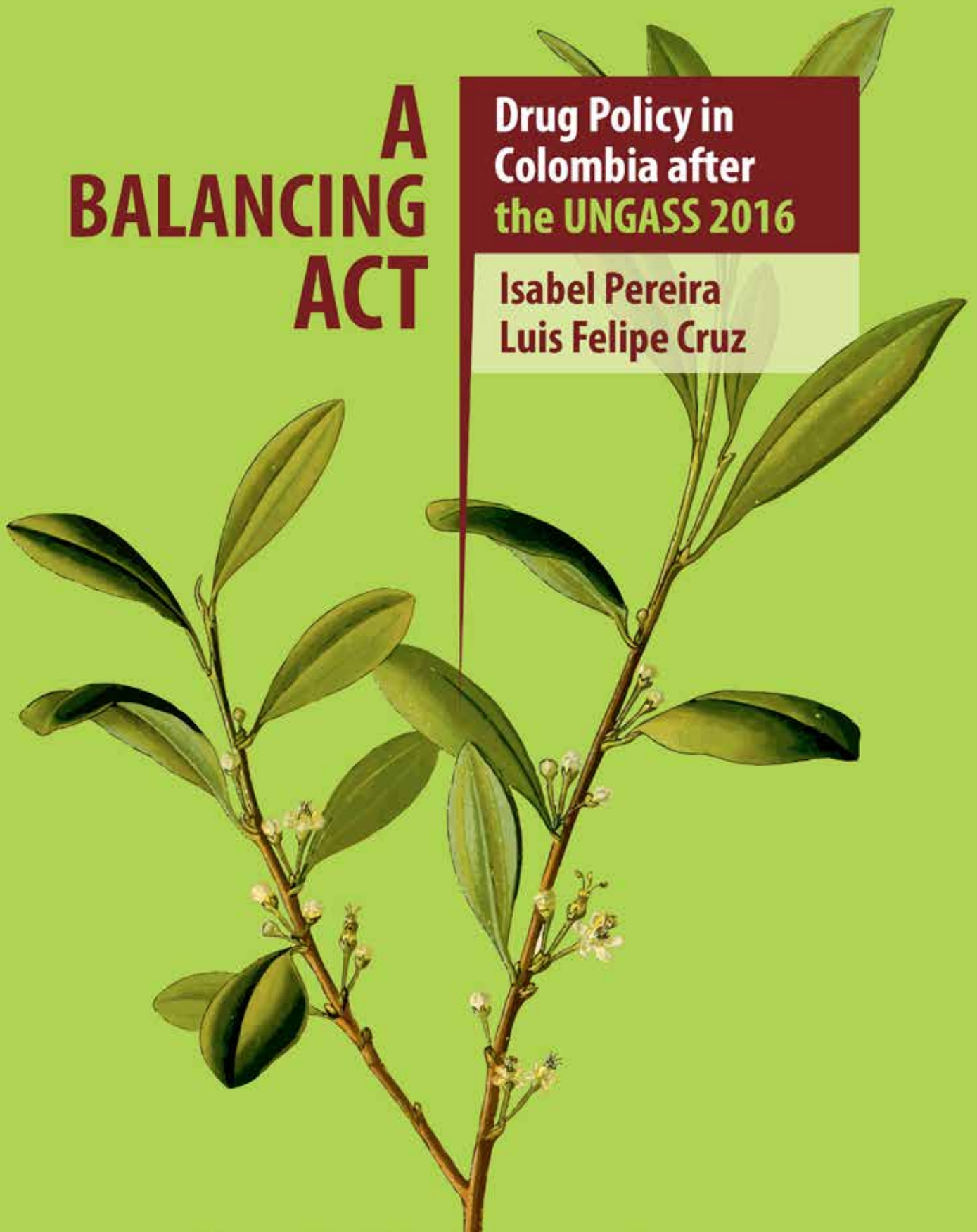


A BALANCING ACT

Drug Policy in
Colombia after
the UNGASS 2016

Isabel Pereira
Luis Felipe Cruz



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THIS DOCUMENT

is the result of a project developed by Dejusticia in cooperation with the Ministry of Justice and Law of Colombia and the British Embassy in Colombia, with funds from the United Kingdom through its embassy in Colombia.

The project was designed in the context of the Special Session of the United Nations General Assembly on Drugs (UNGASS 2016). It is recognized that while Colombia and the United Kingdom have collaborated for decades on law enforcement and criminal policy to address drug-related organized crime, the UNGASS has highlighted the potential for a broader exchange of experiences around policies and practices on drugs, including those aimed at ensuring a public health and social justice approach to this problem.

Undoubtedly, the approaches of each country differ in their respective drug policies, according to the specific conditions and challenges that they face. However, the idea of the project was ultimately to identify areas of mutual interest in which an exchange of best practices or experiences could take place.

In order to achieve this objective, Dejusticia was charged with drafting this document, to provide an independent analysis of the approaches of each country in terms of drug policy; and to identify areas in which Dejusticia believes that improvements can be made, as well as make recommendations on possible future collaborations that may be fruitful for both the United Kingdom and Colombia.

This document presents, then, the independent opinions of Dejusticia, derived from its own analysis. The document does not necessarily reflect the views of either the British or the Colombian Government, and neither of these two governments is bound by the recommendations contained herein. Both governments reserve the right to question what they consider to be inaccurate or erroneous accounts of their respective positions.

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The writing of this report also counted on the constant support of our colleagues in Dejusticia, who, from diverse shores, make our work possible. In particular, we thank Rodrigo Uprimny, César Rodríguez, Vivian Newman and Elvia Sáenz for the direction and editorial support. Also Lucía Ramírez for reading and contributing to the final manuscript. Finally, our gratitude to the administrative and financial team of the organization for their valuable support in the logistical aspects that were vital in this project, in particular to Carolina Reyes, William Morales, Lucía Albarracín, Yaneth Vargas, Jazmín Mejía, Andrés Castañeda, Néstor Benavides, Ady Luz Ruiz and Leby Pacheco.

INTRODUCTION

During the last few years, debates have taken place on drug policy, which has been centered since its inception on repressive measures that have generated high social and economic costs for the countries affected. There is growing support for alternative views on the traditional responses to the drug problem. These positions are born out of the frustration with the battles waged against psychoactive substances and the ineffective impact these battles have had during the 20th century. International agencies such as the United Nations Development Program (UNDP) recognize that there is a disproportionate criminalization of certain populations due to drug laws, and that there is, most importantly, a lack of response to the structural causes that motivate the production, trafficking and consumption of illegal substances. In this regard, the UNDP identified the unintended consequences of current drug policies, including poverty traps, lack of access to health services, increased insecurity, displacement of the drug industry or the “balloon effect,”¹ among others (UNDP 2015, 4).

At the current juncture of Colombian politics, two important moments regarding drugs are combined: on the one hand, the leadership of the current government to reform drug policy in the international stage, in order to design more intelligent and effective responses to the problems of illicit substances, and on the other hand, the peace process between the Colombian Government and the Revolutionary Armed Forces of Colombia (FARC) –one of the actors in the illicit economy– and the beginning of the implementation of the “Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace” (hereinafter referred to as the Peace Agreement), which includes the agreement on the “Final Solution to the Problem of Illicit Drugs.”

1 The Global Commission on Drug Policy (2011, 9) defines the balloon effect as “geographical displacement, through which drug production shifts to avoid the attention of law enforcement.”

Within this context, the British Embassy in Colombia, in cooperation with the Ministry of Justice and Law, entrusted the Center for Studies in Law, Justice and Society (Dejusticia) to carry out a study on the scope of drug policy reform and opportunities for joint collaboration among countries, as part of the operational recommendations of the United Nations General Assembly Special Session on Drugs (UNGASS 2016). This document, therefore, presents the results of the research carried out between July 2016 and March 2017 by researchers Isabel Pereira and Luis Felipe Cruz, and was reviewed and commented on by Rodrigo Uprimny and Lucía Ramírez, researchers from Dejusticia’s drug policy department.

During the project’s developmental period, political events in Colombia directly impacted the research. In particular, the component of interviews with civil servants scheduled for October and November 2016 was partially truncated by the victory of the “No” in the plebiscite on the Peace Agreement, given its direct relationship with drug policies. Therefore, with the approval of our partners, interviews were conducted with civil society actors to complement this void.

The confluence of the favorable moment to reform with the moment of the implementation of the Peace Agreement presents both possibility and tension, because although it was necessary to include the drug issue in the negotiations with the FARC, given its centrality in the armed conflict, it must be recognized that its implementation is not a goal in itself and does not have the capacity to give a global solution to the problem. According to Uprimny, Guzmán and Parra (2012, 1), this is due to two factors. The first is that the FARC is one of many other illegal groups involved in drug trafficking, so the agreement does not fully solve the problem given the control that other groups still have. The second is that the current drug problems are mostly derived from the policies chosen to control them, since the harmful effects –such as the violence associated with selling illicit substances– are due to prohibition as a policy, and not the potential harm of the substance itself. Thus, the essential contribution of the Peace Agreement is that it removes the FARC from the drug economy, and this constitutes an opportunity for the State to fill both the security and development voids in these territories.

The diversity of problems generated by drug policies accounts for a multifaceted phenomenon, far more complex than anything almost any other public policy must confront

When talking about the “problem of illicit drugs” it is necessary to distinguish between the problems of psychoactive substances –those derived from their consumption– and those of drug trafficking. It is important to remember that international drug conventions were created with the objective of addressing the “primary problems,” that is to say the health and social harmony problems associated with consumption, but their implementation has created “secondary problems,” reflected in the violence associated with drug markets, which continue to be lucrative and, consequently, generate incentives for people to continue to participate in the business, despite the illegality (Uprimny, Guzmán and Parra 2012, 11). This distinction between primary and secondary problems is conceptually useful for locating the policy challenges and addressing the need to gradually dismantle the prohibition of psychoactive substances in order to advance a model of regulation for the drug markets, with the aim of protecting health and human rights. With the understanding that this is a long-term process, adequate policies must be developed in the meantime, within the remit of prohibition, to reduce the harm of current drug policies (Uprimny, Guzmán and Parra 2012, 12).

The diversity of problems generated by drug policies accounts for a multifaceted phenomenon, far more complex than anything almost any other public policy must confront. This broad spectrum reveals two particularities: its impermeability to criticism, and its wide range of disciplinary and thematic involvement. That is, its qualities differ from other public policies in that it has been mostly impervious to the scientific evidence of the health sciences, and the social sciences. In this regard, Francisco Thoumi (2015, 24) clarifies that:

In contrast to what would be expected from policies formulated with modern public policy criteria, these policies preceded the studies on their possible consequences on society, and once they were established, the vast majority of critical studies developed outside of the organizations that control drugs have not had any significant effect on them.

The circumstances of recent years, characterized by the peace process and the preparation for the UNGASS 2016, show that to some extent policies are becoming more flexible in order to incorporate recommendations that arise within interdisciplinary debates.

In addition, there are ambiguities in the application of drug control, derived from the conventions, which speak of medical and scientific uses, but which do not actually define the content of these uses, nor do they incorporate the social sciences into possible

definitions. The Commentary to the Convention recognizes that “the term ‘medical purposes’ has not been uniformly interpreted by countries when applying the provisions of the narcotic treaties containing it” (Thoumi 2016, 20). As a reflection of the tensions, the objectives of controlling and preventing the use of recreational drugs go against the objective that doctors need to use those drugs in a licit and therapeutic manner.²

The particularities of the drug problem raise a great challenge for services of the State, with institutional competences that overlap and intermingle. At the present moment in Colombia it is important to insist on the need to deepen coordination and dialogue with the entire spectrum of the drug debate and the policies to control them and, consequently, to promote a more disciplined exercise of coordination among institutional actors, contributing to closing the gaps between the security, defense, justice, health and development sectors, including the dimension of conservation and the sustainable use of strategic resources and ecosystems. All this aims to ensure a more harmonious implementation of the policy in the territory.

The Government of Colombia, as the protagonist, not only of the world drug problem, but also of opening the debate to think about alternative strategies, has succeeded in opening spaces for dialogue, inviting actors from academia and civil society to the debate, and also supporting legislative advances in making drug policies more flexible. Examples include the development of dialogues with various actors in civil society, the creation of the Committee of Experts and its report in 2015, the leadership in the UNGASS 2016, legislative and jurisprudential developments on personal and supply dosage, implementation of strategies for harm reduction for people who inject drugs, and the creation of the Early Warning System (SAT, for its acronym in Spanish) on drugs, among others.

The advances mentioned here give an account of the hard work of the institutions to create a shift in the war on drugs. In the coming years, the commitments agreed in the UNGASS 2016 and in the Peace Agreement will be the fundamental tool to move from discourse to practice, as is recognized in the Drug Report of Colombia, “the current challenge is to develop a greater coherence between the discourse presented by Colombia on the international stage and the country’s internal actions and plans” (Observatorio de Drogas de Colombia 2016, 15).

² In this sense, drug policies have adversely affected people with chronic and degenerative diseases, given the strict control they impose on the availability and access to controlled substances such as morphine. In this regard, see Pereira (2016).

Colombia has emphasized the need to develop policies focused on the human being, respect for Human Rights and public health

Since the 1991 Political Constitution, Colombia has emphasized the need to develop policies focused on the human being, respect for Human Rights and public health, and, in this sense, the Ministry of Justice and Law in the framework of the functions assigned to it through Decree 2897 of 2011, acting as a formulator and articulator of public policy, in recent years has generated knowledge, scientific evidence, methodologies, models of intervention, guidelines and normative updates aimed at integrating the three objectives of the Drug Policy, namely: (i) reduction of drug use with a public health approach; (ii) transformation and integral development of the territories; and (iii) the disarticulation and disruption of criminal structures and economics. The purpose of this policy is to respond to the problem of drugs in Colombia and achieve a balance in the implementation of the three objectives, with the National Narcotics Council as an instance of coordination and follow-up at a national level, with the National Council of Narcotic Drugs as an instance of positioning and monitoring of the territorial policy and with the Comprehensive Departmental Drugs Plans as a tool for the comprehensive development of said policy in the departments.

This document presents the current state of drug policies in Colombia, focusing on two dimensions: (i) operational recommendations of the document of the Special Session of the General Assembly on the World Drug Problem (UNGASS 2016) and their grounding in national policies; (ii) the impact of the Peace Agreement between the Government of Colombia and the FARC-EP in relation to the country's drug policies. The research conducted for this document included semi-structured interviews with key actors and civil society experts on drug policy issues,³ and a technical visit to the United Kingdom to learn about drug policies and practices,⁴ within the framework of the British Embassy project in Colombia, in cooperation with the Ministry of Justice and Law. The research addressed some key aspects of drug policy, not its full scope, taking into account the needs of the country and the specific expertise of the United Kingdom. Thus, the report focuses on rural and sustainable development, criminal policy on drugs, and strategies for prevention and treatment to consumption.

3 The people interviewed were: Adriana Mejía, Catalina Niño, Daniel Rico, Eduardo Díaz, Esteban Arias, Juan Diego Cely, Guillermo García, Hernando Zuleta, Juan Carlos Garzón y Ricardo Vargas. For further details, see Appendix 1.

4 The delegation was composed of Cianan Good, from the British Embassy in Colombia, Marisol Palacio, Gloria Crispín and Aníbal Ruge, from the Ministry of Justice and Law, and Isabel Pereira and Luis Felipe Cruz, from Dejusticia. For further details on the entities visited, see Appendix 1.

From this panorama, derives a mapping of the current needs and challenges of drug policy in Colombia, as well as potential opportunities for cooperation with the United Kingdom, to suggest strategic alliances. The purpose of this report is to feed the technical and public policy discussions between the two governments at this historical moment. In addition, the aim is to take advantage of the opening of the debate on drug policy in order to achieve a better balance in these policies, to move away from a repressive vision and to move towards a vision of guaranteeing human rights, and to recognize the transforming role of dealing with drug problems from the perspective of human development and the obligations of human rights, internalizing the Sustainable Development Goals (SDG).

The document is divided into five parts. The first examines the scope of drug policies at both the international and national levels, provides a cross-analysis of the peacebuilding and sustainable development aspects, as well as the UNGASS 2016 process. The second part presents the current drug policy with an emphasis on situations of production, consumption and criminal policy, and the Peace Agreement, and in particular the “Final Solution to the Problem of Illicit Drugs.” The third part details the current challenges and obstacles, guided by the comments of the interviewees on the lessons learned from drug policies in Colombia in terms of eradication, substitution and security strategies. In the fourth part, a summary of the drug policy landscape in the UK is given, paying particular attention to possible areas of cooperation. The fifth and last part presents recommendations for reforms that are considered strategic in the areas of: (i) general strategy; (ii) rural and sustainable development; (iii) prevention, management and treatment of consumption; and (iv) criminal policy on drugs.

THE SCOPE OF DRUG POLICIES: NORMATIVE OBLIGATIONS AND OPPORTUNITIES

The Colombian State, a signatory to the Drug Control Conventions, as well as the multilateral mechanisms of the United Nations (UN), in relation to development, is obliged to comply with the objectives of these agendas, including Agenda 2030 launched in 2015, from which the SDGs come from. To this repertoire of commitments acquired on the international stage, we add the agreement between the Colombian Government and the FARC-EP in 2016 to overcome the problem of illicit drugs in the country. The obligations that emanate from these agendas are normative opportunities, although their interaction is sometimes conflictive.

Figure 1. Objectives of Agenda 2030

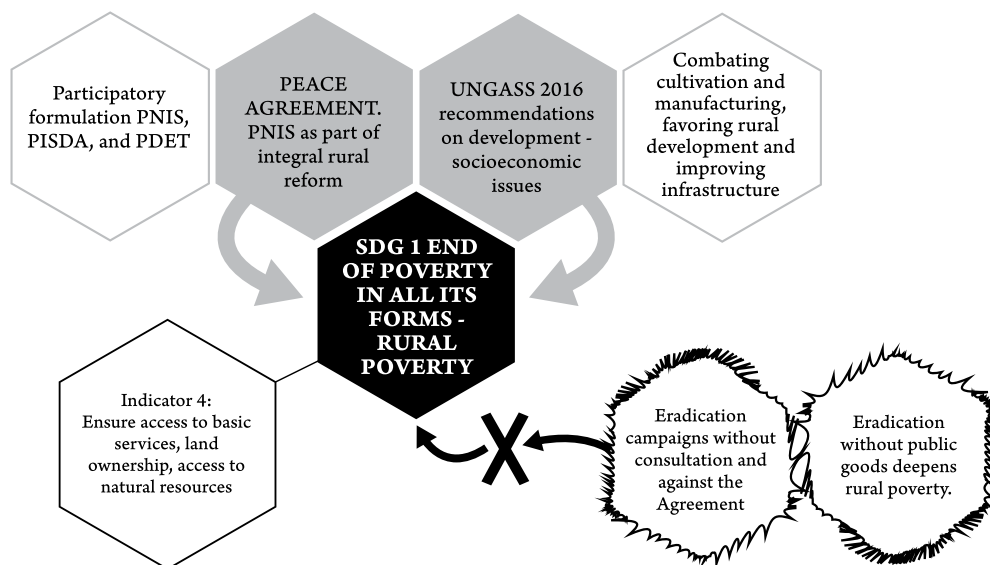


SOURCE: Elaborated by the authors

In particular, the objectives of Agenda 2030 and the objectives of the drug control system are in conflict. The 2015 UNDP report warns of these conflicts, because the drug control agenda diverts resources from public health as well as environmental protection towards the public armed forces. Also, the goals for reducing and eradicating poverty are threatened by crop control strategies that contaminate the ecosystems on which rural populations depend for their livelihood (Schleifer 2015, 37) (figure 1). But this relationship could be transformative and positive, and foster their mutual compliance, while still aimed at the satisfaction of the economic, social and cultural rights of the people involved in these illicit economies. While the Agenda 2030 does not specifically address drug policy, meeting objectives such as full employment, the reduction of poverty and inequality, promoting fair education, protecting and promoting sustainable forest biodiversity and the promotion of peaceful and inclusive societies for development, are goals that address in a structural way many of the problems that motivate drug production, trafficking and consumption. The aim of enabling these three agendas to interact should create an opportunity to achieve a better coherence between them, with human development as a supreme goal above all others.

To exemplify the ways in which these three agendas feed into each other, or enter into a possible tension, the following cases are presented below: (i) rural and sustainable development; (ii) criminal policy; (iii) prevention and attention to consumption.

Figure 2. Rural and sustainable development



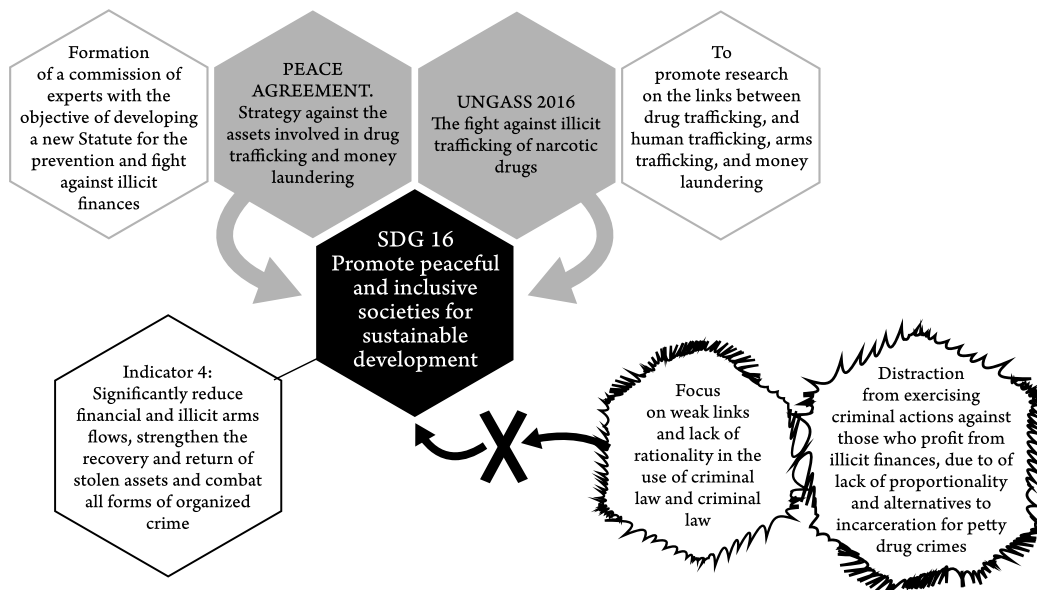
SOURCE: Elaborated by the authors, based on three documents: *Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace*; the *UNGASS 2016 Final Document, Our Joint Commitment to Effectively Address and Counter the Global Drug Problem and Transforming Our World: The 2030 Agenda for Sustainable Development*.

Rural and sustainable development. The Colombian State has favorable normative tools to improve the living conditions of the rural population, and thus to transform illicit economies. Progressive work to resolve rural poverty (SDG 1), together with the Integral Rural Reform (RRI, for its acronym in Spanish) (Peace Agreement), and the improvement of rural infrastructure (UNGASS 2016) will, as a whole, carry out transformative actions in the territories that presently grow coca. However, in practice, there are contradictory policies within the government on the eradication of illicit crops, which pose a threat to all these objectives (figure 2). In particular, it is reported that in several areas of the country eradication campaigns are carried out by public forces, without giving the communities an opportunity to benefit from the substitution plans agreed to in the Agreement (OCDI, 2017a and b).⁵ This is not only contrary to what has been agreed between the Government and

⁵ This information is periodically reported by the Observatory of Cultivators Declared Illicit (OCDI, for its acronym in Spanish), a civil society organization that follows the implementation of the Peace Agreement in different territories.

the FARC-EP, since it is explicitly stated that eradication will be the last resort, in the case of failure to carry out eradication and voluntary substitution strategies, but also leave families in a situation of extreme poverty, deprived of a source of sustenance, and without alternative means to meet their basic needs. Faced with these tensions, priority must be given to the action of the State in interventions that privilege the welfare of its citizens; this is the usefulness of putting into dialogue the three agendas as well as their obligations and interaction.

Figure 3. Criminal policy on drugs

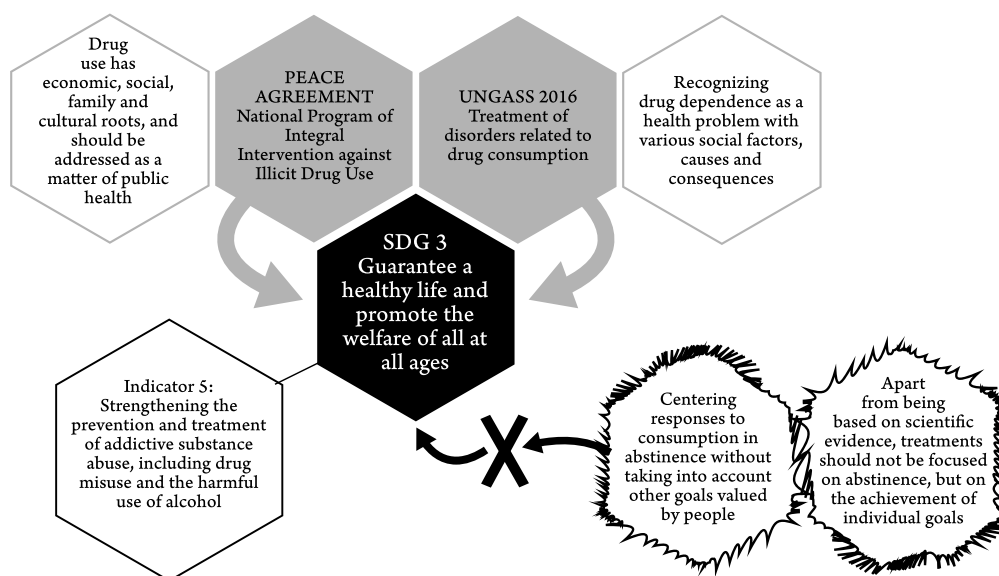


SOURCE: Elaborated by the authors, based on three documents: *Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace*; *The UNGASS 2016 Final Document, Our Joint Commitment to Effectively Address and Counter the Global Drug Problem* and *Transforming Our World: The 2030 Agenda for Sustainable Development*.

Criminal policy. Concerns about citizen security and strategies to combat organized crime also have normative obligations on all three agendas. Organized crime, which includes drug trafficking, but also other forms of criminality such as human and arms trafficking, money laundering and the associated corruption, threaten progress towards peaceful societies. The three agendas propose the effective investigation of these crimes, as well as the improvement of prevention and judicialization strategies, in order to achieve a more just and peaceful society. However, drug laws in Colombia, as well as police and judicial practices, have focused on minor crimes, punishing

with severe penalties those who occupy the lowest links of the drug trafficking chain, which reduces the effectiveness of the action of the judicial system that should instead bear down harder on those who profit on a large scale from organized crime. Thus, by the year 2014, 78% of those imprisoned for drug offenses had committed only the offense of drug trafficking without committing other crimes, i.e. only 12% of persons deprived of their liberty for drug crimes had committed violent offenses with firearms (CEDD, 2017, page 32). The focus of Colombian legislation based on the weight of the substance entails perverse incentives to identify “easy cases” above legally allowed thresholds, which is why, according to the Drug Report for 2016, for that year, 81% of drug arrests were made on people who had less than 100g of any illegal substance (nearly 63% of these cases were for possession of less than 50g of marijuana) (2016, 196). An effective balance in drug policy requires that what is agreed in the three agendas is materialized in the country’s police, investigative and judicial practices.

Figure 4. Prevention, management, and treatment of consumption.



SOURCE: Elaborated by the authors, based on three documents: *Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace*; the UNGASS 2016 Final Document, *Our Joint Commitment to Effectively Address and Counter the Global Drug Problem and Transforming Our World: The 2030 Agenda for Sustainable Development*.

Prevention and attention to consumption. The last example refers to the health dimension. It is, in fact, the only area in which Agenda 2030 explicitly refers to drug problems, in SDG 3, on strengthening prevention and treatment of psychoactive substance use. The UNGASS' recommendations recognize drug use as a complex issue, bringing together many health and social problems, while the Peace Accord includes the recognition of drug dependence as a public health problem. These commitments are avenues to improve care and treatment systems for people who use drugs, but a fundamental barrier is that many of the treatments available in Colombia are not evidence-based models, and focus on the goal of abstinence, rather than improving the quality of life of people who consume (Ministerio de Justicia and ODC 2015, 12), through the achievement of individual objectives that are generally linked to health, employment, housing, and social relations. In this regard, the effective implementation of Agenda 2030 in this area will need to change the way in which problematic consumption is addressed, to stop concentrating on substances, and to give centrality to the welfare of the person and what they consider to be a dignified life. The creation of the National Program of Integral Intervention against Illicit Drug Use constitutes a window of opportunity to make these treatment models viable options for people who use drugs. However, treatments based on abstinence, police abuse and the health system situation may be impediments that tarnish the achievement of positive results.

These three examples then show the interaction, sometimes positive, and sometimes negative, of the agendas and obligations for the Colombian State. In the exercise of drug policy reform, the SDGs, as well as international human rights obligations, must maintain supremacy over the rest, and these efforts will result in compliance with the Peace Agreements and the operational recommendations of the UNGASS 2016. The tensions and threats of drug control to peace and development can be mitigated as long as the vision of citizen welfare and respect for human rights prevails, even maintaining the actions by the public force in counteracting and containing the entry of illegally armed groups to take control of the areas the FARC have now left. In this way the tensions will be converted into opportunities to build peace.

All these tensions are clearly reflected in the way success is measured in drug issues, since metrics are concentrated on actions performed, but not on the social transformations that occur. The problem with traditional indicators is twofold: on the one hand, they measure the punitive approach in terms of the criminalization of the people involved. On the other hand, “the negative impacts of the war on drugs have not been captured by traditional indicators” (Muggah et al. 2015, 5), so that welfare and rights effects are hidden, while what is measured is more evident, such

as arrests and detentions. These authors propose a set of indicators of six objectives, sixteen goals and eighty-six indicators for a progressive drug policy, by which their positive and negative impact can be measured (Muggah et al. 2015, 5). In practice, it will be necessary to reform the indicators so that, for example, the effects on the socioeconomic well-being of people involved in drugs can be made visible. In the case of the Objective to “Provide Viable Alternatives for Crop Substitution” it incorporates, for example, indicators for “safe credit for small producers; incentives to promote interaction between large buyers and small producers; subsidies to support merchant associations” (Muggah et al. 2015, 8). When talking about the economic transformations of citizens, the State can then give an account of the real impact of drug control, as opposed to only revealing actions to restrict drug supply.

The UNGASS 2016: Political Significance and Relevance for Colombia

Convened in 2012 by the UN General Assembly through Resolution 67/193, in a political process led by the governments of Colombia, Mexico and Guatemala, the UNGASS 2016 is the milestone that reveals the deep controversies over how to confront the world’s drug problem.

The preparatory process and the end result revealed that the narrative of the war on drugs is mutating, and presented the perspectives of a wider range of actors, disciplines and debates. Examples include the numerous contributions received from almost all the UN agencies, from various intergovernmental agencies, and from about sixty civil society organizations, representing voices from growers, consumers, victims of violence associated with trafficking, and specific populations, among many others (IDPC 2016, 14).

The position of the Government of Colombia focused on promoting the debate to review current policies, with new approaches based on scientific evidence and the recognition of the failure of the war on drugs. To this end, Colombia’s proposals to the UNGASS were: (i) flexibility in the interpretation and application of Conventions; (ii) to focus on human beings and their rights as the fundamental axis; (iii) promote health and well being; (iv) ensure access to and the availability of controlled substances for medical purposes; (v) take measures to address the social impact of drug trafficking; (vi) concentrate state efforts on the prosecution

of organized crime; (vii) address new threats and challenges; and (viii) reorient international cooperation and the international control system (Observatorio de Drogas de Colombia, 2015).

For its part, the United Kingdom, represented in the position of the European Union, put forth guiding principles to strike a balance between supply and demand reduction measures, reflecting an adherence to the traditional view of drug policy, even though they recognized that the evidence-based approach to public health, in accordance with human rights, should be at the center. For the European Union, international treaties should remain the mainstay of the international control system and the treaties themselves already contained sufficient flexibility, even though they considered that there needed to be greater integration with the work of other UN agencies, and that efforts should be aligned with those of Agenda 2030 (European Union, n.d.).

Although the UNGASS 2016 did not represent a great revolution for those who expected radical statements against prohibition, it did show that there is no consensus on a single response to the drug problem, and that the international control system is permeable to criticism and opposition, contrary to the inertia that has been experienced in the last decades. Among many of the present discussions, emphasis was placed on flexibility in the interpretation and implementation of international drug treaties. In the post-UNGASS context, and with evident cracks in the international control system, the local and national dimension will be more relevant, since it is there that decisions made are distant from the traditional implementation of the Convention, and a move towards experimentation in drug control can be anticipated (Collins 2016, 9).

Reflecting the spirit of the moment, Werner Sipp, of the International Narcotics Control Board (INCB), in his address to the General Assembly was emphatic in saying that international drug control never imposed a “war on drugs” and that the treaty’s obligations are not imposed on countries to incarcerate people for misdemeanors such as the possession of drugs in small quantities for personal use (IDPC 2016, 2).

The final document, however, disappointed some people. Its approval without any questioning on the first day of the plenary generated discomfort as did the document’s silence on crucial issues such as the reference to the high costs of prohibition in human lives, the disproportionate burden in producing countries of the Global South, the need to incorporate harm reduction for users, and the condemnation of the death penalty. At the same time, proposals to reduce the damage of drug production and transit and to better measure the success of the policies were left pending (Garzón 2016, 7).

The pro-reform movement, both from countries and civil society, achieved some victories that compensate for the aforementioned silences. The final document refers to the SDGs –which for many has a more holistic view of human security than that of the area of drug control– and to programs that are in essence harm reduction (medication assisted therapy, naloxone, and injection programs), calls for incorporating gender perspective into policies, and speaks of the concept of proportionality in sanctions for first time offenders (Garzón 2016, 3).

This emphasis on the 2030 development agenda reminds us that achieving the SDGs requires comprehensive and effective strategies to address the populations living in poverty and vulnerability. For example, Goal 1, “End poverty in all its forms everywhere” aims to reduce by half the population living in poverty, according to national definitions, between 2015 and 2030. In the case of Colombia, poverty

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rates are almost double in rural areas. By 2015, 14.4% of the population in urban centers were in the condition of multidimensional poverty, while in the same year 40% of the population in small towns and in rural areas were in poverty (DANE 2016, 3). To effectively align the drug agenda with the development agenda, the Colombian State must compare the information it collects in its multidimensional poverty index, with the information that already exists on the location of illicit crops and the situation of the populations that live there, to better understand the conditions of poverty in which these people are living.

In general, the structure of the document shows progress, by expanding the traditional view of the three pillars –supply reduction, demand reduction and international cooperation– and incorporates additional aspects such as human rights, new challenges and alternative development (IDPC 2016, 3). In a system of international control that was modeled and designed under the scheme of the colonial powers of the last century, recognizing the problems of producing countries is a step in the right direction, and for Colombia, it means legitimacy of its experience on the world stage. The debate, that previously held a very narrow view in which problems of production, trafficking and consumption, were seen as problems in themselves, without any structural causes being taken into account, was enriched. An understanding of the situation of the producer including the structural causes of the cultivation of prohibited plants was included in the UNGASS.

In conclusion, the UNGASS 2016 reaffirmed that the war on drugs has had clearly differentiated impacts on consumer and producer countries, making it clear that prohibition did not achieve the objectives that were proposed, and today “illicit drugs are cheaper, more accessible and purer than ever before” (Buxton 2011a, 4).

This critical mass, a product of the 2016 the UNGASS process, needs to continue to be fostered through concrete lessons up until 2019, when there will be a review of the action plan with specific examples of what has been achieved during these years. For this purpose, it is considered necessary that the foreign affairs authorities have clear guidelines on Colombia’s priorities in multilateral negotiation (Garzón 2016, 11).

For most of the interviewees, the UNGASS allowed the discontent to be expressed and generate a certain level of consensus around the diagnosis of what does not work in drug policies, but also showed that there is no common agenda of what should be done, and also did not make the civil society movement take on the task of formulating specific proposals. The debate has not led to proposals that are sufficiently clear, solid or well constructed to have an idea of potential alternatives. There is enough clarity and consensus on what should not be done, but few concrete proposals on what should be done. The risk of this propositional vacuum is enormous, since the drug problem continues to grow, with a potential for generating violence and,⁶ moreover, the danger of losing what has been achieved in recent years.

UNGASS allowed the discontent to be expressed and generate a certain level of consensus around the diagnosis of what does not work in drug policies

In addition, according to Ricardo Vargas of the Transnational Institute (TNI), the UNGASS was not going to be the big moment of change in drug policy, since it continues to work with conventions as a tool for controlling substances. Some frontiers are expanding, especially in relation to cannabis, but the pending challenge is to position the debate around the regulation of cocaine. In order to do this, the risk is that the political capital used for the regulation of cannabis becomes exhausted for the possibilities of debating other substances with stronger stigmas, and this leads to insisting on the eradication of the coca bush, without leaving space to think about other alternatives.

6 Juan Carlos Garzón, Daniel Rico y Adriana Mejía coincided on these views.

On the other hand, the discussions in the UNGASS showed that the principle of flexibility could be applied in the interpretation of conventions, adapting them to local needs and contexts. For Juan Carlos Garzón, of the Ideas for Peace Foundation (FIP, for its acronym in Spanish), this is an opportunity that should be used by Colombia to advance in public policy experiments apart from those of prohibition, and to position certain debates into the public eye, such as, for example, the total regulation of marijuana.

Adriana Mejía, from the Institute of Political Science (ICP, for its acronym in Spanish), places the discussion in the range of the previous policy (the one that was diagnosed as wrong) and the desired policy (one that is not yet clarified in its strategies). Among these areas, there are aspects that are largely established, but that do not show progress in their implementation. An example is the perspective of public health in addressing prevention of consumption and the treatment of problematic consumption. The Ministry of Health was a good ally in the UNGASS process but concrete actions, with allocated budgets, monitoring and evaluation plans, are still lacking, in order to improve the quality of life of people who use drugs. For this purpose, according to Adriana Mejía and Juan Diego Cely, Projust Area Advisor at UNODC, it is also necessary to involve the National Police, and train them to be able to differentiate between the different types of response that the State should give to consumers.

Similarly, Adriana Mejía states that the reduction of severity in sentences for the weakest links in the chain does not generate greater dissent, and in that sense, progress must be made to differentiate between the types of sanctions. However, it seems that there are great disagreements, and proof of this is the clash between the Attorney General of the Nation and the Ministry of Justice, because of the differences that exist in criminal law on the treatment of small growers and women. For the Attorney General, these types of measures open the door to the prospect of not punishing any type of drug trafficker, and further insist that sanctions against such crimes should be strengthened. These discussions reveal that punitive populism is very strong in Colombia, and proposals for alternatives to imprisonment will be difficult to justify even within the government (El Tiempo, 2016). However, these proposals are part of the provisions of the Peace Agreement, which recognizes the importance of refocusing the exercise of criminal action towards the middle and upper ranks of criminal organizations and imposing conditions on beneficiaries. The proposals do not aim at the decriminalization of cultivation and trafficking behaviors. Moreover, for people involved with planting, cultivating and harvesting coca leaves, precise

obligations are established to prevent their future involvement in illegal activities, while in the case of women, the release measures will be exercised in a conditioned way to avoid non-compliance with the requirements of the authorities.

There are other issues in which there is still no consensus and it makes sense to continue the debate on what will be the best possible option. The mechanisms of crop eradication are highlighted as one of the issues with many disagreements.

In terms of advocacy, in the opinion of Adriana Mejía and Catalina Niño (FESCOL), it is necessary to link the agenda to reform drug policy with broader agendas and more actors. For example, at the national level, UNDP should be included, with its mandate and presence in regional development, and in general on the SDG agenda. This would make it possible to tie reforms to more far-reaching processes, which can be sustained regardless of whether drug policy reform remains as political discourse or not. The great challenge –and this is something that is agreed amongst all the interviewees– is to bring the discourse to practice, and what most obstructs this exercise is that the different entities of the Colombian State that are responsible operate under different guidelines and objectives, making the application of a unified vision of what we intend to achieve with drug policies difficult. In practice these are partial and dispersed actions, many of them good and in line with the operational recommendations of the UNGASS, but without any clear way of measuring the impact.

THE PROBLEM OF ILLICIT DRUGS IN COLOMBIA AND ITS POLICIES

The Problem of the Illicit Drug Industry in Colombia: Transformations and Stabilities

Since its onset, the economy associated with illicit drugs has laid the foundations of a resilient industry that remains and adapts to the State's efforts to curb its expansion. The trend towards concentration of illicit crops in the traditional coca-growing regions, which is presented in the Integrated Monitoring System for Illicit Crops (SIMCI, for its acronym in Spanish) in 2015 (UNODC 2016, 11), confirms a series of socioeconomic challenges territories face to build their transit from the illegal economies to markets articulated with the nation.

The development of this illegal economy, and the strategies that were designed to respond to the problem, fueled a kind of institutional inertia in drug policy, which in turn generated other problems related not only to the production phase, but to trafficking, state criminal policy and consumption. After decades of efforts to eradicate crops and eliminate drug trafficking from Colombian society, President Santos affirmed that the war on drugs is not being won and we must think of smarter measures, which could motivate institutions to try more humane and effective responses to the problems of drugs and their industries.

The review of drug policies in Colombia and the timeliness of the peace process indicate that the country would benefit from incorporating a harm reduction perspective in respect of production and commercialization as a strategy to mitigate violence associated with the illicit market, and this must incorporate the non-criminalization of the cultivators who have not been involved in violent activities, and

the strengthening of the institutional presence in marginalized areas of the country (Uprimny, Guzmán and Parra, 2012, 13-14).

Permanence and Resilience: Coca Production

In order to understand the problem of coca cultivation, it is necessary to situate the historical trajectory of its insertion into rural economies in certain zones of the country, in particular, the borders of colonization, between the end of the seventies and the beginning of the eighties. In these years, the FARC also began participating in the illegal economy, first with taxes on farming families, and then providing security on domestic and international flights, until the 1990s when they transited to direct participation in the cultivation and processing of *pasta base*⁷ (Felbab-Brown 2010, 79). In addition to the Strategic Plan of the Seventh Conference, these transformations of the conflict and the illegal economies gave rise to the expansion of crops, as well as to the expansion of the war (Chaparro and Cruz, n.d.).

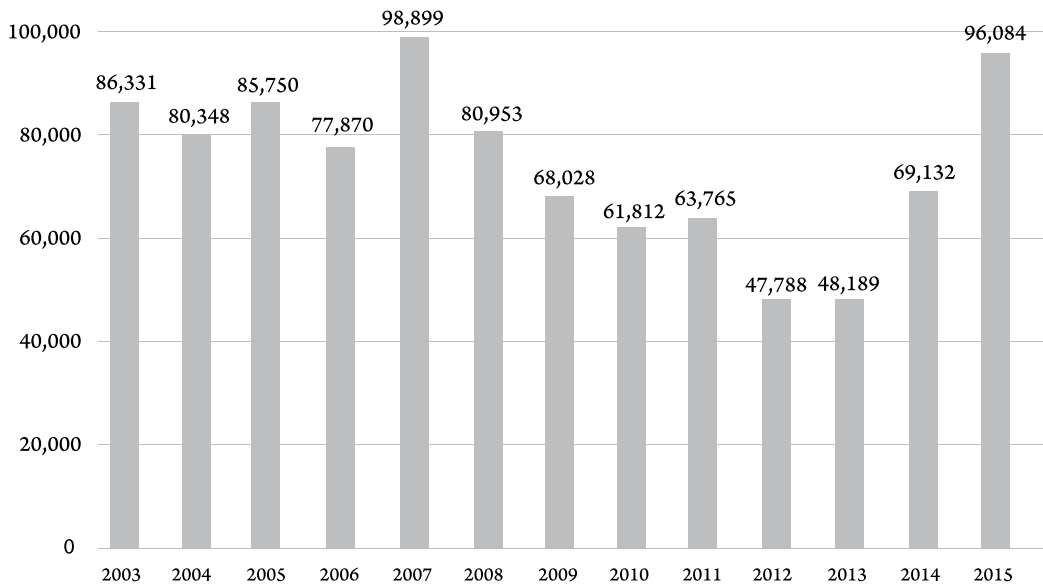
The insertion of this economy in the territories did not necessarily lead to improvements in the welfare of the populations living there. In general, the economy of illicit substances leaves few winners, even considering that it is a product traded in international markets. This is because many of the gains derived from this economy are not reinvested in the areas from which they come from, in addition to the financial distortion that illegal money flows generate. According to Felbab-Brown (2010, 11), it is characteristic of illegal economies that their resources are used for unproductive consumption that are not reinvested in economies that encourage local development, since local people do not have incentives to work in the scarce legal options available in the territories.

After decades of efforts, supported by counternarcotics initiatives under Plan Colombia, the problem of coca cultivation persists. According to the information collected by SIMCI, in 2015 the departments most affected by coca crops were Nariño (31%), Putumayo (21%), Norte de Santander (12%), Cauca (9%) and Caquetá (8%). Thus, 81% of all the country's crops are concentrated in five departments of the country (UNODC and Government of Colombia 2016, 17). Globally, according to the World Drug Report of 2016, 56% of all cocaine seizures in South America are from Colombia, as well as a third of global seizures. For its part, 90% of the cocaine seized in the United States comes from Colombia (UNODC 2016, 37) (figure 5).

Figure 5 shows the trajectory of the hectares cultivated with coca in the country.

7 Pasta base is the first stage in the process of making cocaine.

Figure 5. Hectares of coca bush in Colombia 2001-2015



SOURCE: UNODC, 2016.

In terms of violence caused by drug policies in Colombia, Mejía and Restrepo estimate that about 25% of the homicide rate in Colombia is explained by the “success” of the cocaine markets, and by the war against drugs. In a hypothetical scenario, if the size of the markets had not increased as much, Colombia would have had a total of 27 homicides per 100,000 people in 2008, while the real rate was 37 per 100,000 inhabitants (Csete et al. 2016, 9).

The country has focused on two policies to reduce drug production: eradication (with its various mechanisms), and alternative development (with its various models).⁸ In addition, the international drug control system requires that States incorporate measures to ensure that the cultivation of any of the three plants –poppy, coca or cannabis– is sanctioned with some form of deprivation of liberty (1961 Single Convention, art. 36). All the efforts that producer countries make to

⁸ It should be noted that according to Conpes 3218 and 3669, alternative development is also a mechanism for the eradication of illicit crops. For analytical purposes, this report separates the two mechanisms, since they constitute a different relationship between citizens and the State.

criminalize production and to eradicate and replace it with other legitimate products has enormous costs, and as Julia Buxton points out, little discussion has taken place on how the countries of the Global South should be compensated for the losses of implementing drug control conventions (Buxton 2016, 3).

In the multilateral sphere, the concept of alternative development has been debated since the 1990s. A first draft of the guidelines on alternative development incorporated three principles that experts in Colombia have considered fundamental for the success or failure of these initiatives: (i) gradual reduction, since viable alternatives should be available to people before beginning to reduce crops; (ii) not conditioning the economic assistance to the prior eradication of crops; and (iii) to respect that alternative development is not a complement to security and law enforcement measures, but rather part of national people-centered development plans (Youngers 2012). But the final negotiations lost this initial content, leaving only component one, assigning responsibility to the United Nations Office on Drugs and Crime (UNODC) and the Commission on Narcotic Drugs (CND), without any involvement from agencies such as UNDP or the Food and Agriculture Organization of the United Nations (FAO) (Buxton 2016, 5-6).

In the case of Colombia, eradication strategies have represented material and immaterial losses and eroded the community's confidence in the State. This has been highlighted by several researchers, and expressed by the inhabitants, who demand a State presence that claims, in the words of María Clemencia Ramírez (2005, 19), the right to have rights. The breakdown of trust between citizens and the State also has a direct impact on the political culture. In this sense, it is concluded that, compared to those living in areas that are free of illicit crops, citizens living in coca territories participate less in electoral processes and have significantly lower levels of trust in the State, particularly in the police (García 2011, 380).

However, the political participation of the population in these territories is diverse, since the community actions that demand the presence of the State have generated identities that are reaffirmed in these areas. Many peasant claims, such as the "National Mandate of Coca, Poppy, and Marijuana Growers," signed in July 2015,

In the early years, crop substitution was the main focus, and the projects failed mostly because they did not holistically incorporate social development needs

seek to overcome this misconception of colonization supported by the coca trade. Although it has been affirmed that the dynamics of the settlement of the areas where the coca economy was consolidated are due to the rational action of the populations to isolate themselves from the state repression of illicit crops, the structural causes of colonization in disconnected regions such as the Pacific coast of Colombia and the Andean-Amazonia foothills are related to the violence suffered by the Colombian peasantry who, in the process of the accumulation of land in the Andean zone, suffered large-scale displacement towards ever more isolated and unpopulated lands (Uribe 2011, 139), as well as the implementation of economic policies that weakened the agrarian sector of the economy (Ortiz 2003, 146).

The investment in aerial fumigation in the country has been enormous, but the evidence shows that it is not cost-efficient. According to Daniel Mejía, to eliminate a single hectare of coca crops, it is necessary to spray 30 hectares, which costs US \$ 80,000 per eliminated hectare (Csete et al. 2016, 34). From this information it is possible to conclude that aerial fumigation is unable to reduce the supply of cocaine.

Even policies that are presented as less repressive, such as voluntary manual eradication, accompanied by alternative development programs, have their complications. In particular, it is alarming to know that only 32% of the national territory has been involved in this type of program and the capacity of the State to respond to the needs of many territories is still insufficient (UNODC and Government of Colombia 2016, 14). The analysis of Carlos Zorro (2011, 94-101) of the trajectory of alternative development in Colombia shows the phases, challenges and transformations of this interventionist approach.

According to Zorro (2011, 106), in the early years, crop substitution was the main focus, and the projects failed mostly because they did not holistically incorporate social development needs. Community dissatisfaction with these projects, coupled with the fumigations that took place in the 1990s, meant that potential recipients of these interventions started to resist alternative development programs. Subsequently, some experiences incorporated formal mechanisms and agreements between the Government and the communities. In the 2000s, projects that are productive in terms of financial returns were implemented. The author's conclusion is that alternative development programs have had very few long-term successes.

These years of implementing alternative developments have left many lessons to be learnt by both the country and international cooperation on what is needed to

make these projects sustainable, as well as ensuring the effective transition from an illicit to a legal economy. It is imperative that this is part of a broader development process in the regions, and to that end, it is necessary to change the way in which the success of drug policies in relation to supply reduction is measured, and to accept the principle of graduality, recognizing that transformations require longer times than those of a project cycle. In the usual manner, it has been measured through eradicated hectares, fumigated hectares, and beneficiary families. But these measurements are strategic failures, because what is required for a real transition will be defined by the socioeconomic transformations of the beneficiaries. It would therefore be necessary to measure the progress of social indicators that show the impact of social investment on territories affected by illicit crops (Zorro 2011, 109).

A yet unpublished study developed by Dejusticia accounts for the differential impact of the presence of coca crops on municipal socioeconomic development. In this study municipalities were categorized according to the level of crop density, and contrasted with a series of indicators of wellbeing and poverty. Upon comparing the indicators of unsatisfied basic needs (UBN), multidimensional poverty index (MPI), and the human development index (HDI), those municipalities categorized as having a very high, high or medium presence of coca cultivation score very low with respect to those that do not have coca. The authors conclude that the population living in municipalities with illicit crops suffer from double discrimination, due to the precariousness of life in rural municipalities and the marginalization resulting from living in municipalities with a high presence of illegal crops. This shows that the living conditions of people in the municipalities with the highest production of coca leaf have not improved despite the cultivation of coca. Reflections on the resilience of illicit economies, as well as on the general marginal situation in which these communities subsist, should lead to a global rethinking of strategies to address drug production and to incorporate the concerns of these territories over access to basic services, as well as an effective and permanent institutional presence. (Chaparro y Cruz, n.d.)

Transformations: The Consumption of Drugs in Colombia

Colombia is not only a drug-producing country, but is also gradually becoming a consumer country. According to the National Consumer Survey of 2013, in Colombia 484,000 people report problematic consumption of illicit drugs, out of a total of 839,000 users, which represents 57%. On the other hand, there are about eight million alcohol users, with 37.4% reported as problematic users (UNODC and Government of Colombia 2014, 14-15). There is also an increase in the prevalence of illicit substance use: while in 2008, 8.8% of the population admitted to having consumed at some point in their life, by 2013 that figure was 12.2%. Similarly, use during the previous year was reported at 2.6% for 2008, while for 2013 that proportion was 3.6% (UNODC and Government of Colombia 2014, 15-18).

The main cities where the increase in heroin consumption has been detected, with its associated health problems, are Bogotá, Cali, Medellín, Pereira, Armenia, Cúcuta and Santander de Quilichao, with an estimated 15,000 people in the country injecting drugs. This has led the Ministry of Justice and Law to indicate that the country is facing a public health emergency because of the risks associated with this consumption, such as the prevalence of diseases such as HIV, hepatitis B and hepatitis C (Ministerio de Justicia and ODC 2015, 12-13). Thus, the demand for heroin treatment services has increased by 247% in the last 10 years (Ministerio de Justicia and ODC 2015, 54).

Studies show that drug users have a negative perception of health services, and this directly impacts the possibility of seeking treatment. They indicate that they are treated with stigma and discrimination, which is a barrier to accessing treatment, and also have little confidence in models of care, since most focus only on abstinence from drug use (Ministerio de Justicia and ODC 2015, 12).

In 2012, Law 1566 was approved, with the objective of “ensuring comprehensive care for people who use psychoactive substances.” This law already provided for many of the recommendations of the first section of the UNGASS 2016 document. The implementation of this law is a window of opportunity for cooperation with the United Kingdom, and in particular with Public Health England which, as will be shown later, have a lot of experience and expertise in the field.

Law 1566 recognizes that abuse and addiction to these substances should be addressed as a public health problem. It also stated the need for these disorders

to be considered as a disease requiring attention within the health system and the National Public Policies on Mental Health and for the Reduction of Consumption of Psychoactive Substances, led by the Ministry of Health. According to this norm, any person who suffers from disorders or pathology derived from the consumption of licit or illicit psychoactive substances is entitled to receive treatment from the entities that belong to the Social Security Health System.

This was imposed as an obligation on the entities that provide health services to guarantee integral access to the procedures and treatments. This network of services includes the modalities of care by the Ministry of Health, such as specialized services in adolescents and mental health units. Another point to note is that, in accordance with article 4 of the aforementioned law, and in accordance with article 49 of the Political Constitution, institutions must have the informed consent of the person about the “type of treatment offered by the institution, including the risks and benefits of this type of care, the alternatives of other treatments, the effectiveness of the treatment offered, the duration of treatment, and the restrictions established during the care process.” The Ministry of Health has not yet regulated the provision on the informed consent of patients before receiving any health service related to this law.

Article 5 establishes that the National Superintendence of Health will monitor the Centers for Drug Abuse Care (CAD, by its acronym in Spanish), drug dependency services and other entities of this care system. The Government recognizes that it has experienced difficulties in having CADs “adhere to the application of the qualification standards” (Observatorio de Drogas de Colombia 2016, 53). This underscores the need to generate guidelines and processes for these centers, considering also that the Peace Agreement incorporates faith-based centers –churches and denominational groups– as treatment providers.

On the other hand, recently the new National Police and Coexistence Code (Law 1801 of 2016) was approved.⁹ There, provisions related to prohibited psychoactive substances are aimed at avoiding consumption and use in public spaces. The regulations adopted have several problematic aspects, which, in practice, have the potential to put drug users in a vulnerable position, since they facilitate the use

⁹ The Constitutional Court, in a press release dated April 20, publicized the decision of judgment C-223 of 2017, which declared several articles of the National Police and Coexistence Code to be unenforceable under the argument that the regulations made for the right of peaceful assembly must be issued through statutory laws. Available at <http://www.corteconstitucional.gov.co/comunicados/No.%2021%20comunicado%2020%20de%20abril%20de%202017.pdf>.

of police officer discretion with regards to personal records and the imposition of sanctions that could be interpreted as disproportionate to the offenses committed.¹⁰

Article 59 numeral 9 of Law 1566 declares that the possession and consumption, and even being under the influence of such substances, is a behavior contrary to coexistence and that jeopardizes the life of people who attend activities that involve non-complex public gatherings. The code is not clear in establishing criteria to understand when an activity involves a non-complex public gathering. However, police authorities have the possibility to prohibit the entry of persons engaging in these behaviors, as well as obligating them to participate in community programs or pedagogical coexistence activities, or else referring them to centers for drug addiction, as referred to in the above law.

Any person who suffers from disorders or pathology derived from the consumption of licit or illicit psychoactive substances is entitled to receive treatment

In article 140, which deals with behaviors contrary to the care and integrity of public space and that, therefore, should not be carried out, there are two numerals that refer to psychoactive substances. Numeral 7 states that it is prohibited to consume alcoholic beverages and prohibited substances in stadiums, sports centers, parks, hospitals, health centers and, in general, public spaces. The penalty that can be imposed by the police authority is a fine of 8 legal monthly minimum wages, the destruction of the substance, participation in community programs or pedagogical coexistence activities, or the referral of the person to drug the addiction centers referred to in Law 1566 of 2012. The rule does not establish criteria for the police to apply one or another sanction, but rather leaves the decision to their discretion.

On the other hand, numeral 8 prohibits carrying substances in public spaces, imposing as the applicable sanction its destruction and a fine of 8 minimum wages. This provision could violate the right to autonomy and personal freedom because it establishes a disproportionate limit, and a high monetary penalty to the possession of substances. It could also subject users to stigmatization and administrative persecution by police authorities.

¹⁰ The paragraph of article 180 of the National Police and Coexistence Code states that type 1 (4 minimum wages) and type 2 (8 minimum wages) fines can be substituted by “requesting the police authority to substitute the fine for participation in a community program or pedagogical coexistence activity,” empowering the municipal authorities to regulate the matter.

Article 159, paragraph 4, which regulates the personal search procedure,¹¹ establishes that the agents of the National Police can search persons and their assets when trying to establish whether they are carrying prohibited drugs or substances. Article 164 authorizes the transitory material seizure (commonly known as seizure) of goods whose “possession, sale, supply, distribution, transportation, storage, import, export, constitutes behavior that is contrary to coexistence and the law.” Here arises the legal problem of whether the amounts of psychoactive substances that are within the dose allowed by the National Narcotics Statute could be subject to seizure, including confiscation as regulated in article 179.

In general, regulatory changes, coupled with the commitments of the Peace Agreement and the UNGASS 2016, aim to transform the way the State relates to drug users. However, provisions such as those in the Police Code can become obstacles to this end, as they perpetuate the use of force as a mechanism to deter consumption. In this area and as will be seen later, the UK advances in improving relations between police and citizens, with measures such as cannabis warnings.

Provisions such as those in the Police Code can become obstacles to this end, as they perpetuate the use of force as a mechanism to deter consumption

Transformations: The Consequences of Criminal Policy on Drugs

Drug policy in Colombia has been subordinated to security policy, generating distortions in the rational use of criminal law to confront the problem of production, trafficking and drug use.

The security strategies prioritized to show results are the capture and deprivation of freedom to drug traffickers. In this regard, it is worth highlighting the current figures of imprisonment for drug offenses in Colombia. A study by the Research Consortium on Drugs and the Law (CEDD, for its acronym in Spanish), in the process of publication, reveals the excessive use of criminal law to deal with

¹¹ The Constitutional Court, in judgment C-789 of 2006, defined “personal search” as the one carried out by police officers in the development of their preventive functions, that “consists simply of a superficial exploration of the person, which as such does not compromise intimate findings, and what the person carries on him, in his clothing or other accessories, in order, among other legitimate objectives, to prevent (not to investigate) committing behaviors that may generate alterations against the security of the community.”

the phenomenon of drug trafficking in Colombia, resulting in a significant increase in the prison population that commits drug offenses. As of December 2000 there were 8,428 persons deprived of their liberty in prisons, while for the same month in 2015 there were 24,374 persons, an increase of 289.2% in that period. In 2000, 12 out of every 100 persons deprived of their liberty were incarcerated for drug offenses, a figure which increased in 2015 when 20 out of every 100 prisoners had committed offenses related to illicit substances (CEDD n.d., 55).

When analyzing the figures by sex, the proportion of men incarcerated for drugs rose from 10 to 18 per 100 men between 2000 and 2015, while the proportion of women rose from 40 to 46 per 100. Similarly, while 11% of those convicted in prisons in 2000 were imprisoned for drug offenses, that percentage rose to 22% by 2015; the same occurred with those accused of drug offenses that went from representing 14 to 16.7% of the population in pre-trial detention (Uprimny, Chaparro, Cruz 2017, 24).

In this respect, in 2013 the Constitutional Court, by judgment T-388, declared the unconstitutional state of affairs in the penitentiary and prison system, and reiterated in 2015, through judgment T-762, that the effects on the rights of persons deprived of freedom had not yet been resolved by the Colombian State, and noted that “the exaggerated increase in overcrowding stems from a reactive, populist, unreflective, volatile and inconsistent criminal policy, among others” (Comisión de Seguimiento de la Sociedad Civil 2017, 2). In this scenario, the Civil Society Monitoring Commission (Comisión de Seguimiento de la Sociedad Civil) was created,¹² which diagnoses that no progress had been made in relation to prison overcrowding by 2016, and that in some cases it even had increased. The National Penitentiary and Prison Institute (INPEC, for its acronym in Spanish), according to its own figures, is able to house 78,120 prisoners, but “the number of persons deprived of liberty was 120,914, which showed a total average overcrowding rate of 54.8%, showing growth in relation to the year 2015, which was 53.9%” (p. 4).

The impact on the rights of persons deprived of liberty are diverse and serious. As for the right to health services, the disorder and administrative change in the service providers has meant that in many prisons there is no availability of

12 The Commission is conformed by: Corporación Humanas, Colombia Diversa, Equipo Jurídico Pueblos, Universidad del Sinú, Centro de Investigación en Política Criminal of the Universidad Externado de Colombia, Fundación Comité de Solidaridad con los Presos Políticos, Semillero Interuniversitario de Abolicionismo Penal (Universidad de Antioquia and Universidad Autónoma Latinoamericana), and the Centro de Estudios de Derecho, Justicia y Sociedad (Dejusticia).

doctors or medicines. The crisis is not minor, since the Commission reports that one person died in Cúcuta, and two people in Bogotá because of these failures in tending to health problems (Civil Society Monitoring Commission 2017, 7). But it is not only because of illness or accident that prisoners' right to health is violated. It is also reported that infrastructure failures in some prisons, such as lack of drinkable water and food problems, are affecting the right to health of this population (Civil Society Monitoring Commission 2017, 8-9).

The prison situation is a clear example of the secondary problems of drugs. It is not then the substances themselves that cause the crisis that Colombia is going through, but the policies that have been designed to sanction consumption, production and trafficking, and in particular the incentive structure that generates greater persecution of minor drug offenses than large-scale offenses such as money laundering and other financial crimes. To mitigate the effects of prohibition, it is necessary to move towards a rational use of criminal law, as will be explained in the opportunities for cooperation section.

Drugs and Peace: Opportunities and Challenges

Peace Agreement: "Solution to the Problem of Illicit Drugs"

The fourth Havana agreement, "Solution to the Problem of Illicit Drugs," has three axes of action focused on the production, trafficking and consumption of illicit substances. There are additional drug policy provisions referred to in point 3 on the "End of the conflict." In this point, reference is made to the guiding principles, among which is "Ensuring the monopoly of taxes by the Public Treasury," focused on the fight against organized crime, including drug trafficking, and money laundering with resources derived therefrom (Final Agreement, 71).

The "Agreement on Victims of the Conflict" also incorporates measures to ensure that actors involved in drug offenses recognize and take responsibility for their participation in drug trafficking, and the relationship between trafficking and the armed conflict, within the framework of the Commission for the Clarification of Truth, Coexistence and Non-Repetition (Final Agreement 2016, 123). In relation to the criteria to establish the connection between drug trafficking and political crime, it is stated that it will be evaluated on a case-by-case basis in the Special Jurisdiction for Peace, based on the jurisprudence of the Supreme Court of Justice in this area.

In order to address the production dimension, the agreement has created the National Program for the Substitution of Illicit Use Crops (PNIS, for its acronym in Spanish), as part of the strategies under the Integral Rural Reform (RRI, for its acronym in Spanish), and will be niched within the Presidency of the Republic. Its principles of operation include participatory construction with communities, the differential approach adjusted to the territorial context, and voluntary substitution. There will be an emphasis placed on the participation of the communities in the design, implementation and evaluation of programs. In the original Agreement signed on September 26, fumigation had not been explicitly excluded from possible strategies, but it was emphasized that in all cases, manual eradication would be favored. As will be seen later, this point was modified in the renegotiation (Final Agreement, 206, 102-108).

Priority will be given to the territories that are within the RRI, taking into account the density of illicit crops and the population living there, as well as the national natural park areas. In order to provide legal certainty to peasant growers, the agreement also incorporates differentiated criminal treatment, in the following terms:

The Government commits to process the necessary normative adjustments to temporarily waive the exercise of criminal action or proceed with the termination of the criminal sanction against the small farmers who are or have been linked to the cultivation of illicit crops when, within a period of one year, counted from the entry into force of the new law, who formally declare before the competent authorities their decision to give up cultivating or maintaining crops of illicit use (Final Agreement 2016, 108).¹³

In addition, point 6.1.9 of the Agreement provides differential criminal treatment measures for women who have been involved in non-violent drug offenses and who meet the socioeconomic vulnerability criteria and are not involved in organized crime. To address consumption, the agreement provides for the creation of the National Integral Intervention Program against Illicit Drug Use, based on the principles of public health, human rights, and a differential and gendered focus.

With regard to drug trafficking and related illicit activities, the Agreement provides for the creation of a group of experts composed of national and international delegates, as well as a mapping of the value chain of drug trafficking, its operation and its impact on national life. This commission will also develop a proposal for a statute for the prevention and fight against illicit finances.

¹³ At the time of writing this report the draft law that will apply these regulations within the framework of the implementation of the peace process is not known.

It also provides for the formation of inter-institutional groups, as part of a national strategy to understand the local, regional, national and transnational dynamics of organized crime, associated with drug trafficking and money laundering.

The Final Agreement was put to a referendum in Colombia on October 2. The “No” vote won the plebiscite with 50.2% of the votes, while the “Yes” received 49.7% of the votes. This situation led the Government to renegotiate the Agreement with the FARC, to incorporate, as far as possible, the objections and proposals of the “No” spokespersons. On November 12, it was announced that the parties had reached a new agreement, and although the variations that it incorporates in drug policy did not change the foundations of the Agreement, they reveal the political will of the government and the FARC to yield on some topics, which could represent setbacks in the drug policy landscape. The main changes were:

- *Expands the FARC’s commitment to deliver information.* This agreement made explicit the responsibility of the FARC to appear before the Special Jurisdiction for Peace (JEP) and to provide detailed and exhaustive information that enables the assignation of responsibility for any conduct related to the chain of illicit crops.
- *Broadens the language on the beneficiaries of the agreement.* It states that concerted action and participation will not only include those directly involved in illicit crops, but also any inhabitants of those communities. This amendment recognizes that in the territories to be prioritized, there are coexisting people who are involved in the drug business, but not all of them are, and that territorial transformation must be understood with a wide inclusion of actors.
- *Restricts the conditions of alternative development programs.* As part of the agreements with communities for the implementation of PNIS, “coexistence between being a beneficiary of a substitution program and being linked to economies related to illicit crops is not acceptable.” In another part of the Agreement, it also states that for the processes of formalization of rural property the farms must be free of illicit crops.
- *The new agreement does not exclude the possibility of spraying.* Although it defines it as a last resort, it includes it as one of the possibilities for eradication. The previous agreement did not exclude the possibility of spraying, but neither did it explicitly mention it.

- *Precisions about differential criminal treatment.* It defines it as a transitional measure for a year, with the possibility of being revoked in the case of recidivism. The normative adjustment must have the mechanism to identify the farmers of illicit crops, and put the PNIS in motion.
- *It involves the churches as actors in the approach to drug use.* The new agreement states that the provision of rehabilitation services will be made up of a broad group of actors, including churches.

Changes in the agreement, particularly with regard to conditions for growers, are worrying, as they suggest that drug policy in Colombia is vulnerable to being used to satisfy the interests of sectors of the opposition that consider punitive responses to be most suitable. The conditions now imposed for the implementation of the PNIS restrict the possibilities of graduality in the processes of eradication and substitution, and provide very short times for processes that, as mentioned, are of slow development.

The new agreement states that the provision of rehabilitation services will be made up of a broad group of actors, including churches

In January 2017, the Government and the FARC announced the start of the PNIS, with the goal of eradicating 50,000 hectares of coca by means of agreements with the communities, defining the conditions and benefits for those who take advantage of the Plan.¹⁴ The program should include collectors, sharecroppers and growers, so that different criminal treatment should also be applied when dealing with the crime of conservation and financing of plantations.

However, it should be clarified that although the agreement left out those who process the coca leaf to produce *pasta base*, the territorial reality indicates that it would be a mistake to allow this population that processes the leaf to be left out of the benefits of PNIS.

Challenges and Opportunities for the Implementation of the Peace Agreement

Although this Agreement will not have the capacity to solve the problems associated with drugs, it will limit its negative impacts, as the FARC abandon their relationship with this illicit economy, and also initiate a process of cooperation with

¹⁴ See “The Plan for Voluntary Substitution of Illicit Crops is Ready” available at <http://www.posconflicto.gov.co/sala-prensa/noticias/2017/Paginas/20170127-Listo-el-plan-para-sustitucion-voluntaria-de-cultivos-de-uso-ilicito.aspx>

the State for information on crops and routes under their control. But these potential benefits have the inherent risks associated with prohibition, for as long as the demand for an illegal market continues to exist, drug supply will continue to exist (Uprimny, Guzmán and Parra, 2012, 7-8).

These measures present challenges to the construction of territorial peace; in particular, the period immediately following the signing of the agreements is of crucial importance in order to gain legitimacy for the peace process. To this end, the Peace and Reconciliation Foundation refers to the “early victories for peace,” which generates the perception that something has changed positively. According to Ávila and Castro (2016, 9), there are six central issues that must be addressed by an emergency plan that guarantees early victories:

- Basic infrastructure: aqueduct, sewage, electricity services, etc.
- Road infrastructure to facilitate the transition to a legal economy.
- Administration of justice and security.
- Economic substitution for illegal economies.
- Infrastructure for unsatisfied basic needs (health, education, social protection).
- Security for communities and ex-combatants.

While not all of these problems are related to the drug economy, past experiences show that, if social development, justice, security, and infrastructure needs are not effectively met for the settlers of illicit crop areas, the probabilities of success are much smaller, and 57% of the most vulnerable municipalities in the post-agreement are municipalities with illicit crops.

The economy of drug trafficking, and particularly the first two links of the chain, that is to say the cultivation of the coca leaf and the processing of the coca pasta base, have a high coincidence with the presence of the guerrillas, particularly of the FARC. Of the total number of municipalities where guerrilla groups are present (two hundred and eighty-one), there are coca crops in one hundred and sixty-two (Ávila and Castro 2016, 10).

It should be remembered that part of the political capital of armed groups can be understood with the model developed by Felbab-Brown (2010, 14), according to which the political and military support that an armed group will receive from the illicit economy is mediated by four conditions: (i) the general state of the economy, (ii) the characteristics of the illicit economy, (iii) the presence or absence of aggressive traffickers, and (iv) the Government's response to the illicit economy.

The economy of coca and cocaine, being labor-intensive, with the presence of traffickers for whom the FARC fulfilled the role of mediator of conflicts, and with repressive responses by the national Government, allowed this guerrilla group to not only reap monetary gains to expand their military capacity, but also freedom of action to operate in those territories, with the support of networks of local informants whose livelihoods were protected by them (Felbab-Brown 2010, 14).

If social development, justice, security, and infrastructure needs are not effectively met for the settlers of illicit crop areas, the probabilities of success are much smaller

Illicit economies such as coca allow armed groups to act as proto-States. In this regard, Felbab-Brown (2010, 18) compares the provision of services in coca-growing zones between the presence of the FARC and the AUC. In the case of the AUC, armed groups fulfilled the role of "caring for the business" for narcos, but without "courting the population." On the other hand, in the territories where the FARC was present, they provided protection, mediation and regulation services for the local population (Felbab-Brown 2010, 19). This perspective highlights the need to provide these types of services in coca growing areas, as it will not be enough to provide measures to eradicate and replace illicit crops to fill the power vacuums left by the FARC.

The control and fight against illegal economies in post-conflict Colombia is traversed by avoiding or mitigating the violence derived from the clashes to control the power vacuum once the FARC has left, protect the lives of ex-combatants who carry out eradication work, and avoid the recruitment of ex-combatants to other criminal gangs (Ávila and Castro 2015, 14).

The post-conflict scenario is fragile in terms of security in regions where illegal armed groups are present. One possible advantage of the configuration of the

FARC structure for demobilization is that the Secretariat and the whole hierarchy have sufficient control over their subordinates (Gutiérrez, 2004), so that the internal cohesion of the group will protect them, in some way, from transiting to existing criminal networks.

But the void after the eventual demobilization of the FARC presents latent threats such as the takeover of international drug trafficking routes by large Mexican cartels, with an interest in controlling the process from cultivation to processing and marketing, as well as the possible application of terror techniques already known in Mexican cartels (Uprimny, Guzmán and Parra 2012, 9). To address these dangers, it will then be necessary to promote the recognition of the failure of prohibition as a way of tackling the drug problem, and to complement that recognition with an improvement in the effectiveness of the policies implemented within prohibition.

The presence of coca crops, according to a study by the FIP, is considered one of the risk factors for peacebuilding, along with the presence of other illegal economies such as mining, drug trafficking routes, dissidents and the presence of other illegal armed groups. There are seven transition points (PTN) and nineteen transitional zones (ZVTN), for a total of 26 zones for the demobilization of the FARC, of which there are only six points that do not have coca crops. These exceptions are in two areas of Tolima, one in Antioquia, one in Cesar, one in Cauca and one in La Guajira (Alvárez and Pardo 2017, 7).

It is important therefore to emphasize that there are twenty zones in which coca is concentrated, which constitutes not only a risk for the implementation of the Agreements, but also a challenge for Colombian institutions to have a comprehensive response for these territories, which should consist of rapid interventions in security, as well as medium and long-term interventions for eradication and transition to legal economies. (Chaparro and Cruz, n.d.).

For the coca farmers and the producers of *pasta base*, there will be a void of social control in the intermediation with the buyers of these products. This intermediation and its derived conflicts, to date controlled by the FARC, could be a source of social conflicts. Although the agreement aims at eradication, it is only realistic to recognize that there will be a transition period for farmers, in which the illegal economy subsists up to when the legal alternative yields sufficient returns, even though in some places they have already initiated substitution processes prior to the signing of the Peace Agreement. That is why the core of the victories of peace should not be focused solely on eradication, but on the context in which it occurs.

In other words, to focus the social development policy on social assets that will allow the population to consider that it is viable to transit to the legal economy, as well as fighting in parallel against the flow and transportation of the remaining illegal economies.

It will then be necessary to promote the recognition of the failure of prohibition as a way of tackling the drug problem

Finally, dismantling the link between armed conflict and drug trafficking is a post-agreement challenge on which there is little clarity. The FARC's involvement in drug trafficking still has many obscurities, particularly in relation to where are the resources that have come from this activity. The last official report of the Information and Financial Analysis Unit (UIAF, for its acronym in Spanish) dates from 2003, and by that time it was estimated that the guerrilla's income was 600 million dollars, of which 35% came from drug trafficking, 30% from kidnapping and extortion, 20% from illegal mining, and the remaining 15% from the legal economy, such as donations and others (La Silla Vacía, 2012). On the other hand, it is estimated that between 50 and 70% of the FARC's resources come from their involvement with the production and trafficking of illicit substances (Pécaut 2008, 28).

In institutional terms, according to Daniel Rico, the creation of the Directorate for the Substitution of Illicit Crops, and its functions within the framework of post-conflict for the substitution of illicit crops, generates doubts and questions, for several reasons: (i) it incurs in duplicating functions with other entities of the national Government; (ii) still no budget or team has been allocated; (iii) it is difficult for an agency structured like this to be able to reach the municipalities and replicate models such as the one being piloted in Briceño, Antioquia.

For Eduardo Díaz, director of Substitution of Illicit Crops, one of the risks is to reduce intervention to mere eradication. One of the great opportunities is the cooperation between government authorities of the national, departmental and municipal level. The factor that the interviewee considers definitive is the titling of rural lands, and that the country can overcome the political fear around the agrarian issue.

With regard to rural development, the peace agreement should focus on development in its broadest sense, addressing the following needs: (i) land titling; (ii) ensuring security conditions; (iii) guaranteeing communication routes, which essentially consists of implementing the Havana Agreement on the RRI. With these types of measures, the inhabitants of these territories would be comprehensively

served in order to generate transformative effects, to promote the safety and well-being of families with legal certainty over their properties, to ensure the gradual termination of the pressures of illegal armed actors, and to facilitate trade in agricultural products in market centers, reducing the high transport costs that farmers must pay today.

According to Guillermo García from UNODC, the Agreement will allow access to many “red” areas that the State has never been able to enter, given that they are currently zones controlled by the FARC, and the challenge is to establish a presence as fast as possible in order to show results and generate control over the territories. The great risk to peace –and the FARC are aware of this– is that other armed groups will control illicit crops, and the FARC, transformed into a political movement, will be the first to be persecuted.

For Ricardo Vargas, in terms of the reduction of illicit crops and methods of measuring success, the agreement brings more of the same, with slight modifications that include, for example, the non-prosecution of growers, and fumigation as a last resort. But in essence, the agreement imposes the same logic of what has already been done: eradicate and substitute, with the number of hectares as an indicator of success or failure of the policy. The content of the agreement is not the problematic issue, but rather the silence around subjects that are fundamental for the territories, such as the economic model and the participation in decisions that concern it. According to the interviewee, the insistence on strategies already implemented and without tangible positive impact makes it difficult to think of a scenario without coca, at least in the short or medium term. It would be necessary to elevate the level at which the drug problem is diagnosed, to link it with broader agendas of extractive industries, and regional and rural development.

In Catalina Niño’s opinion, graduality must be accepted and assumed as the principle of implementation of the agreement. It should be noted that the recent amendments to the agreement restrict the possibilities for gradual eradication. But politically, we must accept that crops will continue to exist for some time, whilst the communities become convinced that the State has arrived, that it will not leave, that there are enough guarantees in the medium and long term to get out of the business of coca, and that, in general, there will be a transit to a scenario in which the rights for the citizens of these territories are guaranteed.

The drug agreement contains gaps when it comes to the business model for rural development. According to Adriana Mejía, the success of alternative development programs depends on linking it with the private and business sector, which has been

a major absentee in past initiatives, and therefore crop eradication lasts only for the project cycle. There should also be a deeper analysis of the monitoring and evaluation of the implementation of resources, so that shortcomings in this field do not generate the wrong incentives for public policy on alternative development. In this sense, it is necessary to modify the incentive model with which the operators of international cooperation set the scope of these strategies, because as they operate today, the same people that design, implement and execute are those who later evaluate the outcome. In addition, it is necessary to promote within these incentives a link between the private and business sectors.

In the opinion of Hernando Zuleta, of the Center for Studies on Security and Drugs (CESED, for its acronym in Spanish), the agreement has some gaps regarding the medicinal, industrial and nutritional uses of illicit crops, but it is recognized that this silence operates because the agreement was not the stage on which to talk about the entirety of drug policy, and that the agreement also insists on a logic of fighting drug trafficking, which is incompatible with those other types of discussions. It is, however, a field of reform that must be further considered in the long term. On the other hand, Eduardo Díaz considers that the discussion on the legal uses of these plants is risky, because it is generating false expectations and illusions within the communities.

Almost all the interviewees, especially with regard to eradication and substitution efforts, mention the problem of institutional disarticulation. There are a number of actors involved, including the Territorial Renewal Agency; the Directorate for the Substitution of Illicit Crops of the High Council for Post-Conflict, Human Rights and Security; the Ministry of Justice; the Ministry of Defense, and the Antinarcotics Directorate of the National Police (DIRAN, for its acronym in Spanish).

For its part, the obligation imposed on the FARC to provide information on the assets and money of drug trafficking is a good adjustment to improve the fight against organized crime, but it is to be remembered that many of these issues depend on cooperation with other countries and their political will.

Regarding security, Adriana Mejía believes that the implementation of the peace agreement should be the opportunity to provide security guarantees and to enter territories, which had not been previously entered. The public force must be more judicious in following the trail to the cargoes that for some time will continue to leave the territories, to exercise monitoring and surveillance work, and with this expanded knowledge define a strategy of citizen security.

LESSONS LEARNED

The efforts of recent Colombian governments on the multilateral scene of insisting on the failure of the war on drugs and, on the other hand, to position the sustainable development agenda, still lack effectiveness for citizens. Drug policy in Colombia, analyzed in the light of public policy standards, lacks guidelines to steer action and articulate the roles of the various actors involved.

Many of the interviewees agreed that there is no *single* state policy on drugs.¹⁵ The position from which the problem is addressed depends on the president in power, and this is problematic, both regarding the content of the policies and the sustainability that they can have. Added to this, according to Juan Carlos Garzón, it is clear that tensions persist between the defense, justice and health sectors. The peace process and its implementation will be a way of measuring these tensions: if the tug-of-war is won by a concern about insecurity and lack of territorial control, the defense sector will impose itself, but if the tug-of-war is won by the transformation of territories and attention to territorial vulnerabilities, then development agencies will win.

This is where the challenge of balance resides, as it is essential to keep both aspects active, since the needs of consolidating security in the territories cannot be ignored, nor can the needs of act in the territories with development agendas. Drug policy must respond to the fact that threats to security will not disappear with the peace process, and that development alone will not solve everything. This is the

15 Catalina Niño, Juan Carlos Garzón, Daniel Rico.

current transition of drug policy in Colombia, and must be resolved through public policies that address each problem from each specialized agency, with allocated budgets that do not compete with each other. All this shines light, once again, on the need for a better articulation between the actions of each institutional counterpart.

Eradication Strategies for Illegal Crops

The following are a number of lessons learned –and others yet to be learned– in drug policy.

Eradication strategies are one of the most controversial aspects because the view of the experts is diverse: there are some who condemn aerial spraying, while others believe that it is not the worst of options. In this sense, Daniel Rico (2016) states, “the strategy of manual eradication is the most inhumane, costly and inefficient that any State has used in the fight against drugs.” It is known that since 2005, when manual eradication began, 240 people have died, and approximately 1,000 people have been injured.

The absence of specific proposals, particularly from sectors that have criticized past drug policies, has meant that the decisions adopted have been worse than previous strategies. The suspension of aerial fumigations, which were already harmful, without a clear plan B, led to the conclusion that the only policy should be manual eradication, with high costs in lives and negative effects on people, and without effective results in terms of crops decline (Rico, 2016).¹⁶ Land spraying increases the risk to the person who eradicates, both because of security risks (anti-personnel mines, public order clashes), and increased exposure to the substance.

Thus, following the suspension of the Program for the Eradication of Illicit Crops with Herbicide Glyphosate (PECIG, for its acronym in Spanish) in 2015, the National Council of Narcotic Drugs (CNE, for its acronym in Spanish) approved Resolution 009 of June 29, 2016, which authorized the implementation of the Program for the Eradication of Illicit Crops by Land Spraying (PECAT, for its acronym in Spanish), which consists of an intervention in areas targeted by the

16 For an account of the experiences of civilian eradicators, see “The tragic life of the farmers that the Government uses as eradicators of illicit crops.” https://www.vice.com/es_mx/article/erradicadores-cultivos-ilicitos-victimas-guerra-contra-drogas

DIRAN. These pilot processes are being carried out in ten municipalities in the department of Chocó (Novita, San José del Palmar, Medio Baudó, Bajo Baudó, Alto Baudó, Istmina, Sipi, Río Iró, Medio San Juan and Condoto) and Tumaco in Nariño. This resolution also authorizes land spraying throughout the country, provided that a modification of the Environmental Management Plan is obtained in areas that are targeted by the DIRAN.¹⁷

Fluctuation in crop data is an addition to numerous strategies used by farmers to escape detection via satellite, as well as maneuvers to avoid eradication of their crops, including combination with legal crops, and with higher crops (Mejía and Posada 2007, 20; Csete et al. 2016, 34). In this regard, Resolution 1054 of 2003 on the Program for the Eradication of Illicit Crops with Herbicide Glyphosate (PECIG) recognizes these dynamics and suggests that eradication protocols can be more flexible against communities where these kinds of cases have been identified.¹⁸

With regard to the monitoring and evaluation of these strategies, one of the major mistakes is to measure the policy per eradicated hectares. Experts agree, and insist on the need to complement this indicator with others that can show a broader range of aspects about the situation of people in these territories. The error of measuring per hectare is that it does not say anything about the impact of the policies implemented in each territory or the negative impacts of eradication.

As a consequence of forced eradication, the territories have been affected by the balloon or displacement effect, since there will always be actors who move the coca business to other territories, especially when coercion has been used to eradicate. Another consequence has been the dispersion of illicit crops in Colombia, and their high mobility, which is a challenge for its eradication. For Guillermo García of UNODC, a model should be focalized and designed according to each territory, since it is wrong to apply a single formula for the whole country.

17 See Resolution 009 of the CNE here: https://www.redjurista.com/Documents/resolucion_9_de_2016_consejo_nacional_de_estupefacientes.aspx#/viewer

18 “Evidencing also the existence of strategies used by illicit cultivators to avoid the spraying of areas planted with coca. Among them, the association of legal crops with illegal crops, the fractious planting of illicit crops, the laying of wires between trees seeking the overturning of the fumigation aircraft when it descends and the presence in the plots of isolated arboreal vegetation of considerable height, with the purpose of hindering the maneuverability of the spraying aircrafts, these last two situations being events that endanger the life of the pilots and in some cases oblige them to modify the parameters of operation of the program.” Ministry of Justice and Law, Resolution 1054 of 2003, p. 3. Available at <https://www.minjusticia.gov.co/Portals/0/PECIG/5.%20Normatividad/PMA/4.%20Resoluci%C3%B3n%201054%20de%202003%20MMA.pdf>

Different models of graduality have been tested in eradication. The prior eradication model requires that it be eradicated 60 days earlier, and works in giving assurances to both parties, but the problem is that it leaves many territories unattended. The model with subsequent eradication gives the farmer more security; because he can keep crops almost as petty cash, but the problem is that there is no clarity in the timeline, in the milestones that must be met during eradication and the moment in which the project is terminated. Moreover, gradual eradication involves risks, because it requires a lot of trust between the parties, and also the farmers are still in contact and exposed to the intimidation of mafias. Graduality imposes a scenario in which legality and illegality coexist. Demanding that there is no coca in the territories to implement alternative development has been a limitation to improving strategies, but this is not the only explanatory factor, but also the long history of non-compliance, according to Guillermo García, of both the Government and the farmers.

Substitution Strategies and Alternative Development

At the outset it should be stressed that with or without a Peace Agreement, the country must strive to solve rural poverty, otherwise the dismantling of the illicit economy will not be viable. On the other hand, it must be kept in mind that alternative development, as a concept, is highly questionable, since it is based on several mistaken assumptions about how to transform territories in a country that works with deeply rooted centralism, and also does not take into account the power of the actors and the motivations in the context of the areas in which the coca leaf is grown and processed.

The assumption of alternative development mentioned by many, which is considered wrong, is the obsession with the plant. It is presumed that all the problems of certain territories are a result of the “plant that kills” without recognizing the fact that the presence of coca is the *effect* and *consequence* of the deep problems of these regions, but not the structural root of the problems. In this regard, Julia Buxton (2016, 7) explains that the failure of many of these programs is their inability to understand the multidimensional poverty –which is lived as citizenship deficits in access to state services such as land, infrastructure, markets and credit– that the people who decide to cultivate these plants face. This fixation on the plant prevents the consideration of the broader spectrum of how development should work, of discussions about the economic model, and of the participation of the people in the decisions about how they want their

life projects to be.¹⁹ The opinion of Eduardo Díaz is similar, because he says that the obsession with the *plant that kills* is wrong, and that as long as the networks of drug traffickers are not attacked and disarmed, eradication and substitution are unfeasible.

The other mistaken assumption of alternative development is that it believes that these small interventions, represented in productive projects, will have the transformative potential of changing coca crops into another activity.²⁰ In general, alternative development often disregards or ignores the fact that what many territories of the country need is *development*, not alternatives, but simply development. Moreover, this dimension of public policy cannot remain the sole responsibility of state agencies dealing with the drug problem, since this perpetuates division and the manner in which interventions are carried out in the regions. In order to effectively intervene in the

They did not fulfill a task that would have been fundamental, which was to strengthen the institutions of the local level

most underdeveloped regions of the country, agrarian and rural development agencies, with another broad spectrum of public goods, must come to them, and not just the agencies responsible for the drug problem. In the words of Daniel Rico (2016), “the country needs a rural development policy with or without coca.”

One of the most documented experiences in the country is the territorial consolidation programs, which had some success with the Macarena Integral Consolidation Plan (PCIM, for its acronym in Spanish). Daniel Rico emphasizes, however, that they did not fulfill a task that would have been fundamental, which was to strengthen the institutions of the local level, which represents a challenge in the implementation of the peace agreement with weak institutional counterparts at the municipal level. The positive results must be understood in the context of the securitization of this process, carried out under the Patriot Plan. Once the strategy eliminated the military component, it was much less successful because in the absence of security conditions, alternative development initiatives were implemented in territories without coca. The spending during those years was enormous and inefficient, with 92% of the resources sent to municipalities where there were no crops to eliminate.

For Hernando Zuleta of the CESED, it is clear that the crop substitution processes must include land titling in order to guarantee access to credit and other economic and social guarantees. For this, the role of the National Land Agency

19 Ricardo Vargas, Transnational Institute (TNI).

20 Daniel Rico, Fundación Ideas para la Paz (FIP). Ricardo Vargas, Transnational Institute (TNI).

(ANT, for its acronym in Spanish) is fundamental. The absence of expansion of crops to countries like Ecuador is a reflection of the potency of rural and agrarian security, and in Colombia it is evident once again that coca persists where there is no State.²¹

“Formalizing to substitute” is a pilot experience between UNODC and the ANT that is being advanced in Putumayo, Cauca, Nariño and Antioquia, and reveals the need to intervene with the guarantee that land titling gives to the peasantry and the State, since today 80% of recipients of alternative development are unclear about their property rights. Land titling is beneficial for all sides, generating taxes, security, investment capacity and a sense of belonging. In addition to land titling, focus should be placed on investing in technical skills to work on these lands and on infrastructure that makes the peasant economy viable.

The alternative development processes have only entered 32% of the territory, meaning that 68% of areas with illicit crops have not received any presence of these types of strategies, due to security difficulties. But it is emphasized that an error is the pre-eminence of a counter-insurgency and military vision against those territories, perpetuating their marginalization. In the end, alternative development programs have gone to places where there was no, or was almost no, coca, and although some successes are reported, these are for the particular industries that try to grow crops there (cocoa, rubber, coffee, palm), but almost no success for people who depend on illicit crops.²²

This trend is not only Colombian, but global, because of the way in which strategies of this type operate, which prioritize easily accessible populations that are not dependent on illegal cultivation for their livelihoods and are likely to transit to legal economies given favorable base conditions such as land ownership. This allows specialized agencies, donor countries and governments to show rapid results and slight crop reduction, but in the long term it is not sustainable and also perpetuates the isolation of the most vulnerable citizens (Buxton 2016, 11).

This is recognized by Guillermo García of UNODC, however, he explains that the security risks due to the conflict are added to the risks involved for the people to convene, the lack of guarantees in terms of land titling for setting up a production model, and therefore alternative development required certain conditions.

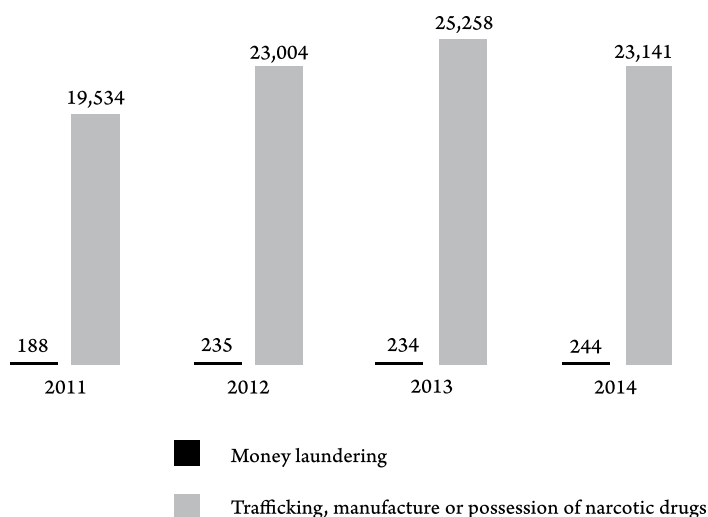
21 Guillermo García, UNODC.

22 Eduardo Díaz, Directorate for the Substitution of Illicit Crops.

Strategies for Security and for Fighting Organized Crime

Within the framework of the drug policy reform discourse, emphasis has been placed on focusing the efforts of the security and criminal policies in the strong links of the chain, that is, those who profit on a high scale from drug trafficking. However, as mentioned previously, criminal policy in Colombia has been reactive, prone to punitive populism, which is reflected in the figures that reveal the usual tendency to arrest and convict people for crimes of carrying or consuming drugs, while there are few interventions against organized crime. For example, from information obtained by the researchers of Dejusticia via the right of petition the National Penitentiary and Prison Institute (INPEC), it was found that the number of persons deprived of liberty for the crime of money laundering is minimal, with only 0.1% of all people in prisons in the country. For its part, the crime of trafficking, manufacturing or possession of narcotic drugs makes up almost 13% of the prison population every year.²³ Figure 6 shows the figures disaggregated per year, noting that they correspond to the total number of persons accused or convicted of the crimes in question.

Figure 6. People deprived of liberty 2011-2014



SOURCE: Elaborated by the authors with INPEC data

²³ It should be clarified that the INPEC information shows figures by crime, and in this sense it is not possible to differentiate within the total number of persons deprived of liberty how many are sentenced due to what type of conduct within the crime provided for in article 376.

In the fight against organized crime, according to Catalina Niño of FESCOL, it is necessary to work on two fronts: on the one hand, to reduce the violence associated with criminality, and, on the other hand, to make visible and counteract the links that it has with political elites. According to Esteban Arias from UNODC, the work of identifying criminal organizations has been done, but the incomes, assets and money laundering mechanisms of these organizations have yet to be identified. Ultimately, the identification of the groups does not constitute a dismantling action, so there is a lack of greater activity in tracking the flows of money.

There is also a lack of integration of three fundamental components in the investigation: criminal prosecution, identification of money laundering, and asset forfeiture. Organized crime operates in a more coordinated way than the State, where there is little coordination between the investigation of these crimes and the decisions and the administration over them in the state prosecutor's office.

For Juan Carlos Garzón of FIP, strategies to improve security were misguided by distributing capabilities and resources to components of the drug chain that were not the most important in terms of impact. In addition, ongoing studies of this entity reveal that out of one hundred legal cases on money laundering; only 1.3% of them reach a sentence. In general, the policy of pursuit of illicit finances should focus its concern on the citizen, that is, money-laundering activities that have a destabilizing potential for a city, department or country. For this purpose, research in this sense should be rationalized and prioritized.

According to Adriana Mejía, the authorities responsible for prosecuting this type of crime are sufficiently trained, but what impedes better management is the precarious state of institutional coordination between the Prosecutor's Office, the UIAF and the National Police. It is necessary to define institutional leadership, whether at the presidential or another level, which combines the actions of all these entities and improves management.

In addition, the problem of corruption within these entities makes it unfeasible for some issues to be investigated, in some cases because of the benefits they receive from not investigating, and in the most serious cases, for being involved in drug trafficking networks.

The investigation of organized crime requires more human resources, more prosecutors and specialized judges dedicated to this. These staff must be able to adapt to the innovations of organized crime. This capacity and effective research must have

a territorial approach, because illegal finance has a much larger impact on small and intermediate cities and rural sectors. According to Juan Carlos Garzón and Daniel Rico, the fight against money laundering and illegal finances must then have the purpose of protecting the local legal economy.

In terms of monitoring and prosecuting illicit finances, Esteban Arias from UNODC believes that priority should be given to asset forfeiture abroad, and much progress should be made on cooperation with memorandums of understanding between foreign ministries in this area, as this depends on the political will of governments to cooperate in identifying and distributing assets.

In the opinion of Ricardo Vargas, one of the gaps in criminal policy is to pursue drug dealing spots, “drug dens” in large cities, but without paying attention to the routes through which these substances reach the cities. Additionally, the interdictive model fails, not necessarily because the effort is not made, but because it does not have the capacity to decrease the demand. As long as the spectrum of demand is not impacted, there will be no possible strategy that can sufficiently affect supply. We must then think of ways to protect the health of cocaine users by controlling the cocaine market.

DRUG POLICY IN THE UNITED KINGDOM

This section briefly summarizes key aspects of drug policy in the United Kingdom (UK) and recommendations on how to address international cooperation in Colombia's current context.

Generalities

The UK's Misuse of Drugs Act 1971 is the main rule in British legislation concerning the control of substances that are considered dangerous or those that, without being harmful, can cause harm from their abuse. While drug use is not a crime, possession, production and distribution is. This law classified substances into three classes according to the risk they pose to users or society, and establishes higher penalties for illegal production, possession and supply in relation to each class.²⁴ In practice, prison sentences are very common in cases of import, export and trafficking, while for possession offenses, the most common penalties are fines, community sentencing or probation. In any case, the severity of the penalties applied depends on the type of drug in question and the circumstances of the case.

In table 1 a summary of this classification is presented.

24 Most of the substances under this law are also on five lists of the 2001 misuse of drugs rules, a regulation based on an assessment of their medical or therapeutic usefulness, the need to allow access, and their associated potential harm. The lists determine the circumstances in which they may be legally produced, transported and distributed. Three aspects are highlighted, first, in List 1 are the substances considered without therapeutic value, and for this reason they cannot be prescribed. Second, to conduct research in relation to the substances and their medical potential it is necessary to obtain a license from the Home Office. Third, drugs on Schedule 5 can be legally supplied without a prescription.

Table 1. Classification by substances and types of sanction

Class	Substances	Percentage of people who used drugs in the past year (2015-2016) ²⁵	Sanction ²⁶	
			Possession	Supply and production
A	Cocaine	2.3	Up to 7 years imprisonment, unlimited fine or both	Up to Life Sentence imprisonment, unlimited fine or both
	Ecstasy	1.5		
	Hallucinogens	0.5		
	Opioids	0.1		
A/B	Amphetamines	0.6	Up to 5 years imprisonment, unlimited fine or both	Up to 14 years imprisonment, unlimited fine or both
	B	Cannabis		
Ketamine		0.3		
Mephedrone		0.3		
B/C	Tranquilizers	0.4	Up to 2 years imprisonment, unlimited fine or both	Up to 14 years imprisonment, unlimited fine or both
	C	Anabolic		
Steroids				

²⁵ The Survey is applied to adults between the ages of 16 and 59. The consumption figures reflected here are taken from the survey, in particular the question on consumption in the last year. See Home Office (2016, 12-14).

²⁶ Drugs Penalties. In <https://www.gov.uk/penalties-drug-possession-dealing>

According to the National Bureau of Statistics, the England and Wales Crimes Survey (CSEW) between July 2015 and June 2016 reported a total of 144,279 drug offenses, of which 17% were trafficking offenses and 83% were possession. Figures show that trafficking offenses account for 0 offenses per 1,000 inhabitants, while those for possession are 2 per 1,000 (National Statistics Office 2016, 22). As for drug use, it is reported that in 2016, only 3.1% of the total population between 16 and 59 years old were frequent drug users, while 8.9% of the population reported having consumed some drug in the last year. Compared to previous years, frequent and occasional consumption levels have remained stable or have slightly declined. Frequent use of cocaine in particular has had a sustained decline. While in 2004, 19.5% of cocaine users were frequent users, by 2016 this figure decreased to 11.1%.

The prison population in the United Kingdom has consistently increased in recent years at an estimated rate of 3.6% per year, with a total increase of 90% between 1990 and 2015. In total, there are 85,400 persons deprived of their liberty in England and Wales, of which about 15% are persons imprisoned for drug offenses.

The use of criminal remedies on users is exercised more severely in populations of racial minorities, reflecting a wide disparity in penalties for drug users, based on their race. According to the report by Release published in 2013, while 5.8% of the black population uses drugs, compared with 10.5% of the white population, the first group is subjected to police stop and search six times more (Eastwood, Shiner and Bear 2013, 21).

It should also be noted that of the total of these searches, only 7% result in arrests for drug offenses, and 93% are searches in which they find nothing (Eastwood, Shiner and Bear 2013, 27). As a result, people who use drugs from racial and ethnic minorities are more likely to be arrested and enter the criminal justice system. This is detrimental not only in terms of the inefficiency of punishment to reduce consumption, but also the long-term consequences for these people, who will have criminal records that directly impact on their employment and housing possibilities (Eastwood, Shiner and Bear 2013, 55). As indicated by the Research Consortium on Drugs and the Law, punitive and repressive responses to consumption have detrimental effects on the well-being of users, perpetuate their stigmatization, prevent those who need it to seek treatment, constitutes an inefficient and irrational use of public resources and, in general, violates the fundamental rights of users (CEDD 2014, 5).

The British drug strategy is guided from the Home Office²⁷ (similar to the Ministry of the Interior), which leads its implementation with the support of various agencies and departments of the Government, including the Department of Work and Pensions (DWP), the Department of Health, the Department for Communities and Local Government, the Department for Education, the National Crime Agency (NCA) and the Ministry of Justice. Several officials of the British Government have expressed the importance of having an authority that is able to establish general guidelines for drug policy; in this way they are able to coordinate responses in health, social welfare and the judicial system. The strategy focuses on two general objectives and three lines of action. The general objectives are to reduce the consumption of illicit drugs and other harmful drugs, and increase the number of people recovering from their dependence, while the three strategic axes of action focus on reducing demand, restricting supply, and building recovery (Home Office 2010, 3). The forthcoming drug policy strategy is expected to include a fourth section that looks at global impact and international cooperation in this area.

Several officials of the British Government have expressed the importance of having an authority that is able to establish general guidelines for drug policy; in this way they are able to coordinate responses in health, social welfare and the judicial system

Under the first line of the strategy, preventative actions are undertaken for groups vulnerable to drug use, working closely with health and education agencies. To implement the strategies of the second line of action, there is the Misuse of Drugs Act 1971, and a wide range of activities involving the judicial sector, customs authorities and penitentiary control entities. The third section on recovery was the new element introduced in 2010 and enabled the British Government to focus their resources on the design and implementation of public health policies that address populations with problematic drug use.

Within the Home Office there is an Advisory Council on the Misuse of Drugs (ACMD), responsible for giving recommendations on substance management, and their classifications or reclassifications, among other public policy issues, originating in an independent and scientific body. For the next national drug strategy, which includes the fourth section on global impact, it is considered that the ACMD could

²⁷ However, decentralized governments in Scotland, Wales and Northern Ireland have the independence to define their own strategies and approaches to drugs.

be a body through which expertise and lessons learned on the management of psychoactive substances would be shared.

In addition, the new strategy will introduce new indicators –yet to be defined– that include data such as hospital admissions, infectious diseases in people using drugs, and other health indicators. For the effective systematization of information, the Home Office negotiates information exchange agreements with entities from the judicial, health, housing, employment and social security sectors, and from all agencies that have an impact on drug policies. This model could be useful to the Ministry of Justice in the internal process they are undertaking to expand the range of impact indicators. This measure serves not only to collect information, but also to generate expectations about the other ministries and other agencies involved that should attend to the populations and individuals under their responsibility.

Possible Cooperation Agendas

Cooperation in Criminal Investigations

In the context of the second axis of action of the British drug strategy, cooperation with the Attorney General of the Nation (Colombia), as well as with the judicial system, is key. The Office of the Attorney General works to refine the investigation of financial crimes, money laundering, and all types of criminal activity that may be related to drugs, but also to other types of organized crime, where the team is divided between pre-enforcement and enforcement.²⁸ The first team is responsible for imposing restrictions on assets and properties presumed to be derived from illicit activities, while the second team is responsible for ensuring that the persons involved comply with the financial penalties imposed by the Office of the Attorney General. The same team previously handled these tasks, but it was found that the first phase of the process, given the urgent nature of freezing the accounts and properties, had the most attention, while the second phase was given less attention. The separation of functions has meant that the persecution of organized crime has been more effective. It

28 The Crown Prosecution Service (CPS) has dedicated special units for the seizure and confiscation of assets (POC Central Units) for the investigations, which has improved the effectiveness of the prosecutors in intervening and pursuing the money obtained illegally. These groups are separated from the rest of the prosecutors and, unlike the other prosecutors, they do have experience in civil matters, including the responsibility to freeze assets and avoid their disposal. According to British law, if criminal prosecution is not possible, civil action represents an opportunity to deprive criminals of their property.

is also noted that these teams specialize in a wide range of issues, such as international law, business law, trust fund law and other factors that differentiate them from other prosecutors. Training is encouraged through the use of the Prosecution College, which is an online platform with virtual courses in various topics for the training of prosecutors. Cooperation in this area is recommended, which has been identified as one of the needs of investigative agencies such as the Office of the Attorney General and the UIAF.

The National Crime Agency defines the list of threats to national security, which includes, among others: money laundering, drugs and economic crime. Within the drug threat, drug trafficking gangs have second priority (heroin and cocaine) and third priority (cannabis, synthetic drugs and new psychoactive substances). Even so, the phenomenon is of importance because of the high profits of the gangs when dealing with drugs in the United Kingdom, which has also led to competition and the demand for weapons (National Crime Agency 2016, 8). The prosecution of the threats of organized crime resulted in the recovery of goods amounting to 65 million pounds in 2015-2016, and the seizure of 145 tons of cannabis, 3.8 tons of heroin and 55.7 tons of cocaine.

Additional actions to restrict the supply of drugs are conducted from the National Offenders Management Service, which has a security unit that provides services in prisons to identify threats and criminal activities that occur within prisons, including trafficking and drug use. In this context, one of the major concerns is the use of psychoactive substances, which, although it found a reduction in its use with the Psychoactive Substances Act of 2016, persists in prisons.

It should also be clarified that on many occasions the people who the police find in possession of cannabis receive a warning called *cannabis warning*, which prevents them from entering the criminal justice system

Cooperation in Judicial Matters

The model adopted in the United Kingdom since February 2012, through the implementation of the Sentencing Guidelines initiative, involves a judge with more discretion in weighing aspects of behavior, harm and offenders. According to the Coroners and Justice Act of 2009, the courts that impose sentences must take into account eight steps in assessing the category of the offense, determining the starting point for calculating the conviction and the range in which the judge can operate. This procedure also takes into account the factors that reduce the offender's sentence and collaboration with the authorities, the admission of responsibility, the confiscation of substances, goods and other orders relevant to each case. In the end, any definition of the sentencing period must be reasoned and take into account the time that the offending individual has already served in custody during pre-trial detention. It should also be clarified that on many occasions the people who the police find in possession of cannabis receive a warning called *cannabis warning*, which prevents them from entering the criminal justice system.²⁹

The disaggregation of drug offenses not only by class, but also by type of offense, allows the most serious cases to be easily identified, so that according to statistics, 64% of the registered drug cases do not reach the Court. To define the category of offense, judges must establish the degree of participation of the offender in the commission of the offense and the potential harm of the conduct, determined by the amount of the substance. As shown in table 2, to judge the role (also known as the degree of participation) of the offender, the judge must consider three categories: leadership role, significant role, and minor role. In turn, the potentiality of harm is measured according to the four categories delineated from the amount of substance that the crime or behavior deals with.

29 “Police cautions, warnings and penalty notices” See <https://www.gov.uk/caution-warning-penalty>

*Table 2. Role or degree of participation*³⁰

Leadership	}	Direct or organize the purchase and sale on a commercial scale; substantial links and direct influence over others in the chain; close links to the original source; expectation of significant financial gain; use of business to conceal; abuse of position of trust or responsibility.												
Significant	}	Management functions in the chain, involving others in the operation under pressure, influence, intimidation or reward; with some degree of awareness and understanding of the scale of operation; supply, different from that of a person in a position of responsibility, to a prisoner for gain without coercion.												
Minor	}	Perform a limited function under direction; involved under pressure, coercion, intimidation; entanglement by naivety or exploitation; without influence on those up in the chain; with very little awareness and understanding of the scale of operation; without major economic benefits.												
Potential damage	}	<table border="0" style="margin-left: 20px;"> <tr> <td style="vertical-align: middle;">Category 1</td> <td style="font-size: 3em; vertical-align: middle;">}</td> <td>Heroin and cocaine: 5 kg; ecstasy: 10,000 tablets; LSD: 250,000 "squares;" amphetamines: 20 kg; cannabis: 200 kg; ketamine: 5 kg.</td> </tr> <tr> <td style="vertical-align: middle;">Category 2</td> <td style="font-size: 3em; vertical-align: middle;">}</td> <td>Heroin and cocaine: 1 kg; ecstasy: 2,000 tablets; LSD: 25,000 "squares" amphetamines: 4 kg; cannabis: 40 kg; ketamine: 1 kg.</td> </tr> <tr> <td style="vertical-align: middle;">Category 3</td> <td style="font-size: 3em; vertical-align: middle;">}</td> <td>Heroin and cocaine: 150 g; ecstasy: 300 tablets; LSD: 2,500 "squares;" amphetamines: 750 g; cannabis: 6 kg; ketamine: 150 g.</td> </tr> <tr> <td style="vertical-align: middle;">Category 4</td> <td style="font-size: 3em; vertical-align: middle;">}</td> <td>Heroin and cocaine: 5 g; ecstasy: 20 tablets; LSD: 170 "squares;" amphetamines: 20 g; cannabis: 100g; ketamine: 5 g.</td> </tr> </table>	Category 1	}	Heroin and cocaine: 5 kg; ecstasy: 10,000 tablets; LSD: 250,000 "squares;" amphetamines: 20 kg; cannabis: 200 kg; ketamine: 5 kg.	Category 2	}	Heroin and cocaine: 1 kg; ecstasy: 2,000 tablets; LSD: 25,000 "squares" amphetamines: 4 kg; cannabis: 40 kg; ketamine: 1 kg.	Category 3	}	Heroin and cocaine: 150 g; ecstasy: 300 tablets; LSD: 2,500 "squares;" amphetamines: 750 g; cannabis: 6 kg; ketamine: 150 g.	Category 4	}	Heroin and cocaine: 5 g; ecstasy: 20 tablets; LSD: 170 "squares;" amphetamines: 20 g; cannabis: 100g; ketamine: 5 g.
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³⁰ The aspects of this table may vary depending on the conduct in question. Data taken from the Sentencing Council (2012).

In the case of a person who has been found responsible of taking 7 kg of cocaine into the United Kingdom and who is carrying out transport duties with no capacity for direction or without knowledge of the operation, the starting sentence is 18 months in prison (Sentencing Council, 2012, 6). According to the established guidelines, in this case it could be said that the person has a minor role and is in category 1 of the scale (since they carried more than 5 kg), which means that the length of the sentence would be between 12 and 36 months. To adjust the sentence up or down it is necessary to substantiate the conditions that increase or decrease the severity and the responsibility. Assuming that the offending person is a woman with no criminal record, who was forced by a criminal international transport group under threat, the penalty would probably tend towards the lower limit (figure 7).

Figure 7. Roles and category of harm

In the case of a person with a minor
role and a category of harm 1

Upper limit → 36 months

Starting point → 18 months

Lower limit → 12 months

SOURCE: Elaborated by the authors

In 2014 there were 143,120 drug offenses verified in England and Wales, which represented 17% less than in the previous year; in turn, of the behaviors that were resolved outside the Court, 55% were cannabis warnings, followed by cautions in 32% of cases. Of the 51,297 people who were sentenced in the Court during that same year, 17% were immediately sentenced to prison, in a proportion similar to that of previous years. The most common sanction was the fine, as it was applied in 38% of cases, while 82% of persons who were convicted of import or export were sent to prison with penalties for class A crimes of 81.9 months on average. Undoubtedly, the sentencing guidelines have been a valuable effort to standardize and rationalize the use of criminal law in British courts. It has been considered as a reform of the sentencing system despite not leading to a change in drug laws with significant advances in the specific consideration of the personal conditions of drug couriers (Fleetwood 2015, 3). For Jennifer Fleetwood (2015, 3), these positive aspects do not remove the fact that deterrence remains the UK's main tool for dealing with drug use, which means

that in the end the big change is that judges distinguish between the offender's role and mitigation factors.

As noted earlier, the results of the implementation of sentencing guidelines in the United Kingdom indicate that the greatest impact on sentencing reductions was seen in those convicted under the minor role category. By 2015, 50% of the accused were identified as being in that category, and most of them (72%) received sentences of up to four years in prison. It was also shown that sentences of 10 years or more were reserved for those with a leadership position or significant participation (Fleetwood 2015, 6). However, sentencing guidelines have had a very limited impact on decisions about forms of incarceration, including the size of the conviction for drug possession and supply offenses.

An alternative penalty to imprisonment that can be imposed in the United Kingdom is the Community Order, applied when a court finds that an offender is likely to stop committing the offense without imprisonment, even if it is the first time someone commits a crime or if there is any mental condition that affects the behavior of the offender. This sanction consists in carrying out unpaid work in the community with activities such as removing graffiti, garbage collection and decorating public spaces and buildings for a certain time under criteria given by the Sentencing Council in the guide "Imposition of Community and Custodial Sentences." The application of this guide has the effect of restricting freedom by providing punishment in the community, rehabilitating the offender and ensuring their commitment to repair the damage (Sentencing Council 2017, 4). It is a very clear expression of restorative justice.

In this regard, it should be clarified that the individualization of penalties in Colombia is calculated through the quarter system (figure 8). To determine the duration of the penalty, the judge must identify the quarter depending on the circumstances of greater or lesser punishability. When the quarter in which the conviction is to be placed is selected, the judge must weigh the seriousness of the conduct, the nature of the circumstances of punishment and the damage caused by the crime. Articles 55 et seq. of the Criminal Code establish criteria of greater punishability (committing an offense against public goods, committing the crime with intentions of intolerance and discrimination, increased suffering of the victim, among others) and less punishability (such as the lack of a criminal record, acting on the grounds of altruism, acting in a state of emotion, personal circumstances, reducing the negative consequences of the behavior, voluntarily repairing the damage, poverty or lack of education, among others).

Figure 8. Individualization of penalties in Colombia

1/4 Without mitigating or aggravating factors, or only mitigating factors	2/4 With more mitigating than aggravating factors
3/4 With more aggravating than mitigating factors	4/4 With only aggravating factors

SOURCE: Elaborated by the authors

To see an example of how a conviction appraisal should be done, we review the case of a person who was caught carrying 500 g of marijuana. If we take into account Article 376 of the Criminal Code, broken down in table 3, the minimum penalty for this action is 5 years with 4 months (64 months) and the maximum is 9 years (108 months). If it is demonstrated that the person did not have any type of criminal record, and there is no circumstance that mitigates or aggravates the punishment, the penalty is located in the first quarter. That is, the judge can only sentence for a period that is no less than 5 years with 4 months and that does not exceed 6 years with 6 months and some weeks.

Crime assessment. Criminal Code, article 376, subsection paragraph 2

64 months	78,8 months	93,2 months	108 months
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Table 3. Table of sentences by weight

Substance / Penalty (months)	Article 376 - Paragraph 2	Article 376 - Paragraph 3	Article 376 - Paragraph 1	Article 384 - Paragraph 3
	64-108	96-144	128-360	254-360
Marihuana	0 g-1,000 g	1,000 g-10 kg	10 kg-1,000 kg	> 1,000 kg
Hashish	0 g-200 g	200 g-3 kg	3 kg-100 kg	> 100 kg
Cocaine	0 g-100 g	100 g-2 kg	2 kg-5 kg	> 5 kg
Penalties aggravated by no. 1 and 2 of art. 384 (months)	108	144	—	—

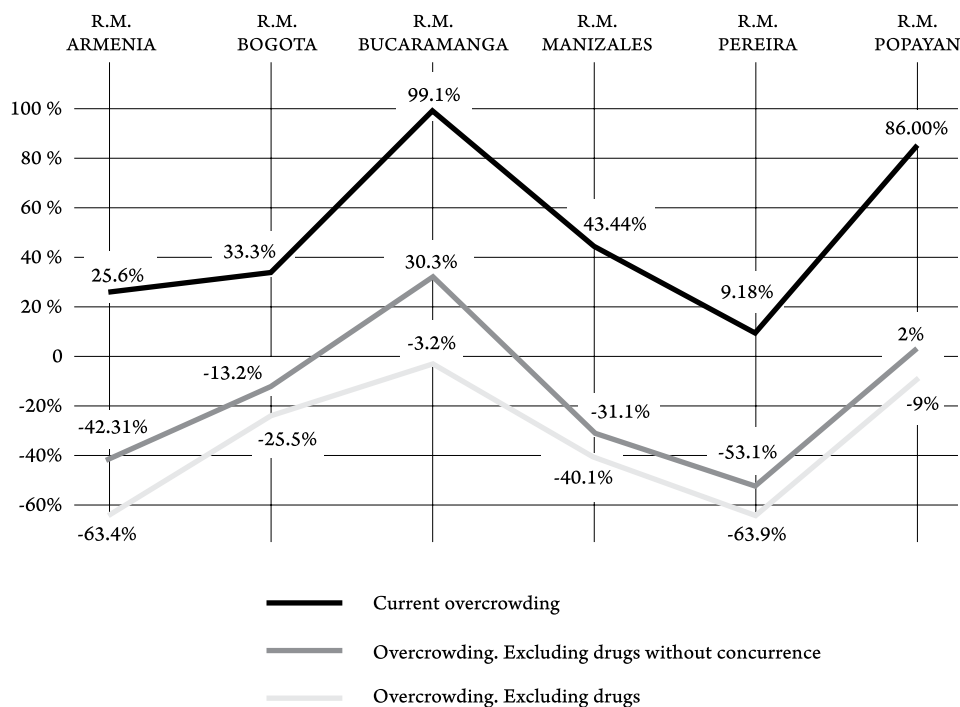
The establishment of the system of quarters for the determination of the penalty restricts the discretion of the judge through criteria of greater and lesser punishability. In this way, the criteria of the Sentencing Guidelines can help if they are presented as guidelines on the imposition of penalties for persons committing drug offenses. The Rodrigo Lara Bonilla Judicial School and the Superior Council of the Judiciary are key actors for the elaboration and dissemination of these types of tools for justice administrators.

While the systems for determining punishment in Colombia and the United Kingdom have extraneous legal currents, they present different procedures, different degrees of judicial discretion and different types of offenders, sentencing guidelines may be useful for Colombian judges to the extent that they are used as guides in the study of cases of drug offenses. The nature of the judiciary in Colombia, and the exercise of criminal action in the courts, makes it indispensable to establish criteria contained in the law for the individualization of the sentence. Hence, the Criminal Code imposes the system of quarters and restricts the discretion of the judge through criteria of greater and lesser punishability. In this regard, an evaluation of the application of these norms and their impact on the prison population should be carried out to promote sentencing guidelines in the country.

During the last decades, Colombian criminal law has been based on the imposition of the sanction of privation of liberty as the privileged measure to fulfill the objectives of criminal punishment. Unlike the alternative measures that the United Kingdom has implemented with community work orders, in Colombia prison has been used repeatedly to punish all illegal conducts. Penalties such as fines, suspension of political rights, and restrictions to leave the country, among others, are considered in the majority of crimes to be ancillary to a prison sentence.

In an exercise carried out by Dejusticia last year, it was concluded that if restorative justice sanctions were applied to the inmates of the main female detention centers in the country, overcrowding would fall drastically. For example, if we discount the population that is imprisoned for drug offenses without other crimes in the jail in Pereira, overcrowding would disappear and practically half of the center's inmates would be released (Uprimny, Chaparro and Cruz 2015, 63). A similar trend to the other prisons analyzed in figure 10. Hence, the experience that the United Kingdom has in both the determination of proportionality of drug offenses and the application of restorative justice sanctions could be an interesting focus point of judicial cooperation, allowing prosecutors and judges to focus on the fight against organized crime and decongesting the country's prisons.

Figure 10. Overcrowding rates



SOURCE: Women, drug policy and imprisonment (Uprimny, *et al.*, 2015, p. 63).

The line of judicial cooperation could help the Colombian State to reform the Criminal Code and the Code of Procedure, with the objective of allowing proportionality of minor drug offenses, improving access to benefits for those already convicted and eliminating barriers to the application of the discretionary prosecution principle for persons charged with drug offenses. Following legislative reforms, judicial operators could receive training and awareness-raising on ways to impose more proportionate sanctions on petty drug offenses based on the experience of the “Imposition of Community and Custodial Sentences” guide.

In any case, it is foreseeable that legislative reforms will not progress in the short term, so it is necessary to mitigate the harmful effects of imprisonment for drug offenses through the granting of alternative penalties, the modification of the evaluation criteria used by the National Police and the Office of the Attorney General with the objective of eliminating perverse incentives, and training of judges and prosecutors on how to judge and prosecute drug offense cases.

The Rodrigo Lara Bonilla Judicial School and the Superior Council of the Judiciary, key players in the training of judicial personnel of the State, could participate in the elaboration and dissemination of tools that promote a human rights approach in the application of sanctions for drug offenses.

Cooperation in Public Health Policies for Attention to Consumption

The United Kingdom has a long experience in treating addictions, which, in light of the problems of consumption in Colombia and the pending implementation of Law 1566 of 2012, as well as the provisions in the Peace Agreement, constitute a promising avenue for future cooperation.

From the beginning of the 20th century, experiments on the medical treatment of problematic drug users have been carried out; for example, the prescription of opioids has its antecedents in the decision of the British Government to follow the recommendations of Sir Humphrey Rolleston, president of the Royal College of Physicians, who insisted that relapse into the consumption of drugs is the norm, and cure is the exception, and that doctors should therefore have enough flexibility to prescribe heroin to drug users (Hari 2015, 207). The Rolleston Commission Report, published in 1926, concludes that opioid prescription is a valid medical treatment in two ways: as a method of gradual reduction of consumption and appropriate for prolonged administration of the drug (Bennett 1988, 301-302). At that time, they referred to the “British approach” or the “British system” to talk of approaching addiction as a disease, and to allowing doctors to prescribe opioids (Bennet 1988, 300). British doctors insisted that, in managing drug use by prescription, they saw that the usual was “stabilized addicts,” able to go on with normal lives. This initial experiment was partially suspended in the 1960s, when the power of prescription was restricted to psychiatrists.

Subsequently, in the 1980s and 1990s, in the city of Liverpool, a group of doctors did this exercise with users of heroin and cocaine. The benefits of these types of models, besides being cost-effective, are that they reduce the harm caused by illegal drug use. It is in the context of illegal consumption where damage to the body occurs: infections by contaminated syringes, abscesses from bad self-injections, overdoses caused by the changing potency of heroin sold on the streets. However, in controlled prescription scenarios, such as the one carried out in Liverpool, these risks and damages are virtually eliminated.

In terms of safety, Liverpool police also noticed a change in crime rates and imprisonment. A study focused on 142 users of heroin and cocaine found that while in the 18 months prior to participating in prescription programs, these individuals had an average of 6,88 criminal convictions for crimes such as robbery, in the 18 months after the program that rate was 0.44 sentences on average, representing a 93% decrease in robberies in the city. A decline in gang activity and of the presence of illegal street vendors was also observed (Hari 2015, 210-212).

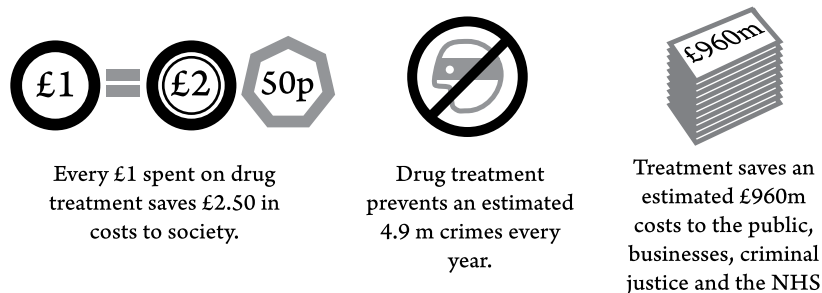
This acquired knowledge and practice was echoed in the third axis of the drug policy strategy; the operation of treatment and rehabilitation services for problematic users is of particular interest to the Colombian context. Before, the responsibility of the National Treatment Agency for Substance Misuse and now the responsibility of national offices like Public Health England, it has a system through which anyone, inside or outside the criminal system, can be deferred to treatment, either in their community or in penitentiary centers. The aim of treatment is not only centered on substances, but on the whole spectrum of problems that are, on the one hand, the cause of problematic use, and on the other, the consequence of such abuse.

For treatment services, the communities have a budget provided by 150 municipal/local councils, which is implemented locally with a methodology of evidence-based treatment and adjusted to the realities of people suffering from dependence on psychoactive substances. Anyone within the criminal justice system can access treatment, and there are several ways to do this at every step of the process, either at the time of arrest, or by the judge's orders as part of the sentence to be served.

In this system, people have access in a short space of time to a health and psychosocial intervention team, with a waiting period of no more than three weeks, which in collaboration with the patient prioritizes the short and medium-term goals in their recovery plan. The team at these treatment centers usually consists of a doctor and a nurse, who are linked with the employment and housing sector, and a figure they call a *drug worker*, who is a person trained in psychosocial work and treatment for addictions. Each patient will build together with the team that attends to him or her a "care plan" that details the expectations of what is to be obtained through the treatment, and which constitutes the center of the plan. The success of the treatment does not focus on the person ceasing to use drugs, but on the person's ability to overcome the problems that caused them to need treatment (crime, unemployment, homelessness, etc.).

It also works by recognizing that good treatment interventions are effective in reducing crime, and in that sense, they are a benefit not only for the well-being of the person, but also for the whole of society. In addition to the virtues of the treatment model, the agencies make visible the efficiency of treatment expenditure, since it is recognized that public spending on this type of population is politically controversial, and for this reason it is necessary to show, for example, that 1 pound in treatment saves the system 2.50 on account of crime reduction and expenses in other health problems derived from consumption, and that, overall, these interventions save the criminal justice system, as well as the health service and private companies, 960 million pounds. By 2014, it was estimated that drug treatment prevented about 4.9 million crimes each year (figure 10).

Figure 10. Investing in drug treatments cuts crime and saves money



SOURCE: Public Health England (2014, 27)

With regard to the prevention of drug use, during the technical visit to Mentor UK, a provider of drug and alcohol abuse prevention programs, it was emphasized that scientific evidence shows that programs operated by the police are ineffective because they are excessively focused on the risks of drugs, and not on building social capacities to make young people resilient to abuse. Ultimately, they may be counterproductive in that they generate curiosity about substances. In this scenario, it is necessary to rethink who are the ideal actors for this task. In this regard, there are pending tasks, such as reforming the current perspective, which the Ministry of Justice recognizes in its 2016 Report, noting that there is little track record in evaluating prevention programs and that work must be done to “promote strategies that have proven effectiveness” (Observatorio de Drogas de Colombia 2016, 38).³¹

31 In this respect, Catalina Niño and Daniel Rico agree.

Cooperation for rural development

Efforts in international cooperation to reduce the supply of psychoactive substances are measures that in many cases must address problems that are not related to drugs per se, but rather to the social and economic conditions that enable their production. The living conditions of many rural inhabitants in Colombia, as highlighted in the second section of the document, reflect lack of development, lack of land security, poor infrastructure, and lack of access to markets and the productive chain of agriculture in the country, among others. Thus, interventions to reduce supply must focus on fostering and strengthening the conditions of rural populations in order to obtain a level of welfare and basic public services that makes illegal cultivation an unattractive option.

Cooperation between the two countries in drug policy has focused primarily on security issues and judicial cooperation. The current context of Colombia, as well as the global panorama of drug policies, added to the 2030 Sustainable Development Agenda, make it necessary to incorporate development as one of the axes of cooperation between the countries. Meanwhile, the solution of the Colombian armed conflict and the construction of peace will be carried out precisely in territories with high poverty rates, and low institutional and socioeconomic performance;³² for this reason, efforts should be made to ensure that these populations are not vulnerable to the cycle of illegal economies from which organized crime is profiting. To effectively shield these populations, and thus directly impact the supply of drugs in international markets, interventions must guarantee economic and social rights as well as public goods. This means investing in issues such as land titling, public infrastructure, and productive articulation and marketing, to ensure a successful reconversion of local economies in the Colombian peacebuilding effort.

For the alignment of international cooperation efforts in the fulfillment of the multilateral development agendas, it is recommended to focus on the SDGs. There are enabling factors in this regard, given that Colombia was the leader of the international negotiation process of 2030 Agenda since its inception at Rio+20 in 2012. In the spirit of that leadership, it is one of the few countries to date that has submitted voluntary progress reports in compliance with SDGs. Understanding that the solution to problems such as poverty, marginalization, inequality of access to education and employment opportunities, among others, are factors that contribute

32 For a broad analysis of institutional performance indicators, see García-Villegas et al. (2016, ch. 2).

to deepening the involvement of vulnerable people in illegal economies, advances in compliance with the SDGs will feed directly to the fulfillment of the commitments agreed in the UNGASS 2016. In this sense, the Ministry of Justice (or the relevant entity) is encouraged to create a mechanism through which information on the progress of the two multilateral agendas can be exchanged, so that compliance with a SDG on one side is reflected in progress towards the review of the 2019 Action Plan, and can demonstrate the impact of drug policies on socioeconomic indicators.

It is also recommended that the British Embassy in Colombia link its cooperation in environmental matters with the expansion of cooperation in drug policy. Historically, development cooperation between the two countries has had great strength in environmental and sustainable development issues, such as payment models for ecosystem services, strategies for conservation and sustainable use, and improvement of livestock through sustainable silvo-pastoral management. With regard to rural populations with illegal crops, these models constitute an innovative option as an alternative development strategy.

In particular, the UK is one of the most important donors for *Visión Amazonía 2020*, which aims to support Colombia in achieving zero net deforestation in the Amazon by 2020. For this purpose, the project focuses on the REDD+ model, “which will deliver resources based on verified emission reductions as a result of the reduction of gross deforestation in the Amazon biome” (Ministerio de Ambiente y Desarrollo Sostenible 2016). Regions with illicit crops in this strategic ecosystem and their settlers should be included as beneficiaries of these programs, in order to integrate the country’s *cocalero* regions with sustainable development models.

In general, strategies to eradicate and substitute crops would benefit from connecting with these types of models, as a means of achieving the goals of reducing emissions, proceeding with the reforestation of these ecosystems, and guaranteeing an income for families that today depend on the cultivation of coca.

OPPORTUNITIES AND RECOMMENDATIONS FOR DRUG POLICY REFORM

Among the universe of possibilities for reform, and considering the context of the application of the final document of the UNGASS 2016, the Final Agreement of Havana, and the window of opportunity today in Colombia, below we present recommendations for potential reforms to drug policy.

The strategic guidelines presented here were elaborated whilst considering the needs of Colombia, the expertise of the United Kingdom, and the commitments made by the two countries within the framework of the UNGASS, which aims to guarantee the effective enjoyment of human rights for those most severely affected by drug policy, as well as the rationalization of the State's sanctioning resources.

Thus, some recommendations that could have a positive impact for the country have been taken from the UNGASS' language, with a view to the implementation of the Peace Agreement, and the special session on drugs to be held in 2019. They are also listed according to the level of impact and difficulty that they would have in changing the drug policy landscape, following the methodology adopted during the focus groups.

The final document of the UNGASS 2016 devotes its sixth section to operational recommendations on strengthening international cooperation based on the principle of common and shared responsibility. This section also encourages contribution to the review of SDG compliance. In this sense, all the following recommendations would respond to the implementation of the commitments acquired in this section of the UNGASS 2016 document.

Strategic Guidelines for Drug policy

UNGASS 2016. From section 4 Operational recommendations on cross-cutting issues: drugs and human rights, youth, children, women and communities

- *Consider, on a voluntary basis, when furnishing information to the Commission on Narcotic Drugs pursuant to the three international drug control conventions and relevant Commission resolutions, the possibility of including information concerning, inter alia, the promotion of human rights and the health, safety and welfare of all individuals, communities and society in the context of their domestic implementation of these conventions, including recent developments, best practices and challenges (p. 14-15).*
- *Enhance the knowledge of policy-makers and the capacity, as appropriate, of relevant national authorities on various aspects of the world drug problem in order to ensure that national drug policies, as part of a comprehensive, integrated and balanced approach, fully respect all human rights and fundamental freedoms and protect the health, safety and well-being of individuals, families, vulnerable members of society, communities and society as a whole (p. 14).*

UNGASS 2016. From the section on operational recommendations on cross-cutting issues in addressing and countering the world drug problem: evolving reality, trends and existing circumstances, emerging and persistent challenges and threats, including new psychoactive substances, in conformity with the three international drug control conventions and other relevant international instruments:

- *Intensify efforts in the context of long-term and sustainable development programs to address the most pressing drug-related socioeconomic factors, including unemployment and social marginalization, conducive to their subsequent exploitation by criminal organizations involved in drug-related crime (p. 20).*

UNGASS 2016. From the section on operational recommendations on supply reduction and related measures; effective law enforcement; responses to drug-related crime; and countering money-laundering and promoting judicial cooperation:

- *Promote data collection, research and the sharing of information, as well as the exchange of best practices on preventing and countering drug-related crime and on drug supply reduction measures and practices, in order to enhance the effectiveness of criminal justice responses, within the framework of applicable law (p.10).*

Recommendations for Cooperation between the Two Countries

- Generate a unified reporting mechanism between the Ministry of Justice, the National Planning Department (DNP, for its acronym in Spanish), the Ministry of Foreign Affairs, and other entities involved, to report on progress on the the SDGs, and how it interacts with progress or setbacks in drug policy. In so doing, deepen coordination and dialogue among institutional actors related to drug policy, the implementation of the operational recommendations of the UN-GASS 2016 document and the achievement of the SDGs, to strengthen their articulation and contribute to closing the gaps between the security, defense, justice, health, environment, and development sectors.
- In cooperation with the Home Office, share experience with the UK on information management through agreements with other agencies in the government. To this end, collect the experiences gained from the information management processes of this office in order to establish agreements for exchanging of information with entities of the judicial, health, housing, employment and social security sectors, and of all the agencies that have an impact on drugs policies, with the aim of systematizing and centralizing information and generating official reports on drug policy.
- Generate a mechanism for the exchange of experiences between the Home Office and the Ministry of Justice to feed into the reformulation of drug policy indicators, as well as technical training in the measurement and evaluation of these indicators.
- Generate a unified mechanism for reporting public expenditure on drug policy.
- Establish a dialogue between the Ministry of Justice and the Advisory Council on the Misuse of Drugs (ACMD), as an organism that can share expertise in the management of psychoactive substances and the technical-scientific liaison within decision-making agencies.

Rural and Sustainable Development

UNGASS 2016. From section 4. Operational recommendations on cross-cutting issues: drugs and human rights, youth, children, women and communities:

- *Ensure that measures to prevent the illicit cultivation of and to eradicate plants containing narcotic and psychotropic substances respect fundamental human rights, take due account of traditional licit uses, where there is historic evidence of such use, and of the protection of the environment, in accordance with the three international drug control conventions, and also take into account, as appropriate and in accordance with national legislation, the United Nations Declaration on the Rights of Indigenous Peoples (p. 15).*

UNGASS 2016. From section 7. Operational recommendations on alternative development; regional, interregional and international cooperation on development-oriented balanced drug control policy; addressing socioeconomic issues:

- *Target the illicit cultivation of crops used for the illicit production and manufacture of drugs and address related factors by implementing comprehensive strategies aimed at alleviating poverty and strengthening the rule of law, accountable, effective and inclusive institutions and public services and institutional frameworks, as appropriate, and by promoting sustainable development aimed at enhancing the welfare of the affected and vulnerable population through licit alternatives (p. 21).*
- *Encourage the promotion of inclusive economic growth and support initiatives that contribute to poverty eradication and the sustainability of social and economic development, develop measures for rural development, improving infrastructure and social inclusion and protection, addressing the consequences of illicit crop cultivation and the manufacture and production of narcotic drugs and psychotropic substances on the environment, with the incorporation and participation of local communities, and consider taking voluntary measures to promote products stemming from alternative development, including preventive alternative development, as appropriate, to gain access to markets, consistent with applicable multilateral trade rules and with national and international law, within the framework of comprehensive and balanced drug control strategies (p. 22).*

- *Consider elaborating and implementing comprehensive and sustainable alternative development programs, including preventive alternative development, as appropriate, that support sustainable crop control strategies to prevent and significantly, durably and measurably reduce illicit crop cultivation and other illicit drug-related activities, ensuring the empowerment, ownership and responsibility of affected local communities, including farmers and their cooperatives, by taking into account the vulnerabilities and specific needs of communities affected by or at risk of illicit cultivation ... consistent with the Sustainable Development Goals (p. 22).*
- *Strengthen subregional, regional and international cooperation to support comprehensive and sustainable alternative development programs, including, as appropriate, preventive alternative development, as an essential part of successful prevention and crop control strategies to increase the positive outcome of such programs, especially in the areas affected by and at risk of illicit cultivation of crops used for the production of narcotic drugs and psychotropic substances (p.23).*
- *Promote research by States, including through cooperation with the UNODC and other relevant UN entities and international and regional organizations, academic institutions and civil society, to better understand factors contributing to illicit crop cultivation, taking into account local and regional specificities, and to improve impact assessment of alternative development programs, including preventive alternative development, as appropriate, with a view to increasing the effectiveness of these programs, including through the use of relevant human development indicators, criteria related to environmental sustainability and other measurements in line with the SDGs (p. 23).*
- *Consider strengthening a development perspective as part of comprehensive, integrated and balanced national drug policies and programs so as to tackle the related causes and consequences of illicit cultivation, manufacture, production of and trafficking in drugs by, inter alia, addressing risk factors affecting individuals, communities and society, which may include a lack of services, infrastructure needs, drug-related violence, exclusion, marginalization and social disintegration, in order to contribute to the promotion of peaceful and inclusive societies (p. 23).*

Recommendations for Cooperation between the Two Countries

- The governments of Colombia and the United Kingdom could engage in a more holistic cooperation on the subject of sustainable development, understanding that many regions with illicit crops are located in strategic ecosystems, and that their inhabitants should be included as beneficiaries of cooperation programs such as *Visión Amazonía 2020*, in order to integrate the country's coca farmers with models of environmental cooperation. To this end, it is recommended that the Ministry of Environment and Sustainable Development is incorporated in a more systematic manner in crop eradication and substitution policies.
- Focus social development policy in territories with illegal crops on the construction of public goods that allow the population to consider that the transit to a legal economy is viable. To this end, strategic cooperation should be involved, focused on SDGs 1, 2, 6, 8, 10, 15 and 16 in the development and implementation of the Comprehensive National Program for the Substitution of Illicit Use Crops (PNIS, for its acronym in Spanish), Community and Municipal Plans for Substitution and Alternative Development (PISDA, for its acronym in Spanish) and Comprehensive Agrarian Development Programs with a Territorial Approach (PDET, for its acronym in Spanish), participatory scenarios that come from the peace agreement.
- Focus on strategic cooperation between the British Embassy and the National Land Agency (ANT, for its acronym in Spanish) in land titling processes in favor of rural populations in areas where illicit crops are present in order to clarify property rights. In addition, direct national, departmental and local investment towards the construction or the strengthening of technical capacities for working in titled lands as well as improved infrastructure that will enable the farmers in coca growing areas to develop a viable economy. To this end, it is recommended to establish a strategic cooperation line that: (i) Evaluates the processes and results of the pilot program "Formalize to Substitute," developed by UNODC and ANT in Putumayo, Cauca, Nariño and Antioquia; and (ii) evaluates the possibility of supporting the extension of these projects in other regions of the country, with the recommendation to prioritize the population that currently inhabits the National Nature Parks to be beneficiaries of titling processes.
- To arrange, in the design of indicators, within the framework of the drug policies, the inclusion of measures on the scope of emissions reduction targets, the reforestation of strategic ecosystems, and the guarantee of income to families that

currently depend on the cultivation of coca. In order to ensure this cooperation between the two countries, it is necessary to include the models of sustainable forestry development promoted by the United Kingdom in Colombia as one of the possible legal economies to substitute illegal crops.

- Carry out an evaluation of the plans and targets of eradication (including manual eradication and eradication through ground spraying with glyphosate), incorporating in the cost/effectiveness analysis of these strategies not only the reduction of illegal crops, but also the possible damages caused by them. However, eradication in a region should be considered after the failure of all other alternatives of the State.
- Characterize coca farmer populations to better understand the decision-making mechanisms, the roles that each person in the family takes taking into account the gender approach adopted in the Peace Agreement, and the production cycles under which they operate. A cross-examination of the information contained in the Multidimensional Poverty Index and the information on the presence of illicit crops could be incorporated into this exercise to better understand the conditions of the population living in those areas.

Prevention, Management of and Attention to consumption

UNGASS 2016. From section 1. Operational recommendations on the demand reduction and related measures, including prevention and treatment, as well as other health-related issues:

- *Promote and strengthen regional and international cooperation in developing and implementing treatment-related initiatives, enhance technical assistance and capacity-building and ensure non-discriminatory access to a broad range of interventions, including psychosocial, behavioral and medication-assisted treatment, as appropriate and in accordance with national legislation (p. 6).*
- *Consider developing standards and accreditation for services at the domestic level to ensure qualified and scientific evidence-based responses (p. 7).*

- Promote the well-being of society as a whole through the elaboration of *effective scientific evidence-based prevention strategies centered on and tailored to the needs of individuals, families and communities* as part of comprehensive and balanced national drug policies, on a non-discriminatory basis (p. 5).
- *Invite relevant national authorities* to consider, in accordance with their national legislation and the three international drug control conventions, *including* in national prevention, treatment, care, recovery, rehabilitation and social reintegration measures and programs, in the context of comprehensive and balanced drug demand reduction efforts, *effective measures aimed at minimizing the adverse public health and social consequences of drug abuse, including appropriate medication-assisted therapy programs, injecting equipment programs, as well as antiretroviral therapy and other relevant interventions that prevent the transmission of HIV, viral hepatitis and other blood-borne diseases associated with drug use* (p. 7).
- *Promote and improve the systematic collection of information* and gathering of evidence as well as the sharing, at the national and international levels, of reliable and comparable data on drug use and epidemiology, *including on social, economic and other risk factors* (p. 6).
- *Consider enhancing cooperation between authorities responsible for public health, education and law enforcement when prevention initiatives are developed* (p. 6).

Recommendations for Cooperation between the Two Countries

- Establish a direct agenda for cooperation between agencies such as Public Health England and the Ministry of Health and Social Protection in order to: (i) share the treatment model used in the UK as well as experiences to strengthen it at the local level; (ii) share the expertise on the cost-benefit analysis of this treatment model. Cooperation can then be focused on the protocols established to make the treatment model operational.
- The exercise of cooperation with Public Health England should be used in order to feed the general guidelines for the provision of treatment and rehabilitation to be provided to all entities included in the Peace Agreement, including health centers and faith-based organizations that must take advantage of the processes and conditions of qualification for Centers for the Care of Drug Addiction (CAD, for its acronym in Spanish) defined by the Ministry of Health.

- Establish guidelines and methodology concerted among several entities on the contents and mechanisms of prevention programs that are run by the National Police or other law enforcement agencies. For the authors, according to the evidence and people interviewed, it is not desirable that public force agents do this task, but recognizing that, for the moment, they have the capacity to reach the whole national territory, they must agree on a methodology and content based on evidence. To educate and train police officers, especially members of the National Police, in the care and attention of drug users with the aim of differentiating between the different types of response that the State should give to consumers, as well as generate knowledge in the Colombian jurisprudence on the matter. This training should also include raising awareness about harm reduction models in order to prevent the police from removing clean syringes from users, or otherwise negatively impact these harm reduction strategies.
- Establish technical cooperation to standardize single systems of indicators for the evaluation of drug policy in the areas of prevention, management and attention to consumption, including data such as hospital admissions, infectious diseases among drug users, and other health indicators, as well as ensuring that all of the above is implemented in a uniform manner at the level of the territorial entities (municipal and departmental).
- Take into account during the formulation of prevention, management and consumption plans, the achievement of objectives 1, 3, 5 and 8 of the SDGs.

Criminal Policy on Drugs

UNGASS 2016. From section 4. Operational recommendations on crosscutting issues: drugs and human rights, youth, children, women and communities:

- *Encourage the development, adoption and implementation, with due regard to national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature, in accordance with the three international drug control conventions and taking into account, as appropriate, relevant United Nations standards and rules, such as the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) (p. 15).*

- *Promote proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account, including the circumstances enumerated in article 3 of the 1988 Convention and other relevant and applicable international law, and in accordance with national legislation. (p. 15).*
- *Consider sharing, through the Commission on Narcotic Drugs, information, lessons learned, experiences and best practices on the design, implementation and results of national criminal justice policies, including, as appropriate, domestic practices on proportional sentencing (p. 15).*

UNGASS 2016. From section 3. Operational recommendations on supply reduction and related measures; effective law enforcement; responses to drug-related crime; and countering money-laundering and promoting judicial cooperation:

- *Promote and strengthen the exchange of information and, as appropriate, drug-related criminal intelligence among law enforcement and border control agencies, including through the United Nations Office on Drugs and Crime multilateral portals and regional information centers and networks, and promote joint investigations and coordinate operations, in conformity with national legislation, and training programs at all levels, in order to identify, disrupt and dismantle organized criminal groups operating transnationally that are involved in any activities related to the illicit production of and trafficking in narcotic drugs and psychotropic substances and the diversion of their precursors and related money-laundering (p. 11).*
- *Maximize the effectiveness of law enforcement measures against organized criminal groups and individuals involved in drug-related crimes, including by placing appropriate focus within our respective jurisdictions on those responsible for illicit activities of a larger scale or more serious nature (p. 11).*
- *Respond to the serious challenges posed by the increasing links between drug trafficking, corruption and other forms of organized crime, including trafficking in persons, trafficking in firearms, cybercrime and money-laundering, and, in some cases, terrorism, including money-laundering in connection with the financing of terrorism, by using an integrated, multidisciplinary approach, such as through promoting and supporting reliable data collection, research and, as appropriate, intelligence and analysis-sharing to ensure effective policymaking and interventions (p. 12).*

- Encourage the use of existing subregional, regional and international cooperation mechanisms to combat all forms of drug-related crime, wherever committed, including, in some cases, violent crimes related to gangs, including by *enhancing international cooperation to successfully counter and dismantle organized criminal groups, including those operating transnationally* (p. 12).
- *Enhance national, regional, subregional, interregional and international capacity to prevent and counter money-laundering and illicit financial flows stemming from drug trafficking and related crimes, including, as appropriate through detection, investigation and prosecution of such activities, with a view to effectively addressing safe havens, and identify and mitigate money-laundering risks linked to new technologies, as well as emerging money-laundering methods and techniques, by using, inter alia, existing United Nations Office on Drugs and Crime technical assistance tools* (p. 13).

Recommendations for Cooperation between the Two Countries

- Reform Article 376 of the Criminal Code³³ to distinguish sanctions according to the different levels of participation in the drug trade and to establish better proportionality criteria in drug laws in the country, both in the production and cultivation phase, as well as in trafficking.
- Reform the system of exclusions from alternatives to imprisonment for persons investigated, prosecuted and tried for crimes related to non-violent trafficking of narcotics that perform low-paid and high-risk roles. Specifically, to repeal the exclusion of criminal alternatives for the case of drug offenses established in article 68A of the Criminal Code that introduced Law 1709 of 2014.
- Modify article 324 of the Code of Criminal Procedure, which regulates the discretionary prosecution principle, to allow its application to persons who have committed non-violent minor offenses related to drug trafficking and who are responsible for fulfilling low paid roles with a high risk of capture.
- In the short term, efforts should be focused on mitigating the adverse effects of incarceration for drug offenses. To this end, the National Police and the Office of the Attorney General must promote an exercise within each institution, and in accordance with its procedures and statutes, to verify that the evaluation criteria

33 Although the first three recommendations are not specific lines of cooperation between the United Kingdom and Colombia, they are fundamental to rationalizing the use of criminal law.

of officials does not generate perverse incentives that encourage the imprisonment of people committing petty drug offenses or simply being caught with doses that could be interpreted as provisioning doses.

- Establish cooperation with the United Kingdom to train judicial officials to identify cases involving petty drug crimes and persons committing crimes in conditions of need, poverty or circumstances that mitigate criminal liability. This can be implemented based on “sentencing guidelines” so that judges and prosecutors can consult auxiliary criteria for the prosecution of the criminal action or the determination of the sentence. The Rodrigo Lara Bonilla Judicial School and the Superior Council of the Judiciary are key actors for the elaboration and dissemination of these types of tools among the administrators of justice.
- Establish technical cooperation to characterize in more detail the value chain of drug trafficking, in order to focus the exercise of criminal actions on the middle and upper ranks of criminal organizations, as well as the recipients of the income generated by illegal economies.
- Define leadership among entities responsible for investigating and prosecuting high-level crimes related to drug trafficking, money laundering, illicit enrichment and using front men. To this end, it will be useful to establish mechanisms for the exchange of experiences with the Crown Prosecution Service, in order to know how they have strengthened their roles in the investigation and prosecution of this type of crime.
- Through technical cooperation processes with the UK, improve counterintelligence and internal investigation activities in the Office of the Attorney General, the Police and other bodies involved in the prosecution of organized crime. To this end, it is necessary to deepen the expertise of judicial officials on issues such as interdiction, data mining and identification of money laundering mechanisms, and to increase the number and expertise of judges and prosecutors specialized in crimes related to drug trafficking, such as money laundering, illicit enrichment, and fronting, especially in the regions with the greatest impact of illegal economies.
- Promote memorandums of understanding with other countries to improve the tools to pursue resources from illicit activities and incorporate in these memoranda a roadmap as well as monitoring and evaluation commitments to ensure that management in organized crime research improves.

- Establish cooperation for the generation of a virtual platform similar to that of the Prosecution College, to carry out training for judicial officers, one of the needs of investigative agencies, such as the Office of the Attorney General and the Financial Analysis and Information Unit (UIAF, for its acronym in Spanish).
- Establish a cooperation agenda with the Crown Prosecution Service in order to share successful experiences regarding the internal division of labor between the pre-enforcement and enforcement of investigations. This line of cooperation may be useful to the Office of the Attorney General in order to rationalize its investigation of financial crimes.

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APPENDIX

List of persons and agencies interviewed in Colombia

Colombia (October and November 2016)

Adriana Mejía

Executive Director

Member of the Advisory Commission on Drug Policy

Institute of Political Science Hernán Echavarría Olózaga

Catalina Niño

Director of the Cooperation in Regional Security Program

Friedrich Ebert Stiftung en Colombia (FESCOL)

Eduardo Díaz

Director

Directorate for the Substitution of Illicit Crops

Esteban Arias

PROJUST Area Advisor

United Nations Office on Drugs and Crime (UNODC)

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Ideas for Peace Foundation (FIP)

Guillermo García

Director of the Alternative Development Program
United Nations Office on Drugs and Crime (UNODC)

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Center for Security and Drug Studies (CESED), University of Los Andes

Juan Carlos Garzón

Research associate External advisor to the Ministry of Justice and Law
Ideas for Peace Foundation (FIP)

Juan Diego Cely

PROJUST Area Advisor
United Nations Office on Drugs and Crime (UNODC)

Ricardo Vargas

Researcher
Transnational Institute (TNI)

Technical visit to the United Kingdom

UNITED KINGDOM (February 2017)

Home Office

Domestic policy and foreign policy on alcohol and drugs

National Offenders Management Service

Operational safety group / Prison intelligence and analysis

Crown Prosecution Service

Unit for asset recovery from organized crime

Metropolitan Police

Drug crime management

Sentencing Council

Sentencing guidelines for drug offenses

Thames Magistrates Court

Judicial process for minor drug offenses

Public Health England

Guidance for alcohol, drugs and tobacco (in communities and prisons)

Release

Reform of police practices

Health Poverty Action

Drug policy and Sustainable Development Goals (SDG)

London School of Economics

International Drug Policy Program

International Drug Policy Consortium

Impact assessment of sentencing guidelines in the United Kingdom

Collective Voice

Experience of the National Treatment Agency (NTA)

Human Rights Center - University of Essex

International Human Rights guidelines for drug policy

In 2016, two historical events took place regarding the reflection on drug strategies in Colombia: the convening of the United Nations Special Session on the World Drug Problem (UNGASS 2016) and the signing of the Peace Agreement between the Government and the FARC-EP, which includes a chapter on the “Solution to the Problem of Illicit Drugs.”

In light of the commitments undertaken by the Colombian State, possibilities and challenges arise for drug policy reform, searching for a greater balance between an approach based on a criminal perspective, and the recognition of rights to the populations affected by the negative effects of prohibition. This balancing act makes a call to incorporate the lens of the 2030 Agenda for Sustainable Development and its goals, as well as to better integrate the sectors concerning defense, rural and agrarian development, protection and sustainable use of environmental resources, health and education, in addition to peacebuilding efforts in the territories most affected by war and drug trafficking.

To reach the goals proposed in these documents, the international community’s participation in the coming years will be fundamental. The British Embassy, with the aim of expanding its cooperation horizons, has offered to share lessons learned from its experience with a view to improving the institutional capabilities for facing the challenges posed by organized crime, rural development, and the prevention and treatment of drug use. This document presents recommendations to both governments on possible cooperation axes, in light of the agreed obligations and the opportunities to harmonize drug policy and peacebuilding efforts.

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