

# **Drug Policies and the Politics of Drugs in the Americas**

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*Abstract:* This book is a collection of studies of drug policies in several Latin American countries. The chapters analyze the specific histories of drug policies in each country, as well as related phenomena and case studies throughout the region. It presents conceptual reflections on the origins of prohibition and the “War on Drugs,” including the topic of human rights and cognitive freedom. Further, the collection reflects on the pioneering role of some Latin American countries in changing paradigms of international drug policy. Each case study provides an analysis of where each state is now in terms of policy reform within the context of its history and current socio-political circumstances. Concurrently, local movements, initiatives, and backlash against the reformist debate within the hemisphere are examined. The recent changes regarding the regulation of marijuana in the United States and their possible impact on Latin America are also addressed. This work is an important, up-to-date and well-researched reference for all who are interested in drug policy from a Latin American perspective.

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Coletta Youngers

### **1. Introduction**

Beatriz Labate, Clancy Cavnar and Thiago Rodrigues

### **2. Prohibition and the “War on Drugs” in the Americas: An Analytical Approach**

Thiago Rodrigues & Beatriz Labate

In the beginning of the twentieth century, a national and international process drove a great amount of psychoactive drugs into illegality. The historical movement towards the criminalization of the production, trade, and use of those drugs is a complex articulation between social practices and security moves made by many states worldwide. In the Americas, it is possible to follow this by studying how moral perspectives connected with emerging technologies of government. This chapter aims to present an analytical framework that addresses the “problematization” and the “securitization” of psychoactive drugs in the Americas, i.e., to show how some drugs

became moral, social health, and security “problems” demanding security measures by the states. The proposed framework has five interconnected levels: the moral/social practices level, the public health level, the public security level, the national security level, and the international security level. Our hypothesis is that each one of the American nations that developed internal prohibitionist regimes has faced a singular equilibrium between these five analytical levels. Alongside the general exposition of the framework, we briefly present the historical cases of United States, Brazil, and Mexico in order to indicate how we conceive of what might be possible applications of our analytical suggestions.

### **3. Public Drug Policy and Grey Zone Pacts in Mexico, 1920-1980**

Benjamin T. Smith

Traditionally, researchers have viewed Mexican drug policy through the prism of political dependency and in clear, unilinear terms. According to this model, antidrug strategies involved two processes. First, US prohibitionists used persuasion, threats and direct sanctions to inflict increasingly harsh drug legislation on the Mexican government. Then, these strategies passed down the hierarchy to local enforcers. Where these policies failed, investigators deemed corruption. Such a unidirectional framework rests on unconvincing models of both Mexican culture and the Mexican state. Instead, this article proposes a new analytical framework. Since Mexico established drug prohibition laws in the 1920s, two parallel drug policies have existed side by side. First, there was public drug policy - the international agreements, national laws, and public declarations, which formed the official line on narcotics. The US played a substantial role in shaping these public policies, but so did homegrown Mexican appreciations of narcotics. During the twentieth century, drugs became a persistent biopolitical signifier for perceived aberrant or antisocial behaviour, used to condemn poor urbanites, indigenous groups, foreigners, homosexuals, and rebellious youths. Second, there was “grey zone” drug policy, the covert agreements between state institutions and private institutions which ensured stability and economic payoff for certain key groups. Employing this framework, this article looks at Mexican drug policies from the Porfiriato to 1980. There are sections on the beginnings of drug prohibition, the 1930s attempt at a state drug monopoly, and the first war on drugs during the 1970s.

### **4. Drug Policy in Guatemala: Constraints and Opportunities**

Amanda Feilding & Juan Fernández Ochoa

In the last few years, Guatemala has emerged as a leading voice in the drug policy reform debate. This chapter sheds light on the roots of this shift in the national discourse and assesses its depth and potential implications. Our research will be presented in three parts. Part one explores the origins of Guatemala’s drug problem,

its transformation into a pivotal transit country for cocaine trafficking at the end of the 1980s and the destructive impact of the externally driven counter-narcotic strategy. The second part analyzes the recent government-led rebuttal of the “War on Drugs” and its implications, both nationally and internationally. Finally, the third part evaluates the reach of this rhetorical shift, as well as the difficulties of its translation into effective policies at home. The study concludes by characterizing the country’s efforts to regain ownership over its own drug policy.

## **5. Ecuador on Drugs: The Evolution of Penal Policies and Their Uncertain Effects**

Ana Isabel Jácome and Carla Alvarez Velasco

This chapter analyzes drug policy in Ecuador, by describing the evolution of the policies it adopted. The article begins with an historical review of substance regulations, starting in the Colonial period, and moving towards the country’s incorporation of the international regimes that have regulated the market and the use of drugs during the early twentieth century. The second part reviews Ecuador’s alleged entry into the coca-cocaine productive complex during the ‘90s, as a transit country and as a producer of chemical precursors. Additionally, in this section, we will analyze the establishment of law 108, which was the most punitive legal framework in Latin America, and its consequences in terms of the increase of people incarcerated. The third section discusses the legal reforms that were implemented in Ecuador, starting with the 2008 Constitution, and including the new Penal Integral Code (COIP), which establishes threshold quantities for consumers; an innovative approach that is supposed to distinguish consumers from producers and drug traffickers. Regardless of the achievements made during the last years, the new legal Ecuadorian structure has some limits that block effective advances, especially as defined by internal disputes and by the difficulties of changing old punitive representations.

## **6. Seeking Alternatives to Repression: Drug Policies and the Rule of Law in Colombia**

Rodrigo Uprimny Yepes & Diana Esther Guzmán

For the past 30 years, Colombia has played a central role in transnational drug trafficking. Due to this phenomenon, and its attendant national and international pressures, the country has developed highly repressive drug policies. This article analyzes the recent evolution of such policies and discusses some possibilities of change within the current context. The first part describes the evolution of drug policies in Colombia from the early twentieth century to the present, and shows that there has been a progressively hardening of the punitive approach, which is usually a result of the influence of the international framework and of reactive internal

measures in response to violent episodes, exacting a high price on democracy, human rights and institutions. The second part discusses possibilities in the new Colombian and international context for changes in drug policies. Through this reflection, the article offers insights for the debate on policy alternatives.

## **7. Revolution and Counter-Reformation: The Paradoxes of Drug Policy in Bolivarian Venezuela**

Andrés Antillano, Verónica Zubillaga, and Keymer Ávila

This chapter discusses recent changes in Venezuelan drug policy. We note that, despite the anti-imperialist discourse and the rejection of the policies resulting in the criminalization of poverty, the ruling political group in Venezuela has, in recent decades deepened the strategy of the War on Drugs, fueled by Washington, implementing legal changes and hardening the agency's resistance to the winds of reform blowing in the region. This model is an instrument of US control in the hemisphere and a mechanism to deepen the exclusion of the poor by way of their criminalization. We suggest some possible explanations for this retrograde rotation of drug policy in the context of an anti-imperialist and left wing government: The persistence of a conservative discourse by the left on the subject, attributing the increase in crime to drugs; the role of the army in the War on Drugs; the US's accusations of drug involvement to discredit leftist governments in the region; and the attempts by the Venezuelan government to defend against such allegations. Finally, we will attempt to demonstrate how the rhetoric of the War on Drugs, displaces social processes and conflicts and legitimizes symbolic solutions associated with tough policies, at the same time that these punitive measures become an effective means of control of those sectors of the poor who are left out of social inclusion policies.

## **8. From Freedom to Repression and Violence: The Evolution of Drug Policy in Peru**

Aldo F. Ponce

This chapter assesses the evolution of drug policy in Peru; It takes into account past and current initiatives to reform the repressive drug policy in the country. Also, it discusses how several key determinants -- such as foreign pressures, the rise of subversive groups, and the type of economic model implemented -- have influenced the evolution of drug policy in Peru. Its development is systematized into phases that consider the influence and effects of these different determinants. The chapter argues that drug policy has become increasingly repressive in Peru, and concludes that the Peruvian state has been unable to implement innovative and non-repressive initiatives on drug policy because of its institutional weakness, foreign pressures from the United States, and security concerns due to the growth of subversive groups.

## **9. Social Control in Bolivia: A Humane Alternative to the Forced Eradication of Coca Crops**

Thomas Grisaffi

This chapter provides an overview of coca control policy in Bolivia. Two decades of forced coca eradication was a demonstrable failure, generating poverty and gross human right violations, without meeting its objective - reducing Bolivia's coca crop. In 2004, the Bolivian government granted each registered coca growing family in the Chapare (one of Bolivia's two main coca growing regions) the right to grow a *cato* (1600 square meters) of coca. Policymakers and coca growers jointly agreed upon the size of the coca plot in an effort to provide each family with the equivalent of a monthly minimum wage as income from coca, and to reduce violence. The Morales administration has continued this policy, and over the past eight years the coca producer's unions, government officials and members of the international community have built a complex sustainable coca monitoring, licensing, and reduction system. Drawing on 30 months of ethnographic research, the chapter outlines Bolivia's new approach to coca control. It weights the program's effectiveness as well as the significant challenges to implementation. It is argued that by focusing on the social welfare, human rights and economic stability of coca farming families, Bolivia's collaborative approach might be more effective at reducing coca acreage in the long term than the previous strategy of forced eradication.

## **10. History and Changes of the Drug Policy in Argentina**

R. Alejandro Corda & Diana Rossi

In Argentina the policy on drugs was developed during the 20th century, privileging the criminal prosecution as its main tool. Since the 1920's, when the first modification to the penal code related to these substances was devised, various reforms and discourses that expand that response by toughening the penalties have been implemented. Although this process has been apparent since the 60s, that tendency became stronger during the 70s and the end of the 80s, following international legislation on narcotics. Thus, between late 1980s and early 1990s a "prohibitionist-abstention" matrix was defined (Corda et al. 2014). The application of this strategy - with the preponderance of the penal law - has been ineffective and generated more problems than those it intended to solve. The criminal response has affected mainly low-level traffickers and drug users. At the same time, it has complicated -and sometimes stopped- the development of other more effective, and less harmful, non-criminal responses. In the last five years, particularly after a ruling of the Supreme Court of Justice ("Arriola" 2009), there have been a series of changes or promises to change that have put the postulates of the matrix in crisis. Some of these promises have not been fulfilled, and even those that have are resisted, impeding their

implementation. This chapter will evaluate these reform initiatives and their different levels of success. It will be argued that resistance to change is based on a prohibitionist-abstention matrix which pervades Argentinean drug policy and that continues to influence it to advance in contradictory ways.

## **11. Brazilian Drug Policy: Tensions between Repression and other Alternatives**

Thiago Rodrigues & Beatriz Labate

Policies toward illicit drugs have attained the utmost relevance in the debate pervading all levels of Brazilian society. Propositions for relaxation of traditional, coercive legislation shares the landscape with others aimed at maintaining and deepening prohibitionism and its corollaries. This chapter describes the narratives produced in the history of Brazil's prohibitionism, from the beginning of the twentieth century until the current times, and its unfolding juridical backdrop. Among other possible repercussions, Brazil's domestic politics and its connections with international prohibitionism, inclusive of the War on Drugs, are presented, as are the political associations, progressive and conservative, that are currently at play there. The paradoxes and tensions that currently pervade Brazil's policies toward the drug issue are underscored. These policies oscillate between blunt, military support for the War on Drugs, the moral persecution of users and addicts, and support for controversial treatment campaigns, to reformist propositions carried out in other Latin American countries with the support of social movements, such as the proposal to regulate the medicinal or recreational use of cannabis. The authors wrap up the chapter by addressing the different political traditions and moral views that inform these opposing views, and try to understand the wider implications of contemporary changes to Prohibition at a global scale.

## **12. One Hundred Years of Drug Policies in Uruguay**

Guillermo Garat

This paper examines and analyzes the different ages in drug policies in Uruguay during the last century when prohibition started. The research describes how medicines that were allowed, such as opiates, cocaine and cannabis, became illegal and the conceptions that the state and professionals such as doctors, advocates and lawyers, have built around those substances. This ideological construction, about what drugs were, has created several stereotypes and brought consequences for collective imagination. The country has passed through different periods of tolerance and prohibition, but always with liberal policies about drugs, even during the dictatorship period. With prohibition, demand and supply grew alongside corruption and a criminal network that supplies cannabis and other drugs to the internal market. This study shows how different scenarios about drug policies in Uruguay were shaped by international socio political contexts. The recent regulation of the cannabis market

follows this line, at a time when Latin American countries seem to be coming to the conclusion that drug prohibition is more harmful than the drugs themselves. This chapter analyzes how, for the first time, a whole country has tightly regulated its cannabis market. Uruguayan authorities have argued that this new control model will diminish the violence and crime of narco-gangs and concurrently improve human rights standards and better health practices among users. The study concludes by pointing out Uruguay's current challenges involved in the regulatory process, as well as its pioneering role in terms of drug reform internationally.

### **13. Ganja Terrorism and the Healing of the Nation**

Jahlani A. H. Niaah

This chapter explores the historical approach of British colonial and Jamaican governments towards legislating access to *Cannabis sativa*, known locally as ganja. The chapter recognizes Jamaica's reputation for being a population of indigenous users of this herb, largely through its religious sacralization within the Rastafarian faith. There, it is not only considered a central aspect of the "*conscientization*" process, but is also elevated as a national, perhaps even African Diasporic panacea and branded as "the healing of the nation", or considered to be critical for the development of liberated postcolonial societies. This chapter expands on the work of Barry Chevannes, in which he purports that the attitudes toward the ganja plant existing within the political landscapes borders on a violation of the basic human rights of citizens by legislating the criminalization of a culture, and the manipulation of the laws surrounding the substance as effectively sanctioning a targeted group for state oppression. This is analyzed in the context of the national approach to engage with the issues of decriminalizing cannabis over the last two decades, and the continued anachronistic official Jamaican responses to ganja's pharmacopeia, especially in light of the rapidly changing marijuana politics from North America, where it seems to have become a central part of the health debates of the society. It concludes by offering an analysis of the main progressive initiatives in contrast with counter or conservative discourses, and a look at the future perspectives of policy reform in Jamaica.

### **14. From Drug War to Policy Reform: Implications of US Drug Strategy for Latin America**

Steve Rolles

This chapter will consider the changing landscape of the drug policy and law reform debate in the US, its relationship to developments in Latin America, and the implications for the future in the region. The US was the driving force behind the establishment of the international drug control regime, and historically has been its cheerleader and, in key respects, enforcer. But, as the failings of the punitive prohibitionist drug control paradigm, both domestically and internationally, have

become increasingly acute, the consensus around the model has begun to fracture. Domestic concerns around mass incarceration and spiraling enforcement budgets at a time of austerity, combined with the horror at Drug War violence and crime in Central and South America, have all contributed to a sea change in attitudes over the past decade. Paradoxically, the spiritual home of the War on Drugs has now become a world leader in drug law reform. Real world policy changes, beginning with innovative harm reduction programs that challenged zero-tolerance ideologies, through the rapid roll out of state level medical cannabis programs, and concluding with the recent moves to regulate non-medical cannabis markets in Colorado and Washington States (with other states poised to follow); all point to a slow but accelerating unraveling of the War on Drugs. This chapter will explore these developments, analyzing how they have been influenced by, and are in turn influencing, parallel developments to the south.