



INFORMAL DIALOGUE ON DRUGS POLICY

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



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The first meeting of the Informal Dialogue on Drugs Policy in Latin America, an initiative of the Washington Office on Latin America (WOLA) and the Transnational Institute (TNI), took place in the Hostería del Lago Hotel, Montevideo, Uruguay. The meeting had the support of the National Drugs Council in Uruguay (*Junta Nacional de Drogas* or JND), who helped with logistical organization and offered their generous hospitality to the participants. Twenty-five people took part from eight countries in Latin America, Europe and the US, all of whom are actively involved in current political debates.

The two days of dialogue were structured in three sections centred around: (1) Consumption of base paste and crack in the South of Latin America; scientific and political responses. (2) Overview of the UNGASS review and evaluation process for the period 2008/2009, and discussion of the contributions from the point of view and practices of Latin American countries. (3) The prison problem in the region associated with drug related crimes: realities, problems and proposals.

The meeting was held under the Chatham House rule with a view to encouraging confidentiality and free exchange of ideas. This report therefore maintains the anonymity of the ideas expressed and leaves out some parts of the tactical debates. As well as being informal, the format of the meeting was also as interactive as possible. A series of people were asked to prepare introductions to the different sessions. They did not present a complete discourse, just some brief comments to stimulate round table debate. Most of the time was dedicated to open debate among all participants. This report aims to provide a general overview of the opinions expressed during the gathering that, taken altogether, reflect the general tone of the days of debate. The content of these pages therefore does not reach any conclusions, and the opinions expressed here do not necessarily represent the opinion of the majority of those present at the event.

Introduction

The representative of the JND, on behalf of the National Drugs Secretariat, in their role as hosts, thanked the organizers and pointed out that the issue of drugs strategy is one that has been constantly sidelined. In the current government definition, the emphasis is on the need to consider the problem of drugs in an integrated way, taking a broader focus that incorporates all relevant aspects, including the social and political forces involved in the problem. The JND values this informal exchange and hopes that we can all learn and openly discuss aspects that are often omitted, and which help to expose the complexities that come with the issue.

Session (1) Consumption of base paste (also called *paco*, or PB) and Crack in the Southern region of Latin America; scientific and political responses.

In this first session about *paco* there is a perception shared by all the participants, that there is a demonisation of the substance as a drug, despite the fact that the problems it has caused a very vulnerable population, although serious, are still on a small scale. PB or *paco* has installed itself in the Southern Cone¹, bringing with it new patterns of consumption and a new trafficking logic that have a significant impact on the most vulnerable members of society. Many believe that a strategy for intervention should start within the communities themselves in order to be effective. The availability of this substance, whose name, 'base paste', seems to

¹ The term Southern Cone refers to the Southern portion of South America (Chile, Argentina, Uruguay, Paraguay and the Southern part of Brazil).

be applied to a variety of products, can be explained by changes to the routes and structure of cocaine trafficking. The lack of information and serious studies of the issue is a serious problem, and until there is a mapping of cutting substances, there is no way of knowing what is being consumed. This prevents the establishing of an understanding of consumption patterns, how to empower the investigation into the control of the illegal trade in chemical precursors, and finally the monitoring of the existence or not of laboratories, new routes and the identification of PB income in transit countries.

The presence of *paco* in the Southern Cone

A study developed in Buenos Aires in 2005 and 2006, shows that PB or *paco* is commonly perceived as the most dangerous of the illicit drugs. It is viewed by both users and agents dealing with the problem as more damaging and addictive than any other substance. Testimony about high instances of PB use among young girls gathered by the study contributes to its stigmatisation. The study emphasized that public opinion strongly associates consumption with poverty. The social image is that *paco* wreaks havoc among children in poor sectors. It is very cheap, compared to other substances, and emerged during the crisis of 2001-2002. Its consumption tends to extend into the middle sectors of the population where it is less visible. It was useful to understand the ways of consuming this drug, in order to think about strategies for intervention. Records of confiscations give very low figures, belying the supposed flood of PB. It is also necessary to consider the lack of distinction made between PB and cocaine and the lack of focus given to this issue, insofar as the reduction of supply is generally associated with transit of hydrochloride (powdered cocaine) to Europe or the US. The hypothesis is that the presence of PB is a result of Argentina's changing role in the production chain: residue of production that stays in the country. This re-territorialization involves sectors of political and financial power. One participant noted that before being able to talk about re-territorialization, more studies were required, for example of cutting substances, which has only been done once in the Federal Capital.

In Brazil, PB is a recent problem in cities with more than 300,000 inhabitants. It is causing serious social concern. Given the social damage its consumption entails, there is need to think about the responses of social policy to the challenge. The epidemiological profile in Brazil is no different from that of the other Southern Cone countries. The principal problem is alcohol, then tobacco. Illegal drugs are less significant than the legal ones. There is frequent use of benzodiazepines, intensively used prescribed tranquilizers. Among the illegal drugs, the most prevalent is Marihuana, and in terms of prejudices, cocaine use stands out. Of the various preparations of cocaine, it seems the most serious are PB and crack, because the users are very young and socially vulnerable.

The inclusion of drug policy in the framework of public health in Brazil dates from 2001/2002. Before this, it was the domain of social welfare and religious and philanthropic organizations. The universal system of public health has now been re-democratised so that all can enjoy its benefits. The municipal bases (local organizations) receive financial contributions from the provincial and federal systems. With the strategy of care in the public health system, public networks of community services have been created, based in the municipalities, with 60% of finance coming from the federal health budget. These networks constitute a powerful articulation of community services, including doctors, nurses, community health workers and a health team contracted by the public system. It is made up of members of the community, who live in the neighbourhoods and are capable of maintaining closer links with the reality in their neighbourhoods. The most worrying group are children (7 and 8 years old) who are using common inhalants as a substitute, because they are so cheap, in an atmosphere of sexual violence and prostitution. The situation is most serious in the large cities. The case of Rio de Janeiro is notorious, as until just two years ago there was no crack there.

Applying the logic of Harm Reduction, the harm reduction workers have a very important job to do. They are in a good position to work in the health system, as they are users or ex-users of drugs themselves. This generates trust among the users, who have no trouble approaching

them. The reducers suffer from threats, and the public health system often has to defend them against accusations of supplying drugs. Ambiguities in drug laws make them vulnerable. A strategy of replacing crack with marihuana has been used, as the addictive powers of the latter are lesser and it has seen positive results. In response to urban violence, a national program of security and citizenry has been started, that brings together security, social inclusion, education, minimum wage and health policies. The political response based on confrontation has failed. More global responses are required that involve the participation of social forces in the communities themselves.

Debate

It is necessary to define exactly what 'base paste' (PB, *paco*) is. What is currently known, as PB is cocaine sulphate, raw material for the production of hydrochloride. One of the problems is that wide ranges of products are often called PB, from sulphate to the residue from the cooking. We have no scientific certainty about what people are consuming under this name. PB is the result of a more cottage industry style process, whereas hydrochloride is more industrial. In the confiscations, the names of the substances are not distinguished, although this is refuted in the case of Argentina where chemical analyses are carried out on the decommissioned substances. We could form some hypotheses, but we do not have serious studies to endorse the statistics provided the bodies involved.

It is however clear that there is a demonisation of PB, which is in fact not the most consumed substance, and there is a contradiction between the social projections of the drug and its actual consumption. The inconsistency of the studies has contributed to this demonisation. The association of PB with poverty and crime means that the task of dealing with the problem is left to the penal system. Prosecutors and judges become inquisitors and the judiciary ends up dedicating itself to petty crime rather than the real criminal complex. It is not clear how the networks function nor how they relate to the trafficking. There should be discussion of how to go beyond a focus that militarises and criminalizes. However, how far is it even possible to talk about it? Beyond the critical discourse that is common in Latin America, what real scope is there for dismantling these approaches?

The lack of education and the profound understanding on the part of governments – be they consumer countries or not – impacts on drug policy. The question of education is key, while there is no social, cultural or scientific prevention. Different public and private institutions must be involved, but principally it is governments that must face the issue. The problem of cocaine can be approached culturally, but it could also be approached via the market. Countries producing chemical precursors should assume their responsibility, because without the chemicals, coca cannot be transformed into cocaine. With social participation, drug trafficking could be defeated.

Someone asked to what extent we could learn from similar experiences in other parts of the world. For example, the crack epidemic in the US that created massive hysteria in the 1980s. Ten years later, when younger people stopped using, demand fell a lot of its own accord. The next generation ended up using amphetamines. When a drug produces such negative effects, societies seem to learn and move on. Demand does not respond to what the market economy would predict. When consumption is concentrated in a few countries, this drug specialization is not linked to prices, and economics provide no adequate explanation for these phenomena. The biggest problem with drug policies is that they are not based on models of causality that explain the phenomena. Perhaps there is a need to explain why specific drugs are consumed. In terms of *paco* and public policy, attention should be paid to the consumers, based on a causal model. Why do they consume one or other kind of drug? Consumers needs must be explored. Supply directs demand. There is a void in public services: bringing the health system up to date would provide relief for the judicial system.

There are other 'demons' as well as *paco*: the presence of low quality cocaine, for example, linked to changes in the routes on the drug trafficking map. High quality Colombian cocaine arrives in Argentina via Brazil – via the exchange of drugs for guns for the drug trafficking

organizations in Brazilian cities – for the market in developed countries and for consumption by richer Argentines. Bad cocaine comes into Brazil from Bolivia and arrives in Argentina via Peruvian networks, some of which are connected to Mexican cartels with interests on Argentinean territory. These Peruvian organizations have a presence in Buenos Aires and areas in the interior such as in Entre Rios, where there are landing strips and ports controlled by Peruvian businessmen. Argentina is an increasingly important point of transit as it belongs to the inter-oceanic corridor that enables exchange between continents. ‘Mules’ leave there for South Africa and Asia, and from there, they distribute to the rest of the world. Many South African ‘Mules’ are to be found in Argentinean jails.

Someone said that it is difficult to talk of a ‘*paco* boom’, and that this is a media creation. However, although there is no ‘*paco* boom’, there is a problem related to *paco* that is having significant social impact. It is perhaps a phenomenon of re-territorialization, linked to a social and cultural atmosphere favourable to the extension of consumption. The problem is not limited to a single country, but covers the region as a whole; it is not a question of blaming someone in particular, but of accepting that the problem exists, being supportive, and seeing how it can be solved, based on the real magnitude of the problem, and not according to an agenda imposed by the media. This is a social challenge, but it is also a cultural challenge within the sectors of the population that have been subjected to fragmentation and social fracture, that also translate into the emergence of strategies leading to poor sectors clashing with each other.

Session (1 a) The Situation in Uruguay

Uruguay poses two challenges: defining the role of the State in dealing with the drug issue, which it had previously ignored, and building a strategy with different actors, based on the principle of shared responsibility and participation. In the clinical sphere, it is necessary to go beyond the question of toxicity. A survey of homes carried out in 2001 revealed 16% of the population abused alcohol. This has repercussions for public health, levels of social violence and security for citizens. Despite this, the government did not accept the gravity of the issue. Despite the emergence of PB – which began to appear in communities in 2002, but which first became a cause for public concern with the new administration – alcohol remains the principal factor in traffic accidents (40% of fatal accidents) and the primary cause of death among young people.

Uruguay’s uniqueness in the context of the International drug problem is due to the permissive attitude there to money laundering. The Uruguayan financial system facilitates the public limited companies with off shore operations that favour drug trafficking. In Uruguay, these public limited companies, known as *SAFI*, are a veritable gift to the money launderers. The most recent blows to drug trafficking have been linked to money laundering. Criminal organizations using money-laundering schemes also began to use Uruguay as a transit route for high quality hydrochloride *en route* to Europe. Despite the evidence, the *SAFI* companies did not arouse political or media attention. The new Tax Reform prevents the creation of new *SAFIs* and foresees a new tax framework in the near future.

Despite these issues, no Party incorporated the issue of drugs into their platforms. Nor was it a point of reference or demand for social organizations linked to business, trades unions, or cooperative organizations. The issue was placed on the public agenda on 1st March 2005 by the new president.

The case of Uruguay, as with Argentina, and perhaps Chile, is paradigmatic of the presence of the State in the national sphere and of the integration of the citizen. Uruguay has a State Welfare system. However, the financial crisis in these two countries has increased levels of poverty and poverty. Problems at school are no longer exclusively problems of the education system, which is a symptom of far deeper problems. The effects of the banking crisis do not only affect the middle classes who had savings, they affected and continue to affect citizens’ trust in the State instruments that protected, for example, savings. The State did not safeguard social protection or the savings of large sectors of society. The collapse of trust in the State

and increasing poverty will have facilitated the emergence of base paste. Now a culture of ultra-individualism and maximizing profits and consumption is being promoted at all levels of society. The presence of the State and national culture are identified as factors at the heart of the drugs problem identified by the JND.

Studies are being carried out with the Faculty of Chemistry and other bodies, to understand what components make up PB. They do not talk about laboratories for the production of PB, they talk about “kitchens”, whose chefs find an apt market for the distribution of this “poor-killer” poison. PB has also penetrated other social sectors, although according to surveys and studies, most consumption still takes place among the most vulnerable populations. The national strategy for integral responses has incorporated the issue of alcohol as a way of approaching the set of problems associated with drugs and intervenes at other levels. They emphasize visibility, which is very important for avoiding myths that “intoxicate” public opinion through the media. For example, according to surveys of homes, there is a similar prevalence of Ecstasy to that of PB, however, the former is not on the agenda, as it only applies to certain sectors.

At a macro level, the phenomenon is observed in the new drug trafficking routes and modalities. At a local level this takes the form of the dissemination of alternative, community and family social networks, dedicated to micro-traffic, which have been co-opted by an individualistic vision, that goes against the powerful tradition of solidarity in Uruguay. The drugs all arrive from Buenos Aires, brought by ‘mules’. Real family networks, known as *bolichitos*, are established in the neighbourhoods. An inspector from the brigades charged with repressing drug trafficking explained that, “*The police tell me, total success, we arrested a family, eight women, two men, all in prison, we confiscated so many grams, and two kids were left without any family protection*”. He said this precisely so that the authorities realize the gravity of the problem, given that there are no mechanisms for social rehabilitation, and the abandoned children of that family are left in a situation that drives them to return to drug trafficking in order to subsist while their family is in jail. Not to mention the growth in the prison population.

It is necessary to re-conceptualise in a way that does not criminalize poverty, but which offers a response that will be a long task of cultural resistance to the current individualist models of living, that lack solidarity, are guided by consumerism, etc. In terms of money laundering, the State should give signs, even though the problem will never be fully resolved. The ordinary citizen can also contribute, rejecting petty corruption: not buying stolen goods, rejecting police corruption of all kinds, and through cultural resistance and local work.

Discussion of strategies for approaching the consumption of PB – The role of the State, the Market and Civil Society

There is a tension between two paradigms in terms of public drug policy: that led by the Presidential office, with its discourse of prevention; and that of the JND. The contradiction between these two focuses has sustained criticism. The President of the Republic pushes a program promoting the sport “KO to drugs” that does not seem sympathetic to the drug prevention programs pushed by the JND, which also depend on the Presidency.

Policies relating to money laundering and the health care model are not yet showing any effects. Current policies are based on a false model of causality, in a society that believes that there is a group of marginalized people with deviant behaviour that must be sanctioned. This naive basis guides current policymaking: the root causes of the social problems do not come into it. PB is not used by all sectors in the same way, and the differences vary according to sector. The vulnerability is not inherent to the substance; it lies in the social conditions in which the substance is used. Consumption in the middle sectors of society causes less damage than in the more vulnerable sectors.

As well as the pathological model, they consider the available macroeconomic model: repression impacts on prices and this will discourage and eliminate consumption. However, figures indicate the contrary. Consumption of cocaine has risen and when availability has fallen, prices have fallen. According to the economic models, a destructuring and fragmentation occurred, and the problems were individualized. This level of fragmentation has allowed the participation of social actors in policies of prevention.

Training of human resources is a key question. The response of the health care system, in order to be effective, must be able to rely on human resources, and go beyond the models of psychologization and psychiatrization of the problem, based on a rejection of the subject doing the consuming. It is necessary to undertake joint action between the Ministry and the JND, at a national level, and encourage the training for non-professional community agents. The health care system is in the process of reforming the model, but they still lack training. This should be motivated through.

It is useless to define drug policies in a country, if it is really the police and the DEA that set the repressive policies and the Public Health Ministry merely confirms it. Institutional deterioration and the perverted state of the penal systems cannot be viewed in isolation from the globalisation of drugs policy.

Session (2) Discussion of UNGASS, a regional view.

One participant explained the process of revising UNGASS for 2008/2009. What will the role of Latin America, or the Southern Cone be in this? The review of UNGASS in Vienna offers space for defining their own policies. The Group of Latin American and Caribbean Countries (GRULAC) has the mandate for consensus, although as a space it lacks infrastructure – a situation that does not facilitate conciliation.

Brief historical guide – Each decade has had its own rhythm. The Single Convention of 1961 was dedicated to the control of the growth and consumption of three plants and their derivatives. In 1971, ten years later, more pharmaceutical substances were included in the regime of control by the 1971 Convention. In the 1961 Convention a time frame – in the case of the coca leaf 25 years - was proposed for the disappearance of the use of those three plants. This time was up at the end of the 1980s. At this point, a resolution was made that more powerful instruments were required. That is the background to the 1988 Convention, which contains the obligation to criminalize production, trafficking and possession.

The decade following the 1988 Convention could be described as a decade of polarization. The different US agencies began to develop emergency policies, while the market continues to grow. At the same time, Harm Reduction practices were strengthened, and sentencing increases around the world as a consequence of the 1988 Convention.

In 1998 the United Nations General Assembly Special Session on Drugs (UNGASS) took place. According to one official: “*The ’88 convention is a tool with teeth... but now we have to make it bite*”. In 1998 there were basically two options: strengthen the system with more repressive measures, or rethink the causes under the heading of Harm Reduction. Both tendencies were expressed at the UNGASS. Latin America and Europe achieved various advances: the principle of shared responsibility emerged, more emphasis was placed on demand, alternative development was recognized, and more attention was paid to money laundering and the issue of precursors. However, at the same time, the Policy Declaration established that all cultivation of coca, cannabis and opium should be eliminated or significantly reduced within ten years. What they had thought they could do in 25 years in 1961, in 1998 they planned to achieve in only ten!

Now we are in the process of revising the UNGASS of ten years ago, and once again, the same question emerges: should we reaffirm the principles we have been working with, or should we rethink the problem. That is why this is an historic moment. If we do not seize it

now, ten more years must pass before we have another opportunity to rethink the problem of drugs.

How is the review organized? The annual meeting of the Commission on Narcotic Drugs (CND) in March 2008 will hold a thematic debate based on a report prepared by the UNODC. Based on this initial analysis, the first results will be produced, beginning a one-year reflection period. This will culminate at the 2009 session of the CND with a political declaration for a High Level Ministerial meeting with representatives from all the different countries. This ministerial meeting must draw conclusions from the reflection process of the preceding year. The conclusions for the next ten-year period will be produced at this 2009 meeting.

What has been done so far to ensure that this moment of global reflection is taken seriously? It is necessary to ensure that the analysis is honest and evidence-based, so that it is more than a politicised and biased report. In order to do this, it must be admitted that the principal challenges established at the UNGASS, of eliminating and reducing crops, have not been effective. Coca crops remain stable and the quantities of heroine and the production of opiates are far higher today than they were ten years ago; there is no sign that cannabis is disappearing; new amphetamine markets are opening up; and then there is the abuse of pharmaceutical drugs. It is very difficult to conclude that the principal challenges have been met. We must avoid what happened in 2003, when during the mid-term review the conclusion was “advances have been made but there are also obstacles” and the proposal was therefore to redouble efforts for the rest of the period to reach the established goals. That line will be a lot harder to maintain this time. We already know what the line of defence will be for next year: although markets in illicit drugs have not been reduced, “ *the problem has been contained*”.

In order to assure that there is at least some scientific basis to this, the EU has adopted two initiatives: establish a group of experts to accompany the UNODC; and that these experts should contribute information that goes beyond the questionnaires all the countries need to fill in, as initial phase of the project. The experts already met once and they will meet one more time. The EU has also created a fund for an independent evaluation, the final report of which will be presented at the end of 2008, in the middle of the reflection period.

There are a variety of initiatives to facilitate social participation in the process of preparing for the review during the reflection period and the ministerial meeting. The NGO committee linked to the CND, which organizes regional consultations, is also participating in this process, and in July 2008 there will be a global civil society summit to contribute a review of UNGASS. There is also another initiative originating in the International Drug Policy Consortium, a body that is very active on this issue.

A wish-list for the 2008/2009 UNGASS review

- Honest recognition that the system has not worked as we thought it would decades ago. Despite the best efforts at criminalisation, prison sentences, confiscations, scarcity has not been created. On the contrary, both production and consumption have increased.

- In terms of Harm Reduction strategies, they should be proposed in a systematic way by governments, through for example, a PHO study. Experience of this issue is constantly expanding. It is firmly based on evidence and on thousands of evaluations of all kinds of projects that give a clear indication of the effectiveness of the strategy. The HIV epidemic, which has led many countries to pay attention this issue, has played an important role. In the last five years, almost all European countries as well as others have adopted the language of Harm Reduction into their programs. This is leading to incongruence between different bodies within the UN system. While agencies such as UNAIDS support these projects, offices key to drug control, such as the UNODC, and the Commission on Narcotic Drugs, only support them implicitly, without being able to name them. The International Narcotics Control Board (INCB) is openly opposed to some forms of Harm Reduction. The threat of funding cuts from

the US hangs over the UNODC, if they so much as use the term Harm Reduction in their reports.

-There is a need for differentiation in the UN control system. (To include debates about coca leaf and marihuana). There is currently a homogenized system of control: all abuse is problematic and there is no distinction made between more and less problematic, nor between more and less damaging substances, despite the fact that lists exist. Everything termed an illicit drug is placed on a single list, with no differentiation made, for example, between coca, cannabis, and their more concentrated derivatives. There are problems of classification. We should establish a difference based on methods of consumption and damage done by the substance.

- Finally, the most complicated question is whether we should use this moment for a more structural reform of the UN drug control system. Here we must look at the problematic functioning of the UNODC, economically dependent as it is on donors, which means that its reports are not really independent, and end up biased. The INCB, which condemns certain countries in its annual reports, acts in a way that is inconsistent with its original mandate. Reform of the Commission on Narcotic Drugs would also be necessary. The participation of civil society is very limited. For the decade to come it would be opportune to discuss ways in which this commission might incorporate more open dialogue with the participation of civil society and academia, based more on science and on practical experiences. The systems legal instruments are challenges for drug policies. It is necessary to open the debate about the need for a new Single Convention to replace the three instruments we currently have. Issues of Harm Reduction, substance classification etc. must also be resolved.

To summarize, there are three principal challenges: the differentiation within the system; recognition of new perspectives such as that of HR; a review of the structure and functioning of the triangle: Commission on Narcotic Drugs, UNODC and INCB.

A view to getting one plant, coca leaf, taken off list I of the 1961 Convention

The reservation expressed by Bolivia at the 1988 Convention was read. This explains why the production, possession and consumption of coca leaf are considered legal in that country. Bolivia recently changed its strategy towards international commitments on narcotics control. It respects them, but disengages itself from the views of other countries about the coca leaf. For Bolivia, coca leaf is not the same as cocaine. It is not, and has never been a narcotic. In other languages, such as English or French the word coca is used to refer to cocaine. During the recent INCB visit, Bolivia made sure that the translators did not make this mistake. The consumption of coca leaf is legal in Bolivia, and also in Argentina, although it is illegal to import it into Argentina, which effectively makes it illegal. Bolivia needs to increase monitoring on the coca leaf market, for which a reliable system of control must be established, with which the international community feels comfortable.

During the 1990s Bolivia accepted the criminalisation and forced eradication of production, and considered the producer as a drug trafficker. The new strategy has changed the focus: Bolivia does not accept that the coca leaf producer be criminalised, as they have committed no crime. There are areas of legal cultivation and others where cultivation is illegal. In 2004, the coca producers associations persuaded the government to extend the areas of coca leaf cultivation for personal use and sale. A *cato* is a measurement of area, 1600 square meters, which represents the area of land a family can work without hiring extra labourers. The concept of rationalization was introduced replacing eradication. The Conventions propose the elimination of the crops, but Bolivia is not going to eradicate all its crops, instead it will rationalize them according to use and legal demand. Bolivia is not only a producer of coca leaf, the demand for which is internal. There is therefore a study planned, financed by the EU, to establish the volume of legal demand and productivity per hectare. The legal demand for coca must be established, in order to establish the legal surface area for coca production. It is also hoped that this will be restricted to a single territory, in order to counteract the ecological

effects of monoculture production. Coca must be taken off list I so that Bolivia can recover the freedom to industrialize coca leaf for use in flours, medicines etc. Coca offers potential for Bolivia, in the same way that Ginseng does for Korea, or Guarana for Brazil. Bolivia had set a short-term goal of achieving the re-classification, however, this is not really viable. Bolivia's situation is not well known in forums such as the UN. With the exception of Peru and Colombia, it is difficult to get countries to understand the difference between cocaine and coca leaf. Several of the participants expressed the view that coca leaf should be on the 2008/2009 agenda.

In terms of the prohibition of the coca leaf, the 1961 Convention not only proposed the eradication of coca production, but also its traditional use: chewing the leaf. Medical and scientific uses for cocaine are accepted if the quantity is less than 0,1 milligrams. This quantity could increase by a thousandth. In the 1920s progressive intellectuals were opposed to coca leaf. Nowadays coca is an indigenous symbol with different meaning. This means that the Convention's view of coca leaf has become obsolete.

Government implemented Harm Reduction (HR) Strategy

One participant explained their experience as a public health representative in their country's delegation to the meetings of the Commission on Narcotic Drugs (CND). Little has been achieved in the promotion of HR as an active strategy, and the term itself does not appear anywhere. Nevertheless, it is taken into account, which is a step forward that has taken three years and the significant participation of various countries to achieve.

In their role as permanent member of the WHO, the Brazilian Ministry for Health organized a meeting of 35 countries to define the management of the commissions within the UN system in the field of public health, and the challenges for drugs policies. The results of this conference will be a meeting parallel to the Commission. This meeting will be official; it will meet in 2008 to continue the discussion about public health.

According to a participant, possibilities for change within the CND are very limited by the internal functioning of the system. Because of this, it is necessary to demonstrate that the system is not working, using reports coming from different areas. In a meeting of the Pan-American Health Organization (PHO) in the Southern Cone, the proposal to write a report on the management of public health policies over the past ten years. Harm Reduction measures cannot continue to be kept invisible in UN official documents. Some flexibility may also be achieved in terms of the classification of certain substances, such as cannabis in Brazil. The initiatives of civil society networks offer countries the possibility to arrive at this evaluation. The idea is an evaluation for governments, reporting to ministers in order to affect their participation in the 2009 meeting. It must be accepted that things are not working and to reinforce the countries position towards INCB, as it was traumatized by the last report.

Debate

Another participant referred to their participation in the CND, and how surprised they were by the fact that there were 90 from around the world talking about the issue. Harm Reduction has different connotations in Europe and Latin America. In the latter case, one is dealing with countries that have recently come out of dictatorships, and where democracy is being reborn. In terms of syringe distribution, in Europe they look to protective factors, such as human rights, and the management of individual liberty, while in Latin America they work with people's rights to health and care. This participant spoke of sharing proposals for reclassification of substances according to the damage they cause. There is a relationship between the evaluation of drugs policies and the issue of AIDS, when, for example, citizens themselves chose cannabis as a drug carrying fewer risks, even though HR still seems to be a forbidden topic. It was suggested that the experience of human rights NGOs at the UNGASS on HIV/AIDS be used, making alternative reports and encouraging public and political discussion of the issue. Something similar could be done around the issue of drugs.

One participant noted that the drugs problem has evolved. In the evaluation of the impacts, it can be seen that policies have altered the reality. They congratulated the fact that experts are meeting, because the quantity and quality of information available at a national level is poor. Most countries have only recently made systematic studies that make it possible to talk about tendencies. However, they expressed the opinion that it would be difficult for independent evaluations to replace governmental evaluation. Finally they emphasized that in the UN all are not equal, and that the issue of drugs forms part of wider bilateral agendas.

One participant emphasized some of the provocations proposed by the evaluation of international instruments, particularly the judicial ones. These contradict human rights issues well known by all. A judicial investigation that exposes these contradictions could provoke an interesting debate. The example is given of the *Malaga Declaration* in which Spanish judges challenged the contradictions between national and international laws. Latin American countries do not have the finances necessary to do research so the possibility of carrying out studies is almost utopian; however, they could review the consequences in the penal systems. Since the 1980s there have been studies that conclude that drug policies have had serious consequences for judicial and prison systems. Another area is the forced eradications strategy that has resulted in serious human rights violations. An alternative strategy would not need to violate the Conventions. A Convention on drugs, by its very nature, ought to be subordinate to maintaining human rights.

If the UNGASS review is going to argue that the problem has been contained, the contrary should be argued. The effects drugs have had do not depend on today's consumption, but on the history of the past 30 years. Today's problems are the result of an historic accumulation. A country like Colombia, which has very weak institutions today as a result of drug trafficking, is a very good example. A broader view of the problems is necessary, involving other effects, not only volumes of substances, but also effects on society. How can they talk about containment when the reality is that all Latin America is being "Colombianised".

Academic discussion about drugs, which is in general quite critical of the course taken by existing policies, is somewhat out of sync with public opinion and those charged with actually creating the policies, who tend not to question those policies. One of the biggest challenges will be getting academic criticisms to permeate a little more into political debates on the issue.

Latin America should push for greater articulation with the EU when it comes to the penal policy of the reductionist model. In order to punish drug trafficking, a HR system should be proposed at an international level: the logic of moderation as opposed to the ideal of abstinence. Studies are required that prove coca leaf does not cause damage. Although Latin American countries have very little voice, if joint political proposals were presented this would perhaps facilitate change. The issue is more political than informative or judicial.

Closer cooperation should be sought between the EU and Latin American countries, where the correlation of forces has changed. Latin American along with the more active European countries could force a real evaluation that also questions the *modus operandi* of the INCB. The idea of forming alliances between progressive Latin American countries and Europe, based on the philosophy of DR, in which prevention replaces punishment, with juridical discourses on moderated prohibition seems viable. What are the spaces in which these two tendencies might unite? Can they be found within the mechanisms for Latin American, Caribbean and European cooperation? It is necessary to look at how to create spaces for dialogues between these governments, on the margins of the big meetings.

According to one participant, the UN questionnaires, for example on amphetamines, do not reflect the Latin American reality. The credibility of Harm Reduction policies in Latin America is perhaps low, as the AIDS problem is not as marked as it has been in Europe. However, in terms of consumption, Chile and Argentina are approaching the levels of developed countries. With a view to reaching consensus, it would be necessary to "Latin Americanise" the language. Complete reform of the system is not possible, but perhaps it

would be possible to extend the Harm Reduction work that already exists, in alliance with the Europeans. It would also be possible to regionalize the issue. The complexity around drugs is not the same in South America as it is in North America. Latin American countries could take advantage of this UN evaluation to include regional foci.

According to one participant, moderated revisionist politics are conservative because by promoting treatment it reaffirms and emphasizes the maintenance of the current system. The search for other solutions should involve the experiences of the social movements.

Session (3) The prison crisis and drugs policies – The impact of drug trafficking on the prison system

The following notes were produced based on three presentations on the issue of prisons and their relationship with drugs. The presentations were based on studies previously carried out in Latin America. The first speaker showed part of a documentary made in a prison in Quito.

In the case of Ecuador, the issue of prisons has been relegated to the academic and political sphere, as is the case for theoretical considerations about the penitentiary system. Public opinion favours increased sentencing, and sentences have dramatically increased. The perception that prisons rehabilitate people is mistaken, and this is not only due to technical problems and the lack of funding. Corruption between prisoners and authorities dominates the current prison system. The policy of building more prisons, as is happening in Ecuador and Chile is a negative one.

Since the 1970s, anti-drug policies have played their part in the situation in prisons in the Andean region. There was a sudden increase in the number of prisoners for drug trafficking, of which large percentages were women. The judicial apparatus was built up on the problem of drug trafficking. This policy has encouraged overcrowding and over population of jails. Control is in the hands of different gangs organized within the penal system. The head of the gang coordinates with the police, and decides about transfers and cell changes. Power is exercised through prison riots, or decisions about food distribution. A bribe guarantees a right, called “*refile*”, which includes sexual trading to obtain certain privileges, such as a television or cell phone. “*Refile*” is administered through drug trafficking. Violence and corruption offer the model for meeting the agreements and controlling the jails.

The second presentation based its conclusions on two studies: the first in the federal prison in Ezeiza (Argentina) on the role of women in drug trafficking; the second done in the provincial prison in Rosario on the growing criminalisation of women. According to what those women revealed, it is the drug traffickers themselves who turn them in order to allow the police to demonstrate successful statistics in the fight against drugs. In exchange for this, the *narcos* would gain favours to insure their trade. Women are more docile and easier to blackmail, because of their children.

Prison does not meet its aims of rehabilitation, because there is no budget for it. There are women with children of up to four years of age in the jails, who, despite being able to maintain a direct relationship with their mothers are visibly physically affected by the atmosphere and general state of the jails. There are no activities that permit reinsertion into the labour market. In order to keep them calm and docile, addiction is promoted and cocktails of 12-13 pills are administered per day, or they are given marihuana.

Women also reproduce patterns of physical violence and sexual harassment between themselves. Resisting this may entail more physical violence, that manifests itself fractures sustained falling down stairs, scalds from boiling water and psychological wounds, between prisoners and prison guards.

In Rosario there were riots instigated by the women. The governor could not control them and special prison forces had to intervene. Sanctions for the female prison guards were severe, and the events were used to reaffirm the supposed ineptitude of the female governor and

prison guards in maintaining order and discipline, simply because they were women. In general, this affects women guards who must demonstrate their competence through very harsh treatment and this reflects very negatively on relationships with prisoners.

Most women arrested in Argentinean territory are sent to Ezeiza federal prison, far from their homes, effectively preventing their families from visiting them, meaning that they lose contact with their families and friends. Visitors to the prisoners are also subjected to mistreatment. Friends of prisoners arrested for drug trafficking are automatically suspected of trafficking themselves and suffer persecution. The women therefore often ask not to be visited, so as not to bring problems to others. Their situation is particularly hard when they have children.

Time stops in prison. It is not possible to project a future from there. Prisons become concentration camps in which people are often held for insignificant reasons. Prisoners in the jails mentioned here do not receive any psychological care; there is not treatment for addiction (due to lack of funding) despite the fact that by law the State should provide rehabilitation programs. Rights are violated and prejudices crystallize. Families are destroyed. Often children are also forced to enter illegal circles.

Prison maintains the repressive focus, whatever the cost, in response to society's call for a strong hand. A focus on HR would allow the punitive aspect to be set to one side. This perspective would be based on a study of addicts who are also dealers, such as mothers with families, in order to discover what motivates them, what drives them to enter into the world of drug trafficking. Behind them, there are other actors. Who are the real drug traffickers? What role does the economic factor play? Who takes the decisions?

The last of the presentations mentioned highlighted that information about the drugs issue both in the UN and the State Department is very long-winded. Nevertheless, in their annual reports they do not measure the impact on the application of policies as happens in other areas of public administration, particularly the criminal justice system and the prison system. Article 3 of the 1988 Convention is the initial nucleus of beginning to deal with, or strengthening the handling of all that has to do with the chain of drug trafficking, from legislation to trials, to the management of prison systems.

This presentation was based on a comparative study of six countries: Argentina, Bolivia, Brazil, Ecuador, Colombia, Mexico and Peru. All these States have entrusted the institutional response to the crime of drug trafficking to the system of penal control. That, to a large extent, explains how in those countries there are peaks and troughs in terms of prison populations, particularly of prisoners for drug related crimes. Using instruments such as extending and advancing punishments, in the absence of clear codes, with only very general laws, the situation is aggravated when political pressure and social unrest, demand more rigorous penalties of the criminal justice system.

A persona can get a record for possession for consumption, or for trafficking, and will therefore receive different penalties. The confusion and arbitrariness begins with the police. In Peru, for example, the Police work in coordination with the DEA, with the aim of accumulating points that enable them to meet quotas. The judicial system cannot escape the problem of delays in the administration of justice, above all when it comes to issues of drug related crime, where the judge plays a fundamental role.

In Argentina, 65 thousand people are serving sentences for drugs offences. In Colombia 23% of prisoners are there because of drugs. In Peru it is 24%; in Ecuador 35%; and in Bolivia 42%, according to figures from 2005. Among women and young people between 16 and 18 years of age, who should not officially be included in the system, the percentages held for drugs offences are even higher.

It is important to point out that the prison system becomes a space in which various budgets meet; from strengthening institutions, reducing criminality, the fight against corruption,

prevention of drug use, etc. Since it is the system's final repository, it is worth asking: shouldn't Harm Reduction be taken into the justice system?

Up until June of 2006 there were 371,000 people held in Brazil, including prisoners in police stations. From this figure an increase of 20,000 prisoners per year can be observed. In Rondonia state prison, close to the border with Bolivia, it is impossible to establish control over the system of internal violence. The penal institution is under the control of groups linked to the drug trafficking corridor. Levels of urban violence are constantly getting worse and there is a strong movement in favour of penalizing young people in normal jails. Because of this there are people who oppose raising the age of criminal responsibility so that minors hang on this small bit of protection.

When Brazilian drug laws changed a year ago, the great dilemma in the debate was the people in that grey area of users and petty dealers, which has not been resolved in the law. Compared with the previous law, the new law is better, because it locates the issue of drugs within the field of public health, in the general terms of the law. In the part that deals with penalties, there is an attempt to distinguish between use and trafficking, and it would be strategically viable to use penal alternatives such as community service or educational activity. This is also a form of Harm Reduction, maintaining the idea of punishment, but making it *non-imprisonable*.

In Brazil the Human Rights Secretariat together with judicial institutions, are holding workshops with judges and prosecutors to work on the interpretation of the new law. They want to avoid it leading to imprisonment, and are instead calling for symbolic punishments for petty crimes, such as small-scale dealing. While drug trafficking and drugs policies impact on the prison system, the prison system does not in any way impact on either drug trafficking or on drugs policies. Those arrested are immediately substituted. The strategy of Harm Reduction needs to be brought to the penal system. However, given society's fierce demands for punishment, this will not be an easy task.

The problem in Sao Paulo is different from that of Rio. The former has the highest prison population of all Brazil. Drug trafficking is the crime most on the increase. It is considered a "heinous" crime, worse even than murder. Organized crime takes advantage of this situation. When a person arrives in the prison, the first thing they are asked is which group they belong to. In this way, the prison system itself facilitates criminal association between prisoners. Trafficking would not exist without organized crime. The definition of drug trafficking is a problem that each country should deal with internally, and not allow any imposition from international conventions.

In the case of Brazil, when Harm Reduction was not yet incorporated into the law, there were cases of health care workers being jailed for exchanging needles. Furthermore, alternative punishments and penal guarantees in order to distinguish between small time dealing and major drug trafficking.

More studies are required of the issue of drug trafficking, particularly in terms of violations of constitutional principles, as there is a risk of losing many years of much fought-for penal guarantees. In Brazil this issue is not discussed much, people treat it as taboo, under the pretext of urban and national security. However the current state of emergency, with the high number of deaths in prisons, could be classed as genocide. The number of deaths per year equals those resulting from civil wars in other countries. It would also be possible to speak of the Militarisation of urban spaces, and the use of high power weapons between "*narcos*" and the police.

In Chile, a distinction was made between trafficking and micro trafficking. This latter was considered a *non-imprisonable* offence, reserving jail penalties for the former, following considerable discussion over where to draw the line. This distinction can be seen as progress in Latin America as it means small scale dealers will not be imprisoned, something which had been an enormous problem in Chile, a country whose legislation was based on a populist approach to prison sentencing.

In Chile consumption is not penalized, and judges treat cases of small scale trafficking the same as consumption, removing them from the penal system. It is interesting to provide incentives for legislations recognize the difference between small quantities of a drug and being linked to drug trafficking. But what is the quantity that defines the difference? That depends on the drug. The concept of micro trafficking implies small quantities, hardly more than what could be considered for personal use. The scale can begin with possession and then pass through various classifications, micro commerce, up to trafficking. With an official table, guarantees could be created for the user, that they can know how much they can carry without being considered a drug trafficker. The judge can decide what to do if the quantities are over that limit.

In Latin America there is no Observatory like there is in Europe that carries out comparative studies of national observatories in order to propose common, non-repressive solutions, and help legislators to make laws. The creation of a bank of information on the Internet could be one idea. There is currently some quite advanced work being done at the MERCOSUR level, with databases of all member countries. This is currently just an official resource, and is not made available to the general public. However, it could be requested that it be transformed into an openly available source.

Drugs law in Uruguay distinguishes between use and trafficking, but there is no table to define it. This difference should be defined in penal law and not left to the discretion of the judge. Women are less implicated in consumption and more in trafficking. Young people are being used increasingly frequently. Sentencing is at the judges' discretion and there are alternative punishments, but these are not often used. There is a need to establish a separation between repressive police and the penitentiary and education systems.

The tendency to decriminalize and establish quantities for personal use, does not deal with the relatively new phenomena of mini-traffickers (mules) who are currently filling jails in Latin America and Europe. These people transport quantities of between one and four kilos in or on their bodies, and they are the population that has made the statistics shoot up. Their motives are economic, but the imbalance between risk and gain is much higher than that in major trafficking. Where did the discussion of this grey area end up? What reforms are required?

The level of crisis facing prison systems in the fight against drugs is unmanageable. At the same time, on reviewing public budgets, the insufficiency of funding designated for prison systems is notable.

In terms of proposals on the issue of prisons:

- There is a need to work on a Human Rights perspective, right to health, for a strategy of releasing consumers and those jailed for micro-trafficking, substituting prison with other alternatives.
- More investment is required in research into the impact of the general phenomena of drugs on the Penal System.
- There is a need to incorporate the issue of gender into the issue of drugs, particularly in the aspects relating to prison sentences.
- An Information Network on drugs and jails must be promoted, that works from a non-governmental perspective that permits the flow of information from other sources.