



Peace, Drug Policy, and an Inclusive Society
***Eleven Ways Colombian and FARC Negotiators can Reform Drug Policy and Build
a Lasting Peace***

*These recommendations were elaborated by WOLA at the request of the Norwegian
Peacebuilding Resource Centre (NOREF)*

Washington Office on Latin America¹
December 2013

Colombia is one year into peace negotiations with the country’s largest guerrilla group, the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC). After reaching tentative agreements on the land and political participation agenda points, the parties are currently negotiating the issue of illicit drugs.² Meanwhile, the talks are not happening in a vacuum; views about drug policy are changing in Colombia and in countries throughout Latin America. After decades of meager results and mounting costs, leaders from throughout the region—and across the political spectrum—are calling for an end to the so-called “war on drugs.” Proposing a “rethinking” of the prohibitionist approach to drug policy, Colombian President Juan Manuel Santos has recognized that the criminalization of drugs has failed to bring promised improvements in public security or to reduce the scale of illicit drug markets.³ In its place, the idea of a public health approach to problematic drug use has gained some traction in Colombia and throughout the region, and new discussions are beginning about more promising approaches to the issues of production and trafficking. While Santos has been

¹ This document was elaborated by Adam Isacson (Senior Associate for Regional Security Policy), Gimena Sanchez-Garzoli (Senior Associate for the Andes), Adam Schaffer (Program Assistant), Geoff Thale (Program Director), John Walsh (Senior Associate for Drug Policy and the Andes) and Coletta Youngers (Senior Fellow) of the Washington Office on Latin America (WOLA). WOLA is a U.S. based non-governmental organization that promotes human rights, democracy, and social justice by working with partners in Latin America and the Caribbean to shape policies in the United States and abroad. For further information please go to www.wola.org WOLA expresses its appreciation to Mariano Aguirre, NOREF Director, for his input and comments to the text.

² *Colombia Peace Process Update*, Washington Office on Latin America, November 15, 2013.

³ Robert Edmond, ‘*War on Drugs’ needs rethinking: Santos, Carter*, Colombia Reports, January 14, 2013.

an open—if often muted—leader on the drug policy front at the national level, local leaders like Bogota mayor Gustavo Petro have embarked on more aggressive public health-focused drug-control campaigns.⁴ Meanwhile, civil society and community groups have become increasingly vocal in calling for an end to the ineffective and harmful aerial herbicide spraying of coca crops and other forms of forced eradication.⁵

This article outlines 11 elements of a more effective and humane approach to drug policy. The first six propose immediate changes that can be agreed at the negotiating table with the FARC. The next five ideas take advantage of the peace talks as a springboard to commence a broader discussion on drug policy reform. Both at the negotiating table in Havana and in Bogota, policies must prioritize alternative development over forced eradication, public health over criminal prosecution, and the protection of human rights above all else.

1. End fumigation

Existing forced eradication policies have not only been ineffective at cutting net coca cultivation. They have also wrought significant harm on rural communities. The worst of these policies has been the aerial spraying (“fumigation”) of coca crops with the chemical *glyphosate*—the active ingredient in the herbicide Roundup.

A significant body of research⁶ has shown that U.S.-sponsored fumigation campaigns, begun in the early 1990s, have had only a modest effect on cultivation. Much of sprayed crops are replanted—often in smaller, more scattered plots.⁷ Fumigation has not occurred in conjunction with programs to offer alternative livelihoods to growers and their families, leading many to return to cultivation (see point two). And dollar for dollar, for each kilo of cocaine stopped from reaching the market, fumigation is nearly 50 times more expensive than interdiction.⁸ Ultimately, because fumigation targets the cheapest and most readily replaceable segment of the production process—the coca bushes themselves—fumigation has very little, if any, impact on street prices of cocaine in U.S. markets.⁹

⁴ Julian Quintero, *Bogota’s medical care centres for drug addicts (CAMAD)*, Transnational Institute, November 2012.

⁵ *Colombia: Foro pide detener fumigación de cultivos de coca y evaluar legalización*, Agence France-Presse, July 26, 2013-12-09.

⁶ Adam Isacson, *Time to Abandon Coca Fumigation in Colombia*, Washington Office on Latin America, October 7, 2013.

⁷ Andrés Bermúdez Liévano, *Cinco razones por las que la fumigación de coca es un fracaso*, La Silla Vacía, March 10, 2013.

⁸ Daniel Mejía, *Políticas anti-droga bajo el Plan Colombia: costos, efectividad y eficiencia*, Universidad de los Andes, April 15, 2010.

⁹ Andrés Bermúdez Liévano, *Cinco Razones por las que la Fumigación de Coca es un Fracaso*, La Silla Vacía, October 1, 2013. Reducing cocaine supplies—and thereby raising prices in destination markets—has long been a central goal of drug policy. But the focus on supply control, especially through repressive and indiscriminate measures such as fumigation, has not helped achieve more the fundamental objectives of improving public health and reducing violence.

Questions of effectiveness aside, fumigation is a blunt tool that has caused serious human and environmental harms. Pilots are often unable to target illicit crops, inadvertently spraying legal crops and destroying livelihoods.¹⁰ Glyphosate, mixed with the surfactants in Roundup, has been shown to cause harmful health effects, which may include miscarriages, skin irritations, and respiratory problems.¹¹

2. Provide alternative livelihoods for coca growers

Eradicating coca or poppy crops—whether by fumigation or manually—is counter-productive unless alternative livelihoods are already firmly in place.¹² Decades of experience have shown that the rapidly obtained short-term results of eradication are quickly reversed as crops are replanted or displaced to other areas, or even other countries. Forced eradication worsens poverty, and especially food insecurity, for some of the hemisphere’s most marginalized populations. In the primarily region Afro-Colombian of Cauca, for example, eradication campaigns have seriously threatened the food security of local communities, destroying licit and illicit crops alike.¹³

A much more effective strategy, as has been demonstrated in Thailand and more recently in Bolivia, is to improve the overall quality of life of those who cultivate coca or poppy and ensure alternative sources of income through integral development policies, followed by voluntary and gradual coca reduction.¹⁴ This sequencing is essential and means that some illicit cultivation must be tolerated as alternative livelihoods are developed. While these alternatives livelihoods may include crop substitution, other forms of income—such as transportation and small-scale merchandising—should be explored, taking into account the varying local contexts within Colombia. Whatever the alternative, though, producers must be guaranteed a *market*, in addition to the means to produce. Recent free trade agreements have made it increasingly difficult for small-scale producers of a wide range of goods to compete in foreign markets and Colombia’s increasingly import-driven domestic market.¹⁵

3. Recognize the rights of local communities and engage in prior consultation

Local communities have borne the brunt of the drug war and have understandably developed negative views of the role of government. As all of these policies are implemented on the ground, officials should respect communities’ right to free, prior, and informed consent—both because it is their right and because the policies’ success depends on their cooperation. This is especially true with regard to Afro-Colombian and indigenous communities; government

¹⁰ *Fumigación piña Putumayo sub ingles*, visibilizarTV, February 22, 2013.

¹¹ Tatiana Acevedo, *Nueve Meses*, El Espectador, July 18, 2013.

¹² For a discussion of alternative livelihoods as drug policy model, see: Coletta A. Youngers and John M. Walsh, *Development First: A More Humane and Promising Approach to Reducing Cultivation of Crops for Illicit Markets*, Washington Office on Latin America, December 8, 2009.

¹³ FISCH, *Boletín Virtual del Foro Interétnico Solidaridad Chocó*, August 2012.

¹⁴ Coletta A. Youngers and Kathryn Ledebur, *Bolivian Drug Control Efforts: Genuine Progress, Daunting Challenges*, Washington Office on Latin America, December 19, 2012.

¹⁵ *‘El campo, perdedor del TLC con EE.UU.’: Oxfam*, El Espectador, December 5, 2013.

agencies should recognize the historic marginalization of afrodescendant communities in Colombia's conflict and adopt a differential approach to preserve their autonomy—especially when implementing policies on collective lands.¹⁶

Similarly, Colombia should respect the tradition, cultural, and medicinal role of coca in some indigenous cultures. While more prevalent in Peru and Bolivia than in Colombia, Andean peoples have consumed the coca leaf for centuries. Coca chewing is an integral part of traditional and religious ceremonies and has legitimate uses. In 2013, Bolivia demonstrated that it is possible to adopt a “coca yes, cocaine no” policy that both respects cultural rights and combats drug trafficking by denouncing and then re-acceding to the 1961 Single Convention on Narcotic Drugs—the hallmark international agreement on drug control, which outlaws coca—with an exception that allows for the traditional uses of coca within Bolivia.¹⁷

4. Don't let extraditions on trafficking charges obstruct peace, justice, and truth

Nearly every FARC leader is wanted by U.S. courts and prosecutors to face drug trafficking charges. FARC negotiators in Havana are most likely to demand protection from extradition to the United States as a condition of their demobilization.¹⁸ If the talks succeed, as long as demobilized FARC members comply with their peace accord commitments, the U.S. government should not press Colombia to extradite them. Although extradition requests are likely to stand, the State Department should make clear that it the U.S. government will respect Colombia's requests in the interest of peace.

5. Promote social inclusion

The peace talks offer an opening to reunite a society torn apart by conflict. Decades of violence have created marginalized populations. From rural ethnic communities to the urban poor, and from persecuted political movements to demobilized combatants, Colombian society still suffers deep rifts. Integrated programs that promote broad social inclusion are key to establishing a lasting peace and to addressing the harms of the drug, production, trafficking and problematic use.

A lasting peace will require building a Colombia where all have access to viable employment, housing, and state services. Similarly, promoting a comprehensive and effective drug policy requires addressing poverty and inequality, and providing alternatives that allow for productive re-integration into society. With limited options for legal livelihoods and support services, dependent drug users and those incarcerated for drug-related offenses often return to drug use or illicit activities after treatment or release from incarceration. As with demobilized combatants, there is a great need for strong social reinsertion programs that include education,

¹⁶ Gimena Sanchez-Garzoli, *Stopping irreparable harm: acting on Colombia's Afro-Colombian and indigenous communities protection crisis*, Norwegian Peacebuilding Resource Centre, June 2012.

¹⁷ Coletta Youngers, *Bolivia Officially Returns as a Party to the 1961 Single Convention on Narcotic Drugs*, Washington Office on Latin America, February 12, 2013.

¹⁸ *Colombia Peace Process Update*, Washington Office on Latin America, November 15, 2013.

access to adequate housing, and employment that generates sufficient income for a life with dignity. The same is true for coca cultivators and local communities; as noted in point two, eradication programs are destined to fail if they do not work to reintegrate producers into the licit market and earn trust for state institutions. And as noted in point three, any program must engage in prior consultation when implemented in Afro-Colombian or indigenous lands and take into account their unique cultures and practices before proceeding.

6. Dismantle criminal networks to solidify peace

The negotiations—and eventual accord—to end Colombia’s conflict offer an opening to begin dismantling the economic and political organized crime structures with ties to the FARC and paramilitary successor groups. In addition to the five principles noted above that will help dismantle the drug trade, the parties should work on dismantling the group’s ties to illegal economies such as gold mining, security services, extortion rackets, and kidnapping. The first step towards addressing these structures is for the parties to openly accept that they exist and to discuss pragmatic ways for dismantling them.

Incentives will be required to transition the actors responsible for consolidating illegal political structures—and the economic, social, and political structures that maintain them—into actors that fortify Colombia’s democracy and strengthen its legal economy. This will require training, education, and job creation on the part of the government so FARC militias can move from illegal economies into legal ones. On the part of the FARC, it will require identification of their militias and encouraging them to take on these new opportunities. Parallel to the negotiation process with the FARC, the Colombian Government must take bold steps on the ground to dismantle paramilitary successor groups and the economic and political structures that support them.

While the peace talks are not the venue for a much-needed drug policy overhaul, they do offer the opportunity to begin a conversation on broader policy reforms. The Colombian Minister of Justice recently affirmed the importance of this pivotal moment in the regional drug policy debate. Noting the prevailing trends in the region and the current negotiations over drug policy in Havana, he echoed President Santos’s call for an “open and rigorous discussion, without ideological or political biases, based in evidence on the costs and benefits of all alternatives.”¹⁹

7. Decriminalize individual drug consumption

The Organization of American States’ (OAS) 2013 report, *The Drug Problem in the Americas*, considers the views of a growing trend in Latin America calling for the decriminalization of drug consumption or the carrying of drugs for personal use.²⁰ Drug consumption, in other words should be treated as a public health—not criminal—issue. This implies distinguishing between types of consumption: occasional, recreational, problematic, or dependent drug use.

¹⁹ *Minjusticia será presidente de CICAD*, ElNuevoSiglo.co, December 11, 2013.

²⁰ *The Drug Problem in the Americas*, Organization of American States, May 17, 2013.

As the OAS report recognizes, most people who use drugs do so on an occasional or recreational basis without causing any harm to themselves, their families or their communities; arresting and imprisoning these users diverts limited funds from vital issues, such as dismantling trafficking networks. It is also important to distinguish between types of drugs and the possible damage that they can cause—a point that is precisely at the center of the cannabis debate today (see point ten). The criminalization of drug use, or carrying drugs for personal consumption, prevents those with problematic or dependent drug use from accessing evidence-based treatment services, based in best practices from clinical research rather than ideology.

8. Provide evidence-based treatment programs and end compulsory drug detention and rehabilitation centers

For problematic and dependent drug users, treatment programs with proven results are sorely needed. The most effective treatment approaches have been shown to be based on the notion of “harm reduction.” Harm Reduction International defines this term as policies, programs and practices that focus on reducing the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs, rather than on reducing drug consumption.²¹ This concept—at the core of UNODC, UNAIDS and WHO’s best practice guidance—recognizes the reality that despite the negative consequences that can be associated with drug use, some number of people will be unwilling or unable to stop using drugs. In these circumstances, it is more effective to focus on reducing the harms caused by drug use, such as providing needle exchanges to stem the spread of HIV/AIDS. And such interventions are even more important where those users who may want to overcome their dependency do not have access to treatment. Harm reduction interventions are low-cost, highly effective and internationally recognized measures that protect the health and human rights of people who use drugs.

Lack of evidence-based treatment services leads many countries to rely on coerced treatment, where individuals are forced into treatment without the opportunity to provide consent. For all practical purposes, these people are imprisoned, often in inhumane conditions. This practice has been widely condemned by UN agencies such as the UNODC and WHO as ineffective, threatening the health of detainees and violating human rights. In a joint document, 12 UN agencies call on states to close such centers and implement voluntary, evidence and rights-based health and social services at the community level.²²

9. Ensure respect for the rule of law and proportionality in sentencing

Research shows that harsh drug laws have contributed to the region’s prison crisis. Small-scale offenders are locked up for excessively long periods of time while those directly involved in

²¹ *What is Harm Reduction?*, Harm Reduction International, 2013.

²² IDPC, *Joint UN Statement calls for the closure of compulsory drug detention and rehabilitation centers*, March 8, 2013.

organized crime networks are rarely sanctioned. In some Latin American countries, drug offenses carry penalties even higher than those for murder or rape.²³ Furthermore, people of African descent throughout the Americas are incarcerated at higher rates for drug crimes—despite similar rates of drug use across racial groups.²⁴

A human rights-based drug policy demands that the punishment be proportionate to the crime committed. In other words, drug sentencing should distinguish between low, medium, and high-level drug offenses; the role of the accused in drug trafficking networks; violent and non-violent offenses; and between different types of drugs.²⁵ Penalties should be brought into line with sentencing policies for comparable crimes. And alternatives to incarceration should be established for those accused of low-level, non-violent drug offenses, including access to evidence-based drug dependence treatment programs, community service, education and employment training, and other programs to promote social reintegration and inclusion. This is particularly important with regard to the increasing number of women incarcerated for drug-related crimes, and especially for single mothers.

10. Create legal, regulated markets for cannabis

Cannabis users face stigmatization and harassment by local police forces and often end up in jail for growing or for simple possession. The Research Consortium on Drugs and the Law (CEDD) found that marijuana consumers make up a significant percentage of those in jail for drug offenses in many countries.²⁶ Moreover, law enforcement and justice resources are disproportionately spent prosecuting cannabis users. These resources could be used far more effectively targeting trafficking organizations that actually drive drug-related violence.

The final chapter of the 2013 OAS drug policy report underscores the value of assessing “existing signals and trends that lead toward the decriminalization or legalization of the production, sale and use of marijuana,” noting that, “Sooner or later decisions in this area will need to be taken.”²⁷ The report recognizes that some jurisdictions have already moved in the direction of creating legal, regulated cannabis markets, such as allowing for cultivation for personal use via cannabis clubs as in Spain, the legal, regulated cannabis markets being put in place in the U.S. states of Colorado and Washington, and the regulation model recently approved by the Uruguayan legislature.

11. Implement policies aimed at reducing violence and corruption

²³ Rodrigo Uprimny Yepes, Diana Esther Guzmán, and Jorge Parra Norato, *Addicted to Punishment: The disproportionality of drug laws in Latin America*, Colectivo de Estudios Drogas y Derechos and Dejusticia, 2013

²⁴ See Michelle Alexander, *The New Jim Crow*, 2010.

²⁵ For more information on the issue of disproportionate sentencing for drug crimes, see: Pien Metaal and Coletta A. Youngers, *System Overload: Drug Laws and Prisons in Latin America*, Transnational Institute and Washington Office on Latin America, December 9, 2010.

²⁶ Catalina Perez Correa, *(Des) proporcionalidad y delitos contra la salud en México*, Colectivo de Estudios Drogas y Derecho (CEDD), 2012.

²⁷ *The Drug Problem in the Americas: Section 10*, Organization of American States, May 17, 2013.

Drug law enforcement efforts have traditionally focused on reducing the scale or size of illicit drug markets, or on interdicting quantities of drugs in transit, with little attention to how those policies might lead to increased—or reduced—violence. The thousands of people killed throughout Latin America in recent years have put a spotlight on such collateral damage. More viable strategies for reducing drug-related crime and violence are focused deterrence and selective targeting, which have shown some success in reducing violent crime in the United States.²⁸ Rather than trying to reduce the size of drug markets, enforcement efforts should seek to shape criminal behavior in ways that discourage violence—for example by sending a clear message that those criminal organizations that engage in the most violence will be the primary target of law enforcement. The Operation Ceasefire program in Boston, for example, was largely successful in reducing gang-related gun violence as gangs were effectively dissuaded from using violence for fear of being labeled as the most violent—and thus most targeted—group by law enforcement agencies. In the years after the program was introduced in 1996, the homicide rate in Boston fell by 65 percent.²⁹

Enforcement efforts ought to also recognize the harm done by corruption related to drug trafficking. Criminal investigations ought to devote more resources to identifying and prosecuting government officials—police officers, customs agents, public prosecutors, judges and politicians—corrupted by drug trafficking. Measures of success ought to prioritize corrupt officials prosecuted over quantities of drugs interdicted.

²⁸ Vanda Felbab-Brown, *Modernising Drug Law Enforcement, Report 2: Focused deterrence, selective targeting, drug trafficking and organised crime: Concepts and practicalities*, International Drug Policy Consortium, February 2013.

²⁹ *Ibid.*