices, and exercising control over the territory.

The group also functioned as a social regulator, providing governance mechanisms for agricultural and forest protection (when this served its interests), resolving disputes between neighbours, and enforcing its own law in economic and social life. The law of this guerrilla group was 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.⁴⁴ 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 a key role in exercising control, while the state's ability to do so was weak, particularly in the areas of cultivating and producing coca.

Rural Communities and Small-Scale Farmers

Coca cultivating communities in Colombia consist of small-scale farmers who technically enjoy specific constitutional protection⁴⁵ due to the socioeconomic inequality they face, including their access to land and ownership.

In terms of land distribution, Colombia is the most unequal country in Latin America⁴⁶ and for small-scale farmers who grow coca, repressive drug policies have produced at least three primary negative impacts:

- Firstly, the combination of the counterinsurgency strategy and the antinarcotics strategy made small-scale farmers targets for 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. This was confirmed by the findings of the Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV), published in 2022: «Since the mid-1980s, at least, the growers and residents of territories with coca and marijuana have suffered the violence of the clashes between the different armed groups that have tried both to control the cocaine market and to carry out an insurgent-counterinsurgent war in which primarily the civilian population has been affected.»^{*}
- Secondly, 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 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 must often leave their territories to seek opportunities.⁴⁷
This was further confirmed by the findings of the Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV), published in 2022: «Approach coca cultivation and processing exclusively from a human rights and development perspective and not as a national security problem. This implies: Demilitarization of the state's response to the affected crops, territories and populations and definite renunciation, based on the evidence, of spraying (crops) with glyphosate.»^{*}
- 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 further 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 (as these are geographic regions of recent colonization, where the basic idea of being acknowledged as a rightful interlocutor of the state is not consolidated).⁴⁸

^{*} Unofficial translation from original in Spanish

Criminalization, Over Incarceration and Barriers to Healthcare

The 1994 landmark Colombian Constitutional Court ruling C-221⁴⁹ set a precedent in Colombia and the whole of Latin America, by guaranteeing the decriminalization of people who use drugs and safeguarding their right to autonomy and their free development of personality. Despite this judicial advancement, Colombia's approach to people who use drugs is contradictory in practice. The healthcare response is weak, while law enforcement and the judicial system continue to follow a punitive approach to drug control. Colombia is no exception to the global explosion of the use of prison sentences for drug trafficking, and the prosecution of people with low economic resources, who are informally employed and easily replaced within the drug trafficking chain.⁵⁰

Between 2000 and 2015, the prison population in Colombia grew by 141% , but those incarcerated for drug offences increased by a devastating 289%.⁵¹ In 2015, the total number of people incarcerated was 120,444, with 24,374 (or 20.24%) of them for drug offences.⁵² The cost to individuals and communities of incarcerating people for low-level drug offences is unquantifiable, however, the cost to society to maintain people incarcerated in Colombia was estimated at \$2.37 billion Colombian pesos or USD\$1.184 million in 2014.⁵³

Punitive approaches to drugs 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 to address the underlying causes.

The Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV) notes that «while regulation is advancing, it is necessary to rationalize criminal action, applying the principle of proportionality to the seriousness of the crime, concentrating on those who are part of the cycle that generates violence, launders money and profits from illegal activities. It is also necessary to apply alternative measures to deprivation of liberty and promote release and other measures for the social and productive inclusion and psychosocial care of people deprived of liberty for minor offences.»

Currently in Colombia, the prevalence of drug use is high among incarcerated people. In 2007, the United Nations reported that 60% of those incarcerated had used a drug in the last year, compared with 2.27% of the general population who had consumed cannabis in the previous year.⁵⁴ Among children (people under 18 years old) who are incarcerated, the numbers are also high: 25.4% of male children and 30.1% of female children who are incarcerated meet the criteria for drug dependency.⁵⁵

In addition, people who use drugs are more likely to come into contact with law enforcement and experience human rights abuses. 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 and 1,492 documented cases involving Afro-Colombians.⁵⁶ Vulnerable situations are exacerbated by a punitive approach to drugs 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,⁵⁷ 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 customs⁵⁸ 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 increased barriers to healthcare such as harm reduction, as well as safe access to essential medicines for pain relief.⁵⁹

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, the pharmaceutical industry or medical workers, are willing to take on additional burdens to ensure access.⁶⁰ 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 from avoidable pain, with their per capita consumption of opioid medicines being lower than that in cities.⁶¹

COLOMBIA'S DRUG POLICY OVER THE PAST DECADE (THE 2010s)

During the two Santos administrations (2010-2018), Colombia promoted broad drug policy reform at a national and multilateral level.⁶² Unfortunately, the term of President Duque (2018-2022) was a significant setback both to Colombia's voice in the international sphere and to policies at a domestic level. His administration took a more conservative stance towards the international community, while domestically it insisted on bringing back policies such as aerial spraying of crops with glyphosate and attempts to introduce administrative sanctions towards people who use drugs.

In August 2022, the administration of Gustavo Petro was sworn in. President Petro, a prominent political leader from the left, and former guerrilla fighter and congressman, and Vice President Francia Márquez, Colombia's first black female vice president, have pledged to reform drug policy, and have asked that those countries who support peacebuilding in Colombia, do so by recognizing the failure of the war on drugs and supporting reform.

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 drug prohibition and began proposing realistic 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 realistic 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.⁶³ The final summit document provided the first mandate to the OAS to prepare a two-part report on drug control efforts and alternative measures.

The ground-breaking report was twofold: The section «The drug problem in the Americas» was presented to the Colombian administration in 2013.⁶⁴ The «Scenarios» section laid out four paths that member states might consider when constructing their national drug control strategies: «Together», «Pathways», «Resilience» and «Disruption.»⁶⁵

The Pathways scenario explored what legal regulation of drugs 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),⁶⁶ where heads of state from the three countries advocated for an approach based on human rights, public health, and sustainable development in the application of the International Drug Control Conventions.⁶⁷

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 (CND), 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 also began delicate negotiations with the Revolutionary Armed Forces of Colombia (FARC-EP), from 2012 to 2016. The subsequent six-point Peace Agreement included 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.

With the exception of the Duque administration, Colombia has been forward-thinking in its drug policy during the past 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,⁶⁸ 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 new congress has already presented three bills to regulate cannabis at high level meetings, including the United Nations, and President Petro has spoken strongly in favour of the need to move away from the repressive approach to drugs, to one that puts life and peace at the centre of policy.

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 the 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.

According to the Commission for the Clarification of Truth, Coexistence and Non-repetition (CEV), 450,664 people lost their lives because of armed conflict between 1985 and 2018. Paramilitaries were responsible for 45%, guerrillas for 27%, and state agents for 12%. Furthermore, the CEV estimates that between 1985 and 2016, the number of victims of enforced disappearances was 121,768.⁶⁹

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 to include this topic at the negotiating table.⁷⁰

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 corresponding money laundering...so that drug-trafficking never again threatens the future of the country.”⁷¹

Although the FARC-EP had previously been reluctant to admit its involvement in drug trafficking, the peace talks encouraged the group to acknowledge its role. Similarly, the state accepted that the persistence of illegal crops in certain parts of the country was because of a lack of effective rural development that had resulted in poverty, overall marginalization, a weak institutional presence, and the existence of drug-trafficking organizations.⁷²

* 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 Agreement. The «No» won with 50,22% of the votes, against 49,78% votes to «Yes». A round of re-negotiations with representatives of the opposition to the Agreement were held between October and November 2016, and the final text was ratified via a congressional process in November 2016.

Findings and Recommendations of the Colombian Truth Commission (CEV) *

In June 2022, after three years of work, the Commission for the Clarification of Truth, Coexistence and Non-Repetition (CEV), publicly presented its final report as part of the transitional justice system established by the 2016 Peace Agreement between the Colombian Government and FARC-EP.

The CEV had a three-year mandate and was granted an extension of seven months by the Constitutional Court due to COVID-19 related delays. The CEV finalized its mandate on 28 August 2022 and included establishment of a «Comité de Seguimiento y Monitoreo» (CSM), which is a tracking and monitoring commission made operational for a period of seven years to ensure the legacy and implementation of the findings and recommendations.

The *Findings and Recommendations* chapter of the CEV's final report contains a subsection entitled «Drug trafficking as a protagonist of armed conflict and a factor for its persistence» and presents an important call and warning: "If Colombia does not find, as a society, a substantive and nationally and internationally negotiated solution to the problem of drug trafficking, armed conflict will continue. The CEV considers that it is necessary to recognize and rethink the problem of drug trafficking and find political, economic, ethical and legal ways out in substantive debates and consensus processes that allow for the understanding, regulation and economic, social and political integration of that activity." (CEV, 2022, page 457, *Unofficial translation from original in Spanish).

There are four central and cross-cutting elements in the findings:

1. The criminal model of power and wealth accumulation, sustained by the exercise of violence and represented in drug trafficking has permeated all levels of society - from production to legal economic flows. As a result, the model was intertwined with conflict itself and reinforced criminal practices.
2. The political dimensions of drug trafficking have hindered the country's democratization processes. Besides the funding that drug trafficking provided for armed actors, it also financed local and national political groups, distorting democratic processes and corrupting state institutions.
3. The current war on drugs approach has been a failure for Colombia. While it did not dismantle the criminal, political and economic aspects of drug trafficking, it created criminal elements through the use of violence and strategies with negative consequences such as glyphosate spraying impacting entire populations and communities.
4. Drug trafficking is a key factor of persistence and will remain so as long as drug prohibition is the norm. If the «drug problem» is not addressed with a regulatory approach, armed conflicts will continue.

The CEV provides two potential pathways for change: (i) Transition towards legal and strict drug regulation; and (ii) International cooperation on drug policies.

* Comisión para el Esclarecimiento de la verdad, la Convivencia y la No Repetición. Informe: HAY FUTURO SI HAY VERDAD. Hallazgos y recomendaciones de la Comisión de la Verdad de Colombia. Bogotá, June 2022. https://jurinfo.jep.gov.co/normograma/compilacion/docs/INF_JEP_28062022CEVVR_2022.htm

i. Transition to legal regulation

This is a recommendation framed in the short term and directed at the Colombian government, through congress, the attorney general and the judicial branch. While it aims to implement a substantive change in drug policies that can lead to legal drug regulation, it is also encompassed by other actions to be carried out within the limitations of current drug policies (drug prohibition), that can lead to better outcomes and in alignment with constitutional principles and human rights.

Concretely, the short-term recommendations are:

- ◇ Lead and promote the international debate to modify the global drug prohibition regime and move towards a regulatory regime.
- ◇ Generate spaces for exchange and dialogue with local and indigenous authorities and other stakeholders, to ensure participation in the drug policy reform process.
- ◇ Hold open dialogue processes with communities so they can share their testimonies on the environmental, social, cultural, and political impacts of drug trafficking and prohibition, and the means to address and overcome negative impacts.
- ◇ Address coca production from a human rights and development lens, and not from a national security framework. Two main actions derive from this:
 - Demilitarize the state's response to coca cultivation and the communities in which it takes place, and definitively renounce, based on evidence, glyphosate spraying.
 - Redesign strategies to address coca, cannabis, and poppy crops with the participation of indigenous and cultivating communities. This includes fulfilling the commitments made under the National Substitution Program (PNIS) of the Peace Agreement.
- ◇ Carry out the necessary institutional adjustments to ensure that drug consumption policies focus on prevention and attention.
- ◇ Review the indicators used to measure drug policy success.
- ◇ Respect and preserve the traditional knowledge of indigenous, afro descendants and cultivating communities, to ensure just and equitable access to benefits derived from legal regulation.
- ◇ Ensure funding for interdisciplinary research on alternative uses for coca leaf and marijuana.
- ◇ Rationalize the use of criminal sanctions, implement alternatives to incarceration, and promote the pre-release of people incarcerated for minor offenses.

ii. International cooperation

This is a recommendation framed in the short term and directed at the Colombian government, via the Ministry of Foreign Affairs, to reformulate its international policy towards drugs, in particular the relationship with the United States government. This recommendation seeks to allow the country and the global debate to advance towards legal regulation and ensure that international cooperation becomes more transparent.

Point 4 of the Peace Agreement: Hopes for Sustainable Peace

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).⁷³ 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% of the population owning 81% of the land in Colombia.⁷⁴ A primary and ongoing challenge of the Agreement is ensuring participatory and inclusive implementation that builds trust between the state and local communities.⁷⁵

Negotiations aimed at promoting sustainable peace by reducing socioeconomic gaps between rural and urban areas, reincorporating former combatants, guaranteeing human rights, and ensuring ethnic and gender equality. The Comprehensive Rural Reform (IRR) and the National Comprehensive Program 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 continuous global demand for cocaine.

Point 2 focused on political participation; by all indicators, Colombia has hardly implemented 50% 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.⁷⁶ Close monitoring of these projects will be necessary to ensure successful reintegration. Violence against former combatants continues, with more than 250 people killed between the laying down of arms in 2016 and July 2020.⁷⁷

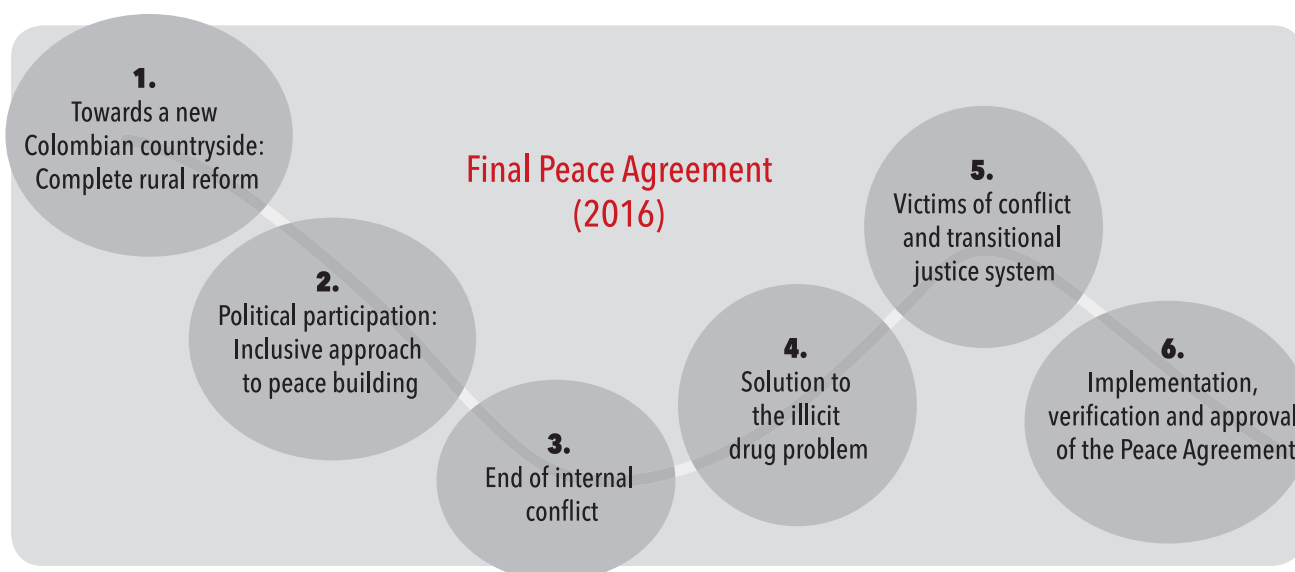
Point 4 of the Peace Agreement is composed of three major components:

- 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 National Comprehensive Program for the Substitution of Crops Used for Illicit Purposes (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.⁷⁸

Delays in productive projects to transition to legality reduce trust between the government and communities. The Duque administration 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 infections and miscarriages.⁷⁹ Incoming President Petro has vowed to reinforce implementation of the Peace Agreement, and specifically exclude the use aerial spraying as a mechanism to reduce coca crops.

Point 5 of the Peace Agreement puts victims at the forefront, proposing a transitional justice model that includes reparations, land restitution and the creation of a Truth Commission, which includes the participation of former combatants, paramilitaries, and armed forces, as well as other stakeholders in the conflict.



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 registration for land distribution and finding land for said distribution, which makes for very scarce land effectively available to those who need it.⁸⁰

Also, significant funding has been allocated to subsidies for families who produce coca, but without ensuring legal access to land, means of transporting harvests to market, and access to basic public services. The Duque administration capped the number of participating families to 99,000, (although almost double that number had expressed interest in participating).

In addition, rather than honouring previous collective community agreements, the government sought individual agreements. The distrust generated by these actions could prove to be irreparable, and it will be challenging for Petro's incoming government to find a balance between honouring the commitments, while making necessary adjustments to the policy program.

A second structural problem is the weak institutional capacity to fill the gaps left by the FARC-EP after its withdrawal from the territories where it held control. 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.⁸¹

According to the United Nations, 75% of the killings of former combatants in 2020 happened in rural areas, 75% in municipalities with the presence of illegal crops and 72% where development programs are currently being implemented. These percentages only increase when considering the killing of social leaders with 98% occurring in municipalities with drug production and illegal mining.⁸² This reality threatens PNIS leaders and the reintegration process of former ex-combatants 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, in 2021 there was a historic increase of 43%, reaching 204,000 hectares. Nevertheless, the potential production of cocaine hydrochloride increased by 14%, demonstrating that fewer crops do not necessarily mean reduced production, due mainly to technological advances.⁸³ The Duque administration has invested more in eradication than in substitution programs, and Colombia today has almost seven times more eradication teams than it did during the Santos administration.⁸⁴

Where eradication activities have escalated, so too have 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, there were 486 murders of community leaders reported.⁸⁵ In the first six months of 2019, about 12 supporters, human rights defenders or community leaders were murdered every month.⁸⁶ According to the United Nations, 378 social leaders were killed since the signing of the Agreement in 2016.⁸⁷

As per recent rulings, the Constitutional Court of Colombia 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 stifled progress and damaged trust between the state and participating communities.

One of the main challenges of the new administration will be to rebuild trust for the policies of the Peace Agreement, specially through effective means of participation. 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.⁸⁸



Spotlight on Glyphosate

Colombia is one of the few countries in the world - along with South Africa⁸⁹ - that has used aerial spraying with toxic substances for the eradication of illegal crops. It is one of the most controversial drug control programs: despite having been implemented for almost 20 years, it has not had sustainable results, has had high economic costs, and jeopardized health, the environment, and social coexistence. During its operation, from 1999 to 2015, almost two million hectares were sprayed with a mixture of glyphosate and other agro-toxics to eliminate coca crops.

The Peace Agreement does not preclude the Colombian government from using this measure, however, requires it to be a last resort, when all other mechanisms to eliminate illicit crops have failed, including voluntary substitution.

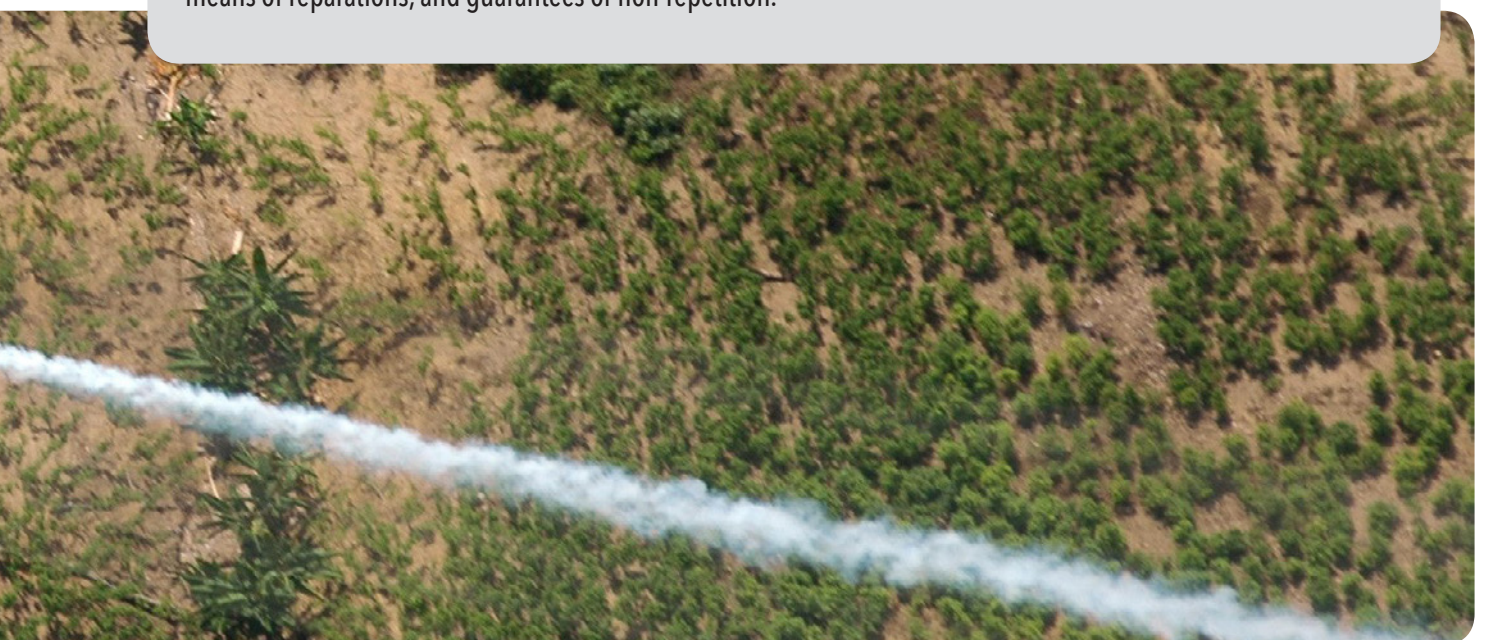
The amount of glyphosate used in the eradication of illicit crops is 10.4 litres per hectare, four times more than the recommended use of the product for commercial agriculture. According to a 2016 study by Daniel Mejía, at least 13 hectares must be sprayed to eradicate a single hectare of coca.⁹⁰ Daniel Mejía estimated this would cost USD\$2400, which means eradicating 50,000 hectares of coca with glyphosate would cost the Colombian State USD\$120 million.

Even though there is still a level of uncertainty about the magnitude and mechanism of the damage caused by glyphosate, there is a reasonable level of consensus to conclude that use of the substance generates ocular, dermatological and reproductive health damage, and increases the risk of miscarriages.⁹¹

In 1998, during a fumigation operation in a rural area of Solita, Caquetá, Yaneth Valderrama was a victim of aerial spraying. She suffered a miscarriage days after the episode and died a few months later, at the age of 27. After exhausting all instances of national jurisdiction, her family took the case to the Inter-American Court of Human Rights (IACHR), whose admissibility report was issued in 2019.⁹²

Colombia has also been taken to constitutional courts on several other occasions for the use of glyphosate, as the policy violates the fundamental rights of the sprayed populations, such as the right to life, the right to a healthy environment, and the right to prior consultation in the case of indigenous and afro communities.

The current government has announced it will not return to this practice, but there are still legal loopholes that could risk its return in other administrations, as well as many pending issues regarding recognition of affected populations, means of reparations, and guarantees of non-repetition.



An plane sprays coca plants in El Catatumbo, Norte de Santander department. Colombia is the only coca-producing country to allow aerial spraying. Photograph: © Luis Robayo / AP

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.⁹³

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.

Over the following decade, the desired outcome of the 1990 UNGASS - of a system-wide coherence on drug control efforts - was not reached.⁹⁴ However, 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) and the Crime Prevention and Criminal Justice Division in the United Nations Office at Vienna merged into the United Nations Office on Drugs and Crime (UNODC), designed to manage treaty obligations, policy implementation and research and operational activities. The role of the UNODC, to uphold the International Drug Control Conventions, has demonstrated little appetite for exploring alternatives to drug prohibition.

In 1995, the World Health Organization (WHO) implemented a broad, global study on cocaine use, the «Cocaine Project», which was never officially published. In a Briefing Kit shared before the paper's planned publication, 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."⁹⁵ The paper was shelved by the international community for fear of undermining efforts to eradicate cultivation of coca and cocaine use.⁹⁶

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."⁹⁷

"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

While SCOPE did not pass international scrutiny and was not approved, the issue of supply continued to be at the centre with the approval of the Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development.⁹⁸ 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 for shared responsibility on an international level.

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 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 United Nations 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.”⁹⁹

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 Control Conventions) as key achievements of the meeting.¹⁰⁰ 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 political strategy that fuels an ongoing internal conflict and threatens peacebuilding efforts, and one that places a focus on the Colombian people and the achievement of sustainable peace.

The latter is certainly a more difficult option to achieve and would involve 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 at large. Colombia should acknowledge the negative consequences of its repressive approach to drugs and recognize that drug prohibition fosters, and strengthens, criminal organizations, and this knowledge should be used to inform the state’s leadership in the international arena.

The negative impact of current drug policy includes curtailing advances in governance, peace, and democracy, without achieving the desired security objective to dismantle drug trafficking. On many occasions, President Petro has spoken publicly about the need to establish «total peace» and put the rights of victims at the center of the debate.

To guarantee social progress, reduce corruption and transnational organized crime, and achieve peace as envisaged in the historic Peace Agreement of 2016, and the current government strategy, the Global Commission on Drug Policy recommends five courses of action:

Recommendation 1 | **LEGAL DRUG REGULATION**

State authorities at the national, departmental and local levels must design, legislate and implement policies to legally regulate all currently illegal drugs, beginning with cannabis, and continuing with coca leaf and cocaine and poppy (the three primary crops grown in Colombia) as a means of ensuring guarantees for the enjoyment of cultural, economic and social rights, increasing opportunities for cultivating communities and strengthening the rule of law in the country.

REGULATION METHODS:

The state has capacity to dismantle drug prohibition and transition to legal regulation by supporting the current legislative processes underway in congress. Initiatives with a strong social justice focus, that maximize economic, social, and security opportunities by operating within a legal framework, should be prioritized at the congressional level. Following legislative approval, ministries should design efficient policies with support and capacity building provided to local authorities to ensure a smooth implementation.

Legal drug regulation with a social and economic justice focus should improve trust between communities, individuals and the state and uphold the rule of law, as well as redirect judicial and military resources.

Appropriate mechanisms, such as preferential treatment in licensing, quotas, and increased access to capital for communities negatively impacted by drug prohibition, should be implemented in conjunction with drug regulatory frameworks.

Each substance should be regulated according to its potential risks, benefits, availability, prevalence of use, and social and economic impacts. In this way, legal regulation can reduce social and health harms and disempower organized crime and its relationship with the state.

INCLUSION:

The inclusion of communities systematically marginalized in the design and implementation of the reform process, particularly women, cultivating communities, indigenous communities and Afro-Colombians, is crucial as they have paid the highest toll in the current system and have benefited the least from implementation of the Peace Agreement.

DATA:

State authorities should improve epidemiological and demographic data collection and analysis at a regional level to understand trends in drug use, production and cultivation to better inform and guide the regulatory process.

INTERNATIONAL ARENA:

Following the declarations of President Petro in August and September 2022 at his inauguration and at the United Nations, the government should hold meetings with like-minded countries to coordinate and lead strategies for global drug policy reform and call on this group to play an active role in UN fora in Vienna, New York and Geneva, promoting an international discussion regarding the need for systematic review, as well as proposing concrete policy alternatives to prohibition.

The Special Session of the United Nations General Assembly on the World Drug Problem – UNGASS (2016) provides important lessons on how to undertake global evaluation of current drug policies.

Additionally, UN agencies have endorsed the UN's Common Position Paper on Drugs (2018), which – inter alia – underlines the agency's commitment to supporting member states in developing and implementing balanced, comprehensive, integrated, evidence-based, human rights-based, development-oriented, and sustainable responses to the world drug problem, within the framework of the 2030 Agenda for Sustainable Development.

Parallel to this, Colombian authorities should lead regional debates regarding the legal regulation of cannabis, coca, and cocaine, poppy and heroin, as a means of promoting social justice and improving rule of law in Latin America.

Recommendation 2 | A HUMAN RIGHTS BASED APPROACH TO DRUG POLICY

Colombia must adopt a comprehensive human rights-based approach to drug policy, taking note of the International Guidelines on Human Rights and Drug Policy (2019).

The strategies adopted should be based on robust evidence and data. To that end, state authorities must work with diverse communities, especially people who use drugs, indigenous and Afro-Colombian communities, civil society, communities that cultivate currently illegal plants and substances, human rights mechanisms, academia, and others to collect, produce, and publish information and disaggregated data regarding the currently illegal drug market, military operations related to drugs, health approaches and the economic revenues generated within these interconnected sectors.

HARM REDUCTION FOR LATIN AMERICA:

Colombia has a strong history of demonstrating leadership in harm reduction strategies, both from civil society and government. This should be strengthened at a legislative level, promoting legal reforms that prioritize health and harm reduction, accompanied by evidence based informational programs on drug consumption. Colombia can lead the way in developing and implementing interventions based on the Latin American context, specifically around harm reduction strategies for smokable cocaine products.

ACCESS TO MEDICINES AS A RIGHT TO HEALTH:

The state must prioritize the safe supply of controlled medicines to those in need, noting that currently the state has a monopoly on distribution which, along with structural problems in the Colombian health system, can create obstacles to ensuring effective and equitable access, along with generalized opiophobia.

People who seek treatment for chronic or problematic drug use, as well as all people who use drugs, must be granted safe and equitable access to a broad range of evidence-based substitution therapies and harm reduction services.

Similarly, pain and palliative care patients need immediate access to controlled medicines to alleviate their pain. A broad spectrum of therapy options should be made available to people who experience problematic drug use to identify the most appropriate treatment.

PARTICIPATION OF PEOPLE HISTORICALLY MARGINALIZED:

Communities that have historically been marginalized, criminalized and stigmatized by the state, particularly people who use drugs, indigenous and cultivating communities and Afro-Colombians must be integrated into all discussions, as well as the design, drafting and implementation of drug policies.

Recommendation 3 | TRANSFORM RELATIONSHIPS THROUGH FULL DECRIMINALIZATION, INCLUDING CULTIVATION

State authorities must immediately end all penalties – criminal, administrative and civil – for the use, production, and cultivation of drugs, along with other non-violent drug-related illegal activities. Such a step would be aligned with the guiding principles of the Peace Agreement, and the recommendations of the Truth Commission, and would respond to the needs and realities of people who cultivate these plants, as well as provide greater public security, and foster trust between citizens and the state.

BUILD TRUST BETWEEN INSTITUTIONS AND CITIZENS:

To transform the relationship between people involved with the illegal drug market, including those who cultivate currently illegal plants and who use drugs, and the police and other authorities, it is necessary to reform the Criminal Code, the Police Code, and the National Narcotics Statute (Law 30 of 1986) and end all penalties as stated above.

This would allow for institutional strategies that can adequately respond to the current challenges posed by drug control measures and would meet the needs required by the reforms implemented by the government. It should be accompanied by clear guidelines to police, training for judges and prosecutors, and alternatives to incarceration that are separate from the judicial system.

Parallel to legal and administrative reforms, including full decriminalization of cultivation and legal regulation of cannabis and cocaine markets to promote social justice and repair the harms of prohibition, informational and educational campaigns should be launched to explain the reasoning behind these policy changes, build public support and generate community ownership over the process.

PRISON RELEASE:

People who are incarcerated on drug related offenses, including the cultivation of currently illegal substances and non-violent participation in the illegal drug market, should be immediately released and their criminal records reviewed or eliminated, as recommended by the Truth Commission.

People, especially women, who have previously been incarcerated should benefit from social reintegration measures as well as public health services when needed, and have their civil rights restored, in a non-discriminatory manner.

Recommendation 4 | A STANDALONE NON-SECURITIZED DRUG POLICY AGENDA

The state must prioritize repairing the harms caused by drug prohibition policies. The drafting, design and implementation of drug policies should be separate from the security agenda, shifting the foci to a health, human rights, development, and harm reduction strategy. The emphasis should be on reducing military budgets while increasing funding for civilian authorities.

DE-NARCOTIZE THE SECURITY AGENDA:

The state must ensure effective implementation of Points 1 (Comprehensive rural reform) and 4 (Solution to illicit drugs) of the Peace Agreement to improve trust between communities and institutions, and consequently increase public security.

One of the essential achievements of the Peace Agreement is the commitment by the FARC-EP to suspend its activities in rural areas. This enables the state to provide these territories with public services and security, however, the state must remain present to prevent other non-state actors from entering these territories.

To support and complement voluntary crop substitution in the PNIS program, state authorities should seek to recommend alternative coca uses as well, including by means of regulation of industrial coca and cannabis products for the benefit of cultivating communities, the eventual regulation of the cocaine market, increasing stability in rural areas and reducing the illegal drug market.

DEMOBILIZATION AND REINTEGRATION:

The current government should call on all illegally armed actors and groups that control drug trafficking to negotiate surrendering arms as part of the «total peace» strategy which seeks to guarantee the no-repetition of human rights violations.

The state must incentivize this demobilization through the legal regulation of drugs and a transition from illegal markets to a legal framework. If the government decides to negotiate with armed groups, the rights of victims and their families should be at the center. The government should offer guarantees to those that participate and demand proof of no-repetition, as well as guarantees for truth and reparations for victims.

Recommendation 5 | INSTITUTIONAL STRENGTHENING

Drug policy is implemented by a diverse set of Colombian institutions. These institutions require stronger mandates and increased, targeted funding for evidence-based drug policy interventions to improve efficacy and create a solidified human rights approach.

This includes refocusing military efforts on large-scale drug trafficking and improving the state's capacity to target resources at prosecuting high level segments of organized crime, to reduce violence, corruption, money laundering, and smuggling.

Once drug policies are separated from the security agenda, they must actively engage a new generation of technical experts, including people who use drugs and those who grow currently illegal crops, to steadily dismantle the bureaucratic prohibition entrenched in government institutions.

INCREASE GOVERNMENT CAPACITY:

Despite the challenges involved in implementing Point 4 of the Peace Agreement, its adoption provides some respite from punitive drug control measures in rural areas. The program should be continued however, it requires adjustment: rather than being focused on individual families, it should have a territorial focus that considers local contexts, challenges, and opportunities with the objective of improving socioeconomic development and livelihoods at a community and regional level.

This means opening a dialogue in the political decision-making process with local communities, designing new indicators to measure advances and increasing the productive projects available to local communities. Ensuring consistent, sustainable funding at the municipal level for cultivating communities will be essential.

Crop substitution has had little success and has, in fact, generated security issues for social leaders and communities that participated in the process. Broad rural reforms should be supported in communities to enable farmers to provide for their families, regardless of the legality of their crops.

Civil society organizations and academic institutions¹⁰¹ have proposed a route to strengthen interinstitutional communication, data collection and analysis in the short, medium, and long-term in order to separate drug policy from the security agenda and improve internal capacity. People who use drugs, and communities most impacted by prohibition, must articulate reforms alongside government agencies and with the accompaniment of civil society and specialists.

THE FIVE PATHWAYS TO DRUG POLICIES THAT WORK

The Global Commission proposes five pathways to improve the global drug policy regime. These pathways were presented in the 2014 report: *Taking Control: Pathways to Drug Policies That Work*.

The Global Commission's proposed pathways are interlinked, complementary, and comprehensive. These pathways call on governments to rethink the «drug problem,» and not shy away from the transformative potential of responsible regulation. The five pathways for more effective drug policies, as developed by the Global Commission, are:



1. PUT PEOPLE'S HEALTH AND SAFETY FIRST AS A FUNDAMENTAL HUMAN RIGHT

Promote proven prevention, harm reduction and treatment measures to meet the needs of people who use drugs. Advocate for the right to health for all, without discrimination on the grounds of race, ethnicity, nationality, class, caste, religion, belief, sex, gender, language, sexual orientation, gender identity, sex characteristics, age, health or other status.



2. ENSURE ACCESS TO, AND SAFE USE OF, ESSENTIAL CONTROLLED MEDICINES AND PAIN CONTROL

Ensure equitable and affordable access to, and safe use of, essential controlled medicines where they are unavailable. Promote the establishment of clear action plans to remove the domestic and international policy obstacles to such provision.



3. END THE CRIMINALIZATION AND INCARCERATION OF PEOPLE WHO USE DRUGS

Advocate for the decriminalization of drug use and possession for personal use. Advocate for alternatives to incarceration for minor, non-violent offences.



4. REFOCUS ENFORCEMENT RESPONSES TO DRUG TRAFFICKING AND ORGANIZED CRIME

Call for greater accountability for human rights violations committed in pursuit of drug law enforcement, and in this sense advocate for improved criminal justice responses (e.g. abolition of the death penalty, prohibition of torture and cruel, inhumane or degrading treatment, arbitrary detention, disproportionate sentencing).

Subsistence farmers and day laborers involved in harvesting, processing, transporting, or trading of drugs, and who have taken refuge in the illicit economy purely for reasons of survival, should not be criminalized.

Call on governments to scale up efforts and resources to address the most dangerous and highest profiting elements in the illicit market, targeting violence, corruption, and money laundering.



5. REGULATE DRUG MARKETS TO PUT GOVERNMENTS IN CONTROL

Promote and encourage diverse approaches to regulate drug markets by allowing legal but restricted and safe access to drugs that are available illegally.

Get drugs under control through responsible legal regulation in order to reduce the extensive harms of the global drug prohibition regime and advance the goals of public health and safety and human rights.

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REPORTS

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)

POSITION PAPERS

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

- www.cocaregulada.com
- www.cesed.uniandes.edu.co
- www.drugpolicy.org
- www.healthpovertyaction.org
- www.hri.global
- www.hrw.org
- www.idhdp.com
- www.idpc.net
- www.inpud.net
- www.incb.org
- www.ohchr.org/en/hr-bodies/hrc/world-drug-problem
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- www.unodc.org
- www.wola.org/program/drug-policy/
- www.who.int/topics/substance_abuse/en/

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Isabela Carvalho Barbosa

Expert Review Panel

Paula Aguirre
Pedro Arenas
Luis Felipe Cruz
Diego Garcia Devis
Martin Jelsma
Maria McFarland Sánchez-Moreno
Rebecca Schleifer
Maria Clara Torres
Catalina Niño
Julian Quintero
Rodrigo Uprimny

Editor

Bonnie Laxton-Blinkhorn

Visual Design

John Abou Elias

SUPPORT




Open Society Foundations
The Swiss Federal Department of Foreign Affairs
Oak Foundation

SECRETARIAT

Anna Tomasi
Ramon Moraes Sales Moura
Marilena Genco

CONTACT

secretariat@globalcommissionondrugs.org
www.globalcommissionondrugs.org

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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