



Informal Dialogue on Drug Policy

An initiative of the Washington Office on Latin America (WOLA) and the Transnational Institute (TNI)



Cochabamba, 29-30 August 2008

The fourth meeting in the series of Informal Dialogues on Drug Policy in Latin America was held in Cabañas Tolavi, Cochabamba, Bolivia. The meeting was organised by the Washington Office on Latin America (WOLA) and the Transnational Institute (TNI), with the support of the Government of Bolivia, in coordination with the CONALTID secretariat in the Ministry of Foreign Relations.

25 people from different countries in Latin America, Europe and the United States who are directly or indirectly involved in the debates on current policies participated in the meeting. The dialogue was structured around three sessions covering the following topics:

- 1) Progress and Challenges in the UNGASS Review Reflection Period;
- 2) Coca Leaf and Integrated and Sustainable Development: What are the options for the future? / Integrated and Sustainable Development: Can the international community play a new role in supply control policies?
- 3) No Escape? The Prison Problem and Drug Policy in Latin America: proposals for change. For each session, a number of participants were asked to prepare a few words of introduction to stimulate the plenary discussion.

As in the case of all the previous ones, this dialogue was also governed by the Chatham House rules, in order to encourage the free exchange of ideas and ensure confidentiality. This report therefore provides a general overview of the opinions expressed during the meeting, the processes under way in each of the topics addressed and the main points for future discussion or action, keeping the opinions expressed anonymous and leaving out certain tactical discussion points. The report as a whole does not set out any conclusions. Instead, its aim is to serve as an input for analysis and debate on the current situation in the issues under discussion.¹

Introduction

As the Dialogue's host, the government of Bolivia gave the opening speech. It emphasised the importance of promoting the exchange of experiences and knowledge between people in the region and the rest of the world around the issue of drug policy and the re-valuing of coca leaf. It also stressed the importance of adopting realistic, scientifically rigorous

1. Reports on the previous dialogues held in both Latin America and Europe can be found at <http://www.tni.org>

positions in order to move away from obsolete ideas in the design and application of anti-drug policies, and the need to take forward more dynamic processes of integration and discussion between countries. Change is under way and gaining an ever stronger foothold. The change process will become consolidated if governments come together to share new regional-level approaches, forge alliances to reaffirm their serious commitment to deal with this problem, work effectively with diplomatic representatives in Europe and, at the same time, defend human rights and cultural, economic and social values in the region's countries.

Session 1: Progress and Challenges in the UNGASS Review Reflection Period

The Review process: As part of the UNGASS 10-year review (1998-2008), in March 2008 the United Nations Commission on Narcotic Drugs (CND) launched a year of reflection for countries to discuss and analyse where drug policy is headed, based on the experience of applying it for the last ten years. This reflection process is structured around the five working groups set up to look at the areas covered by the action plan for the implementation of the international conventions: 1) Countering money-laundering and promoting judicial cooperation, 2) Supply reduction (manufacture and trafficking), 3) International cooperation on the eradication of illicit drug crops and on alternative development, 4) Drug demand reduction; 5) Control of precursors and of amphetamine-type stimulants.

So far, the first three working groups have held sessions and produced results of some sort. The other two will be meeting from mid-September onwards.² It is expected that all the results will be discussed and negotiated at the CND inter-sessional meetings due to start on 29 September 2008 and that – after the year of reflection and negotiations – they will be set out in a policy statement to be adopted at the Ministerial Summit two days before the 52nd Session of the Commission on Narcotic Drugs (CND) in March 2009.

Complementary initiatives related to the Review process: The European Union has drafted a common position held by its member countries with regard to the specific issue of demand reduction, in preparation for the discussion at this working group's meeting. As some of the most important points to be discussed, the position sets out the need to: a) gather information that more accurately describes the current situation in the illegal drugs market, b) analyse ways to achieve a better balance between supply reduction and demand reduction, including a review of how resources are allocated and an analysis of specific policies (on treatment, prevention, etc), and c) recognise harm reduction as a third key component of drug policy.

NGOs have taken forward a regional-level reflection process, culminating in the "Beyond 2008" summit held in July 2008. The Forum produced a declaration and a set of conclusions that can be used as inputs for the working group on demand reduction and for the CND session in March 2009. The declaration covers: a) the achievements made by NGOs

2. Information on the progress made by the working groups can be found at <http://www.unodc.org/unodc/en/commissions/UNGASS/01-Preparations.html>

in the last 10 years of drug policy implementation, and the difficulties encountered, b) best practices related to collaboration mechanisms among NGOs, governments and UN agencies, and c) recommendations on the principles that should serve to guide future deliberations on drug policy.³ In their approach, the NGOs emphasise the need for a more genuine and effective balance between supply reduction and demand reduction, a more explicit inclusion of harm reduction in drug policy and the call to address the policy disparity between the drug control system and the defence of human rights. The lesson learned is that the Forum did not manage to cover all the key issues (eg alternative development) because organisations working on these issues were not well represented.

Another initiative is the Latin American Commission on Drugs and Democracy (LACDD). This was set up in April 2008 as a forum to analyse, review and define the particular features of Latin American countries in terms of drug production and consumption, as a starting point for addressing the real situation with regard to the drug problem in the region in a more integrated way. To start with, the LACDD's work has addressed issues such as: a) the widespread lack of knowledge about the situation of drug users, b) the debate about decriminalising drug use, c) the need to take forward and promote scientifically rigorous research, and d) the need to encourage discussion of the issues in the media. The second meeting of the LACDD will be held in Bogotá in the first week of September 2008. By the end of the year it is expected to finalise a report analysing the situation in the region and a proposal to take to Vienna in March 2009.

The Review process to date: Uruguay's experience at the CND session in March 2008 serves as an example of the need to reach prior agreements before the sessions and contribute to the debate from a regional perspective or by tabling issues common to a group of countries. Uruguay attended the March session of the CND to speak for a large number of the region's countries with regard to the explicit inclusion of human rights in drug policy, with the expectation of achieving sufficient consensus and support from other countries to address this issue. Different arguments were expressed, some of which met with agreement and others with resistance or blank refusal even to consider them (the call to abolish or suspend the death penalty for drug offences or to include indigenous peoples' rights, for example). It is clear that there is still a tendency to refuse to address human rights directly in this area.

We should not lose sight of the fact that, since March 2008, the discussions have tended to be characterised by countries making statements of their positions or reporting on the situation, without coming close to reaching shared conclusions. The working group sessions held so far have not reached any significant agreements, even though their intention is to arrive at a draft policy statement on the issues they are looking at. Country delegations do not always include specialists in the field who could feed into the debate or generate a consensus-building process, possibly as a result of not being clear from the start about ways of working.

The working group process and its results were reviewed, taking as an example the working group on alternative development from the point of view of Bolivia's experience, where the

3. For more information about the "Beyond 2008" process and results, see http://www.vngoc.org/detail.php?id_top=12

current situation in the country has enabled people from the grassroots to participate and represent the country. The regional and international position on alternative development takes on different nuances when it is discussed and negotiated. The issues discussed by the working group have included:

- a) not making alternative development conditional on crop substitution (an issue that led to differing opinions being expressed by countries, including the Andean ones, in support or rejection of the idea) and ensuring that alternative development programmes are producing results before seeking to reduce crops destined for the illicit market;
- b) the proposal that alternative development programmes should be long-term and not limited to areas where drug-related crops are grown (an idea that the countries participating in the discussion were quite open to);
- c) the argument that alternative development should cease to be a national security issue (this was clearly rejected by the United States and other countries).

When looking for opportunities to improve the debate, it is important to review and identify this year's key developments. These include the reports produced by the UNODC: 1) "Making drug control 'fit for purpose': building on the UNGASS decade"⁴ (presented at the CND meeting in March 2008), which mentions important elements in the search for changes to current drug policy and the need to return to its original purpose, and 2) the *World Drug Report*⁵ (published in July 2008), which sets out the results of applying drug control policies for the last ten – and even the last hundred – years.

It is also important to look at the new ideas that are being developed, such as the idea of *containment*, which recognises that although the UNGASS objective of reducing the size of the drug market has not been met, a degree of stability or containment has been achieved. The concept of containment accepts that the proposed goal of a world without drugs has not been reached but it can also be used to defend the argument that some "success" has in fact been achieved because the outcome could have been worse.

Given this situation, **where is the Review process headed and what are the challenges?** The process will continue with the sessions of the remaining working groups (drug demand reduction and control of precursors and of amphetamine-type stimulants) and the CND inter-sessional meetings, which are expected to be four in total before March 2009. The actions taken by the different players involved should focus on ensuring that the discussions and negotiations arrive at an honest assessment of the current system's effectiveness and improve the gathering of empirical data for evidence-based evaluations and conclusions. Society's perceptions, created by international thinking on the issue, become a constraint when the aim is to raise different issues for discussion and when there is a need to work more closely with the media. This constraint has been evident in the working groups, where right from the start the impression has been that there is not much possibility of far-reaching changes.

4. <http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17E.pdf>

5. <http://www.unodc.org/unodc/en/data-and-analysis/WDR-2008.html>

The issues considered to be the most important for discussion and negotiation in what remains of the UNGASS Review process include:

- **Improved research and gathering of reliable data on drug policy; this would include discussion of the 1995 WHO study⁶**
- **Better balance between supply reduction and demand reduction policies**
- **Formal inclusion of harm reduction as an integral component of drug policy; this would include calling into question the “zero tolerance” idea**
- **Full respect for human rights and ensuring proportionality in sentencing**

As for how to address these issues, dealing more emphatically with human rights was taken as an example, and Brazil’s experience in this area was discussed. Brazil has made progress in ensuring that the issue of human rights ties in firmly with proportionality in the legal framework related to drug policy. Useful studies are under way about complementarity between human rights, proportionality in sentencing, harm reduction and crime management. Brazil’s experience also makes evident the need for further discussions at the international level on legal issues specifically. In other words, the discussion needs to focus on other UN control bodies and other international settings.

With regard to harm reduction, from the Latin American point of view it is felt that an important step would be to seek to spread the idea that harm reduction is not solely related to the use of injectable drugs. We should recognise that the use of injectable drugs is not a common practice throughout the region. We should be talking about other, non-injectable drugs that have serious consequences for vulnerable people. The concept of harm reduction is still poorly understood in the region, and one challenge is to position it as part of user-protection measures and clarify that harm reduction is not a means for dealing with crime.

The issues felt to be those with less chance of being discussed or negotiated would include: 1) review of the role and work of the INCB, 2) re-valuing and de-classifying coca leaf, and 3) review and updating of the conventions and treaties on drug policy. These issues are excluded from the debate because of the positions taken by certain countries or because of the limited amount of discussion that has taken place in the process so far.

As far as the discussion about reviewing the conventions is concerned, it will be important to keep the issue on the table while other debates are taking place. If we stick with the idea that “drugs cause harm” as the starting point, the next step is to ask: Which drugs? Illegal ones? What about legal ones? Which industries? Which markets? etc. We should also bear in mind that the first chapter of the next INCB report is going to look at the effectiveness and current relevance of the treaties, and here we can expect new developments. It is clear that the process will not get as far as proposals for altering the conventions by March 2009. However, a proposal to set up a working group to look at the difficulties that exist in the current treaties and reflect on possible ways to modernise the treaty system would be an important step forward.

6. <http://www.tni.org/docs/200703081409275046.pdf?>

In this scenario, it is important to review the lessons learned by different states and different stakeholders to identify points in common and enable countries to reach a consensus on the key issues or others that are considered necessary to address as the process moves forward. Mexico is working on a national-level report about the extent to which the Action Plan has been implemented. Uruguay's experience is an example of the need to strengthen in-country capacities to push for an international policy that defends a regional position on continuity and coherence in policies defined at the global level. Negotiations and discussions at the international level should be flexible in this process and should be based on issues and opinions without the traditional assumptions that seek to find an answer to everything.

At the regional level, it is also important to review the agreements that have already been reached on these issues in the CICAD, the CAN and bilateral agendas. Reference was made to the experience of Bolivia and Ecuador with regard to coming up with ideas for a coordination mechanism for participating in international forums, although this has not yet taken shape. Another experience is that of Uruguay, which has not made direct progress in the UNGASS as such but has made headway in the MERCOSUR Anti-Drugs Network. This network has adopted the criterion that policies on drugs (legal and illegal) must be integrated and promoted debate about the balance between demand reduction and supply reduction. Finally, settings in which the debate is likely to be more complicated should be foreseen and identified beforehand. One example is Argentina, where negotiations on harm reduction may meet with greater resistance because of the nature of the country's conceptual frameworks and ideas about implementing drug policy.

It is also important for countries to work very closely with their representatives in Vienna on the Review process, in order to guarantee a process in which country positions effectively reach the different negotiating forums. They should also work closely with the GRULAC (Mexico is currently the rapporteur) to support its positions on the different issues covered by the working groups. It was pointed out that GRULAC did not take any specific messages to the CND meeting in March 2008 or develop any major proposals, a failing that sends a message of weakness about the regional position. The work done by NGOs should also be reviewed and supported. Although NGOs still only occupy a very small space in the international discussion in comparison to the space given to government bodies, they have been developing important contributions to the debate.

Finally, all participants were asked to consider the following question: **Is it better to wait for a draft policy statement to come out of the CND inter-sessional meetings? Or should we go ahead and identify key issues now so that they can be discussed and negotiated before March 2009?** Based on previous experience ("Beyond 2008," for example), it is difficult to predict the diversity of views that might be expressed in discussions and how divergent or convergent they might be. Nevertheless, it is possible to start already with basic discussions about how to improve the discourse, fine-tune concepts and include key phrases in the statement. We should also take advantage of the concrete progress that has already been made in countries such as Ecuador, where an article has been included in the proposed new constitution to explicitly position drug use as part of a public health approach.⁷

7. Article 364: Addictions are a public health problem. It will be the State's responsibility to develop coordinated programmes to provide information and prevent and control the consumption of alcohol, tobacco and

Opinions differ about whether to wait for a draft policy statement to come out of the inter-sessional meetings. On the one hand, having a draft statement would give every country a clearer idea of what to expect, in order to concentrate their efforts on those elements that can be discussed and negotiated. It is already possible to predict that other issues will basically be excluded from the debate in this Review period. Nevertheless, waiting for the draft statement would reduce the time available for prior negotiations between states, and there is a consensus that they need to adopt a more proactive stance and present proposals. One option is to work on draft proposals to be included in the statement, starting now to hold informed, active discussions between countries, fine-tuning issues that the region has in common and taking advantage of Bolivia's experience in 1988 when, with the support of Peru, it managed to include "respect for human rights and take due account of traditional uses" in Article 14 paragraph 2 of the Convention, because it had already drafted the wording to be proposed.

One additional point to consider is that even the logistical side of engaging with the process and exchanging views in the region is complicated, requiring a great deal of work by the different players involved. **Will we be able to achieve anything in time?** On this note, the first session of the Dialogue was brought to an end, with the hope that greater clarity had been achieved about the nature of the UNGASS Review process and possible actions and scenarios that are opening up (or closing) for the different stakeholders.

Session 2 (a) Coca Leaf and Integrated and Sustainable Development: What are the options for the future?

Coca has a human side and an economic side. In Bolivia the human side is reflected in its use for chewing, a practice that has been demonised ever since the Spanish conquest. Intervention by the church played an important role in preaching about the damage caused by using coca, condemning its use, changing customs and indoctrinating people to adopt other habits. Economically, coca was a productive sector that made a profit for the Spanish. Profits were also obtained by taxing the indian's use of coca. Later, in the Republican era, came the enlightenment, where there are no longer any demons, only science. This is when the economic side of coca takes centre stage and the human side is reduced to a process of disparaging the indian, who is categorised as an inferior being. Science develops neo-Darwinism, seeking reasons to prove scientifically that the indian is inferior (especially the indian who uses coca) and that the development of society depends on the gradual extermination of the indian.

Meanwhile, at the international level, similar processes were under way to demonise the consumption of other substances (such as alcohol or opium in the United States). This resulted in social and cultural discrimination against immigrants, leading to the view – commonly held worldwide – that science can prove the damage caused by these demons. In keeping with the idea that "if you repeat something often enough it must be true," the

narcotic and psychotropic drugs, as well as offering treatment and rehabilitation to occasional, habitual and problem users. Drug users will not be criminalized under any circumstances and their constitutional rights will always be respected.

media also contributed to the creation of a single, widely held, supposedly politically correct way of thinking, firmly establishing the position that any practice related to coca (or any other drug-related crop) is unquestionably bad for society. Thus, the sacred aspects of a culture are disparaged, people's survival interests are affected, and a system of international cooperation that is conditioned and not always positive is set up.

As a result of this process, Bolivia's experience is based on the idea that the solution to "the indian problem" and the constraints of drug policy is to go back to basics: to restore the values of equality, equity, the sovereignty of a people and individual freedoms. Thus, the defence of coca today is a response to the criticisms and failures of repressive and violent drug control policies and the lack of coherence between development policies and crop eradication or substitution.

Based on Bolivia's experience, the criticisms of alternative development policies can be summarised as follows:

- a) conditionality-driven programmes have encouraged communities to grow coca and then offer to eradicate it so that they can get into the programme (crops are planted in new areas on purpose);
- b) alternative development programmes – with some exceptions – did not provide for local stakeholders to participate and communities were not fully informed about what the programmes involved;
- c) the crops promoted (banana, pineapple, annatto, passion fruit, etc) were not sustainable once the outside funding had come to an end, even though some of these crops have been expanded;
- d) the programmes are isolated, and drug control policy has not been included in local development plans or other development programmes, although it has been included in economic policy and some points have been taken into account in municipal development plans;
- e) several programmes concentrate on just a few coca-growing areas, ignoring the huge waves of migration from other areas that this causes, and although there have been programmes in the so-called expulsion areas or at-risk areas they have not been as successful as expected.

Initiatives in different countries: In Bolivia different proposals have been made to change the alternative development programme and give it a vision of Integrated and Sustainable Alternative Development, basically with a focus on markets. These proposals have been included to some extent in the national strategy. At the country level, it is important to find out about and analyse the views of the coca-growers' movement. In Bolivia, for example, the movement does not want an expansion of coca crops. As an organisation, they have made a policy decision that coca crops should be controlled in the traditional coca-growing areas and should not spread beyond the areas where coca is currently grown. The reasons for this are: a) to protect the market price and the income of families who depend mainly on the sale of coca, and b) to set up social oversight mechanisms with the aim of directing production to licit markets. The decision to prevent the expansion of coca crops should be accompanied by the possibility of diversifying the local economy, and it is hoped that the

state will support this position. The Bolivian government is not yet taking advantage of the opportunity to propose the re-classification or de-classification of coca leaf, which is something that the Bolivian coca-growers' movement has always demanded. Neither has the government followed up on its stated intention to appoint a presidential delegate.

The situation becomes more complicated when other experiences are analysed. One example is Colombia, where fumigation has been a particular feature of the implementation of drug control and alternative development policy. In Colombia, the growing of coca for cocaine base paste mainly took place in very marginal rural settlement areas (waste land) where people forced to leave their homes due to the conflict would escape to (beginning in the late 1970s, they started by growing marihuana and later coca as they had no other viable sources of income). Since the mid-1980s, the small farmers' movements have tended to demand a government presence in these areas to promote alternatives, and it was under this arrangement that work on alternative development began. Colombia is an example of the tendency for the approach and institutional set-up of alternative development policies to change depending on the government's strategy, seriously affecting the continuity and integrated nature of the work. As an illustration of this tendency, Colombia started off with the National Rehabilitation Plan, which focused on infrastructure, roads and health. Next it switched to the PLANTE, which concentrated on loans to individuals to plant legal crops – loans that the farmers found impossible to repay. Next came the National Alternative Development Plan, which focused on crop substitution without doing much integrated development work. The latest scheme has been the Programme to Combat Illicit Crops, with two main components: a) forced eradication, via fumigation or the manual uprooting of crops, and b) forest guardian families, providing a subsidy to families who eradicate coca. One important lesson learned from this latest programme is that the subsidy approach is a mistake as far as sustainability is concerned.

In terms of international cooperation in Colombia, there have been important moments when the initiatives were seen from a more integrated point of view (UNODC 91-95) but the short implementation times for these programmes clashed with the (marginal) crop-producing areas' need for longer-term support if they were to be sustainable. Another positive experience was with the World Bank, when an initiative led by small farmers' organisations was taken forward to bring order to land occupation in rural settlement areas, but this became unviable as it coincided with the upsurge in attacks on small farmers' leaders.

A great deal of lobbying has been done from Colombia to achieve a better balance in the composition of the funding, so that the money for interdiction is reallocated to the social side as part of drug control policy. The usual response from the government of the United States is that it wants to maintain the differentiation, whereby “we are in charge of the control, repression and crop substitution side, and Europe is in charge of the social side.”

As a further example, Peru's experience was also reviewed. Here the track record in implementing alternative development initiatives shows that there has been insufficient learning and a failure to capitalise on knowledge. Anti-drug policy in Peru is currently subordinate to other priorities (signing the FTA) and the state's intervention in coca-growing areas focuses mainly on crop substitution and controlling drug trafficking. In this situation, the

application of policies, logistics and resources also differs in intensity depending on the region, and the coca-growers' organisations are remarkably weak. The influence of Sendero Luminoso varies, as does its involvement in drug trafficking. In any case, the procedure is similar in all three countries: the weak get their crops eradicated and re-planting continues to increase, with a lower quality crop each time.

It is also still the case that coca continues to act as the "petty cash box" for farming families. Therefore, any alternative for diversifying crops (palm hearts, cocoa, coffee) will still depend on the day-to-day income that coca brings in. Furthermore, it is still contradictory that in areas like the VRAE that are now producing cocoa and coffee, people do not drink coffee or eat chocolate. This is a clear market failure that has so far proved impossible to rectify.

Options for the future: We started by identifying points with which everyone agreed, such as: a) programmes should not be conditional, b) work on alternative development should respect human rights, cultural rights, etc, c) there is too much outside interference in the implementation of alternative development initiatives (Chemonics, for example).

At the country level, in Bolivia there is evidence of an ongoing increase in the amount of coca being grown. The alternative development programme therefore needs to plan to work not just in traditional coca-growing areas but also in areas where there are illegal crops and areas at risk of new settlements and new crops.

In Colombia the aim is to consolidate certain civil society positions, bearing in mind the possible re-election of the president, which could either open up opportunities for discussion or mean six more years of the same thing. The position would focus on the demand that alternative development projects should cease to be an add-on to forced eradication.

It is recognised that governments have identified successes and failures in this process. However, the donors do not always agree on which are which, and continue to invest in studies looking at the productive potential of crops that could replace coca. The position that should be supported is that donors ought to seek more opportunities to talk to grass-roots organisations, recognising that they are valid interlocutors with the ability to identify alternatives. Based on local communities' own experiences, it is possible to identify successes and explain what went wrong in initiatives that could have been successful.

It is important to recognise that there are differences in the context and in the ways in which alternative development policies are implemented in the three countries. For example, Bolivia might have more potential to achieve successful results with an improved alternative development policy, because it is not affected by internal armed conflict. Likewise, in Bolivia there have so far been no proven links between the coca grower and the drug production chain. Based on these analyses, common issues can be identified to apply to the whole region.

Furthermore, it is also essential to be critical of the state's shortcomings and the lack of ownership among producers to address this issue, as well as looking at how much donors are to blame for the inefficiency, unsustainability and negative effects of alternative deve-

lopment. Where is government ownership with regard to alternative development policies? Do donors have the responsibility to finance programmes for longer than ten years? To what extent should these programmes – which are designed to serve outside interests – be included in national policies? In the case of Colombia, how can small farmers possibly take ownership of these policies if they are in the midst of a conflict situation?

Since farmers have been thought of as a link in the drug trafficking chain, the state or state officials themselves adopt that assumption, completely forgetting the social circumstances in which this impression was created or fostering deep-rooted corruption linked to drug trafficking. This also affects counter-productive policy strategies. We need to recognise that this process has led to the perverse result of the state becoming dependent on these resources, and this means a loss of sovereignty in policy implementation. The alternative for states to take ownership is only to invest in alternative development programmes when they have participated intelligently in the design of the strategies.

The decriminalisation/de-classification of coca leaf in the conventions is what civil society organisations in Bolivia are demanding. In the UNGASS Review process and in other, previous negotiations, the proposal – whether presented by civil society organisations or by the state – has not yet been properly understood. We hope that the Review process will encourage people to at least discuss the issue, even though no negotiations are held or conclusions reached at this stage. The bottom line is that coca should be thought of as a development issue rather than a national security issue.

Session 2 (b) Integrated and Sustainable Development: Can the international community play a new role in supply control policies?

Based on the context and the debate about the application of policies related to supply control, the questions that need to be answered are: What does a new role mean? Does it mean that we have a new policy on supply control? Or does it mean that the international community really does take on a new role in the implementation of supply control policies?

With regard to **new developments**, we can start by looking at how the concepts have changed. It is recognised that the concept of alternative development can be described as obsolete, but it is also important to remember that the term is included in the Conventions. Some of the new terms the international community has come up with are: Preventive Alternative Development in Ecuador, Integrated and Sustainable Development with Coca in Bolivia, Strengthening and Diversification of Sustainable Alternative Livelihoods in Afghanistan, and finally Development in a Drugs Environment: Mainstreaming – A Strategic Approach to Alternative Development. These revised concepts have been developed by the European Union, FAO, GTZ, etc. It is clear that this new terminology is a result of frustration with the term, but it also indicates new ways of implementing supply control policies, bearing in mind that the international community is no longer able to run projects on the sidelines of state policies and that it is impossible to look at just one country and fail to consider a regional approach. The challenge is: how to include these concepts in the international policy framework on drugs?

The *mainstreaming* of alternative development policies has involved attempts to integrate development programmes with drug control programmes. The aim is to make the two complement each other, in order to address the underlying causes of why there are illicit crops, not just their effects. This contribution to an improved policy is something we should continue to encourage, while also including factors such as culture, justice, the economy, health, etc. In this area, the international community has experience of providing spaces for interaction and analysis between stakeholders, including interaction with multilateral donors, and basing discussions on country analyses of the level of cross-cutting integration. These studies and discussions are opportunities that countries can explore in more depth.

The current situation reflects the fact that no country has a state policy that genuinely implements this cross-cutting approach. The challenge is to develop a national but also regional approach to development around policies to control the supply of drugs. This is an element that has not been given much space in the UNGASS Review process and it will probably not be possible to make much progress for the time being. Nevertheless, mainstreaming is an approach that it will be important to continue discussing, as it also includes the need for changes in institutional structures and planning around drug policy.

In Bolivia, and generalising somewhat to the region as a whole, four elements can be identified at the level of international community *strategy* that are quite new:

- a) The way in which initiatives are designed and implemented has gradually been changing, reaching further down to the grassroots and encouraging more participation by drug-producing countries, seeking to ensure that government programmes and legal and policy frameworks, proposals made by producers' organisations and rural communities, etc, are more involved.
- b) The very concept of supply control implies the need to have programmatic links between donors, governments, social organisations and other stakeholders, which was not made explicit in the past. Bolivia's experience has led – in today's circumstances – to the new idea that supply control is not just a task for a country's police forces alone; donors and social organisations should also play a role, under the concept of "social oversight." This is an important step forward, but it is not yet entirely clear. It will become more concrete when a way is found to tie it in with the country's legal framework and its contribution to efficiency in policy application is assessed.
- c) Donors have included an explicit conflict prevention and conflict management approach, whether the conflicts be social, economic, production-related, etc. This aspect is very relevant in the current context.
- d) Donors have restructured their coordination mechanisms at the international level, moving beyond the idea of independent country programmes. There is now a broader approach that looks at regions and synergies between sectors.

With regard to the *approach*, new elements include an explicit intention to: a) get away from conditionality in programmes, prioritise social development over economic development, focus on local economic development instead of export markets, and strengthen traditional crops instead of "star" alternative crops; 2) support national policies that seek to limit and rationalise coca, reaching agreements about individual limits on how much can be

grown, legal coca-growing areas, and integrated development that includes coca as a productive activity. This is an approach that is currently being tested. It represents a definitive break with past drug control policy but it would be worth waiting for the results of implementing it.

With regard to **the challenges to the international community as it tries to come up with new ideas**, the more general ones include: a) encouraging more fluid dialogue with governments and drawing up common agendas with more specific points (agendas are currently too broad); b) achieving a balance in the approach by working in geographical areas with more potential for impact as well as the isolated areas with the most needs; c) finding suitable mechanisms for mainstreaming processes; and d) raising awareness at the local and international level that the production of illicit drugs is increasingly taking place in other countries in the region (Brazil, Argentina and Uruguay), and that this affects Bolivia's international relations in the region and with its nearest neighbours.

As far as countries are concerned, the challenges in their relationship with the international community begin with how to define the very concepts that are used, firstly in the sense that we should be talking about development plain and simple, and focus on ensuring that there are processes to include the regions in the national model. Furthermore, the idea of a new development process that goes beyond the current alternative development approach undoubtedly requires a large amount of resources. Countries are unable to provide these resources directly, and this has sometimes led to a gradual loss of sovereignty or to states failing to take responsibility for leading these processes. In addition, we cannot ignore the problem of crime in crop-growing areas as well as environmental problems, temporary and permanent migration issues, etc. In a drugs environment it is very common for the state to be absent. Therefore, even if we decide to adopt the "development plain and simple" approach, it doesn't guarantee that the issues will be properly dealt with.

Session (3): No Escape? The Prison Problem and Drug Policy in Latin America: proposals for change

The prison problem in relation to drug policy is characterised by a series of constraints and inconsistencies that are discussed in different spaces and forums. Everyone agrees that these policies need to be made more consistent with human rights principles and take on a more appropriate sense of proportionality. But how?

Many attempts have been made to explore the current situation in prison systems. TNI's experience with a study of prison populations in Mexico, Argentina, Bolivia, Brazil, Colombia, Peru and Ecuador (2000-2005) was discussed. The study finds evidence that there are similarities with regard to the reform of criminal or penal law. In one way or another, all seven countries have adopted the 1988 Convention and used it to introduce a range of criminal legislation. In many cases, these legal frameworks are relatively alien to reality in the country, as they were formulated using an approach developed elsewhere.

It is also clear that the criminal justice system in Latin America, including prisons, is near the bottom of the list of priorities when it comes to budget allocation by governments. There is little coherence between installed capacity and the demand for prison infrastructure

(Brazil has a deficit of 35% in its capacity to house the prison population). Another important factor is the disparity between the actual prison population and prisoners who have been sentenced. From a human rights point of view, individual freedoms and the presumption of innocence should apply, but instead these procedures are ignored because drugs are involved and this is a highly stigmatised area.

In this scenario, the problem does not lie in the prison issue alone but in the criminal prosecution system overall. The range of crimes is still limited, and there is no clear differentiation between a drug user, possession for sale, possession following purchase, small-scale and large-scale vendors, organised crime, etc. There is no concept of proportionality and everyone is dealt with under the same deficient system. The mechanisms for bringing charges and sentencing do not clearly define who is responsible for each stage or what the valid criteria are for sentencing a person.

Options for change that can be promoted: Ecuador's experience is a positive example of how to approach the reform of legal frameworks, as the new government is proposing to offer a reprieve in cases involving small-scale drug trafficking. Legal reform processes are undoubtedly very different in each country, but changes in the prison system will only be effective if they explicitly adopt the criteria of selectivity, proportionality and specificity.

Human rights and drug control policy can be made to coincide through the legal system. One example is Brazil's 2006 law on drugs. It provides for harm reduction measures from the public health standpoint, no longer contemplates a prison sentence for drug users and introduces alternative measures such as community service or attending education programmes. Nevertheless, whether any new law can be expected to be effectively enforced or not will depend on the state's capacity to change its prosecution system at the same time.

It is also important to recognise that the criminal justice and prison system cannot be maintained at the country level and should be addressed more specifically at the international level. The UNGASS Review process is not likely to be the ideal setting for taking this discussion forward. Nevertheless, the issue should at least be raised with regularity, in order to bring it to light.

Future discussions should concentrate on fundamental respect for human rights, better management of treaties and respect for the constitutional rights of criminals. The legal framework for drug policy should adopt the principles of legality, proportionality, equity, presumption of innocence, level of offending, etc. How can this discussion be taken forward at the country level? One possibility is to carry out further in-depth studies, where the government takes part as a way of raising awareness on the issue. These studies are valuable in that they provide solid arguments for questioning the system.

The reforms that are seen as a priority to start with include gradually eliminating prison sentences for small crimes, promoting alternative forms of punishment to reduce the negative consequences of a prison sentence, encouraging different ways of treating consumers, respecting the rights of users, addressing questions to do with gender and young people, etc. In addition, we should not lose sight of public health factors that should be respected: medical care for prisoners, treatment for problem drug users in prisons, etc.

There is a consensus that selectivity in the criminal justice system in relation to drugs is not valid for the whole of society in the same way. It particularly affects the poor, young people and women. In the case of young people, although they are covered by a different legal system that provides them with tutelage or protection instead of sentencing them to prison, these systems are just as fragile as the prison system.

In this whole scenario and in the search for reforms, public opinion plays a very important role and must be addressed. There tends to be a correlation between the criminal justice system and the collective imagination, and it will not be possible to make much progress with reforms until people become more aware of the issues and have a more informed idea of what is involved. In Argentina the courts are engaged in reviewing the legal framework, with a view to recognising drug use and consumption as something that belongs to the private sphere. In Uruguay, the law does not penalise consumption directly. Circumstances of this sort are favourable for reforming the law and how it is interpreted and enforced. Furthermore, the collective imagination sees the problem mainly as a drug-related public safety issue. The challenge is to develop proposals to reform the prison system without forgetting this factor and looking at it as part of the overall problem of the legal system, not just to do with drugs.

The Andean countries will inevitably have to analyse the situation in terms of their specific contexts. The issue of drug use and drug abuse prevention needs to be included explicitly as a relevant aspect of their reforms of the legal framework, as it is a reality that is increasingly evident today. The analysis should also look at ways to control drug consumption in drug-producing areas. There is a need to examine social phenomena such as the “social cleansing” networks in Colombia which get rid of consumers in urban areas, rarely quantified because they are illegal, or community control systems that can sometimes be more effective than the legal system itself.

Closing Session: Final comments and conclusions with regard to the UNGASS Review process

The initial proposal is to focus attention on the five issues that are already explicitly being discussed in the debates and negotiations leading up to the March 2009 declaration:

1. improved research and gathering of reliable data
2. better balance between supply reduction and demand reduction policies
3. formal inclusion of harm reduction as a component of drug policy
4. full respect for human rights and ensuring that the punishment fits the crime
5. review of the role and work of the INCB, re-valuing and de-classifying coca leaf, and review and updating of the conventions and treaties on drug policy.

As a starting point, there seems to be a consensus that any discussion of the issues should focus on strengthening the relationship between human rights and drug policy, drawing on the basic idea of freedom and equity. There is also a need to review how the treaties have

evolved over time, both in the area of drug policy (from the 1930s up to the latest convention in 1988) and in the field of human rights (in force since 1976). Now is a good time to examine the human rights heritage, in order to start a review of the treaties or legal frameworks.

As well as the point about improving the balance between supply reduction and demand reduction policies, it was also mentioned that the Andean countries need to accept more responsibility for supply reduction, both on the legal side and on the institutional and financial side.

In any case, it is clear that any reform, inclusion, negotiation or even complaint by countries will require consensus and we need to be more effective in promoting agreements that reinforce our positions in the UNGASS Review process. It is critically important to forge alliances between countries, monitor the work being done in different regions, raise the awareness of representatives, etc.

We should be cautious about defending coca and other crops solely with the argument of respect for the right of indigenous peoples to use them for traditional and ancestral forms of consumption. This argument might not be sufficient to support industrial uses or mass production. More importantly, it might end up re-stigmatising indigenous people's rights. Bolivia's experience has also shown that in order to initiate an international process that involves reform of the Conventions, sufficient arguments need to be mustered to support the process.

Another relevant aspect is that countries also need to have the support of organisations working directly on the issues, as they can provide technical or analytical information to strengthen a country's arguments. Bringing in different stakeholders will also mean setting up more fluid channels of communication and information, especially between now and March, in order to inform people about the progress being made in the Review process and ensure that they are well informed about the actions countries are taking.

The role played by countries and organisations in this UNGASS Review process has clearly not been ideal, and there are many opportunities that can still be taken advantage of, especially with regard to encouraging a more incisive debate and building consensus. There are some battles that it will be possible to win in the debate. There are other key issues that are likely to be negotiated and others that will take shape in 2009. The appraisal and reform processes will not end with the conclusion of the formal UNGASS Review year, however. We should already be starting to look ahead to other opportunities in the future for taking these processes forward. These include 2012, the 100th anniversary of the International Opium Convention signed at The Hague.