



International Centre  
on Human Rights  
and Drug Policy

# Colombia: Drug War Myopia and the Human Rights Lens

Damon Barrett  
Project Director

# Overview

- Colombia as a case study to interrogate drug war's:
  - Justifications
  - Means
  - Ends
- Human rights apply to all three

Context:

Name any human right

# Myopia: Protection from a perpetual 'threat'

- Preamble, 1961 Single Convention on Narcotic Drugs
  - Addiction an 'evil' the international community has a moral duty to 'combat'
  - Threat to the social fabric
- Preamble, 1988 Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances
  - Drug trafficking a threat of 'incalculable gravity'

# Drugs and Human Rights at UN Political Fora

- GA:
  - Annual omnibus resolutions (drug control must be carried out in full conformity with human rights...)
- Commission on Narcotic Drugs (subsidiary of ECOSOC)
  - Prior to 2008, HR language vetoed
  - 2008 – 1<sup>st</sup> human rights resolution (CND created in 1946)
  - Post 2008 – human rights easier to insert into resolutions (Obama influence clear in less defensive tone of US)
  - Human rights has never been a thematic debate
- Human Rights Council (and former Commission)
  - Drug control has never been a thematic debate

# Drug production in Colombia

- 90% seized US cocaine
- 60% seized US heroin
- Considerable marijuana production
- ‘Centre of gravity’ of internal conflict (UNDP)



# International legal obligations:

## Supply reduction

- 1961 Single Convention on Narcotic Drugs: Coca eradication a focus (exemption for 'flavouring'/products with alkaloid removed)
- 1988 Trafficking Convention (adopted in recognition of the scale of the drug trade)
  - Article 14(2): '**Appropriate measures**' to eradicate coca must respect traditional uses, the environment and human rights

# Article 33 Convention on the Rights of the Child

(only core UN human rights treaty to refer to drugs)

“States Parties shall take all **appropriate measures**, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.”



# ILO 182 Worst forms of child labour

- Art 1 shall take **immediate and effective measures** to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency
- Art 3(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties

# Aerial Fumigation

- Central element of US funded Plan Colombia
- Over a million hectares fumigated since 2000 at a cost of c. US\$ 500 million
- Chemicals – Monsanto owned ‘Glyphosate’ mixed with surfactants (lower surface tension)
- Currently only country in the world where fumigation a policy (cf Afghanistan)

# Aerial Fumigation

- United Nations ostensibly against. But...
  - UNODC crop monitoring accompanies
  - INCB largely supportive
  - Commission on Narcotic Drugs has never condemned
  - Human rights mechanisms...
- EU strongly against (vote of 471-1 against assisting back in 2001)
- OAS obviously mixed!

# Immediate and Effective Measures?

***“We are farther than ever from the announced goal of eradicating drugs”***

**Latin American Commission on Drugs and Democracy, 2009**



# Appropriate Measures?



# 'Javier', age 11

- *“Most people don’t want to grow coca, but they feel like they have no other option... People even die of starvation out there. And that’s why they grow coca. It’s the only way to earn a living”*
- *“The spray planes often targeted our community. People would get very sad when they saw the fumigation planes. You see the planes coming—four or five of them—from far away with a black cloud of spray behind them. They say they are trying to kill the coca, but they kill everything”*

# Protection of the environment

- Art. 14 1988 Trafficking Convention
- Convention on Biodiversity
  - Art 14 (impact assessment)
- Human rights obligations
  - e.g. Adequate standard of living: Right to water now legally binding

# Protection of the environment

Awareness about cocaine's ecocide in Colombia

HOME • ESPAÑOL • CONTACT US • Search

SHARED  RESPONSIBILITY

ABOUT US | LEARN MORE | MEDIA CENTER | TAKE

You are here: [Home](#) > [About Us](#) > Who we are

## Who we are

Shared Responsibility operates under the simple but steadfast belief that if cocaine consumers were made aware of the atrocious ways in which their drug money is put to use in Colombia, they would not only rethink their cocaine habit but actively support the eradication of coca crops from Colombia.

guardian.co.uk

News | Sport | Comment | Culture | Business | Money | Life & style

Comment is free

## Yes, addicts need help. But all you casual cocaine users want locking up

I know people who drink fair-trade tea and coffee, shop locally and snort drugs at parties. They are disgusting hypocrites



George Monbiot

guardian.co.uk, Monday 29 June 2009 20.00 BST

[Article history](#)









# Ecuador v Colombia

## International Court of Justice

What is the central argument?

# Right to health

- Health impacts of glyphosate disputed
  - CICAD assessment 2005 (found no risk)
  - Various medical journals (from skin rashes to infertility to DNA impacts)
- **Javier:** *“Once the fumigation spray hit my little brother and me. We were outside and didn’t make it into the house before the planes flew by. I got sick and had to be taken to the hospital. I got a terrible rash that itched a lot and burned in the sun. The doctor told us the chemical spray was toxic and was very dangerous. I was sick for a long time and my brother was sick even longer”*

# Right to health

- **Special Rapporteur on the Right to Health, Mission to Ecuador, 2007** : “credible, reliable testimony that the aerial spraying of glyphosate along the Colombia-Ecuador border may damage the *physical* health of people living in Ecuador.
- There was also credible, reliable testimony that the aerial spraying may damage their *mental* health. For example, I was reliably informed that military helicopters sometimes accompany the aerial spraying and the entire experience can be terrifying, especially for children, even when the helicopters remain in Colombian airspace”

# Right to health

- **CESCR, 2010:** The Committee notes with deep concern that drug production and trafficking remains persistent in the State party and that it is a major processor and exporter of cocaine, despite efforts made to eradicate illicit coca production. The Committee also notes with concern the resulting drug violence; large-scale internal displacement; widespread corruption; **negative consequences of anti-narcotics measures such as the effect of aerial fumigation on food security, adverse health impacts and denial of livelihoods**; and that profit from this illicit economy finances all sides of the armed internal conflict in the State party

# Committee on the Rights of the Child

## 2006

- The Committee, while acknowledging the State party's legitimate priority to combat narcotics, is concerned about environmental health problems arising from the usage of the substance glyphosate in aerial fumigation campaigns against coca plantations (which form part of Plan Colombia), as these affect the health of vulnerable groups, including children
- Called for independent, rights-based environmental and social-impact assessments (What might this look like?)

# Other rights affected

- Right to food: food security negatively impacted
- Right to education: School enrolment shown to decrease
- Adequate standard of living: Family income affected
- Right to water: Potential impact of chemicals on...



# What about manual eradication?



# Human Displacement

- Government figure: over 3 million
- CODHES figure: over 4 million (close to 5 million in last 24 years)
- US acknowledges negative impact of fumigation
- Extremely difficult to collect data on displacement due to fumigation – why? (Clue – relates to another CESCR right)

# Human Displacement

- **CESCR, 2010:** The Committee notes with deep concern that drug production and trafficking remains persistent in the State party and that it is a major processor and exporter of cocaine, despite efforts made to eradicate illicit coca production. The Committee also notes with concern the resulting drug violence; **large-scale internal displacement**; widespread corruption; negative consequences of anti-narcotics measures such as the effect of aerial fumigation on food security, adverse health impacts and denial of livelihoods; and that profit from this illicit economy finances all sides of the armed internal conflict in the State party

# What happens to vacated land?



# Indigenous peoples' rights (on top of those already covered)

- **Cultural/traditional uses**
  - 25 year grace period for traditional uses in 1961 convention (long elapsed)
- **Participation:** “[i]t has become a generally accepted principle in international law that indigenous peoples should be consulted as to any decision affecting them” *James Anaya, (2005) 22:1 Arizona Journal of International and Comparative Law p. 7.*
- Impact, if any, of **indigenous people's declaration?** (Deleted from CND human rights res.)

# Special Rapporteur, mission to Colombia, 2005

- Except where expressly requested by an indigenous community which has been fully apprised of the implications, no aerial spraying of illicit crops should take place near indigenous settlements or sources of provisions (E/CN.4/2005/88/Add.2), para. 106

# 'Alternative Development'

- Replacement of illicit crops with licit alternatives
- Element of plan Colombia (but considerably less funding)
- Focus of UN drug control programmes (*NB: progress on this issue in 2009 political declaration on drugs*)
- Some successes – but limited/small scale



Must be coca free  
to qualify for USAID  
assistance

Infrastructure is all  
but non-existent





## US: Reject Colombia Free Trade Deal

Bogota Fails to Tackle Anti-Union Violence and Impunity

**APRIL 6, 2008**

The US Congress should vote against the US-Colombia Free Trade Agreement (FTA) because of Colombia's continuing failure to effectively address anti-union violence and impunity, Human Rights Watch said today.

.....  
RELATED

Congre

Trade l

Colomb

Colomb

Colomb

Free trade  
agreement  
impedes  
competition on  
international  
market

# What does **success** look like?

- Human rights 'lens' – means and ends
- Key indicators in supply reduction
  - Hectares eradicated/reduced production
  - Kilos seized
  - Precursor chemicals interdicted
  - Reduction in families involved in illicit production
- **Are these appropriate indicators or do they confuse means and ends?**
- **What is drug control for?**
- **What does human rights contribute?**

# Reduced production

## What human rights questions are raised?

### Topics

- Alternative development
- Corruption
- Drug Prevention Treatment and Care
- HIV and AIDS
- Human trafficking and migrant smuggling
- Criminal justice, prison reform and crime prevention
- Money-laundering
- Organized crime
- Piracy
- Terrorism prevention

### Resources

## Afghan opium production halves in 2010, according to UNODC annual survey



30 September - Afghanistan's opium production halved in 2010 but soaring prices may encourage farmers to go back to opium cultivation, warned UNODC in its *2010 Afghan Opium Survey* released today.

"This is good news but there is no room for false optimism; the market may again become lucrative for poppy-crop growers so we have to monitor the situation closely," said Yury Fedotov, Executive Director of UNODC.



### Related Stories

ED Video Message - Afghan Opium Survey 2010

ED Video Message - Afghan Opium Survey 2010

Crime and Terrorism: How to

# Questionable ends justifying questionable means (aka the strength of drug war rhetoric)

- **Prince v South Africa** (CCPR/C/91/D/1474/2006)
  - Lawyer and Rastafarian (not permitted to practice)
  - Use of cannabis and religious freedom
  - Blanket ban proportionate?
  - Held no violation



**International covenant  
on civil and political  
rights**

Distr.  
RESTRICTED\*

CCPR/C/91/D/1474/2006  
14 November 2007

Original: ENGLISH

---

HUMAN RIGHTS COMMITTEE  
Ninety-first session  
15 October- 2 November 2007

7.3 The Committee observes that the prohibition of the possession and use of cannabis, which constitutes the limitation on the author's freedom to manifest his religion, is prescribed by the law (the Drugs and Drug Trafficking Act 140 of 1992). It further notes the State party's conclusion that the law in question was designed to protect public safety, order, health, morals or the fundamental rights and freedoms of others, based on the harmful effects of cannabis, and that an exemption allowing a system of importation, transportation and distribution to Rastafarians may constitute a threat to the public at large, were any of the cannabis enter into general circulation. Under these circumstances the Committee cannot conclude that the prohibition of the possession and use of drugs, without any exemption for specific religious groups, is not proportionate and necessary to achieve this purpose. The Committee finds that the failure of the State party to grant Rastafarians an exemption to its general prohibition of possession and use of cannabis is, in the circumstances of the present case, justified under article 18, paragraph 3, and accordingly finds that the facts of the case do not disclose a violation of article 18, paragraph 1.

# Thank you

**Damon Barrett**

Project Director, International Centre on Human  
Rights and Drug Policy

Senior Human Rights Analyst, International Harm  
Reduction Association

Editor, 'Children of the Drug War'  
Forthcoming, 2011