

Addicted to Failure

Statement of

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The Washington Office on Latin America (WOLA) is a non-governmental organization that promotes human rights, democracy and social justice in Latin America and in U.S. foreign policy toward the region. WOLA has been monitoring U.S. drug policy in Latin America since the early 1980s. Most recently, with the help of about 20 researchers throughout the hemisphere, we spent three years investigating the impact of U.S. drug policy on human rights and democracy in Latin America. We appreciate the opportunity to testify before the Subcommittee.

We believe that U.S. drug policy in Latin America has been ineffective at achieving its own goals and has generated much collateral damage. In the focus on supply-side solutions, we have lost sight of the fundamental need – to reduce drug consumption and the associated damage to society. We have perpetuated the illusion that supply-control efforts deliver the most “bang for the buck” as a way to shrink illicit drug consumption. We have developed a body count mentality for measuring success, making much ado about indicators that gauge how active we are, but say very little about what progress we’re making. Even worse, such indicators (hectares eradicated, drugs seized, arrests made, etc.) are touted as major victories when they may just as easily be interpreted as evidence of the drug trade’s expansion and adaptability.

The metaphors for imminent success have changed over the years – light at the end of the tunnel, turning the corner, reaching the tipping point – but the problem seems, if anything, to have become worse. Just last week, in arguing for augmenting U.S. military aid to Colombia, a prominent member of Congress reminded his colleagues that “the streets of America are awash in drugs.” Unfortunately, this reminder was probably not necessary. The plain fact is that the main illicit drugs targeted by U.S. efforts in Latin America – cocaine and heroin – remain readily available at near-record low prices. The supply-control strategies into which we have poured so many billions of dollars have patently failed to shrink drug availability.

The U.S. needs a new approach to drug policy because failure means continued unacceptably high rates of drug addiction in the U.S., and a corrosive mix of spreading corruption and violence in drug-producing and transit countries, as well as increased addiction. We believe that the so-called “war on drugs” is not winnable. But with a fundamentally different policy approach, aimed at reducing the entire range of harms caused by illicit drug consumption – not just reducing use prevalence rates – the U.S. can devise policies that reduce drug-related harms and avoid many of the harms caused by the war on drugs as we have waged it for the last quarter-century. Drug control resources are limited, and policy makers are responsible for investing in the most cost-effective approaches to reducing drug consumption and the drug markets that fuel corruption and violence. Despite years of trying, there is little evidence that the supply-side approaches in which the U.S. has invested so heavily can make a significant contribution. On the other hand, there is a substantial and growing body of evidence that strategies such as treatment are cost-effective in reducing both drug consumption and its related harms, including crime and the spread of diseases such as HIV/AIDS. It is long past time for policymakers to shed strategies that achieve very little and cause significant collateral damage, and refocus our limited drug control resources on strategies that work.

INCSR and Standards of Measure

I would like to comment on the International Narcotics Control Strategy Report (INCSR) in the context of what we learned in our three-year study, which produced the book, *Drugs and Democracy in Latin America*, and an additional report, that I request be submitted for the record, entitled *Are We There Yet? Measuring Progress in the U.S. War on Drugs in Latin America*.

The first thing to ask about the INCSR is what measures are applied, and what do they tell us about drug control progress? Two of the principal measures used in the INCSR are hectares eradicated and drugs seized. For example, this year's INCSR asserts that "Cocaine seizures in the Western Hemisphere set new records in 2005," and that "Colombia had a record year in 2005 for eradication, interdiction, and extradition."

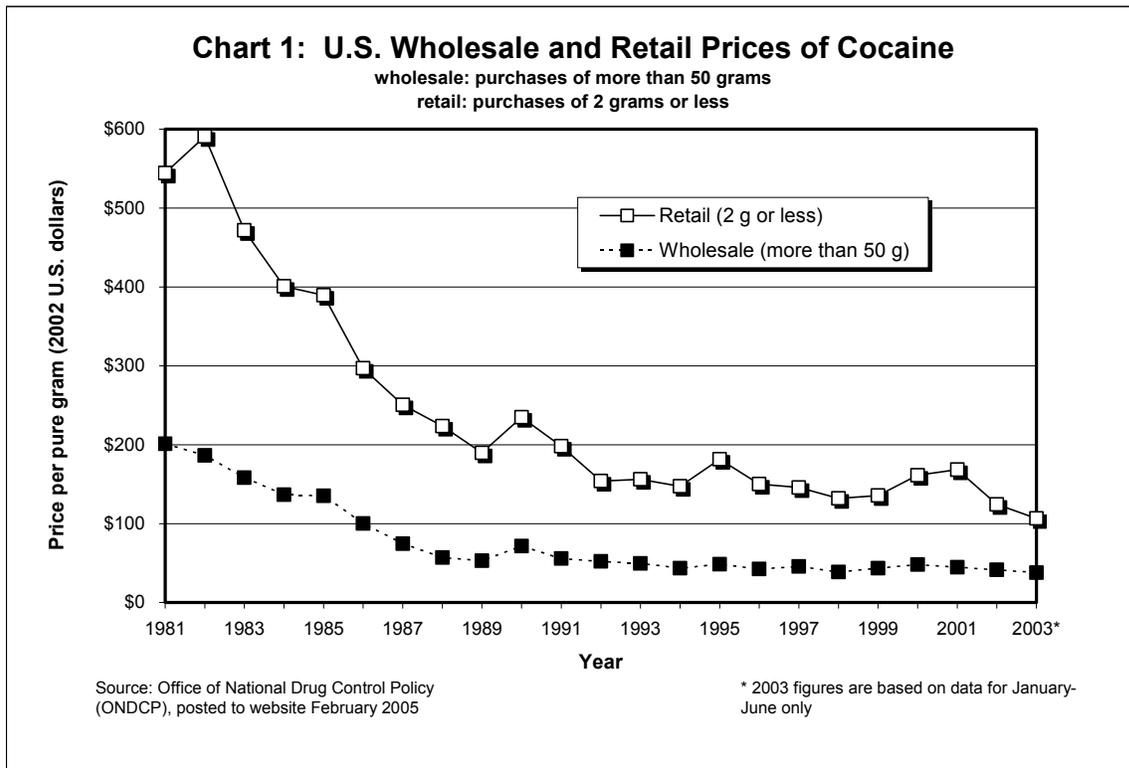
Records are being set. We must be making progress, right? Instead, the story these figures tell is that we are trying hard and that we have been very busy. But, activity and success are two different things, and these figures cannot measure success.

The theory behind supply-control activities such as drug crop eradication is that reduced drug availability will drive up U.S. street prices and thereby discourage consumption. Within this framework, the more pertinent measures of success have to do with availability, prices, and consumption.

In January, the U.S. Justice Department reported that "Cocaine is widely available throughout most of the nation, and cocaine supplies are relatively stable at levels sufficient to meet current user demand."

Recent claims by the Office of National Drug Control Policy (ONDCP) that cocaine's retail price was on the rise from February through September 2005 have been used to suggest that the Plan Colombia and associated supply-control activities have at last created supply scarcities and are driving up prices. But these claims must be regarded with considerable skepticism. First, ONDCP has offered no explanation of the methods used to generate the new price estimates, even though the charts that have been publicized are obviously at odds with the price and purity time series produced by RAND for ONDCP and posted on ONDCP's website in February 2005. For example, RAND's estimates show cocaine's retail price per pure gram to have been about \$94 in the second quarter of 2003. ONDCP's new chart, by contrast, begins in July 2003, showing cocaine's retail price to be roughly \$210. Obviously, cocaine's retail price did not double from June to July 2003, meaning that the new ONDCP results are substantially different from RAND results. But whereas the RAND-produced price and purity estimates are accompanied by exhaustive descriptions of the methods and data sources used, the new ONDCP charts provide no description of how the estimates were arrived at. With such dramatic discrepancies between the sets of estimates, the new figures cannot be considered credible until ONDCP describes in full the methods used and opens their findings to expert scrutiny.

Second, even if the new ONDCP figures are taken at face value, they beg the question as to why this particular price spike (if genuine) should be expected to endure. Indeed, the chart that was provided to the media by ONDCP last November shows the much-touted price increase as having come on the heels of a significant price decrease. As revealed in the RAND estimates, which go back to 1981 (see Chart 1), the long-term price trend has been fairly steadily downward, punctuated by occasional upward spikes. Even when the price spikes have been considerably larger than the Fall 2005 fluctuation claimed by ONDCP (as in 1990 and 1995), they have been ephemeral and followed by continuing price declines. In short, history suggests that not too much should be made of the kind of fluctuation ONDCP has been claiming recently, especially since the RAND estimates showed prices to have been at their all-time lows at mid-year 2003.

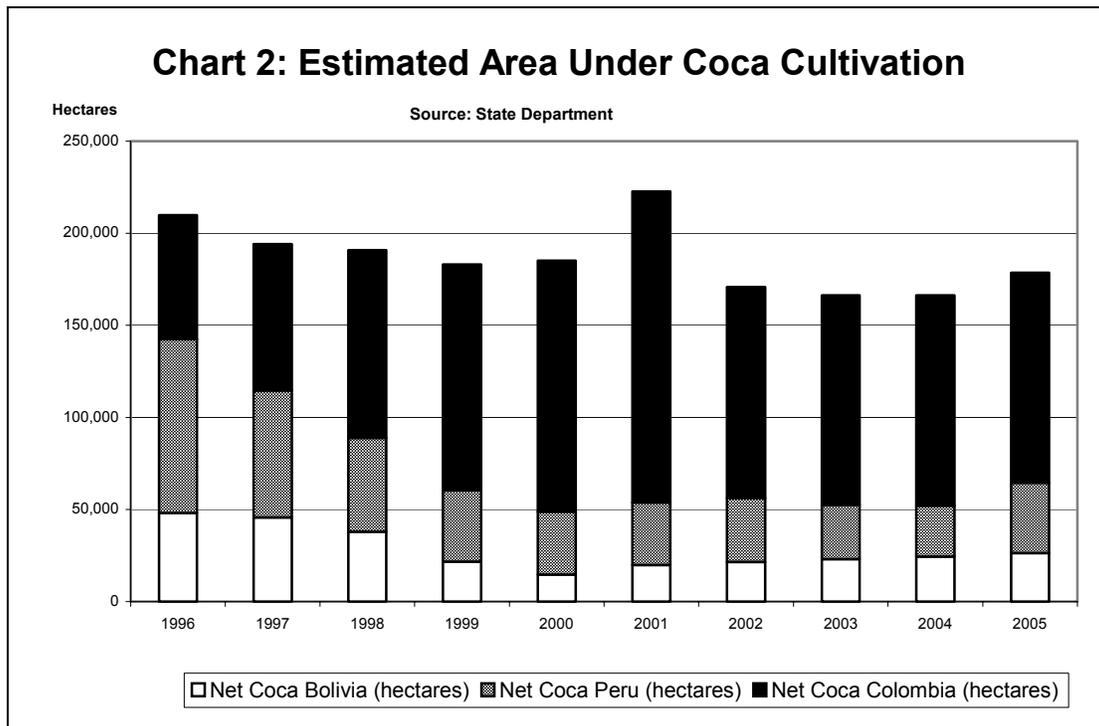


The latest estimates on prevalence of cocaine use and dependence are not encouraging either. The Bush administration has claimed great success in reducing levels of illicit drug use among youth, but the best that can be said of cocaine use rates is that they have remained relatively stable, based on the Monitoring the Future school-based survey. Other government figures are even less encouraging. The federal government's National Survey on Drug Use and Health (NSDUH), a household survey, shows a 33 percent increase between 2000 and 2004 in the number of first-time cocaine users under the age of 18. Also according to the NSDUH, the number of Americans considered to be abusing or dependent on cocaine rose from 1.488 million in 2002 to 1.571 million in 2004.

Now, let's look at the results of coca eradication in Colombia and the Andes in general. Despite record aerial herbicide spraying of over 130,000 hectares of coca crops in 2004, the

total area under coca cultivation remained “statistically unchanged” at 114,000 hectares, according to figures released by ONDCP in March 2005. While the 2005 estimate of Colombian coca cultivation has not yet been released, indications are that the estimate will be the same as or even higher than in 2004, despite another record year of aerial spraying, as well as a significant increase in manual eradication. If the 2005 estimate for Colombia is in line with the 2003 and 2004 figures, then the area under coca cultivation in the Andes for 2005, according to the U.S. government’s own estimates, will be roughly 179,000 hectares, only 3 percent lower than the estimate for the year 2000, when Plan Colombia got underway (see Chart 2). If, as has been speculated, coca growers are increasing their coca leaf yields per hectare, then small decreases in total land under cultivation may not actually translate into less coca and less cocaine production. Indeed, the record seizures being reported suggest no shortage of cocaine being produced.

In October 2003, ONDCP Director John Walters stated that “We are concerned about spread back, but those who have been religious like believers in the balloon effect, the balloon is not growing, the balloon is not moving, the balloon is shrinking, and it’s shrinking at historic levels. It’s maybe time to get another God.” Alas the government’s own data continue to refute Walters’ contention. The underlying economic and institutional factors that favor coca cultivation remain essentially intact, all but untouched by U.S. pursuit of the quick-fix forced eradication approach.



It should be noted that this discussion has assumed that the U.S. coca cultivation estimates are more or less accurate. But – as anonymous senior U.S. officials have acknowledged in the media – the coca estimates are in all likelihood serious understatements of the true extent of coca cultivation, especially as new plantings have become more dispersed and farmers

take precautions to conceal their crops from aerial spray operations. The uncertainties involved in the estimation process argue against the presentation of single-figure estimates, which hide these uncertainties, thus misleading policymakers and the public into believing that we know more than we really do. The cultivation numbers, wherever they seem to be headed, need to be taken with a grain of salt, with the understanding that, in reality, coca cultivation and cocaine production exceed the official estimates, perhaps by wide margins.

In the past, the failure of eradication to achieve substantial and lasting reductions in coca cultivation and cocaine production has been met with an escalation and intensification of essentially the same strategy. Indeed, Administration officials have already suggested that in response to the failure of aerial spraying to deter new coca cultivation, the U.S. and Colombia must expand and intensify the aerial spray program. The argument for escalation is accompanied by the fallback position that if the U.S. had not been pursuing its supply-control approach, the problem would be that much worse. While not entirely implausible, this fallback position is undermined by its failure to account for two major questions. First, what are the opportunity costs of adhering to (and even escalating) a dubious approach when the same money could be spent far more effectively on other strategies? Second, is the collateral damage generated by current policies justified by such minimal (if any) positive results? The wisdom of staying the course, already on extremely shaky ground given the sheer ineffectiveness of current policies, becomes even more suspect when the opportunity costs and collateral damage are taken properly into account.

Collateral Damage

The sad reality is that forced eradication and other aspects of supply control have not only failed to reduce drug production, but these elements also have caused serious collateral damage in the region, and continue to undermine U.S. credibility. This was the focus of the *Drugs and Democracy* study and its conclusions; let me summarize them for you.

1) Forced Eradication

Aerial spraying has led to a dramatic expansion of the areas where coca is grown in Colombia. At the beginning of Plan Colombia, coca production was mostly confined to three departments in the southern part of the country. Coca can now be found in at least 23 of the country's 32 departments and is now often grown in smaller parcels, under shade, where it is harder to detect. Crop protection measures and higher yields per hectare make the challenge even greater. Our policy has demonstrably not deterred new coca cultivation, but has led to its dispersal to new parts of the country. Indeed, according to the United Nations Office on Drugs and Crime (UNODC), more than 60 percent of the coca fields detected in Colombia in 2004 were new, a finding that "revealed the important mobility of coca cultivation in Colombia and the strong motivation of the farmers to continue planting coca."

Insufficiently considered are the people at the other end of the forced eradication strategy. From the start of Plan Colombia until today, the humanitarian side of our policy approach, alternative development and assistance to those displaced, has lagged woefully behind the enforcement/eradication side. In the department of Guaviare, for example, nearly 110,000

hectares of coca were subjected to aerial herbicide spraying from 1999 through 2004, according to UNODC, but over this entire six-year period only about \$500,000 was devoted to alternative development in the department.

The reality is that coca is produced by poor farmers. It is a small scale cash crop often produced along side of subsistence food crops. Glyphosate, the herbicide being sprayed, does not make a distinction between coca and beans. Every time we spray and displace small farmers without providing them with some sort of alternative, we leave families without food and drive them from subsistence to desperation. What do we expect from this policy? These people are not just going to lie down and die. They are going to struggle to survive, whether that means moving to a new plot of land, joining an illegal armed group, or migrating, so be it. We have made poverty and forced migration out of desperation a standard result of U.S. policy.

Colombia has the second largest population of internally displaced persons in the world, after Sudan. This displacement is primarily caused by Colombia's 40 year-old internal armed conflict, but U.S. drug policy is making the displacement problem worse. According to CODHES, the Consultoria para los Derechos Humanos y el Desplazamiento, a Colombian NGO working on issues of displacement, about 47,000 people were displaced in 2005 after their coca and legal food crops were destroyed by fumigation. Aerial eradication is not simply an ineffective policy, it is a cruel one.

Meanwhile, a consensus has formed in the international community on the futility and even counter-productivity of eradication before other income-generating alternatives are already in place. As summarized in a 2005 World Bank report:

“A key lesson is that eradication alone will not work and is likely to be counterproductive, resulting in perverse incentives for farmers to grow more drugs (for example, in Colombia), and displacement of production to more remote areas, and fueling violence and insecurity (Peru, Bolivia and Colombia)...Neither does the approach of making eradication a condition for development assistance work – without alternative livelihoods already in place, premature eradication can alienate the affected population and damage the environment for rural development.”

To make genuine and lasting progress in reducing drug crop cultivation, the U.S. needs to join this consensus, and reorient its policies to emphasize developing alternative livelihoods, treating farmers of illicit crops as partners in development, not as criminals.

2) Investing in the wrong institutions

Many of the problems created by drugs in Latin America are related to money laundering and corruption. These problems are best addressed by criminal investigations and prosecutions, backed by serious political will. While the U.S. has invested in justice reform and specialized police units, its primary investment has been through the military.

In 1989 the U.S. Congress made the U.S. military the “single lead agency” in the detection and monitoring of drugs coming into the United States. While the military initially resisted

this role, they did what any good democratic military does when assigned a job by the civilians: they embraced the role. They also turned to their partners in the region, Latin American militaries, for help.

Another incentive for military engagement was that local police were often judged to be too corrupt to be reliable. The U.S. has invested heavily in military involvement in counter drug solutions while treating police and judicial institutions in the region like the poor step-sisters – you have to keep them in the family, but you don't want to invest any real money in them.

During the 1980s much of the region withdrew its militaries from civilian roles, including internal policing. However, U.S. engagement with regional militaries has helped push many of those militaries back into policing roles, a trend we now see expanding beyond combating drugs to gangs and other transnational policing issues.

In search of effective partners, we have gone to extremes at times, as with the creation of the Expeditionary Task Force, a paramilitary counter drug force that was under the direct control of the U.S. embassy in Bolivia. Only after its existence was documented in the U.S. media was the force subsequently disbanded.

In general, use of the military can provide short-term results, but lasting impact requires dismantling trafficking networks. Only police and judicial institutions can do this. It boils down to short-term results vs. long-term solutions. By investing in military approaches we are not investing in long-term solutions. We must invest in strengthening police and judicial institutions.

3) Civil Liberties

U.S. drug policy has also promoted the adoption of harsh anti-drug laws that are at odds with basic international norms and standards of due process and undermine already tenuous civil liberties. These laws often result in the creation of either courts or procedures that greatly limit due process guarantees, such as the presumption of innocence, the right to an adequate defense, and the requirement that the punishment be commensurate with the gravity of the crime.

For example, both Ecuador and Bolivia adopted U.S.-backed legislation in which the burden of proof for conviction of drug offenders was so low that local human rights lawyers complained that their defendants were forced to prove their innocence. As in the United States, harsh mandatory minimum sentencing laws have also spread across the region. In Ecuador, the law mandates a 12-year minimum jail sentence and a 25-year maximum sentence for drug-related crimes. The law does not differentiate between those who are paid to carry drugs, small-time traffickers, or drug kingpins – all are subject to the mandatory minimum. The maximum sentence for murder, in contrast, is 16 years. Thus, a small-time trafficker could end up with a higher sentence than a murderer.

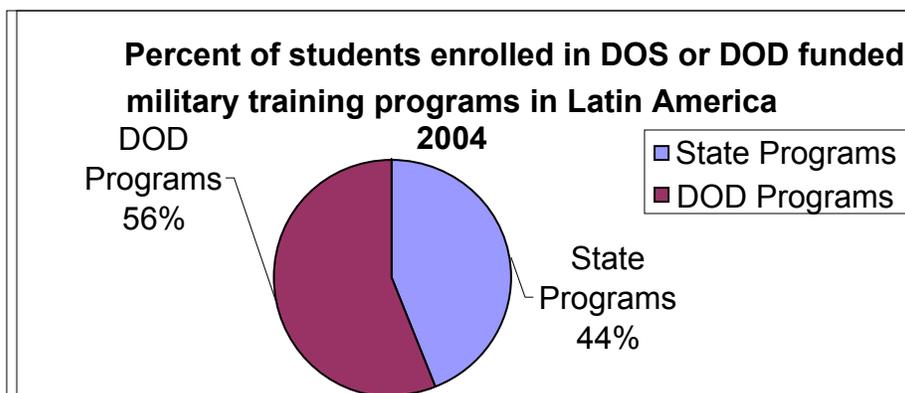
Anti-drug legislation, including mandatory minimum sentencing laws, and the use of numerical quotas for arrests, has filled the prisons of countries across the region with low-level offenders – even innocent people – who have little access to adequate legal defense. In

some countries, only a small percentage of those arrested are actually convicted, while in others conviction rates are astoundingly high. Pervasive corruption and weak judiciaries mean that major drug traffickers are rarely sanctioned. If they are, they often benefit from far more acceptable prison conditions, as they have the resources to purchase a range of amenities.

4) Oversight

U.S. drug control policy and security policy more generally with respect to Latin America, is moving out of the jurisdiction of the Department of State and this Committee and into the Department of Defense and the Armed Services Committees.

Historically U.S. military training has been paid for and overseen by the State Department. Increasingly, training is being paid for and executed directly through DOD. About 60 percent of all US military training for Latin America is paid for out of the Pentagon.



Source: Foreign Military Training In Fiscal Years 2004 and 2005, Volume I U.S. Department of Defense and U.S. Department of State Joint Report to Congress Released April 2005

	State Programs		DOD Programs
FMF	167	ALP	24
FMF (Bolivia)	4	CTFP	1107
FMS	211	Exchange	2
IMET	5282	Non-SA, Comb Command (JCET)	7
INL	1261	Service Academies	24
Section 506	0	PME	6
		Regional Centers	378
		Section 1004	7076
Total	6925	DOD/DOS Non-SA	226
		Total	8850

This is of concern to us for three reasons: 1) there is much less congressional oversight and many fewer reporting requirements on programs under the jurisdiction of Defense than State; for example, only sporadically in recent years have the Armed Services Committees required any public reporting at all on counter drug programs; 2) training has historically been under State because of the foreign policy implications of foreign military training, and we believe that State should play a central role in decisions about training; and 3) the 40 years of

legislative history on human rights law on foreign assistance (with the exception of a version of the Leahy Law) applies only to programs under the jurisdiction of the Foreign Assistance Act, so training and security assistance programs funded through DOD are not subject to these restrictions.

We believe that this committee has played a critical role in this process and that it is imperative for the committees of jurisdiction (House International Relations Committee and the Senate Foreign Relations Committee) to reassert their authority over these programs.

Conclusion

In conclusion, U.S. drug policy in the region is plagued by short-term thinking that leads to tactical victories that often make the problem worse and create collateral damage. Every time we are “successful” in eradicating drug production through forced eradication, we displace people who move elsewhere, often moving production and environmental damage with them. When we are “successful” through interdiction in limiting trafficking in one area, it moves somewhere else, bringing corruption and violence to a new country or region. Every time we declare victory, some part of Latin America loses.

So what should we do to control the damage caused by drugs and U.S. drug policy throughout the U.S. and Latin America?

1) Think long-term. We have to get out of the quick-fix mentality. The Congress needs to decide that it wants to impact drug consumption in the U.S. and production and trafficking in Latin America by making a long-term investment with a policy approach designed for the next twenty years. By requiring State and DOD to show “progress” in the war on drugs from this year to next, we have developed short-term bureaucratic thinking that has produced negative long-term results. Stop the body count.

2) Reduce harm. Current U.S. drug policy exacerbates political and human rights problems in the region and contributes to anti-American sentiment. While there will always be some harm produced by anti-drug strategies, as there is harm produced by the drug trade, we should base our policy choices on what is truly effective and creates the least collateral damage.

3) Invest in evidence-based approaches. There are studies on the international and the domestic side that show what works, what’s promising, and what doesn’t work. They tell us that cooperative eradication – with viable alternative livelihoods already in place – is more effective and lasting than forced eradication. If we took this seriously we would put development strategies ahead of the eradication process. The perennial goal of our enforcement-led supply-control approach has been to restrict availability and thereby reduce drug use. But the best available evidence on availability (including price and purity trends) has shown that this just has not worked. By contrast, an enormous body of evidence shows that without any doubt, treatment for drug abuse is both an effective and cost-effective way to reduce drug consumption and associated harms, without any of the collateral damage that has characterized our supply-control emphasis.

4) Work in consultation with governments of the region. We certainly have not cornered the market on success in terms of drug policy. Why not be more flexible with countries in the region that are committed to fight drugs, but need the political space from the U.S. to try alternative policies? Instead of holding a big stick over Latin American nations, threatening their bilateral aid and trade status if they don't implement the programs we prefer, we should develop a more cooperative approach. This would go a long-way toward remedying hostile regional feelings toward the U.S.

5) Slaughter the sacred cow. In the past three years I have had countless conversations about U.S. drug policy in the region with U.S. policy makers from both side of the aisle. The overwhelming sentiment I have gotten is that there is a fundamental understanding that current policy does not work, but that it is a sacred cow and that it is political suicide to challenge the policy or think outside the box.

I have also traveled extensively throughout the U.S. over the past year giving public presentations on the *Drugs and Democracy* study. Not one person stood up and said, why are you questioning this successful policy? There is tremendous public sentiment that current policy is not working. There is the domestic political space for change.

Can-do optimism and steadfastness in the face of repeated setbacks are admirable qualities, but not when the strategy being pursued has shown itself to be fundamentally flawed. At this point, to cling to the belief that the same policies will somehow now deliver different results is not to be optimistic but delusional, not steadfast but merely stubborn.

I think that it is time to get all of the policymakers who think that the current policy is failing together in a room with no outside observers, to slaughter the sacred cow, and to start to explore policies in the U.S. and in Latin America that can be more effective in mitigating the extreme harm caused by drugs and the war against them.