Human Rights Foundation

THE COST AND CONSEQUENCES OF THE WAR ON DRUGS

REPORT

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Executive Summary

The "war on drugs" was first declared by U.S. President Richard Nixon in 1971, with the goal of eradicating what he viewed as the growing problem of drug addiction. Since then, it has had dire consequences, including the exacerbation of human rights violations and erosion of democratic institutions around the world. Yet human rights groups largely refrain from discussing drug policy.

Hundreds of civil society groups around the world are dedicated to investigating the outcomes of the drug war and advocating drug policy reform based on their findings. However, drug reform advocates often comment that international human rights organizations have been largely absent in these discussions. Human rights reports generally stick to noting human rights violations in affected states as a whole, without investigating the violations' relation to drug policy and drug trafficking organizations.

Knowing this, the Human Rights Foundation initiated its War on Drugs Research Project to examine data and existing research on the global drug war's costs and consequences in order to understand drug policy from a human rights perspective. The resulting report is organized in two parts. The first offers a high-level introduction to the drug war's history and economics. It explains how prohibition was established, how the resulting black market functions, and how its policies have ultimately failed to decrease drug abuse.

Once we have established whether prohibition policies have created the desired outcomes, we look at the negative consequences of the policy — the human rights consequences — through three case studies: Colombia, Mexico, and the United States. These countries were selected because of their positions along the illegal drug supply chain. Colombia is a production country on the cocaine supply chain because of its position in the Andes mountain range, where coca, the plant used to manufacture cocaine, grows. Mexico is a transit country that traffickers pass through on their way to the drugs' final stop: the United States, a destination country. Drug prohibition has taken different forms in each country because of their position on the supply chain. By examining each country, we hope to understand how different prohibition policies shape human rights outcomes.

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF's focus shapes the scope of this report. The organization focuses on civil and political rights: the rights to free expression, belief, assembly, association, press; to liberty and security of the person; to access informa-

tion; to political participation and to vote; and, of course, to life, among others. As many of these rights constitute the definition of liberal democracy, HRF research pays special attention to the political systems of countries in which human rights violations take place. In this report, this means that we have taken special care to understand how the drug war interacts with and affects a country's democratic health. Colombia, Mexico, and the United States are all categorized as democratic countries under HRF's Political Regime Research Project,[i] which categorizes all countries in the world into regime types using a methodology adapted from the one presented in Steven Levitsky and Lucan A. Way in *Competitive Authoritarianism*.[1]

It is well established that prohibition has failed to reduce consumption and abuse. But prohibition is not just ineffective; it's harmful. This report shows how prohibition's policies have directly caused severe human rights violations in affected countries, especially by undermining civil and political rights to such a degree that these policies constitute a threat to democracy. Supply-centric policies have had grave consequences for individuals, communities, and the health of democratic institutions, including high rates of violence, disappearances, kidnappings, and incarceration; impacts on local communities and minority populations; state instability, lack of trust in government, and corruption; and a deterioration of rule of law and electoral competition. The report's findings suggest that, from a human rights perspective, there must be a shift from international drug policies that focus on criminalization and supply reduction, to ones that have human rights and health at their core.

[i] For more information, see https://hrf.org/research_posts/political-regime-map/

PART I.

AN INTRODUCTION TO PROHIBITION

THE HISTORY OF PROHIBITION

Concerns with drug abuse have a long history, and prohibition — the banning of drug production, sale, possession, and use — has been a popular policy response from the start.

In 1810, the Qing Dynasty in China passed the first narcotics law in the world, banning opium mud and enforcing the death penalty for traffickers and dealers as addiction began to rise.[2] Despite the restrictions, following the Opium Wars between Qing Dynasty and the British Empire, opium and cocaine addiction and abuse continued to rise. By the start of the 20th century, influential American leaders, including U.S. Opium Commissioner Hamilton Wright, appointed in 1908, had begun describing drugs as a "curse" and moral threat that must be removed entirely from society. Following U.S. leadership, in 1909, world powers convened in Shanghai for the Opium Commission, which aimed to find a collective way to eliminate "drug abuse" once and for all.[3] This initial meeting, along with the Paris Convention in 1931, established the modern framework of narcotics control, which was finally formalized in a series of documents and treaties from the 1960s onwards: the U.N. Single Convention on Narcotic Drugs of 1961, the 1972 Protocol, the 1971 Convention on Psychotropic Substances, and, finally, the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1998.

The term "war on drugs" was coined in 1971, by U.S. President Richard Nixon during an historic press conference where he identified "drug abuse" as "public enemy number one." This enemy, President Nixon reasoned, was so pervasive that the United States would be required to "wage a new, all-out offensive" across the world to defeat it.[4][5] This kind of language was greatly influential in establishing the war on drugs as a global struggle focused on eliminating substance abuse. In fact, global policy surrounding drugs has predominantly been shaped by the United States' advocacy for an "absolutist prohibition approach,"[6] and while prohibition is a matter of international law, the global drug war is widely considered a U.S.-led campaign.

The resultant international treaties codified prohibition as the unified global drug policy, limiting the legal use of drugs to scientific use and medical treatment. After more than 100 years of international prohibition policy, the drug market is alive and well, though underground. The rhetoric calling for the elimination of drugs from society has not been translated into successful policy. Given this, many have argued that the complete removal of drugs from society is simply unachievable. Nevertheless, this goal has shaped policy discussions: The sessions that produced the 1998 U.N. Convention on drugs was convened under the optimistic slogan, "a drug-free world, we can do it!"[7]

U.S. President Richard Nixon (Photo from the United States Library of Congress)

Similarly, though the treaties establish a global mission (ending global drug consumption and abuse) with a general policy guideline (prohibition), they did

not establish processes to coordinate efforts across nations. The guidelines established by U.N. treaties give countries a degree of freedom in battle drug use and trade within their borders, and as a result, the strategies and harshness of legislation vary considerably between different jurisdictions. The only body created to unite member states was the International Narcotics Control Board (INCB), which was charged with creating a "global system of estimates" — i.e., determining the quantity of narcotics that should be produced in order to meet medical and scientific needs, so that states could regulate above that threshold to prevent excess crops from ending up in the black market. Unfortunately, the INCB is widely considered a failed project that has fallen victim to political manipulation.[8] The failure or lack of international bodies to coordinate efforts across border causes some of the inefficiencies and side effects[9] discussed in the following section.

Furthermore, as John Collins outlines in his 2012 article, "The Economics of a New Global Strategy," the international community also clearly established that prohibition would be enforced by police and the military using supply-centric policies, rather than demand-centric ones. That is, governments would build policies aimed at reducing the supply of drugs, believing that this would inevitably lead to a reduction in consumption. This meant that the burden of enforcing prohibition fell on countries where drug crops are cultivated (known as "production countries") or countries that are along trade routes (known as "transit countries"). The supply-side focus deemphasized the international obligation of governments of "destination countries" to provide rehabilitation for addicts, health services to drug users, or improve the socio-economic conditions that lead to drug abuse.

Many production and transit countries have historically been low- to middle-income countries, while states with high rates of drug consumption tend to be wealthier. The United States and Western European countries are the most common destinations for traffickers, as they can reach the biggest markets there. To many that have suffered the consequences of the war on drugs, this supply-centric approach is interpreted as[10] the West and the United States forcing other countries to make enormous sacrifices fighting their war, while they fail to take real steps to address problems at home.

In recent years, activists, policymakers, and other experts from production and transit countries, particularly in Latin America, have challenged prohibition as a paradigm. For example, Francisco Thoumi, an expert on drug policy in Latin America, has been using his position on the INCB to push the board to revise its hardline approach to drug policy, explaining that the current policies were imposed without any discussion or analysis of their effectiveness. [ii] Some states are following suit by decriminalizing or legalizing certain drugs, but these efforts have not yet translated to change at the international level. underground. The rhetoric calling for the elimination of drugs from society has not been translated to change at the international level.

ii For more information, see Francisco Thoumi's remarks at the 2018 Oslo Freedom Forum: https://hrf.org/research/war-on-drugs.

An advertisement for the 1942 movie, "Devil's Harvest" (Photo from IMDB)

THE ECONOMICS OF THE ILLICIT MARKET

Prohibition and other forms of sweeping government intervention in the economy — such as price controls — in general generate black markets. Even though black markets have existed since as long as governments have, it has been only since the second half of the 20th century that economists have taken up the challenge of modeling their fluctuations. International political economy and international security scholars have examined illicit markets to understand how and why policies translate into violence — yet this is still an underdeveloped field, as well. It has been generally established that black markets operate very similarly to legal markets, with the important exception that its participants cannot rely on the state to enforce contracts. As a result, in black markets, contract enforcement through violence is common, particularly when state presence is weak).[11] Additionally, there is the general awareness that businessmen in this shady industry do tend to diversify — for example, drug cartels are likely to also gain money through extortion. Knowing this, many experts have begun using the terms "drug trafficking organizations" (DTOs) or "transnational criminal organizations" (TCOs) to refer to diversified cartels. Much of what we know about black market forces is through observation, and requires further empirical investigation. Still, economists, political scientists, journalists, and other experts working on drug prohibition specifically have identified various trends in how illicit markets operates that provide useful insight for policy.

The supply chain for illicit drugs like opium and cocaine moves along understood geographic routes, from production countries, to transit countries, to destination countries. This is in part because some drug crops, like the coca leaves that are made into cocaine, can only grow in certain regions and conditions. Other crops, like marijuana, do not have this limitation.

Another explanation is that certain states lend themselves better to conducting criminal activity on a larger scale. In his book *Narconomics*, journalist Tom Wainwright rejigs the World Economic Forum's data from the "Global Competitiveness Report" to create the "Cartel Competitiveness Report." The index builds from the hypothesis that cartels prefer to set up shop in countries with weak institutions that lend themselves better to conducting large-scale criminal activity. Wainwright focuses on the indicators for "diversion of public funds, trust in politicians, bribery, judicial independence, favoritism in decisions by governments, business costs of crime and violence, presence of organized crime, reliability of the police, and the ethical behavior of firms."[12] (These qualities are "helpful" to criminals, Wainwright writes: "The WEF's ranking could almost have been designed with drug cartels in mind.")[13] The new cartel index, applied to Central America, does seem to mirror reality: Countries with stronger and less corruptible states (Costa Rica, Panama) receive the highest scores, while countries with corruptible or untrustworthy states (Guatemala, Honduras) have the lowest scores, indi-

cating that they are better for cartels. These rankings track well with violence levels, a proxy for cartel activity.

Wainwright's work provides data to back the generally accepted idea that illicit drugs pass through countries with weaker institutions or borders to enter countries with the largest number of consumers. And it's important to note that some of these indicators — judicial independence, favoritism, etc. — are also related to a country's democratic health.

Along the drug supply path, there are five separate agents: farmers, producers, traffickers, consumers, and governments. Common drug policies, following the international model, focus on disrupting the supply chain to prevent drugs from reaching users, therefore focusing the most resources and time on policies that affect farmers, producers, and traffickers. The most common prohibitionist policies include:

- *Crop eradication*, where state authorities, very often soldiers, physically destroys drug crops by hand or through other means such as *aerial spraying*, the use of planes to spray destructive chemicals onto drug crops to render them useless for drug production.

- *Interdiction*, intercepting drug shipments as they move up the supply chain, often at border crossings.

- *Militarization*, where the state responds to drug traffickers as a national security threat, deploying army regiments and using military tactics to combat drug producers and traffickers.

- *Criminalization* of drugs sale, possession, and use, and the prosecution of cases through the criminal justice system

In response to the negative outcomes of these policies (described in detail later in this report), reformers have advocated new approaches, including harm reduction, an approach that aims to reduce the negative consequences of drug use instead of aiming to end drug use altogether. These policies are generally demand-centric and give special emphasis to improving healthcare provision and outcomes for addicts. Such reform movements are important to recognize as a potential path forward, though examining the effectiveness of their alternative policies falls out of the scope of this report.

Existing analyses have provided useful insight into the failings of drug prohibition policies. For example, economists have shown that those most effected by supply-side policies tend to be the most vulnerable on the supply chain: the farmers, who almost always receive less than 1 percent[14] of the total profit. In fact, current policies may actually be helping cartels. In a 2010 paper, Rómulo Chumacero proposed a new model, based on previous observations of similar markets, that analyzes how supply-centric prohibition policies affect each agent in the supply chain.[15] Among the most illuminating conclusions, which has since been corroborated by empirical research, is that increasing government spending on law enforcement or the military can actually benefit drug cartels.[16] Crop eradication efforts can be somewhat effective in reducing the supply in a specific region, but they actually seem

to increase the profits of cartels that control drug traffic, thus ensuring that the more violent parts of the supply chain continue operating. Chumacero also modelled the effect of stiffer penalties for violating drug laws. He found that when stiffer measures are applied across the board, the ones who end up suffering the most are, again, farmers and consumers, while traffickers and producers actually benefit from more punitive laws. Despite decades-long efforts to reduce supply, the power of Mexican cartels has grown tremendously in the past few decades.

Another important insight has been the discovery of the "balloon effect," wherein policy changes in one country have been observed to affect neighboring countries, as well as other links along the supply chain. The balloon effect reflects the lack of coordination at the international level. When authorities in one country apply greater pressure to the drug industry, through increased crop eradication, for example, this can lead to greater competition and violence in other parts of the supply chain, or can prompt cartels to shift operations to another, friendlier country. (Cartels' movement from one country to another in response to policy changes is also sometimes called the "cockroach effect."[17]) Several cases of this phenomenon have been observed in the last two decades, though economists have not studied the effect in detail.

In addition to examining the poor outcomes of existing drug policies, analysts have also argued that drug policies are hampered by policymakers' and economists' inability to properly conceive of cartels as market or state actors. The central argument of Wainwright's book is that drug policy would be better understood if we apply basic economic principles to cartels, rather than treating them like some kind of hostile and unknowable enemy. In his book, Wainwright points to several cases where governments have revealed their complete obliviousness about the drug market. For example, in 2010, after Mexican authorities seized 134 metric tons of marijuana, the biggest single drug bust in history at the time, reports estimated the worth of the drugs to be $340 million. But after analyzing this case through a basic economic model, Wainwright found that the real value of the seizure was less than 3 percent of that amount.[18] Mexican authorities had mistakenly applied the retail price of marijuana to estimate the value of the seizure, rather than the wholesale price, which is much lower.

Coca leaves

How, he asks, are government supposed to write and enforce good policies if they lack an understanding of basic economics? Cartels, he writes, are like any other business: they relocate to countries with more favorable climates; they compete and collude; they launch PR campaigns. By viewing cartels through this frame, we can better understand why operate in the way do, and can write better policies to regulate them.

A competing view of cartels comes from another journalist, Ioan Grillo, who argues that cartels could be considered a "criminal insurgency" whose actions are an attack on the state itself. When cartels target police and soldiers for

violent attacks and kidnappings, when they organize marches against the army, when they interfere in elections, they are engaging in warfare against the government, with the eventual aim of "state capture." "When a cartel controls a territory," Grillo explains, "it becomes a shadow local government, one that officials and businessmen have to answer to."[19] The insurgency has achieved some success: Criminal groups have infiltrated and corrupted state officials, police, and even the press.

It could be easy to see this insurgency perspective as justification for a militarized response to cartels — yet recent history has also shown that militarization does not reduce the amount of drugs trafficked, and actually increases violence levels by creating more competition, as will be discussed further in the Mexico case study below.[20] Instead, what we find insightful about Grillo's analysis is his systematic view of how cartel violence impacts and changes state institutions, which lays the groundwork for our argument here: that cartels and the prohibitionist policies that empower them present an existential threat to democratic governments.[21]

Currently, drug policies are driven by the stubborn vilification of drugs and drug users, and the misguided belief that eliminating supply is possible and desirable. Though journalists, academics, and economists are making strides toward a fuller understanding of how illicit markets operate, these findings so far have not been reflected in any recalibrations of global policy. And the current policies are simply not working.

COST AND OUTCOMES OF SUPPLY-CENTRIC, PROHIBITIONIST POLICIES

Drug policy experts have argued that prohibitionist policies entail a lack of understanding of market dynamics in pursuit of a goal that is unclear or unachievable. Since the official declaration of the drug war in 1971, the United States alone has spent upwards of $640 billion on the war on drugs.[22] Other estimates of the costs of the war are even higher — American Progress reports that it has cost the United States more than $1 trillion.[23] And these numbers only include federal spending. Furthermore, according to Transform Drug Policy's report, "Count the Costs," global annual spending exceeds $100 billion.[24] But has the world actually made progress in reducing drug abuse? Do the results justify the cost?

The architects of international prohibition argued that successful, supply-side policies would decrease the amount of drugs produced, which would thereby make drugs more costly at the retail level. As a result, fewer potential users would be willing or able to afford the drugs, decreasing consumption levels and, therefore, reducing addiction and abuse. Below, we look at these metrics to understand whether drug policy has been effective.

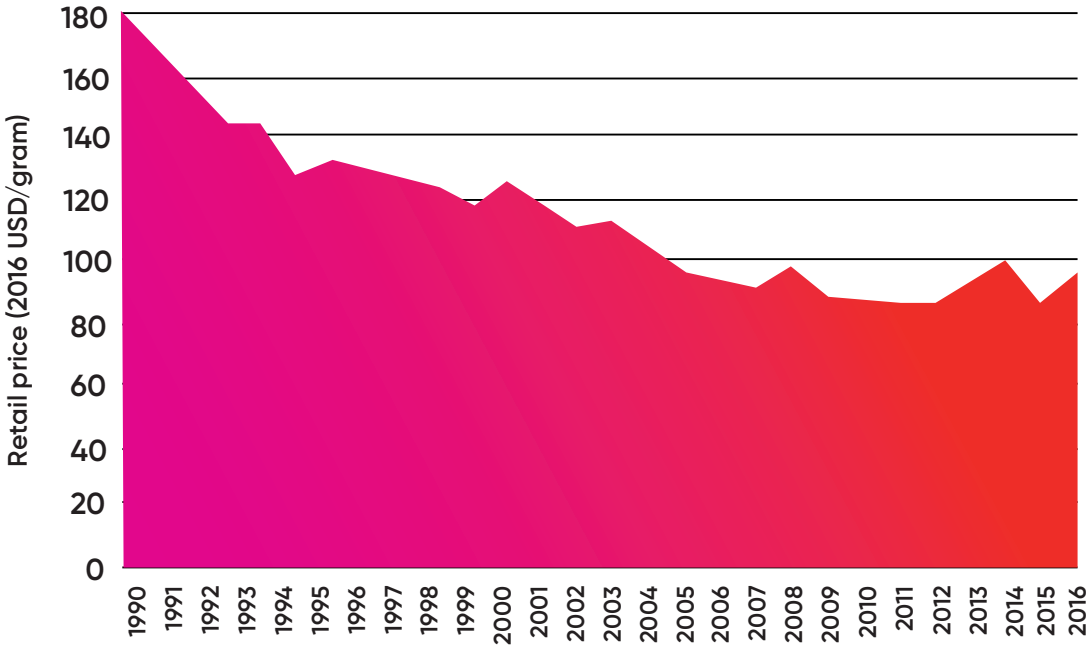
First, drug production has not declined steadily since the implementation of prohibition; instead, it has fluctuated dramatically in response to state-level policy changes. The U.N. World Drug Report notes that opium production jumped by 65 percent between 2016 and 2017. Afghanistan, the world's number one source of opium, saw an 87

percent increase in production in that same time period. The U.N. attributed this spike "political instability, lack of government control, and reduced economic opportunities for rural communities."

At the same time, cocaine production has reached the "highest level ever" — 1,410 tons, in 2016, a marked increase from previous years that had noted a decline. The U.N. finds that this increase is due to a spike in coca production in Colombia, which was caused by "a number of reasons related to market dynamics, the strategies of trafficking organizations, and expectations in some communities of receiving compensation for replacing coca bush cultivation, as well as a reduction in alternative development interventions and in eradication." In both cases, the U.N. has found that changing local circumstances hugely impacted global trends. This is the result of poor coordination between states at the international level. Fluctuations like these highlight the international nature of drug policy — the basic fact that changes in one country's approach to prohibition can have a dramatic impact on others. But more than that, it shows that gains in reducing drug production can be staggeringly short-lived. Colombia had reduced coca production dramatically, reaching historic lows in 2013. In just four years, by 2017, Colombia was back to producing three times that amount, undoing the work of a decade.

Second, reductions in drug supply does not correspond with changes in decreases in drug price at the retail level. As seen in the chart below, retail prices cocaine prices have not fluctuated along with the market — instead, we see a steady decline.

Retail Cocaine Prices in the United States



Source: UNODC, 2019[33]

In fact, economists have challenged the very logic underpinning the argument that declining supply would yield increases in retail price, because drug consumers are inherently different from buyers of other, legal products. Notably, addicts are not as concerned with price as the average buyer in a legal market. Furthermore, the nature of the drug supply chain works in a way that negates scarcity issues at the supply-end. Tom Wainwright notes that cartels have not had to increase prices even when eradication has been particularly effective, because they operate as monopsonies: In any given geographical area, farmers are only able to sell coca, the raw material for cocaine, to cartels that control the territory in which their farms are located.[25] This means that farmers are not able to dictate the price of their crop and sell to the highest bidder. Rather, cartels are able to dictate the price they are willing to pay — so if the price of producing coca goes up, according to Wainwright, farmers bear this cost. "In other words," he writes, "it's not that eradication strategy is having no effect. Rather, the problem is that its impact is felt by the wrong people"[26] — the farmers, instead of the cartels. Cartels do not pay more for coca, so they do not have to sell cocaine at a higher cost when it reaches its destination market.

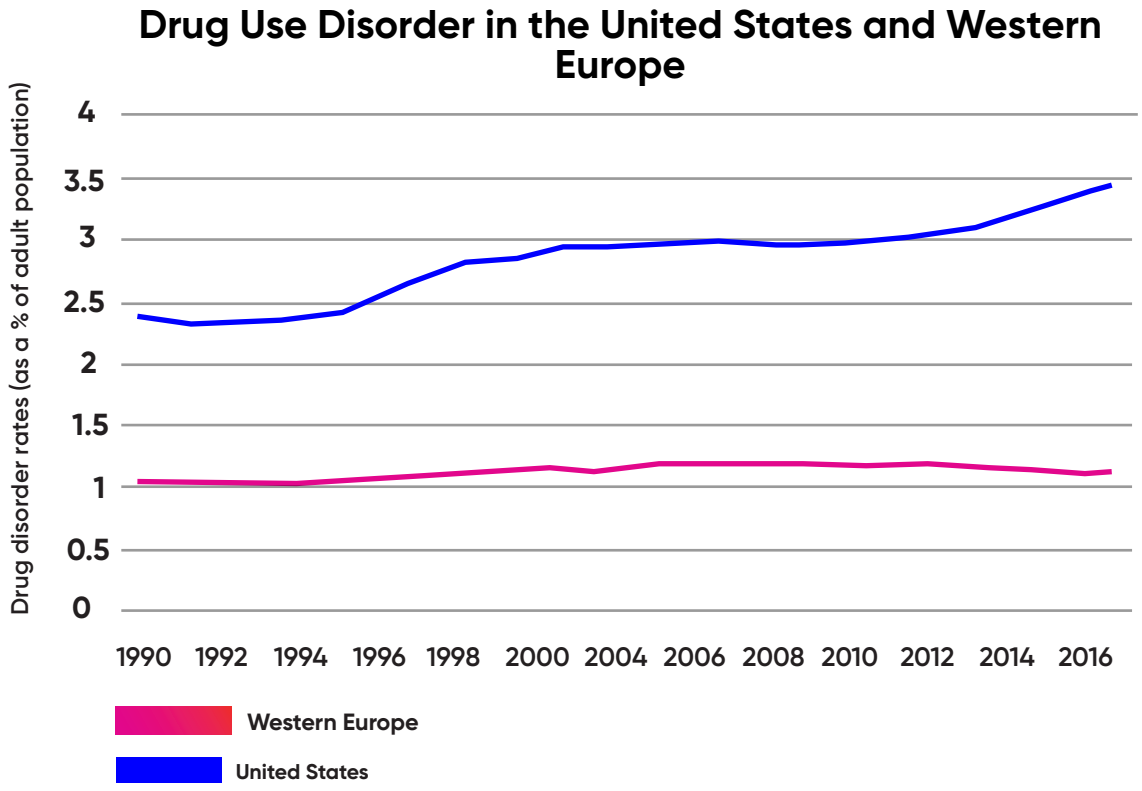
As a result, we've seen the direct opposite of prohibition's intended effect: Retail prices have decreased.[27] The decrease here may reflect increased competition for territorial control, as drug cartels proliferated throughout the 1990s and 2000s. Increased competition could have driven down price. But more research will need to be done to confirm this correlation.

Finally, data show that changes in production and retail cost have not impacted demand. According to UNODC data, the prevalence of drug use disorder has changed very little since 1990. In fact, between 1990 and 2016, drug use disorder rates among U.S. adults has gradually increased from 2.99 percent to 3.31 percent. In that same timeframe, Western European rates have hovered around an average of 1.17 percent. However, the U.N. reports that in 2016, just one in six people suffering from drug use disorders received treatment — a proportion that has also remained constant over time.[28]

Despite billions of dollars in spending on prohibition, drug abuse remains a significant concern both in the United States and abroad. According to the U.S. Drug Enforcement Agency's 2018 Drug Threat Assessment Report, drug poisoning deaths caused by both licit and illicit drugs are "currently at their highest ever recorded level," and are "the leading cause of injury death in the United States," outnumbering deaths by firearms, car crashes, and homicide.[29]

In some ways, it is difficult to assess how consumption rates have changed in the United States, because of a lack of data. Between 2006 and 2010, the Office of National Drug Control Policy reported a 50 percent decrease in the amount of cocaine consumed in the United States, a reduction that has been hailed as a triumph. Notably, this corresponded with a decrease in coca production in Colombia. However, data from that same time period showed that there was very little change in the number of users suffering from cocaine use disorder.[30] These data create a muddled picture, but seems to reflect

that decreases in consumption do not necessarily translate into decrease in abuse.[31] That is, without investment in healthcare options for addicts (as harm reduction campaigners suggest), prohibition policies are ineffective in reducing abuse. Unfortunately, clarity on this theory may not be forthcoming. Two important sources of data, the Arrestee Drug Abuse Monitoring (ADAM) program and the Drug Abuse Warning Network (DAWN), were recently defunded or discontinued.[32]



Source: OurWorldInData.org[34]

OVERVIEW

So, has the war on drugs achieved it goals? It appears that current prohibitionist, supply-centric goals have not succeeded in decreasing drug production, increasing retail prices, or reducing drug consumption or abuse, at least on a global level. This failure alone should justify a revision of global drug policy standards.

We have already evaluated the costs of prohibition in a monetary sense. The international community has spent billions on what seems to be an ongoing, failed experiment. But in the end, the war on drugs has cost far more than money. The rest of this report will explore these additional costs by answering a much-neglected question: What impact have war on drugs-related policies had on human rights in production, transit, and destination countries? And, just as significantly, are the resulting human rights violations severe enough to constitute a threat to democracy?

We find that, in addition to failing to achieve their stated aim, prohibitionist policies have been a significant burden on production and transit countries, on farmers and affected communities, on minority populations, on economies, and on drug users themselves. The case studies below — Colombia, Mexico, and the United States — will show how these dynamics play out along the supply chain.

The failure of prohibitionist drug policy has already been well-established by economists, political scientists, and drug policy reformers. However, the direct connection between prohibition and human rights abuses and democratic decline needs greater attention. It is imperative that, going forward, human rights groups partner with drug reform advocates to push for paradigmatic at an international level.

PART II.

CASE STUDIES

COLOMBIA:
A PRODUCTION COUNTRY

MEXICO:
A TRANSIT COUNTRY

THE UNITED STATES:
A DESTINATION COUNTRY

COLOMBIA
A PRODUCTION COUNTRY

GENERAL INFORMATION

Most of the world's cocaine originates in Colombia. The drug's raw material, the coca leaf, has been cultivated in the Andes for thousands of years, and is an important part of indigenous culture in Colombia, Peru, Ecuador, and Bolivia. The actors in Colombia's illicit market — which includes cartels, guerilla groups, and paramilitaries — take advantage of the country's mountainous geography, climate, and state weakness in rural areas to cultivate coca, transform it into cocaine, and export the drug through a transit country to its ultimate destinations in the United States and Europe.

Colombia's involvement in the illicit market goes back to the 1960s, but the country only became a major production country in the mid-1990s, after Peru and Bolivia cracked down on coca production. By this time, Colombia's major drug cartels, the Medellín and Cali cartels, had been dismantled by state security operations that targeted the cartel leaders. As coca production shifted from Peru and Bolivia to Colombia, former cartel members formed new groups to fill the void that the large cartels had left in the market, and entered into the drug production and trafficking business. Shortly thereafter, the country's insurgent groups followed suit.[35]

In Colombia, it is impossible to discuss the drug war without also analyzing the armed conflict between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC). Colombia shares this characteristic with other production countries like Afghanistan[36] and Burma, where the illicit market has given armed, non-state actors an alternate source of funding. Prohibition's simultaneity with conflict has meant that Colombia's drug policies were not necessarily aimed at reducing consumption in the United States and Europe, but at fighting an anti-democratic threat.

The resulting prohibitionist policies worked to eliminate the drug market at its source through crop eradication, aerial spraying, interdiction, and capturing drug kingpins. These policies were implemented and enforced with guidance and cooperation from the United States through Plan Colombia and, more recently, Peace Colombia. [iii] Between 2000 and 2008 alone, Colombia and the United States spent a combined amount of over $10 billion in military and law enforcement efforts to fight against "drugs and drug-related organized crime groups."[37]

Ultimately, through the analysis in this case study, we find that prohibitionist policies like interdiction were somewhat successful in weakening armed groups but failed to advance the world's larger goals of reducing consumption and abuse. At the same time, these policies were incredibly damaging to human rights: They directly caused a host of human rights violations, and indirectly caused more by creating an illegal market that provides violent actors an important source of income.

[iii] Plan Colombia remained in place after the agreement was signed and was renamed Peace Colombia.

HISTORICAL CONTEXT AND GOVERNMENT POLICY

Colombia's recent civil conflict can trace its roots to the civil war called "*La Violencia*," which ravaged the country in the 1950s. The conflict officially ended in 1958 with an agreement between the National Front and the Liberal Party that effectively outlawed other parties, and it was in this context that several far-left armed groups formed to challenge the state, including the FARC and the People's Liberation Army (ELN) in the mid-1960s. These groups received significant support and funding from Cuba and the Soviet Union during the Cold War, but as the Soviet Union began to crumble, this financial support dried up. In the 1980s and especially in the 1990s, the FARC and the ELN sought out alternate sources of funding, and found them in the drug industry. As demand rose in the United States and more actors entered the field, competition for product and territory spiked, and, therefore, so did violence.

When the Medellín and the Cali cartels collapsed in the early 1990s, they disintegrated into hundreds of smaller cartels (*cartelitos*). The large cartels' paramilitary units — which were initially created to protect cartels from insurgent groups — took on lives of their own and eventually banded together to form the United Self-Defense Forces of Colombia (AUC). Over the years, the AUC became notorious for its gruesome tactics and killings, often targeting civilians indiscriminately in its fight against FARC and the ELN. Eventually, in 2006, the AUC was also dismantled, but many of its members remain active in smaller criminal organizations called *bandas criminales* (BACRIMs), which continue to engage in the drug trade and operate with the same ruthlessness and disregard for human life as the AUC once did.

Each of these actors — the FARC and ELN guerillas, the AUC, and BACRIMs — used drug production and trafficking to raise revenue and exert control over people and territories, though in different ways. The AUC was involved in coca cultivation and cocaine production from the start, though its involvement became much more significant in the late 1990s and early 2000s, a period that coincided with a spike in drug-related violence. The FARC, in contrast, was only initially involved in the trade because it taxed local producers and smugglers around 10 percent per kilogram of coca base[38] and, later, by offering paid protection to *cartelitos*.[39] But eventually, the FARC, too, became directly involved in coca cultivation. Ironically, the government played a significant role in the FARC's entry into drug production: In 1999, it granted the FARC more than 16,000 square miles of territory as a part of peace talk negotiations. The FARC used this territory to increase its drug production, establishing links with the Tijuana cartel in Mexico and smugglers in Brazil. This provided FARC a stable source of revenue and, more importantly, allowed it to expand its territory and reach rural populations that had long been isolated from the state.[40]

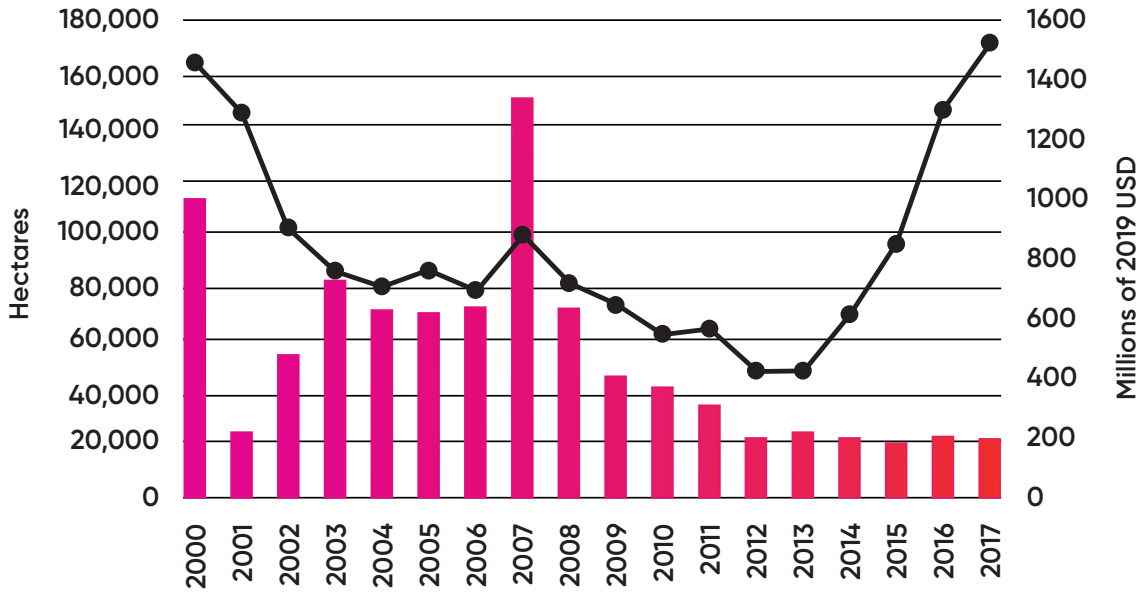
When coca production shifted to Colombia in the late 1990s, these many criminal, insurgent, and paramilitary groups began to compete more fiercely for control of coca-producing

territories, and violence and human rights abuses spiked. The Colombian government implemented prohibitionist policies in this context — not out of concern for drug users in the West, but as a part of its counter-insurgency strategy. The policies followed the same supply-centric logic that guides the U.N. conventions, focusing on reducing the profitability of the drug market by targeting the start of the supply chain: coca cultivation.

These policies took form in Plan Colombia, a 1999 security cooperation agreement between Colombia and the United States, through which the United States provided Colombia funding to launch crop eradication campaigns, buy and build new military equipment, and train additional security personnel. A small fraction of this amount also went to institution-building and alternative economic development. Plan Colombia's prohibitionist policies aimed to weaken drug cartels and armed insurgent groups by neutralizing their leaders and disrupting cocaine supply chains to reduce the value of the illicit economy. The ultimate goal of Plan Colombia was to defeat the FARC and the ELN and to reduce cocaine supply by 50 percent by 2006.[41] However, it quickly became clear that crop eradication efforts were both ineffective and actively damaging to local communities, so in the second half of the 2000s, Plan Colombia refocused on interdiction. This strategy was more successful, and coca production decreased significantly.[42]

Notably, because the primary goal of its counternarcotics policy was to end the internal conflict, the Colombian government sometimes adopted policies or strategies that ran counter to its

Coca production in Colombia vs. U.S. counternarcotics aid



Source: UNODC[52] and Security Assistance Monitor.[53] Data for U.S. counternarcotics aid to Colombia includes only aid from the Bureau of International Narcotics Control and Law Enforcement, Section 1004 Counter-Drug Assistance, and Section 1033 Counter-Drug Assistance.

anti-drug trafficking efforts. For example, though the AUC had been involved in drug trafficking from its inception, it held an unofficially neutral relationship with the government because they shared a common enemy: the FARC. The AUC was often spared retribution from Colombian security forces after committing atrocities, and even received funding from local politicians and elites in exchange for protection from cartels and other armed groups.

Nevertheless, the prohibitionist policies were somewhat successful in reducing the value of Colombia's drug trade and weakening armed groups. From 2001 to 2013, coca cultivation dropped from 160,000 hectares to 48,000 hectares. In the same period, AUC forces were demobilized and, four years later, in 2017, the Colombian government finally signed a peace agreement with the FARC that included several provisions aimed at ending crop production and establishing crop substitution and rural development programs.[43] That year, the estimated value of the drug trade dropped to approximately $2.7 billion, down from $4.5 billion in 2013.[44]

However, these victories were costly. Plan Colombia, and now Peace Colombia, is one of the largest aid packages given by the United States to a single country in the past 40 years, only surpassed by the direct military and humanitarian aid given to war-torn Iraq and Afghanistan (countries with their own drug-funded conflicts). The amount of resources spent on the military component alone of Plan Colombia between 2000 and 2008 amounted to 1.1 percent of Colombia's GDP.[45] Furthermore, the aerial spraying campaigns that were used for several years as a part of the coca leaf eradication efforts were extremely inefficient: According to a study by Daniel Mejía, Pascual Restrepo, and Sandra V. Rozo,[46] using aerial spraying to reduce the "cocaine retail supply by 1 kg via aerial spraying campaigns is at least $1.6 billion dollars per year."

Furthermore, the successful reduction in cocaine production was nearly invisible at the international level in that it had a limited effect on the drug market as a whole. Retail prices decreased, as did consumption, meaning the demand for drugs was generally unaffected. However, data on abuse and prevalent use (the number of people who consumed the drug in the past month but not for the first time) tell a different story. In the United States, Colombian cocaine's main destination country, the number of first-time users and the number of cocaine-induced overdoses are now above 2007 levels.[47] Prevalent use dropped initially in the mid-2010s, but has since bounced back.[48] In the European Union, another important destination for Colombian cocaine, cocaine prevalence will likely rise in the coming years.[49] And successes in Colombia meant losses in other parts of the world: There is evidence that the sharp reduction in cocaine supply from Colombia between 2006 and 2009 caused a balloon effect, leading to increased cartel activity and competition later in the supply chain. According to empirical research by Juan Castillo, Daniel Mejía, and Pascual Restrepo, this effect caused 10 to 14 percent of the homicides that took place in Mexico during President Felipe Calderón's term.[50]

Additionally, successes in decreasing coca production and neutralizing

anti-government actors have been short-lived. Though Colombia's counternarcotics and counterterrorism strategies saw the demise of several criminal organizations — the Medellín Cartel, the Cali cartel, the AUC, and the FARC — many members of these groups continue to be active in the drug trade through smaller, fragmentary groups, like BACRIMs and *cartelitos*.[51] Today, coca leaf production is at its highest point since 2007. Indeed, the FARC is no longer around to capitalize on this increase in production, but BACRIMs seem to be taking their place along supply chains, opening the doors for future violence and conflict. The Colombian government may well find it harder to fight many groups as opposed to just one, and these actors are likely to remain in the drug trade as long there is a profit to be made there.

COSTS FOR HUMAN RIGHTS AND DEMOCRACY

VIOLENCE VS. THE RIGHT TO LIFE

The murder rate in Colombia was one of the highest in Latin America in the 1990s and part of the 2000s, peaking at 72 murders per 100,000 people in 1994, and rising nearly to the same ratio in 2001. It has been estimated that between 1994 and 2011, over 30 percent of these homicides were directly related to the presence of the successful, illegal cocaine market,[54] a market that only exists because of state- and international-level drug prohibition.

Research shows that the illicit drug trade played a crucial role in the high level of murder rates and the empowerment of criminal and terrorist organizations.[55] For example, in the 1980s, when the Medellín and Cali cartels were at the height of their power, drug trafficking operations were a major driver of high homicide rates in cities.[56] In the chart below, the first increase in homicide rates coincides with the growth of the big cartels.

From the 1990s onward, the global demand for a new source of coca led insurgent and paramilitary groups to enrich themselves and wage a fiercer and bloodier war against the state. The second spike in the chart coincided with the FARC and the AUC entering into drug production in the late 1990s. As competition for the drug market escalated, and as insurgent and paramilitary groups became increasingly powerful, homicide rates rose to historic levels, finally peaking at nearly 72 per 100,000.

Homicide rates have decreased in Colombia in the years since the implementation of Plan Colombia. It's important to note, though, that interdiction alone may not have caused this decrease in violence. At the same time, Colombia's democratic institutions improved significantly. Also, the FARC and the AUC actually began working together on drug trafficking,[57] and this collusion could have reduced competition and violence.

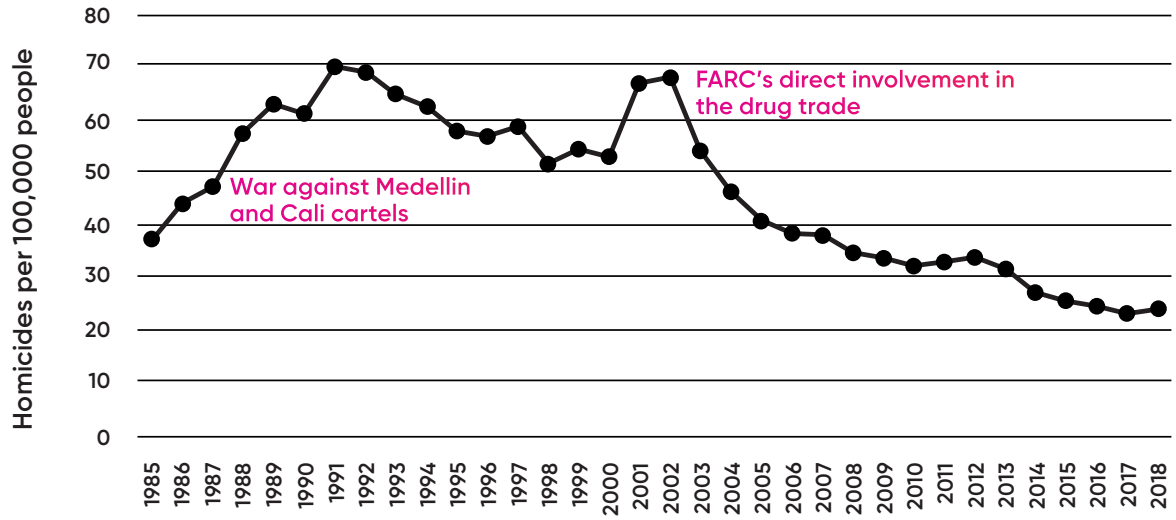
Colombia's experimentation with various prohibitionist strategies offers useful information about their relationship to violence. Many state

counternarcotics strategies aimed at harming insurgents and cartels actually misfired. Eradication, for example, not only failed to reduce drug production, but also exacerbated violence in poor, drug-producing regions. In the 1980s and up until the fall of the Cali and Medellín cartels, much of the country's violence was located in the largest cities, since these contained the ports where much of Colombia's cocaine was packed and shipped. However, as Colombia became the world's largest coca leaf producer, violence shifted to coca producing regions, where criminal organizations and guerrillas fought to control farmland.[58] Lower income, rural departments such as Guaviare in the southeast and Norte de Santander on the Venezuelan border, have ranked among the most violent regions in the country since the late 1990s.[59]

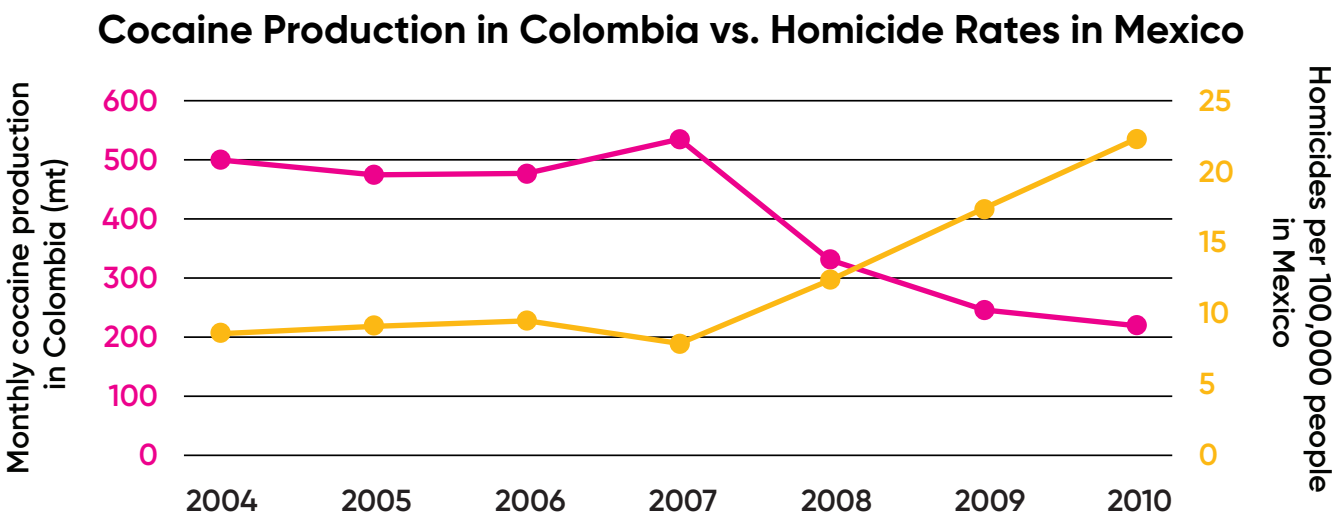
Colombia has had success in dismantling cartels and insurgent and paramilitary groups by targeting their leaders; however, some studies have found that whenever drug kingpins were captured, other groups competed to take control of their territories, causing violence to spike locally.[60]

Violence levels in Colombia were also impacted by policy changes in other countries. In the mid-1990s, Peru and Bolivia adopted hardline policies against coca farming. These prohibitionist policies were effective in reducing supply, as they were in Colombia in the early 2000s. And in the same way, Peru and Bolivia's mid-1990s implementation of prohibition likewise impacted the supply chain and shifted violence elsewhere. When sourcing coca in Peru and Bolivia became too difficult, cartels went to Colombia to find a new source of cocaine, and they brought violence with them. The increase in potential drug revenues in Colombia, and resulting heightened competition, directly contributed to some of the highest levels of violence the country has ever seen. Similarly, successful interdiction efforts in consumer countries and a small increase in

Homicide rates in Colombia



Source: Based on chart by Daniel Mejía and Pascual Restrepo from "Ending the War on Drugs," with data from World Bank and InsightCrime[106]



Source: Based on a chart by Daniel Mejía and Pascual Restrepo in "Ending the War on Drugs"[107]

consumption in the United States in the mid-2000s contributed significantly to the rising number of homicides in Colombia's drug-producing regions.[61]

Furthermore, when interdiction efforts succeeded in reducing drug production in Colombia, violence dropped in Colombia, but shifted to other countries along the supply chain. This includes Mexico, as seen in the chart above.

It's crucial to note, though, that not all the violence during this period was perpetrated by insurgents and criminals. Supply-focused counterinsurgency strategies meant that many military campaigns against the FARC took place in remote, rural areas where coca is produced — and poor, rural communities were caught in the crossfire. In 2008, an investigation revealed that army units were actually killing thousands of civilians and presenting them as guerillas or paramilitaries in order to prove that their counterinsurgency campaigns were turning out "positive" results. This became known as the "false positives" scandal. It is estimated that around 3,000 civilians were summarily executed by the Colombian army between 2000 and 2015, and both the United Nations and Human Rights Watch concluded that extrajudicial killings were indeed systematic.[62]

In recent years, many of these cases have been brought to trial, and some of the officers who knew, covered up, or ordered the killings have been punished; however, many obstacles to justice and reparations remain, especially within the military.

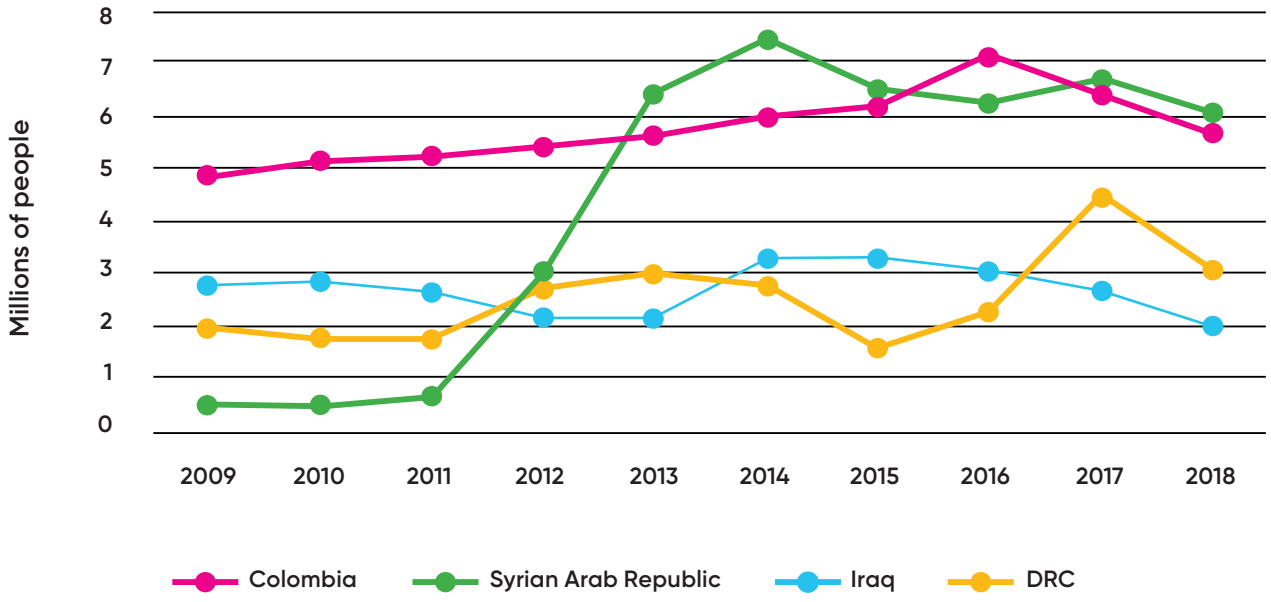
INTERNAL DISPLACEMENT OF PEOPLE

Drug eradication policies and the empowerment of armed groups through the illicit market has also led to high numbers of internally displaced persons (IDPs). Nearly 6 million people have been internally displaced during the broader armed conflict, 139,000 of whom were forced to leave their homes in 2017 alone.[63] Even after the FARC peace deal was ratified 2016, the number of newly displaced people due to violence con-

tinued to increase each year, reaching 145,000 people in 2018. Afro-Colombians and indigenous populations are disproportionately affected, since their populations are often concentrated in areas controlled by drug trafficking organizations and insurgent groups.[64] For example, in 2013, nearly 50 percent of all IDPs were of Afro-Colombian descent and nearly 25 percent were from indigenous communities.[65] Additionally, nearly 80 percent of all IDPs in Colombia are women or children.[66]

The violence fueled by the war on drugs has contributed significantly to the number of IDPs. As conflict over coca-growing territory increased, many Colombians abandoned their lands, often after being subjected to "intimidation, forced disappearances, death threats, assassinations, and massacres."[67] Furthermore, there is evidence that the government's eradication campaigns have also contributed to Colombia's large IDPs population. In the early 2000s, Colombia focused its counternarcotics policies on aerial spraying and on-the-ground destruction of crops by the military. These efforts, and fumigation in particular, wiped out not just illicit crops, but also the licit agricultural production of thousands of farmers, forcing many of them to flee their homes.[68] In fact, some analysts argue that if eradication policies succeeded in reducing coca production, it was because of the disruption and human rights abuses, not in spite of them. The displacement of farmers both licit and illicit, and heightened competition over undamaged territory, caused production to decrease.[69]

Total Number of People Internally Displaced by Violence



Source: World Bank and IDMC[108]

Today, Colombia still has one of the largest IDP populations in the world. While the flow of additional IDPs per year decreased after the AUC and the FARC were demobilized, criminal organizations such as BACRIMS continue to proliferate and fight over territory, engaging in violent activities. IDP numbers could continue to rise in the future, as they did in 2018.[70]

IMPOVERISHMENT OF THE RURAL POOR

The connection between violence and its detrimental effect on economic development has been well established both theoretically and empirically, especially in Latin America.[71] This has been particularly true in the case of Colombia, where, according to the Institute of Economics and Peace, violence in all its forms cost the country over a third of its GDP, or $233 billion in 2017.[72] Additionally, supply-focused eradication efforts in the 2000s amounted to 1.1 percent of GDP, according to estimates by Daniel Mejia.

All in all, supply-focused eradication strategies have led to worsening conditions in poor, rural areas. In effect, these policies harmed poor farmers the most, since there is evidence that coca cultivation is more likely to take place in areas with weak state presence and moderate levels of poverty.[73]

Research by Jennifer S. Holmes, Sheila Amin Gutiérrez De Piñeres, and Kevin M. Curtin also shows that violence is more closely tied to government eradication policies than guerilla behavior is to coca cultivation, and that eradication and human rights abuses committed by public forces appear to exacerbate conflict in rural areas.[74]

Furthermore, recent evidence suggests that the glyphosates used in aerial spraying have caused serious harm to the environment,[75] threatening the livelihoods of not only coca farmers, but those who work with licit crops as well.

INCREASE OF SICKNESS AND DISEASE

Aerial spraying of glyphosates has also been connected to poor health outcomes in crop-growing regions. There is now clear scientific evidence that the indiscriminate use of these herbicides increased respiratory diseases and even caused spontaneous abortions in these regions.[76] Furthermore, there is evidence that the use of glyphosates in countries like Brazil has increased child mortality in communities surrounding the crops treated with them.[77]

The Colombian government faced significant criticism for the effect aerial spraying had on local farmers, which is one reason that it shifted toward interdiction policies and capturing kingpins in the mid-2000s. Targeting cocaine labs and drug shipments has had no impact on the environment and left fewer innocent victims in its wake — at least in Colombia.

CORRUPTION AND THE RULE OF LAW

The illicit drug trade has helped fuel corruption in Colombia for many years, and this was especially true during the 1980s and 1990s. Francisco Thoumi,[78] a member of the INCB, explains that the structure of the Colombian economy made it very difficult to launder large amounts of money without access to established social and political networks. If drug traffickers wished to

use the money they gained in the illicit economy, then they had to infiltrate the political system. During the early and mid-1980s, Colombian drug cartels accumulated an immense amount of wealth and power, and they sought to use those advantages to influence the political process. When anti-corruption efforts increased, drug trafficking organizations paradoxically became more and more involved in the political process, using bribes and extortion to prevent their prosecution at home or extradition to the United States.[79] Perhaps the most infamous and successful case of infiltration of politics by criminal organizations was the notorious drug lord Pablo Escobar's successful bid to become a congressman,[80] a move that granted him parliamentary immunity.

As the case of Colombia clearly illustrates, and as Thoumi explains, corruption generated by the illicit drug trade can seriously cripple a country's formal and informal institutions. It weakened Colombia's judicial system, as it often put judges in the position of having to accept bribes to save their own lives.[81] In the 1980s many judges, law enforcement officials, and others who dared to go after powerful drug lords like Escobar ended up in their crosshairs, as in the cases of Medellín Judge Gustavo Zuluaga[82] and Justice Minister Rodrigo Lara,[83] both of whom paid the ultimate price. Poorly paid police officers and army personnel were also targeted for bribes and extortion. These impacts seriously weakened the rule of law, as the temptation to accept money from insurgent and paramilitary actors "weakens the moral restrictions necessary for citizens to respect laws regarding property and economic activities."

CORRUPTION AND ELECTORAL INTEGRITY

Corruption has also tainted the democratic process in Colombia, as criminals had the financial means to influence legislation by bribing or extorting politicians. In addition to electing Escobar to the legislature, the Medellín cartel also exerted its influence by influencing a significant number of politicians, and after its dissolution, its successor organizations continued to operate in a similar fashion. Armed groups in Colombia had great incentive to manipulate elections to give an advantage to politicians whose crime and conflict resolution platforms better conformed with their interests. These tactics included voter intimidation, electoral violence, and even overt vote-rigging.[84] A clear example of this came to light with the *parapolitics* scandals in the early 2000s, where demobilized paramilitaries engaged in the drug trade funded the campaigns of as many as 60 of the president's coalition members in the 2002 general election.[85]

Drug kingpin Pablo Escobar attends a Congressional hearing during his term as a representative (Photo from Colombia Reports)

After the 1998 election saw the weakening of the two major political parties, Colombia saw an upsurge in smaller, third parties, which created new opportunities for election manipulation.[86] Daron Acemoglu, James A. Robinson, and Rafael J. Santos point to this proliferation of third parties as evidence that paramilitaries were becoming more involved in elections, since many of these groups had ties to armed groups. Paramilitary-controlled regions were more likely to elect third parties; politicians in these regions were more likely to support laws that

were more lenient toward armed actors; and senators in these areas were more likely to later be arrested for corruption.[87] Acemoglu and his cowriters also explain that this is a "symbiotic relationship"[88] — knowing that paramilitaries could influence vote outcomes, politicians were disincentivized to eliminate them.

Many politicians maintained their ties to criminal organizations for years. More recently, in 2015 over 600 government officials were arrested[89] for suspected ties with Los Urabeños,[90] a violent drug trafficking organization whose origins can be traced back to former members of the AUC. Though recent years have seen the government end the civil conflict with the FARC and enact meaningful reforms to strengthen its institutions, corruption remains a threat. As Jeremy McDermott from InsightCrime recently explained, drug trafficking organizations still see corruption as the best way to infiltrate governments in Colombia and other countries in Latin America.[91]

While paramilitaries used coercion to win votes for their candidates, insurgent groups like the FARC worked to suppress turnout.[92] Jorge Gallego finds that guerilla violence is significantly higher in election years, while paramilitary violence is lower, reflecting the different strategies for electoral manipulation by these different interest groups. When guerilla violence increased by one unit (per 100,000 population), voter turnout decreased by almost 4 percent.[93]

Electoral violence and intimidation increase the costs of democratic participation, reducing voter turnout and competition. These dynamics have also seriously harmed citizens' trust in the government.[94] When criminal organizations infiltrate formal institutions, the general public cannot perceive any distinction between violent criminal organizations and the state. Furthermore, corruption and intimidation make it difficult for politicians to enact meaningful reforms, even if they have public support. Even in recent years, after a decade of security improvements, the perceived level of corruption in Colombia has increased,[95] even as citizen's overall faith in democracy has declined.[96]

CHILLING EFFECT ON JOURNALISTS AND CIVIL SOCIETY

Although Colombia has had a long democratic tradition and opposition views are common in the press, journalists have faced harsh working conditions for decades. According to the Committee to Protect Journalists (CPJ), more than 50 journalists have been killed in Colombia since 1992.[97] Nearly half of these murders were perpetrated by paramilitary or criminal groups with ties to the drug trade. In 2001, the CPJ went so far as to name Carlos Castaño, the then-leader of the AUC, as one of the top 10 enemies of the press in the world.[98] Even today, after the demobilization of paramilitary groups and the signing of the peace deal with the FARC, Freedom House reports that journalists continue to face "intimidation, kidnapping, and violence" for reporting on criminal organizations.[99] Impunity has also been a problem, as most cases of intimidation and even murder have gone unsolved.

In recent years, there have been efforts to prosecute these crimes, but

journalists in Colombia continue to operate in an atmosphere of self-censorship and fear.

Colombia's civil society is vibrant and diverse, and while the government provides guarantees for nongovernmental organizations, activists face serious challenges while carrying out their work in the country. According to Freedom House, "the threat of violent reprisal poses a major obstacle to freedom of association," as many Afro-Colombian, indigenous, and land rights activists are routinely threatened and harassed by drug trafficking organizations and guerrilla groups that splintered from the AUC and the FARC. Even though general murder rates have declined in recent years, violence against human rights defenders and activists has increased substantially. The special rapporteur on the situation of human rights defenders issued a warning about this trend as recently as December 2018,[100] and the U.N.'s high commissioner for human rights documented over 50 activist deaths in that year alone.[101]

Although the Colombian state is not the main threat to the freedom of the press and civil society, it has struggled tremendously over the years to provide its citizens with adequate protections. The country's historically weak institutions were threatened for decades by a bloody armed conflict and the proliferation of the illicit drug trade. Nowadays, criminal organizations continue to threaten the small but important institutional gains the country has made over the years.

CONCLUSION

In analyzing Colombia as a case study, we aimed to understand how prohibition, from the eradication policies of the 1990s to the implementation of Plan Colombia and Peace Colombia, worsened human rights conditions in the country. The illicit market took pre-existing challenges — internal conflict, state weakness in the country's peripheries, corruption, etc. — and amplified their effects. The black market gave armed groups a source of funding that enriched them enough to cause a serious and lasting threat to the state, and to the right to life of civilians. Furthermore, prohibition created incentives for state officials to partake in corruption and abuse their power, decreasing trust in the government. Ultimately, prohibition policies have indirectly degraded the country's democratic institutions and legitimacy in the eyes of its citizens.

Supply-centric strategies, meanwhile, have directly harmed individuals' health, economic development, and environment. Thankfully, the Colombian government recognized the harm these strategies were causing and shifted its efforts toward interdiction and criminal justice. Additionally, thanks to demands from civil society and the international community, a fraction of the resources devoted to the broader fight against drug trafficking and non-state armed groups was also spent on the professionalization of the armed forces and the police, as well as the strengthening of the judiciary. This led to a significant improvement of Colombia's institutions and contributed to the country's development, improved the security situation, and ensured the continuation of its democracy.

However, future reforms seem both difficult and unlikely. International prohibition is now codified in Article 49 of Colombia's constitution,[102] and was included as a condition of the state's peace deal with the FARC. Legalizing or even decriminalizing drugs, for example, will require a protracted legislative process. Nearly three years after the signing of the peace agreement, Colombia sits at a crossroads. Despite Colombia's history of progressive laws on drug possession and consumption, there are now calls for a return to harsher penalties for drug users.[103] The rise in coca leaf cultivation and cocaine production out of Colombia has caused serious concern in both Washington and Bogotá, and Colombia's new leadership is now considering re-implementing the same eradication policies that caused so much damage in the past.[104] The FARC peace agreement offered hope that drug-fueled violence would be a thing of the past, but changing political winds[105] threaten to undo Colombia's democratic gains and bring back violence and impunity.

But perhaps the most significant finding of this case study is the extent to which conditions in one country can affect another. Colombia's crop production economy exists largely because of hardline prohibitionist laws that caused a decrease in production in Peru and Bolivia. Likewise, successes in Colombia pushed traffickers to other markets. A lack of coordination among states means that, at the international level, any of prohibition's local successes zero out. Furthermore, its victories even at the local level have been very short-lived, as Colombia's past and present make evident. Though Colombia's interaction with the drug trade is highly complex and intertwined with local politics, the lessons are clear: prohibition harms human rights at the micro and macro level, threatens state stability, and fails to meet its goals internationally.

MEXICO
A TRANSIT COUNTRY

GENERAL INFORMATION

A majority of drugs entering the United States enter through Mexico, an important transit country, particularly for cocaine. Cocaine and heroin generally enter across the U.S.-Mexico border via land routes, and, contrary to popular belief, most shipments pass through legal ports of entry or U.S. Border Patrol checkpoints. The trade is executed by cartels, which earn between $19 billion and $29 billion annually from drug sales in the United States[109] The importance of Mexico as a transit country has prompted the United States to spend billions of dollars on counternarcotics in Mexico and at the border through various initiatives since the 1970s, including most recently through the Merida Initiative, a security cooperation agreement launched by U.S. President George W. Bush and Mexican President Felipe Calderón in 2008.

Although Mexico has a long history of drug production, its potential as a transit country was initially tested by Juan Ramón Matta-Ballesteros, who began using the country's land route as a "'trampoline' to bounce drugs into the United States" in the early 1970s.[110] Throughout the 1960s, drug use in the United States was increasing rapidly, and traffickers were meeting the demand using routes that passed through the Caribbean and into Florida. In response, the United States increased interdiction efforts at Florida's ports, pushing traffickers to find new paths into the country. At first, drug trafficking organizations merely moved goods through Mexico, but it soon became apparent that Mexico could serve as a good home base for drug trafficking operations. Today, the most powerful Mexican cartels include El Chapo's Sinaloa Cartel, the Gulf Cartel, and the Zetas; smaller cartels include the Beltrán Leyva Organization, La Familia Michoacana, and the Knights Templar.

Mexico's continued susceptibility to drug trafficking can be attributed to the weak nature of its democratic institutions. Although the country transitioned into a democracy in 1997, the changes were not foundational. Chronic problems, in particular widespread corruption and impunity, are exploited by cartels to further their business interests. This has allowed a culture in which human rights violations, such as violence and disappearances, threats to journalists and civil society activists, and electoral fraud, are able to thrive. Reversing such deep-set issues requires not only revoking prohibition policies, but implementing much deeper reform.

HISTORICAL CONTEXT AND GOVERNMENT POLICY

The Mexican government's counter-narcotics policies have been highly militaristic, a strategy that has, in recent decades, been closely tied with anti-democratic trends.

Since the beginning, the Mexican government's approach to drug policy was influenced by the United States. The country's prohibitionist regime was technically established in 1927, when the government passed a cohesive prohibitionist law, in response to pressure from the United States.[111] But in the following decades, the country had actually shifted toward harm reduction — that is, until the United States launched Operation Intercept in 1969. The Mexican government was, at that time under the one-party, dictatorial rule of the Institutional Revolutionary Party (PRI). Operation Intercept took a supply-centric approach, aiming to stop the rise in drug consumption among Americans by stemming trafficking across the U.S.-Mexico border, implementing (ultimately ineffective) mandatory searches of every vehicle trying to make the crossing.[112] The initiative effectively "strong-armed" Mexico into obeying a "new modus operandi" that "convinc[ed] countries to destroy narcotics at the source."[113]

The initiative provided a pretext under which both the Mexican government and the United States could undertake anti-democratic activity. The Mexican government cooperated with this new prohibition policy for two reasons: (1) to take advantage of the United States' financial and military support (which included military equipment); and (2) because, crucially, it gave PRI a new way to go after political dissidents. As Grillo explains, at this time, "often leftists would be arrested under the pretense of drug charges. Hundreds of activists were never seen again. Mexicans use the words *the disappeared* to refer to these lost souls. As anti-drug operations spread to other states, so did the dirty war on leftists." The United States also used drug eradication campaigns in Mexico as a cover to investigate "guerilla activities."[114] The period was also marked by horrific conditions and torture in prisons, and a corresponding lack of accountability.

Nevertheless, violence levels were comparatively low under PRI rule. Drug-related violence kicked in, rising to crisis levels, between 2000 and 2004. Some analysts argue that the explosion of violence in Mexico was directly linked to the country's democratic transition, which began after PRI lost the presidential election in 1999.[115] This transition severed the clientelist links between drug traffickers and PRI politicians, and cartels sought new connections with the country's new democratic leaders. Such changes upset previous territorial claims, increasing competition, and, in the process, violence levels.

Drug trafficking reached crisis levels by the time President Felipe Calderón began campaigning for president. At the start of his presidency, on December 10, 2006, President Calderón declared "an all-out global war on the drug menace," assembling a "gendarmerie" (a national militarized police force of around 5,000 troops[116]) to "take back"

parts of the country that had been "seized" by criminal insurgents.[117] President Calderón's strategy focused on taking down the crime bosses at the head of each cartel. During his 2012 state of the nation address, he boasted that his government had captured 125 cartel cell leaders or lieutenants and 5,108 hit men since he took office, and three kingpins in that year alone.[118] President Calderón cooperated with the United States on this, too, significantly increasing extraditions of wanted criminals to the United States.[119] To be sure, arresting and trying violent criminals is worthwhile in itself, and necessary to returning justice to Mexico.

But these policies did nothing to deter drug trafficking or stem the violence. On the contrary, territorial competition and restructuring led to a proliferation of cartels starting in 2007, and violence skyrocketed. By 2010, the war on drugs was beginning to significantly weaken Mexico's democracy. Freedom House officially downgraded the country from "free" to "partly free" in 2011, a direct consequence of the war on drugs. That year, activists went as far as filing a complaint against President Calderón with the International Criminal Court.[120]

Successive leaders have failed to move away from the militarized, supply-centric approach. President Calderón's successor, Enrique Peña Nieto, elected in 2012, implemented very similar policies, despite promising to refocus on the criminal violence impacting civilians' daily lives. President Peña Nieto's administration also worked to arrest kingpins, including most famously Joaquin "El Chapo" Guzman of the Sinaloa cartel in 2014 (a capture that increased President Peña Nieto's popularity but did nothing to harm the drug industry's outputs). Some fear that Mexico's new leader, Andrés Manuel López Obrador (AMLO), is following a similar path. Despite claiming that his administration would prioritize public safety over capturing kingpins,[121] AMLO has instead pursued his own, larger version of President Calderón's "gendarmerie": a 60,000-member National Guard. Although the National Guard will be under civilian leadership, not military, according to *The Washington Post*, "It's clear the National Guard is the Army with a different uniform. Soldiers being trained to do what soldiers do. Indefinitely."[122]

It's clear the National Guard is the Army with a different uniform. Soldiers being trained to do what soldiers do. Indefinitely.

– *The Washington Post*

Mexico's recent emphasis on militarization and catching kingpins has been supported and shaped by the United States, which has provided substantial funding, mainly for militarized intervention. Shortly after President Calderón declared his war on drugs, he sought financial support from U.S. President George W. Bush, and together they established the Merida Initiative. The Merida Initiative also sets priorities for the country's counternarcotics efforts and those priorities have always mirrored prohibitionist international priorities. President Bush's initial budget for the program proposed spending 63 percent on counternarcotics, counterterrorism, and border security assistance and just 15 percent on institution building, human rights, and rule of law promotion.[123] Under President Barack Obama, the Merida Initiative adopted a "four-pillar" model, placing greater emphasis on the institutionalization of the rule of law and, to a lesser extent, human

rights. Though this gradual shift toward supporting human rights and democratic institutions in Mexico is a positive one, these changes do not appear to be improving human rights conditions on the ground. Violence has been rising steadily since 2014, and journalists and civil society members are under greater threat than ever before. This may be because of other Obama-era trends, such as increased collaborations on capturing drug kingpins, and a new emphasis on the extradition of drug criminals to the United States.

In the eight years preceding the implementation of the Merida Initiative in 2008, the U.S. security aid to Mexico averaged $43 million per year; in the same time frame afterward, disbursements increased six-fold to more than $303 million per year.[124] Since the Merida Initiative was implemented, the United States has invested $2.7 billion in Mexico. And yet, as has been seen, this money has had little to no success in lowering drug abuse rates in the United States — the stated goal of the war on drugs — and drug flow through Mexico is better explained by fluctuations in the illicit market and along the drug supply chain. For instance, in 2004, when eradication and interdiction efforts in Colombia resulted in scarcity in the drug market, northern Mexico experienced a 46 percent increase in drug-related homicides as traffickers moved to Mexico and Central American countries.[125]

Despite strong evidence that prohibition policies focusing solely on supply reduction fail to yield desired results, the current U.S. administration has continued to invest in this approach.[126] In a 2017 Executive Order, the new administration emphasized fighting transnational criminal organizations as a priority, and attributed rising drug abuse levels in the United States to increases in its availability due to trafficking. The executive order represented a recommitment[127] to prohibition's supply-centric policies, arguing that drug abuse is the result of availability (supply), and not consumption (demand).[128] Tellingly, this change also saw a reversal of the Obama-era focus on community building and violence reduction within Mexico.

U.S. President George W. Bush welcomes Mexican President Felipe Calderón to the White House (Photo from White House photographer Eric Draper)

The United States and Mexico have spent billions of dollars on the Mexican drug war. Yet drugs continue to flow across the country's borders, and cocaine and marijuana supply is actually increasing year by year. Meanwhile, consumption in the United States is climbing, and Mexico, which for a long time did not have much of a domestic market, is seeing marijuana and cocaine abuse rise each year.[129] Even as Mexico's drug policies fail to meet the most basic benchmarks, the side-effects are resulting in serious costs for the human rights and democracy. Repairing the damage that the drug war has caused will be an enormous, seemingly insurmountable task — but continuing the policies that have caused this damage is indefensible.

COSTS FOR HUMAN RIGHTS AND DEMOCRACY

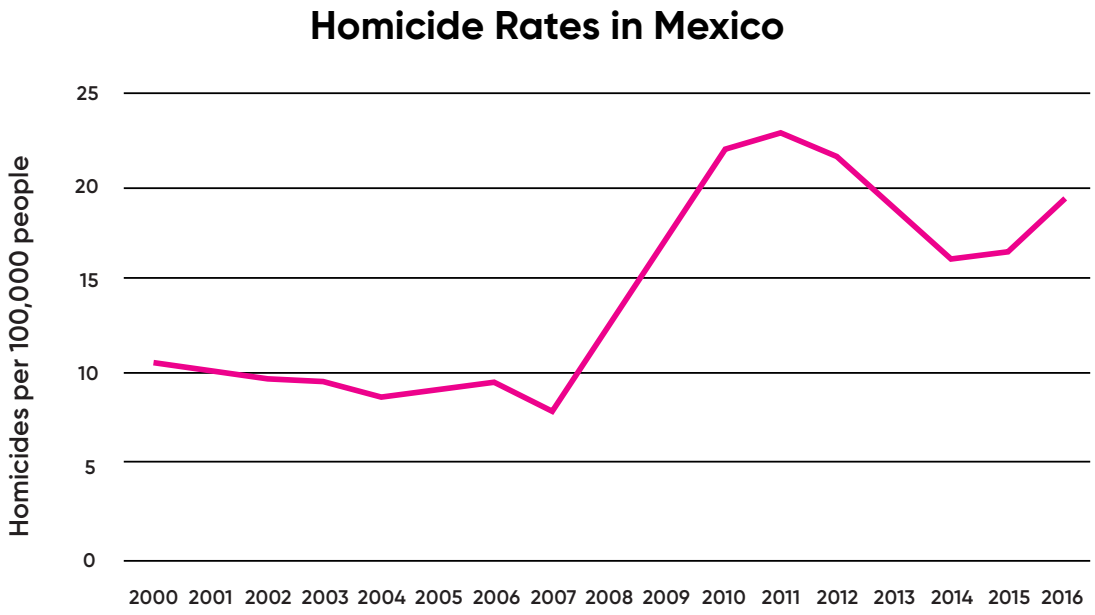
VIOLENCE VS. THE RIGHT TO LIFE

Violence is the defining feature of Mexico's war on drugs. According to data

collected by the Mexican government, since 2007, there have been 227,428 homicides.[130] The last two years have achieved record-breaking levels of violence: 28,868 people were murdered in Mexico in 2017, and 33,518 in 2018. Early projections indicate that 2019 may break the record once again. There were 8,493 victims of homicide in the first three months of this year, a 9.59 percent increase compared to the same period last year. In comparison, in 2006, when the drug war began, the Mexican government recorded 11,806 homicides; last year's tally shows that violence has nearly tripled after more than a decade of militarized anti-trafficking efforts. According to the Mexican government, 13 percent of these homicide victims are innocent bystanders.[131]

What accounts for this violence? Illicit markets tend to devolve into violence. Criminals cannot use courts to enforce contracts, so they resort to force. However, as political scientist Thomas Schelling notes, large-scale cartels are actually incentivized to organize in part as a means to control violence.[132] It's not that cartels prefer to be violent. It's that, in times of instability, they resort to violence. Spikes in violence, then, reflect uncertainty in market ownership — in other words, competition. In Mexico, violence increased when elections threaten a cartel's established access to power; when anti-narcotics policies succeed in one region, shifting trade routes; when changing policies tighten the U.S. border, increasing competition for control of entry points; when a kingpin is captured and his cartel splinters, and factions fight with one another for territorial control; and other such scenarios when ownership over valuable territory or product is up in the air.

Indeed, research shows that crackdowns on drug cartels are accompanied by violence.[133] As Melissa Dell explains in a 2014 paper, spikes in violence are directly related to party politics. Between 2007 and 2010, in close elections, municipalities that elected mayors from President Calderón's political party, the National Action Party (PAN),



Source: World Bank[180]

saw violence increase by a factor of 5.5 compared to municipalities where PAN lost.[134] Over 90 percent of the violence in these municipalities consist of "drug traffickers killing each other."[135] Evidently, PAN victories brought harsh crackdowns on criminality in the municipality, and this crackdown led to violence. Dell explains that PAN crackdowns had the unintentional effect of increasing competition in key drug trafficking zones: The new policies threatened cartels' control over key districts, which prompted rival cartels to move in to try to take over. Dell notes that these results contribute to a larger body of research that demonstrates a "positive relationship between drug enforcement and violence."[136]

The Mexican government's policies failed to put an end to the violence — in fact, they are only making violence worse. Natan Sharansky's "town square test" holds that a country is not free unless any person can walk into the town square and express their opinion without fear of violence. Due to cartel violence, many parts of Mexico fail this test. In addition to violating the right to life, the war on drugs, then, should be considered a threat to Mexican democracy.

DISAPPEARANCES

More than 37,000 people have disappeared[137] during Mexico's war on drugs, 7,000 of whom were under the age of 18.[138] As if that number were not horrifying enough, the Mexican government also announced that there are 26,000 unidentified bodies in the country, and more than a thousand uninvestigated mass graves.[139] The vast majority of disappearance cases go uninvestigated by authorities, leading families to take it upon themselves to search. The loved ones of the disappeared face stigma from their communities, who often believe the disappeared must have been connected to cartels in some way and therefore deserved their fates, a narrative spread by the Calderón administration.[140]

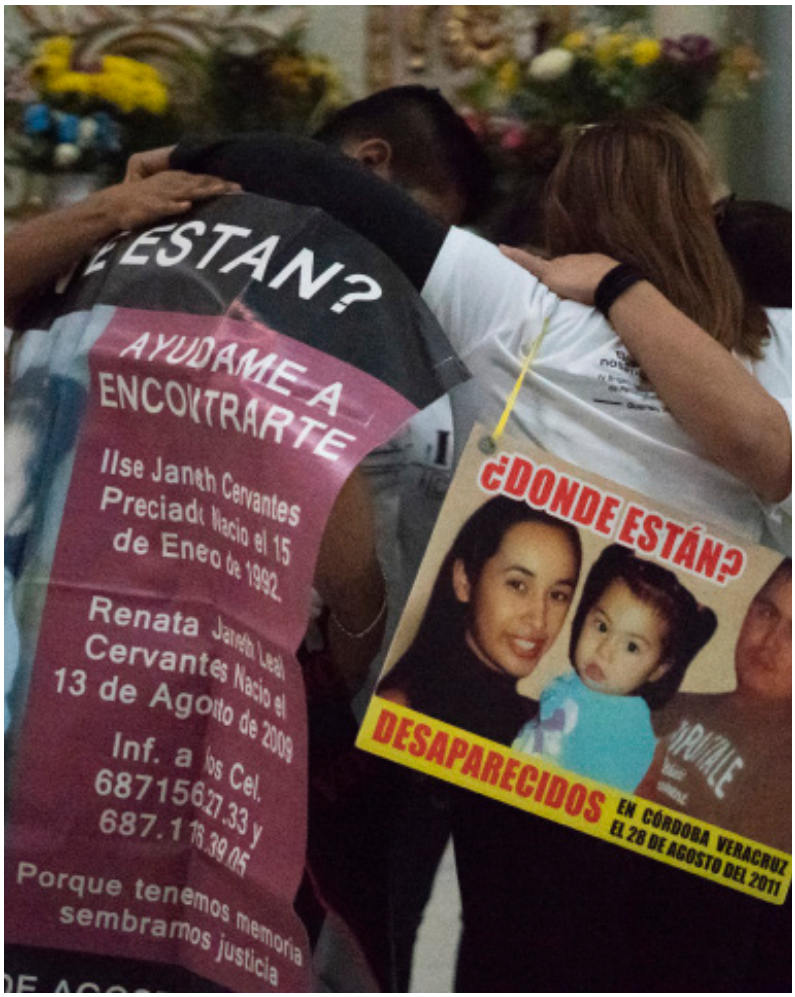
Two particularly horrible incidents have drawn attention to disappearances in Mexico in recent years. In 2014, 43 male students disappeared in the western coastal state of Guerrero, one of the most violent states in the country. In the first ten years of Calderón's war on drugs, there were 16,980 murder cases in Guerrero, making it the second most murderous states (second only to Chihuahua, a state on the U.S.-Mexico border).[141] The government's official account claims that the students, who were traveling by bus on their way to Mexico City, were allegedly taken into custody by the police, who turned them over to a local cartel, Guerreros Unidos, which burned their bodies, leaving no remains. This story has been widely disputed. The Mexican government has not released information or evidence from the investigation to back up the narrative, and has been criticized by the Inter-American Commission on Human Rights and the United Nations for the routine "arbitrary detention and torture" of subjects during the investigation, and for the subsequent cover-up of those abuses.[142] Five years later, the families of the students still have no information on what happened to their loved ones, and no one has been convicted in the case.

In response to international and national pressure, the Mexican government

has taken several steps to address this chronic problem. In 2017, then-President Peña Nieto passed a law on disappearances, drafted in collaboration with families of victims, that devoted significant funds to the matter, and created a federal agency to investigate disappearances. Recently, AMLO has announced the creation of a truth and reconciliation commission to address the disappearances, and has also announced that his administration will allocate a further $20 million to investigations and create a forensics department to aid in the process.

Yet these government efforts do not seem to have made an impact so far. In 2018, the U.N. released another report on the significant uptick in disappearances in Nuevo Laredo, Tamaulipas, along the U.S.-Mexico border. At least twenty-one men and two women disappeared between February 1 and May 16, three of whom were less than 14 years old, and the report found "strong indications" that Mexican authorities were responsible for these disappearances.[143] Between 2017 and 2019, 7,000 additional people went missing in Mexico, according to government numbers, and many human rights groups believe that Mexican authorities are involved in these disappearances and subsequent cover-ups. Fifty-one disappearances in Nuevo Laredo between January and May 2018 were reportedly linked to the Mexican Marines, yet authorities have apparently refused to investigate them.[144] Disappearances appear to be linked to deep-seated corruption and collusion problems that will require complex reforms and much greater transparency to resolve. For now, the absence of conclusive investigations, growing evidence of authorities' involvement, and failure to stop additional disappearances are reducing citizens' faith in the government and creating a culture of impunity.

Additionally, a growing percentage of disappeared are believed to be victims of human trafficking. Tom Wainwright notes that since the U.S.-Mexico border has become more difficult to cross, a growing number of hopeful migrants are willing to pay people smugglers (known as "coyotes") to help their passage.[145] This has created an incentive for cartels to enter the business, diversifying their business model to use their existing assets — tunnels, official contacts, etc. — to transport people instead of



A group of women embrace after a mass held to launch a search group for their missing relatives in the state of Guerrero in Mexico. (Photo from Daniela Rea and Mónica González)

drugs. Unfortunately, many of these victims are funneled into human trafficking for sex and forced labor. According to Alejandro Encinas, Mexico's sub-secretary of human rights, migration, and population, between 8 to 10 percent of the disappeared are migrants.[146]

The war on drugs has incentivized the creation of hidden networks and passages; a terrible consequence of this is that these networks can also be used to traffic other things. Lifting prohibition will not eliminate these routes, and could push drug traffickers to grow other parts of their businesses — creating a new kind of balloon effect for human rights violations. Any anti-drug policies will have to consider ways to deter this alternative trafficking.

INTERNAL DISPLACEMENT OF PEOPLE

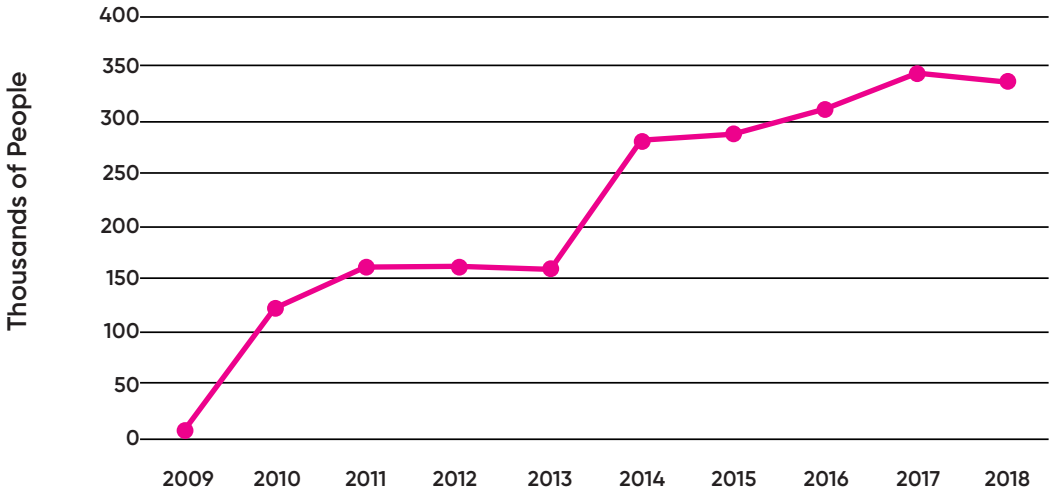
Even as thousands of people disappear, many more have been uprooted by endemic violence. According to the Internal Displacement Monitoring Centre (which contributes data to the World Bank), in 2017, Mexico had 345,000 IDPs due to conflict and violence, 20,000 of whom had been displaced that year.[147] Between 2009 and 2010, the IDP population skyrocketed from 8,000 persons to 123,0000. Since then, the number of newly displaced persons each year had tapered, but rarely has the total number displaced dipped. Notably, these are conservative estimates; other firms report that the IDP population surpasses 1.5 million.[148]

Internal displacement as a result of the war on drugs was long understudied. Until very recently, the Mexican government did not recognize IDPs as victims of the war on drugs or acknowledge displacement as a problem.[149] However, the uptick in displacement in 2010 spurred research into the topic, and it has now been established that migrants are leaving to escape violence, not to pursue economic gain elsewhere. In fact, migrants moving from high-violence to low-violence states see their wages decrease by 3.65 percent on average.[150] More violent states see higher displacement rates: In one IDMC study, the 104 municipalities with the most violence had a displacement rate 15 times greater than municipalities without high levels of violence.[151]

The number of new displacements generally follows the trends in homicide rates; years with high levels of violence bring more IDPs, and dips in violence result in fewer. In Ciudad Juarez, Chihuahua, for example, its most violent year (2010, which saw 3,903 homicide cases in the state) was followed by a surge of displacements — 24,000 people were displaced in 2011, moving to other parts of the state or to nearby states.[152]

The IDP crisis has significant implications for Mexican culture and economic development. Since the war on drugs began, many towns, now called "ghost towns," have been outright abandoned as citizens flee violence, leaving their possessions behind. It is unlikely that these migrants will return home, because their safety cannot be guaranteed, as new criminal groups have "taken to conducting illegal activities on the abandoned land, mainly the production of illegal crops and illegal mining."[153]Such displacement is linked to broader socio-economic stagnation and represents a loss in development terms.[154]

Total Number of People Internally Displaced by Violence in Mexico



Source: IDMC[181]

The large number of IDPs is a direct result of the war on drugs, but, as economist Laura H. Atuesta Becerra points out, ending prohibition alone cannot guarantee IDPs' safety enough to encourage their return home. She writes, "The drug policy based on prohibition and the 'war on drugs' left [Mexico] with serious problems... However, it is naive to expect that if prohibition is ended and the earnings of the illicit drug market are reduced, these organizations are going to become legal, conditions are going to be safer, and IDPs are going to return to their homelands."[155] Though lifting prohibition is an important first step, building peace and undoing the complex problems that the war on drugs has caused will require deeper reforms.

ATTACKS ON JOURNALISTS

Mexico has won the unfortunate reputation of being one of the most dangerous places on earth to be a journalist. The Committee to Protect Journalists (CPJ) reports that 109 journalists have been killed since 2007, at least 32 of whom were targeted for murder as a result of their reporting.[156] As of April 2019, 14 journalists are missing, making Mexico the country with the highest number of missing journalists in the world. Mexico now ranks 7th on CPJ's Impunity Index because of the number of murder cases that remain unsolved.[157] Similarly, Reporters Without Borders (RSF) ranks Mexico 144 out of 180 countries in its World Press Freedom Index due to the "constant violence and fear" that prevents journalists from working freely and deprives the general public of its right to access information.[158]

For years the "official narrative" of the Mexican government has attributed the murder of journalists to the higher levels of overall violence in cartel homelands, however it has now been established that journalists are often specifically targeted and are "at much higher risk of being murdered than the general population" in many of these states.[159]

Cartels threaten journalists to control how their image is presented to the general public.[160] Coverage of cartels' vio-

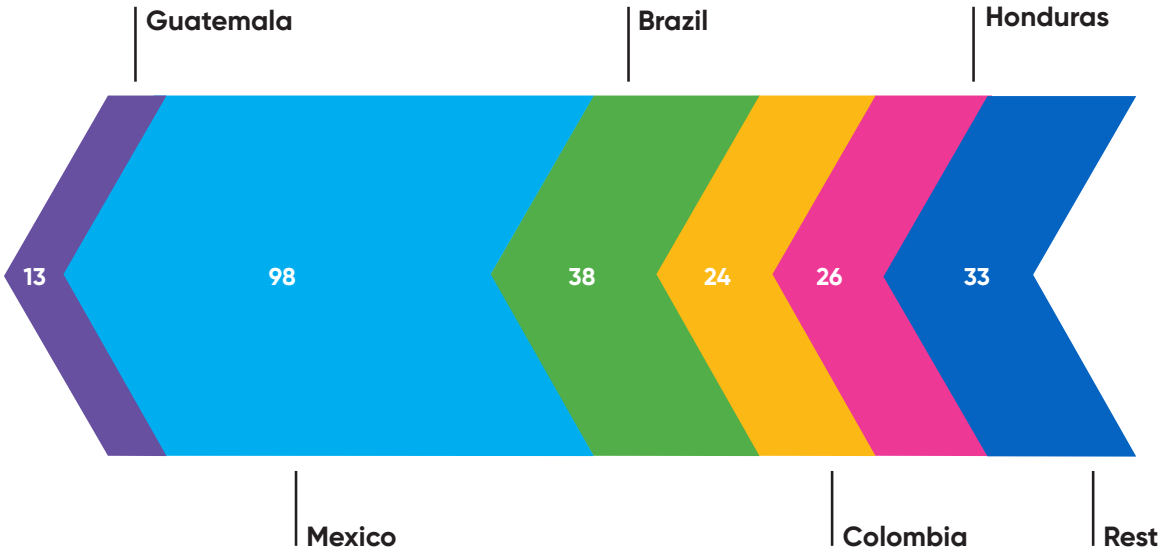
lent behavior threatens levels of trust within the community. Additionally, reports on cartel violence can warrant in strong, militant responses from the government, which make it more difficult for cartels to operate. If cartels deem that violence is necessary for business, they will take extra effort to ensure that news of their crimes do not make it into the press.[161] Journalists are under so much pressure, that some newspapers have ceased to cover the crime beat. In other cases, reporters from one city will cover the cartel news of another, and vice versa, to avoid the danger of reporting in their own neighborhoods. Others move to the relative safety of the city's capital. One journalist interviewed for this report commented that she knows many journalists now living in Mexico City, saying "none of us want to be here… but because of the violence, we have no choice."

As with disappearances, reports link threats to journalists to the government itself. One study out of the University of Amsterdam linked violations of press freedom to department-level authoritarian characteristics that persisted despite the nation's broader transition to democracy.[162] Local officials not only ignored attacks on journalists, but "collud[ed] with violent actors to repress critical voices." In 2012, of 207 "aggressions" against media, 43 percent were attributable to state agents.[163] Government inaction in the face of these dangerous conditions led RSF to refer Mexico to the International Criminal Court in March 2019, arguing that the disappearances constitute "crimes against humanity."[164]

This state harassment of the media leaves journalists with no protection against violence, can prevent them for

Total number of journalists or media workers killed in democracies in the Americas

2006-2019



Source: Committee to Protect Journalists[182]

carrying out their work, or lead them to self-censor. Drug trafficking under prohibition, then, is a direct threat to Mexican democracy because it undermines the freedom of press, the general public's right to access information, and the journalists' rights of free expression and opinion. In this way, reporters' vulnerability is heighted because criminal groups are able to exploit the authoritarian distaste for critics and proclivity for corruption held over from PRI's time.

ATTACKS ON CIVIL SOCIETY

One of the hallmarks of Mexican democracy is its vibrant civil society. Indeed, Mexico has hundreds of dedicated NGOs and activists that are able to operate freely and engage directly with the Mexican government to advocate for their policy agendas. However, activists and civil society members working on drug policy reform are not afforded this liberty. In 2018, a staggering 49 human rights defenders were killed in Mexico.[165] An additional 12 defenders were killed from January to March 2019, according to Washington Office on Latin America and Peace Brigades International.[166]

Lisa Sánchez, director general of the nonprofit Mexico United Against Crime (MUCD), told HRF that she has been harassed for her work: During one advocacy campaign, she said, "we suffered for three months receiving threats directly to our homes, threatening to kill our families and our friends, cars [idling] outside of our homes observing you twenty-four seven, spy software that was on our phone illegally by the Mexican government. [...] This is a very dangerous job to have."

The incentives to silence civil society activists are similar to the motivations to censor journalists. Human rights defenders working to draw attention to the work of cartels threaten their PR, and activists working to advance policies that threaten criminal enterprise — including the legalization of drugs — jeopardize their future profits. Further, human rights defenders that openly criticize the government put politicians in the uncomfortable position of having to speak out against cartels, an act that can prove dangerous. More cynically, corrupted officials within the government with ties to cartels may use their power to silence civil society leaders as a part of their agreements with drug traffickers.

There may even be some interactivity between the pressure put on journalists, the involvement of authorities in disappearances, and the treatment of human rights defenders. A ProPublica report pointed to evidence of a "smear campaign" against human rights defenders right before the release of a damning report on the Guerrero disappearances case in 2014.[167] More recently, a condemnatory report released by Citizen Lab revealed evidence that a group linked to the Mexican government infected the phones of 25 individuals who had been critical of the government with Pegasus spyware.[168] This included the widow-turned-activist of Javier Valdez, an intrepid drug crimes reporter who was killed in June 2017.

Threats against civil society, especially when they come from the government, violate citizens' freedom of expression and opinion, as well as their freedom of association. It is a common feature

of authoritarian rule, and significantly undermines Mexican democracy.

ELECTORAL FRAUD

Free and fair elections are widely considered a necessary condition for any democracy. However, "free and fair" is a challenging goal in an environment characterized by conflict and violence. Many of the negatives consequences of prohibitionist drug policies discussed above have serious implications for the quality of elections: If citizens cannot express their opinions without fear of violence, cannot access news stories on pressing political issues, cannot organize to support candidates or political agendas, is an election truly free?

As in Colombia, cartels are involved in politics in Mexico because their bottom lines are affected by changes in public policy. As Andreas Schedler explains, cartels in Mexico act like "single-issue movements whose concerns are limited to one policy domain" that have "a positive interest in seeing that cooperative candidates win elections."[169] A candidate with a strong anti-crime agenda, who advocates for transparency and anti-corruption initiatives would directly threaten a cartel's economic agenda. As a result, Mexican criminal groups have increasingly threatened and even killed candidates running for public office.

According to the Mexican think tank Etellekt, the most recent election cycle in Mexico, between September 8, 2017, and July 1, 2018, was the most violent election period since the country's transition to democracy in 1997. In this period, 152 politicians were killed, 48 of whom were either prospective candidates or candidates in the current election cycle.[170] Others report an even higher death toll among candidates; according to the U.S. Congressional Research Service, 114 candidates were killed "allegedly by crime bosses and others in an effort to intimidate public office holders."[171]

Although Etellekt has made data available for this most recent election cycle, this subject requires further research to understand why these particular candidates were targeted, and by which cartels. What is clear for now is that violence against officials is having a chilling effect on public discourse. Politicians, even at the highest level of government, are incentivized not to speak out against cartels for fear of retaliation. Others are intimidated into leaving politics altogether — in 2011, 51 candidates running for local office in Michoacán dropped out the day before the election[172] — and others may be intimidated or bribed into serving cartels' interests if elected.

Furthermore, voters are aware of the impact cartels have on politics, and the intimidation could affect their choices in the voting booth and deepen their mistrust of officials that are elected. In some cases, criminal groups have even campaigned on behalf of candidates and instructed voters on which candidate to support. As Schedler notes, "[E]ven if it does not change outcomes, the very phenomenon of brazen criminal intrusion into the electoral arena jeopardizes the democratic spirit of free and peaceful political competition."[173]

CORRUPTION AND IMPUNITY

Cartels not only threaten democracy, they thrive on its weaknesses. Time

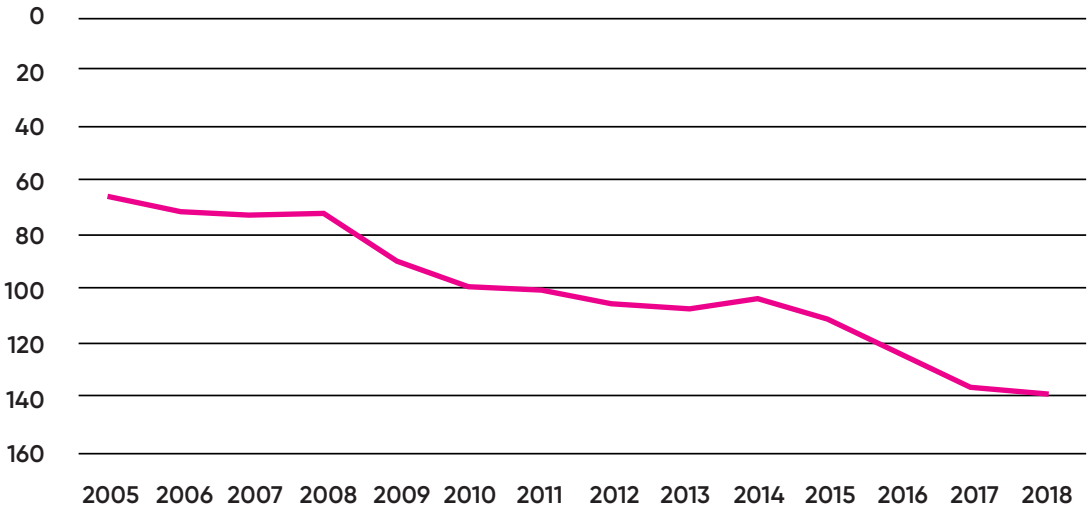
and again, analysts and activists point to two key failures of Mexican government that have allowed conditions to deteriorate to the current point: corruption and impunity. Cartels are so powerful because they are able to wield political influence, while almost never being held accountable.

Corruption has influenced Mexico's relationship with drugs since the beginning of the prohibition regime and is such a pervasive feature of Mexican government that many politicians are unwilling to fight it. One activist told us that the extent of corruption in Mexico has never surprised her, because many of the same people who were involved in PRI's one-party state remained in office, especially at the municipality level. The culture of corruption remained. Indeed, public perception of corruption has wavered little since the 1997 election, scoring consistently around 33/100 on Transparency International's Corruption Perceptions Index.[174] In 2018, Mexico ranked 138 among 180 countries.

Years of academic research have pointed to possible ways to disincentivize corruption, or at least to make the Mexican government harder to exploit. In *Narconomics*, Tom Wainwright explains how the country's multi-layered policing system facilitates cartel competition. Cartels take advantage of rivalries between the local, state, and federal police forces to gain influence and go after other cartels during territorial competitions.[175] Rather than reforming the policing system to be more vertically integrated, successive Mexican presidents have simply created additional, militarized police forces to add into the mix.

Government involvement in the human rights abuses described above has further deteriorated trust in public officials and politicians. Since 2006, complaints relating to military and police abuses made to national human rights commissions have increased by 900 percent, according to MUCD and Transform Drug Policy's "Alternative Drug Report."[176] According to Pew's 2017 Global Attitudes

Mexico's Ranking on Transparency International's Corruption Perceptions Index



Source: Transparency International[183]

Survey, just 17 percent of Mexicans trust the national government to do what is right for the country.[177] High-profile cases in which government officials were exposed for having collaborated with cartels have led Mexican citizens to hesitate to report crimes to police. Because of this, an estimated 85 percent of extortion cases go unreported.

Simultaneously, weak rule of law in Mexico fosters the widespread understanding that no one will be held accountable for their crimes, including government officials, and that most crimes will go unsolved. Despite years of U.S. funding for rule of law improvements, drug courts still struggle to process and conclude cases. As a result, a staggering 90 percent of violent crimes go unpunished in Mexico.[178] Moreover, since the government has largely focused on chasing down capos, there is little to prevent lower-ranked cartel members and government officials from acting violently and corruptly in pursuit of their personal goals.

CONCLUSION

The war on drugs has failed as a policy in Mexico. It has not succeeded in decreasing drug availability, consumption, or abuse, and, at the same time, has had disastrous consequences for human rights and democracy in the country. Mexican citizens are not able to fully exercise their rights to free expression, opinion, press, access to information, movement, and association, amongst others. They are under constant threat of violence and kidnapping, and the government has largely failed to respond to these dangers, or even take them seriously. The "war on drugs" has yielded serious consequences and must be reconsidered as a policy.

Our analysis has shown that the relationship between drug prohibition and human rights violations is not always one of cause and effect. In Mexico, drug prohibition exacerbated the existing systemic problems of corruption and impunity, in turn spreading violence and fear. This is not to say that cartels should not be blamed for their violent actions; rather, it means that the state cannot ignore its own role in creating the black market, and in failing to adequately address its own weaknesses.

Drug policy reform is not a silver bullet.[179] The problems that have allowed this industry to flourish will continue to plague Mexican society, and will require deep reforms to amend. Changes will need to include an overhaul of Mexico's policing system and justice system, a turn to radical transparency, and heightened government accountability. The first step is for the Mexican government to take responsibility for the ills its policies have brought to the people. Violence, disappearances, and censorship are a direct result of the Mexican government's highly militarized approach to prohibition. Reconsidering these policies, and ending prohibition, will go a long way to reducing cartels' political and economic power.

In Mexico, prohibition was an undemocratic strategy from the start, used to persecute political dissidents; going forward, the country should work to pass drug laws that place human rights and reform at the center. Weaknesses in democracy and policy have caused human rights abuses. Democratic strength will resolve them.

THE UNITED STATES
A DESTINATION COUNTRY

GENERAL INFORMATION

The United States is the largest economy in the world by nominal GDP, and this naturally makes it a major destination for goods both licit and illicit.

For years, the United States has been the number one buyer of Colombian cocaine by a large margin. The flow of Colombian cocaine into the United States became significant in the early 1980s. Most shipments initially entered the United States through Florida via the Caribbean until the United States ramped up border security at that state's ports; then, traffickers adapted, using Pacific routes and land routes through Mexico instead.

Marijuana, the most popular recreational drug in the U.S. market, is also an important piece of the puzzle. 90 percent of the foreign produced marijuana in the United States enters the country through Mexico. However, the Drug Enforcement Administration tends to focus its efforts on eradicating domestic marijuana sources, efforts that have recently been at odds with the legalization of marijuana or marijuana products at the state level.[184] As of July 2019, most U.S. states have passed some kind of decriminalization or legalization law for medicinal or recreational marijuana possession or use; in only 14 states is marijuana still fully illegal.[185] In the last 20 years, the United States has also become a major consumer of synthetic drugs originating in Asia and other parts of the world.

To combat rising drug abuse in the early 20th century, the United States began pushing supply-centric, prohibitionist drug policies internationally. Domestically, this manifested chiefly through the criminalization of everything from wholesale drug distribution to simple possession. Drug policy is framed as a public safety and national security issue, and attempts to limit the supply and use of drugs are primarily enforced through the criminal justice system.

The cost of the war on drugs has been astronomical for U.S. taxpayers. The federal government alone spends approximately $33 billion a year on drug control; the total amount spent since the 1960s is estimated to be over $1 trillion.[186] State and local governments, meanwhile, spend approximately $30 billion each year on criminal justice expenditures related to drug crimes,[187] nearly matching the federal government's entire yearly drug prohibition budget. Additionally, according to the National Drug Intelligence Service, the drug war costs the United States nearly $200 billion a year in indirect costs when accounting for lost productivity and the strain put on the criminal justice system.

However, prohibitionist policies have largely failed to reduce consumption and abuse at home. According to the latest United Nations estimates, the Unites States accounts for around 30 percent of the world's illicit drug consumption.[188] Drug overdose deaths in the country have reached record levels,[189] and the illicit drug market continues to thrive, further empowering violent criminal organizations abroad and undermining the rule of law, democracy, and human rights everywhere.

In addition to being largely ineffective in reducing drug consumption and abuse, we find that the enforcement of drug prohibition in the United States constitutes a serious threat to American human rights and democracy. The criminalization of the drug trade has given new expression what has long been the most serious flaw in American democracy: the institutionalization of racism, first through slavery, then indentured servitude and Jim Crow laws, and, today, through the over-policing and mass incarceration of Black Americans and their communities. The United States' hardline drug policies have established an overly punitive system of justice that discriminates against and disenfranchises huge swathes of the population, and undermines the legitimacy of the state in the eyes of many of its citizens.

HISTORICAL CONTEXT AND GOVERNMENT POLICY

Drug use in the United States goes back centuries, but the market was largely unregulated throughout the 1800s and early 1900s. Doctors freely prescribed opium and cocaine to treat pain, and opium was also popular a recreational drug throughout the country. It was not until the passing of the Harrison Act of 1914 that the federal government started to take a serious role in regulating and taxing the use of opium and cocaine. This legislation had a huge impact nationally and internationally, and in the following decades, the United States consistently responded to rises in drug consumption by passing legislation criminalizing the production, sale, and use of drugs, and instating harsh punishments for violating these laws. This trend came to a head in 1970 when former U.S. President Richard Nixon gave a now-infamous speech in which he deemed drug abuse "America's Public Enemy No. 1" and officially kicked off the "war on drugs" as we know it today.[190] He put a special emphasis on law enforcement as a means to control abuse, and greatly ramped up foreign policy efforts aimed at reducing drug supply. This approach continues to define American drug policy to this day.

U.S. federal legislation criminalizes the production, sale, and use of marijuana, opium, cocaine, and other drugs, with the notable exceptions of alcohol and tobacco. Under the Controlled Substances Act (CSA) of 1970, which merged all previous federal drug laws into one, drugs are sorted into five categories, or "schedules," according to how dangerous they are, their addictiveness, and their potential medical uses. Marijuana and cocaine were classified as Schedule I substances, which firmly prohibited their production, trade, and use for any purpose. This list has been the subject of serious criticism throughout the years, because of inconsistencies and arbitrariness in its categorization.[191]

Federal prohibition is enforced by the Drug Enforcement Administration (DEA), which was officially established in 1975, and whose mission is to deliver criminals involved in the drug trade to the criminal justice system. Criminalization has also led security authorities to ramp up the policing of neighborhoods to catch drug offenders, especially in poor and minority-majority neighborhoods, leading to very high numbers of arrests.

Once suspected violators of drug laws reach court, they face a set of criminal justice practices put in place during the country's "tough on crime" era in the 1980s and 1990s. These policies include mandatory minimums (a mix of federal and state guidelines and requirements that establish specific prison terms for certain crimes) and three strikes laws, which subject individuals to harsh penalties, including potentially life in prison, if they break any law three times. In 1986, the Anti-Drug Abuse Act established criminal penalties for simple possession and use of any scheduled drugs and amended the CSA to establish stronger punishments for drug offenses involving substance analogues that were deemed to be more harmful. For example, though crack cocaine and pure cocaine are basically the same substance, under the 1986 amendment,

crack possession and trade are punished much more severely.

Three strikes laws and harsher penalties have been shown to be utterly ineffective in reducing violent crime across the country and curbing abuse. A comprehensive study in 2006 of 18 cities in three strikes states concluded that these laws were not associated with any "significant reduction in crime rates."[192] Likewise, a study on the effects of these laws on crack addiction concluded that the decline in crack use was no larger than the decline in cocaine use, even though the punishment for crack is far more stringent.[193]As written and as enforced, most of these policies are aimed at reducing the supply of drugs by targeting drug dealers, gang members, and others involved in the drug trade. Proponents of this approach also argue that harsher enforcement drives prices of drugs, and thus reduces consumption. This might sound plausible at first; however, academic studies, historical drug price data, and the fluctuations in drug abuse provide no evidence of this effect.[194]

The United States does also spend money on medical treatment and rehabilitation services. Historically, this has been a very small fraction of the overall drug budget, but, through the efforts of civil society advocates, it is a fraction that has slowly grown over the years. Two years ago, under President Barack Obama's administration, funding for treatment and prevention finally caught up to funding for supply-reduction policies (interdiction, law enforcement, and international aid). Nevertheless, these programs remain inadequate particularly given the size of the current crisis or have otherwise proven to be ineffective in preventing abuse. The U.S. Surgeon General's office issued a comprehensive report in 2016 where it highlighted some of these issues.[195] Citing data from the National Survey on Drug Use and Health from 2015,[196] it indicated that only 10.4 percent of people with substance abuse disorder received treatment, and only a third of them went through one that met "minimal standards of health."[197]

Ronald Reagan signs the Anti-Drug Abuse Act of 1988

Additionally, less than 10 percent of school administrators in the country reported using proven drug prevention programs.[198]

The United States has also established a path to treatment for drug offenders through its "drug courts." Defendants can elect to have a drug court judge hear their case instead of going to a criminal court, where they would likely receive prison time. Drug court defendants must plead guilty, and in exchange are offered lighter sentences and are given access to treatment for addiction. Although this system may seem preferable to incarceration, its practices have raised concerns in the human rights community, which will be described in detail below. In terms

of effectiveness, while recidivism does decline significantly for people who go through drug courts instead of the traditional criminal system,[199] the results in terms of preventing drug abuse are modest.[200]

Another aim of these punitive policies is to reduce demand by using harsh penalties to disincentivize the use of drugs. But on the whole, domestic U.S. prohibition has utterly failed to meet its goal of ending drug consumption and abuse, and successes have been short-lived, as has been seen in other case studies. Tragically, in 2017 alone, more than 70,000 people lost their lives to drug overdoses in the United States. This is the highest recorded death count in the United States and represents a 10 percent increase from 2016. This number is higher than all American casualties during the Vietnam War.

After dropping by 50 percent after 2013, cocaine consumption is back up to pre-2013 levels, and the number of first-time cocaine users has reached an all-time high.[201] Additionally, recent data from the National Health Center for Health Statistics and the Center for Disease Control point to a sharp increase in overdose deaths from cocaine in recent years. To make matters worse, opioid addiction, dependency, and related deaths have been rising dramatically in the past three decades, causing is what is now widely regarded as a serious crisis.

The United States' initial response to this new crisis followed old patterns. Federal and state governments blamed doctors for overprescribing opioids as pain medication for patients with enduring or chronic pain, and even sought criminal charges for it.[202] The government did the same thing in the 1920s. Back then, it actually arrested physicians for prescribing opioids for chronic conditions. Then, as now, these interventions simply drove more people toward the black market. Doctors have stopped prescribing painkillers fearing legal action, but rather than simply abandoning opioids abruptly, patients have turned to the illicit market and started taking heroin and fentanyl, drugs that come with a higher risk of overdose and that are often sold interchangeably in the black market. Today, an increasing number of new addicts start with illicit substances rather than prescription drugs,[203] and more than two thirds of opioid related deaths are linked to illicitly acquired drugs.[204]

Not only have these policies utterly failed to decrease drug consumption and abuse, but they have had a dire impact on human rights. In the analysis that follows, we elaborate on these negative consequences and illustrate the need for a revision of prohibition. However, it's worth noting that some states have started to undo federally imposed prohibitionist laws. In 1996, California became the first state to decriminalize marijuana consumption for medical use. In the intervening decades, many other states have followed California's lead. Today, there are only three states in the union (Idaho, Kansas, and South Dakota)[205] that still criminalize the possession of marijuana or related products under all circumstances. This trend is significant and warrants deep analysis. Nevertheless, marijuana is still a Schedule I drug at the federal level, and there have been no serious legislative efforts to decriminalize it, much less other banned substances.

COSTS FOR HUMAN RIGHTS AND DEMOCRACY

MASS INCARCERATION AND CRIMINALIZATION

The war on drugs is a major driver of mass incarceration in the United States. The United States has only 5 percent of the world's population, but nearly 25 percent of its prisoners. 20 percent of prisoners are incarcerated for drug crimes, and often for nonviolent crimes, like possession. Furthermore, the criminalization of drugs has made criminals of an alarming number of people. Over 1 million people are arrested every year for drug-related offenses. In 2016, more people were arrested for marijuana possession than for all violent crimes combined.[206] Additionally, more than 250,000 people have been deported for drug violations since 2007.[207]

Prohibition as implemented in the United States has established a harshly punitive set of practices that have deprived millions of individuals of their liberty simply for using drugs, even in cases where this use poses no threat to themselves or to others. With laws like the three strikes rule, a defendant that has been arrested for possession three times could spend their life in prison. Mandatory minimums levy prison sentences automatically in many states. In some, drug possession and other nonviolent drug crimes are considered felonies, meaning that individuals could be deprived of their right to vote, child care rights, and housing, education, and employment opportunities, often leading them into a cycle of poverty.[208] In many cases, the punishment simply does not fit the crime. Furthermore, since incarceration does little to nothing to reduce the prevalence of addiction,[209] any detained addicts simply find themselves without access to treatment or community support, further inhibiting their ability to improve their lives.[210]

DISCRIMINATION AGAINST BLACK AMERICANS AND OTHER MARGINALIZED GROUPS

The effects of mass incarceration have a disproportionate impact on racial and ethnic minorities, and especially on Black Americans. Black Americans are far more likely to be arrested and convicted for drug crimes than white Americans, despite the fact that these populations use drugs at similar rates. This is sometimes due to structural inequalities built into the criminal justice system; other times, it is due to unconscious biases in policing practices.[211]

One factor that leads to harsher penalties for Black Americans is the irrational disparity in the criminalization of certain drugs as determined by CSA categories, as explained above. Crack cocaine and pure cocaine are essentially the same substance, but crack possession and trade are punished much more severely, a problem that is compounded with minimum sentencing and three strikes laws. The crack epidemic of the 1990s led to tremendous injustices against Black communities. Lower prices of crack in inner cities meant that poorer, Black communities were particularly vulnerable to becoming users, more so than richer, white Americans. This meant that Black individuals ended up serving

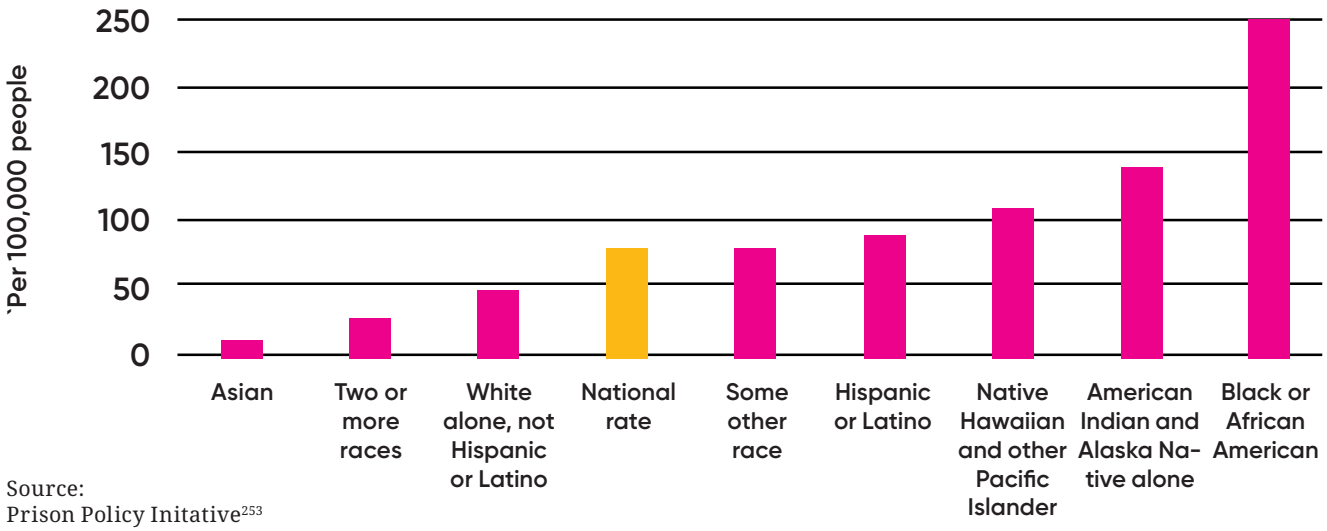
North Carolina police practice no-knock raids in a joint operation training exercise at Seymour Johnson Air Force Base. (Photo from Senior Airman Whitney Lambert/U.S. Air Force)

more time than white cocaine users for essentially the same crime.[212] Although the penalties for crack possession were lowered significantly in recent years, the disparity remains.

The early association of drugs with minorities that led to the establishment of harsh crack punishments has also been translated into policing practices. Law enforcement devotes more resources and time to policing poverty-stricken areas in inner cities where the majority of the population is either Black or Hispanic. Drug laws, such as New York City's former "Stop and Frisk" law, give police offers an incentive to conduct drug searches on pedestrians and drivers in these overpoliced neighborhoods. As a result, Black Americans are arrested at far higher rates than white Americans. According to an extensive Human Rights Watch report,[213] Black individuals in Manhattan were arrested at a rate of 3,309 per 100,000 people between 2010 and 2015, compared to only 306 per 100,000 white people, making Black people 11 times more likely to be arrested for drugs than white people.

The overpolicing of Black neighborhoods has also worsened the relationship between the police and the communities they are meant to serve. According to Gallup, trust in police by Black Americans is at an historic low, with only 30 percent of this group saying it has "a great deal" or "quite a lot" of confidence in police.[214] Several high-profile shooting cases that involved police inspired the creation of the Black Lives Matter protest movement, which worked to bring attention to incidents of police brutality, including the killings of Michael Brown in Ferguson, Missouri, and Eric Garner in New York City. Although there is difficulty in getting reliable data on police shootings on the national level, an ongoing project by *The Washington Post* shows that in the past four years alone there have more than 4,000 police shootings in the United States and, although African Americans make up less than 12 percent of the national population, they

Incarceration rates in the United States in 2010, by race



Source:
Prison Policy Initative[253]

make up nearly 25 percent of those shot by the police.[215] Additionally, the total number of police shootings per year in the United States is significantly higher than in other developed countries, such as Canada, Japan or Australia.[216] These trends have been well-established, but do not seem to be compelling the U.S. federal government to make any real reforms. Some argue that this discriminatory treatment of Black Americans is unintentional; others argue that the criminal justice system was specifically built to marginalize the poor and racial and ethnic minorities. Regardless of intention, the vast, systemic discrimination against minority populations is a serious human rights issue that should not be tolerated anywhere, much less in a free, democratic, and pluralistic nation.

DISENFRANCHISEMENT OF BLACK AMERICANS AND OTHER MARGINALIZED GROUPS

An important effect of the mass incarceration of Black individuals is the enormous consequence it poses for American democracy. Under federal law, drug crimes are considered felonies, meaning that anyone imprisoned for any crime ranging from possession to drug-related homicide would be considered a felon, and therefore denied their right to vote in several states. Some states have passed different criminal disenfranchisement laws — ranging from permanent disenfranchisement in Kentucky to no disenfranchisement in Vermont[217] — but on the whole, the existence of these laws have enormous consequences for voting rights and electoral integrity in the United States. Florida, for example, was until recently one of the states with the harshest criminal disenfranchisement laws. Prior to January 2019, it is estimated that 1 in 5 Black American adults could not vote due to prior felony convictions.[218] Florida is a key swing state in U.S. elections, meaning that the disenfranchisement of Black Americans that results in part from prohibition could have affected general election outcomes by depriving a historically marginalized group of its right to vote. This policy was amend-

ed earlier this year, when Florida's legislature followed up on a popular November 2018 ballot initiative by voting to re-enfranchise felons who have completed their sentences.[219] Florida's new law signals positive change, but debate on re-enfranchisement policies continues,[220] and many states continue to disenfranchise individuals with felony drug convictions.[221]

In her influential book, *The New Jim Crow*, legal scholar Michelle Alexander explains how criminal justice laws have worked to re-establish the structural inequalities that were supposedly undone by the repealing of Jim Crow laws during the civil rights movement.[222] Domestic drug prohibition policies like criminalization and police militarization present a threat to the civil rights gains made in the past five decades for Black Americans.

Although criminal disenfranchising laws are not necessarily a product of the drug war, nor an American invention, the drug war's overcriminalization of drug offenses and its crucial contribution to the United States' bloated prison population make it a significant threat to the health of American democracy.

WEAKENING OF DUE PROCESS AND JUDICIAL DISCRETION

The war on drugs has also created questionable incentives for judges and prosecutors that could potentially deteriorate the quality of the judicial process in the United States. Mandatory minimums and three strikes laws, for example, change legal procedures for drug-related offenses in troubling ways. In these cases, mandatory minimums, especially those applied to drug offenses, provide federal prosecutors more power in "charging and plea-bargaining decisions,"[223] which effectively takes power away from judges and gives the government substantial leverage in these negotiations. Additionally, by taking away the judge's discretion, mandatory minimum and three strikes laws create a situation where defendants are not evaluated as individuals on the basis of their specific case, but grouped in with others facing similar charges. Finally, even among scholars who do not favor the decriminalization or legalization of drugs, there is a clear understanding that mandatory minimums yield disproportionally punitive sentences[iv] for nonviolent drug offenders.[224] Punishing drug crimes so severely sets a dangerous precedent for future sentencing guidelines and endangers the core legal principle of proportionality. All of these issues have had a questionable effect on due process and weaken the credibility of the judicial system in general.

Experts have also expressed concern about policing practices in collecting evidence for drug crime cases. For example, police have increasingly sought to detain suspects in "no-knock raids," in which law enforcement enters a building without notifying its residents, often in partnership with Special Weapons and Tactics (SWAT) units. Judges can issue no-knock warrants to provide police forces with the element of surprise – an important advantage to have when attempting to capture heavily armed and bunkered criminals. But critics argue that these warrants have frequently been issued without an appropriate level of scrutiny. A recent study by *The New York Times* found that the "no-knock process often begins with unreliable informants and curso-

[iv] According to Frank O. Bowman III, by the late 1990s, "the average sentence for methamphetamine cases [was] higher than the average sentence for sexual abuse, more than double the average sentence for assault, one-and-a-half times the average sentence for arson, and nearly four times the average sentence for burglary."

ry investigations that produce affidavits signed by unquestioning low-level judges."[225] Many of these searches have uncovered only small stashes of drugs or no evidence at all, and it has been estimated that nearly 100 people have died in these raids between 2010 and 2016 alone.[226] According to the ACLU, 54 percent of the people impacted by searches employing a SWAT unit were Black or Hispanic.[227]

Drug courts have also presented a challenge to the justice system. Although these courts are generally seen as an improvement to dealing with drug issues through the criminal justice system, they have also prompted serious concerns. Though defendants technically elect to enter drug courts instead of a criminal court when they are facing serious addiction issues, they are often required to plead guilty to a crime, and may do so to avoid incarceration.

This is not much of a choice, and, according to a Social Science Research Council report from 2018, it should lead us to question whether their entry into the drug court system can really be considered consensual.[228]

Finally, drug courts do not seem to take into consideration the realities of drug use, possession, and abuse. An individual charged with assault while under the influence of drugs and an individual charged with simple possession may both be eligible to enter a drug court depending on the jurisdiction. In cases where the defendant is suffering from addiction, drug courts can be a good option, because they allow the state to monitor and provide addiction treatment to the offender. But it makes little sense for a defendant with no addiction or mental health problems to go through treatment and to be submitted to the stringent requirements of most drug courts, which include routine urine tests and social worker visits for parents.[229]

INACCESSIBILITY OF HEALTH CARE

The war on drugs has also had a serious, negative impact on public health. The denigration of drug users has been a feature of the war on drugs since the start, and has created a cultural stigma around addiction that prevents individuals from getting the help they need. During the campaign to establish prohibition in the early 20th century, Harry Anslinger, the first commissioner of the Federal Bureau of Narcotics, made inflammatory statements to Congress arguing that drug addicts were the "most frequent [criminal] offenders" and that marijuana led to "violent and insane behavior."[230] These comments did not stop at branding drug users as a public menace, but went further to linking non-white Americans, in particular Asians, Blacks, and Hispanics, to drug use and crimes such as murder, child abuse, and property damage.[231]

Some of the challenges faced by drug abuse patients are a shortage of trained professionals, reluctant care providers, and underfunded government and private institutions, all of which can be partly attributed to the generalized stigma of drug use and the misinformation it has engendered. A recent article from Health Affairs uses data from the Substance Abuse and Mental Health Services Administration to highlight some serious geographical gaps in coverage for people seeking addiction treatment, in particular those affected by the opioid crisis.[232] Even when addic-

tion centers are available, only a small fraction of them provide a complete set of options for medication-assisted care, as the drugs required for these treatments are heavily regulated.

Additionally, overdose victims do not generally have access to proper emergency care. Immediate care has been discouraged by prohibition, as people are incentivized not to help someone who is in possession of drugs for fear of criminal reprisals. Furthermore, controlled emergency medication like Naxolone — which has the power to "reverse" an opioid overdose — is still inaccessible or in short supply in many parts of the country. There have been some improvements. In recent years, Naxolone has been made more widely available in the United States, and so-called Good Samaritan laws[233] have been passed in nearly every state to shield those who help drug abusers from prosecution. Still, there is much work to be done in terms of implementation, as police officers in particular still lack sufficient training to deal with emergency drug-related health crises.[234]

When health care services are available for addicted users, individuals are often hesitant to take advantage of them, fearing that there could be serious social, educational, and career consequences if they are seen entering clinics or rehabilitation centers.[235] The high financial costs of rehabilitation and medicine-assisted treatment are another serious issue for many Americans, especially those who lack health insurance, approximately 10 percent of the population. Even when individuals have insurance, it is sometimes difficult to access treatment, as plans that do cover more comprehensive rehabilitation programs run into additional hurdles at the state level, making it difficult for the patient to have access to medication.[236]

To this day, government officials continue to use derogatory and racialized language to describe the drug trade, particularly when addressing immigration over the southwestern border. President Donald Trump has routinely called for a tougher approach on immigration and law enforcement by claiming that the need to defend Americans from Mexican "drug dealers" constitutes a national emergency. A small exception can be seen in the U.S. government's response to the opioid crisis, which has been marked by a shift toward health-first language and emphasis on providing addiction treatment.

Still, government officials continue to blame physicians for the opioid crisis. As explained above, the government has occasionally pressured physicians to change their prescription practices when opioid addiction has spiked. For patients with chronic pain or other conditions that would benefit from treatment via illicit drugs, this constitutes a serious hurdle to access much-needed, and potentially life-saving treatment.

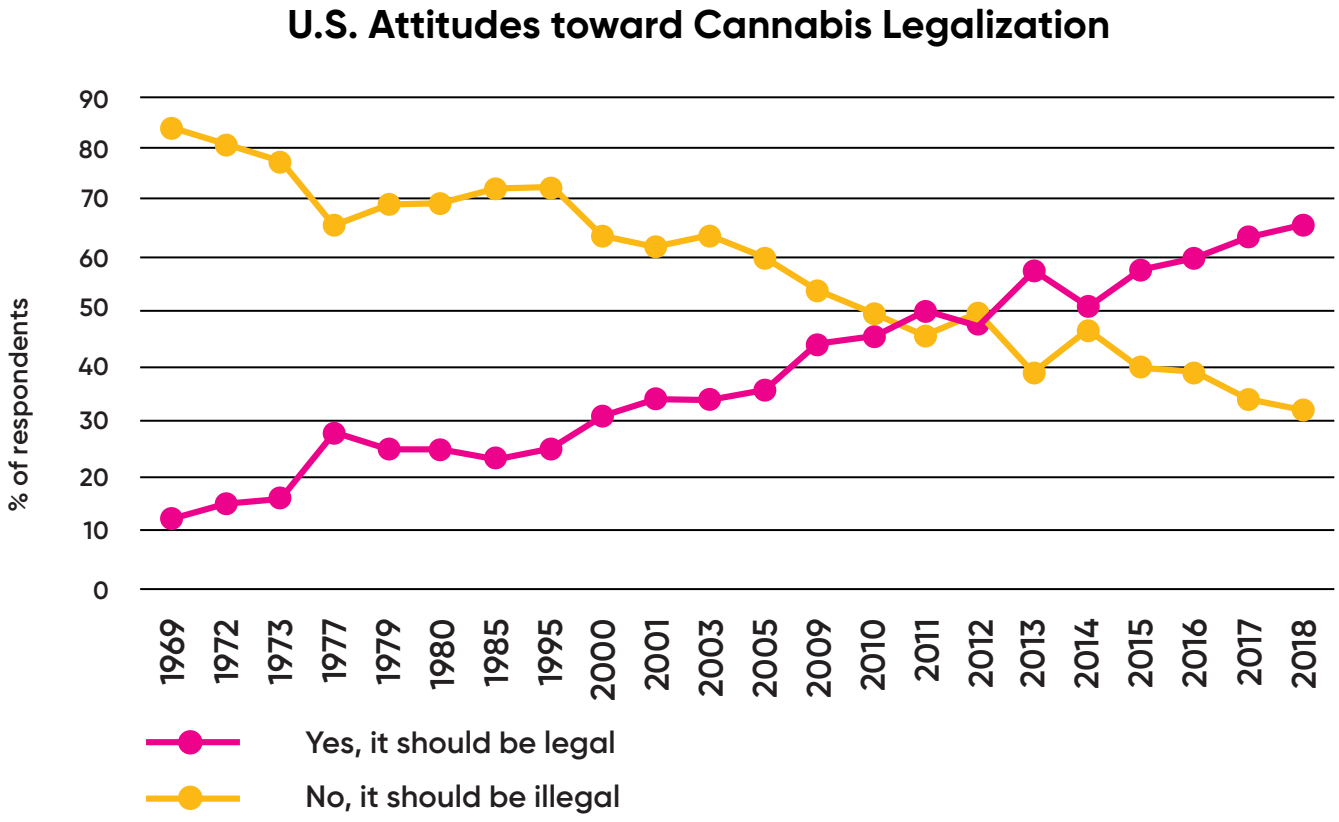
Finally, some drug policies could constitute a violation to a patient's right to privacy. In drug courts, defendants are often forced to give the judge personal medical information, since the judge is supposed to be intimately involved in setting their treatment plan.[237] As explained above, this revelation of private medical records may not really be considered consensual because many choose to enter the drug court system because it is often their only chance at receiving treatment for addiction.

CONCLUSION

This case study analysis of the United States as a destination country has revealed that prohibitionist policies have largely failed to meet their goal of eliminating the "threat" of drug consumption and abuse. These policies have had 100 years to prove their effectiveness and have failed, and, worse, have created serious threats to individuals' rights to equal treatment under the law, participation in the electoral process, health care, and more.

Furthermore, criminalization has set up serious obstacles to policy alternatives that would better address addiction and drug abuse. This may explain why the United States' demand-reduction efforts have failed to see impressive results. Ending prohibition could make it far easier for drug abuse patients to receive care, improve the effectiveness of federal treatment programs, and clear the way for the implementation of harm reduction policies (needle exchange programs, replacement therapy, etc.) that have proven to be more effective.[238]

In the meantime, marijuana decriminalization and legalization experiments throughout the United States are starting to present new paths forward. A recent study in the Journal of Urban Economics found that in states that have legalized marijuana, prescriptions of more dangerous or addictive opioids have dropped by an average of nearly 7 percent.[239] Contrary to popular belief, legalization has not been found to increase consumption; in Colorado, youth use of marijuana remained sta-



Source: Gallup[254]

ble in the five years after legalization, but arrests dropped dramatically.[240] Legalization is not necessarily more effective in eliminating recreational drug consumption compared to prohibition — but it has negated some of its human rights consequences.

So far, these changes have not translated to a federal level, despite the fact that 61 percent of Americans now support marijuana legalization.[241] Some signs, including the rhetoric of U.S. President Donald Trump, suggest that the executive branch may actually double down on the law enforcement approach. In an official memo, former Attorney General Jeff Sessions even suggested that the death penalty be used against drug traffickers.[242] President Trump echoed this rhetoric in February 2019, when he praised China's use of the death penalty for drug offenses,[243] and suggested it as a possible solution to the opioid crisis.[244]

The United States has been the world's fiercest advocate of the war on drugs and played a major role in establishing prohibitionist policies at the international level. This analysis shows that the drug war has not only had enormous consequences in production and transit countries, but has also threatened human rights and democratic institutions at home. The United States has been spared the level of violence seen in other countries along the supply chain, and the strength of its democratic institutions has ensured that there is space for civil society, independent press, and voters to push for reform. However, this does not mean that prohibition has been a politically neutral policy at home.

On the contrary, its implementation has caused enormous damage, particularly to minority communities, and has degraded the perceived legitimacy of its institutions in the eyes of the public. A century of prohibition has fed into the current climate of political polarization, and, ultimately, endangered the United States' democratic health.

Conclusion

In this report, we have examined prohibition as a policy globally and at the national level through three case studies: Colombia, Mexico, and the United States. The analysis joined existing research across many fields — including economics, political science, international relations, international law, and journalism — to provide a cohesive understanding of the negative consequences of prohibition. What we have found is that prohibition has largely failed to meet its stated goal and has caused destruction and death along the way. Additionally, in the course of our research, we became increasingly aware of the interaction between prohibition and a state's political system. In each of these cases, prohibition gave ammunition to existing institutional flaws, exacerbating them and creating violent outcomes that directly threatened human rights.

In Colombia, apart from damaging the health, safety, and economic wellbeing of civilians directly, prohibitionist policies created an illicit market that empowered armed groups, allowing them to mount a serious challenge to the state in the rural, peripheral areas where it was already weak. It set up perverse incentives that led to corruption within the state's judicial system and electoral process.

In Mexico, drug war-related violence spiked when the state was at its most vulnerable, transitioning from authoritarianism to democracy in the 1990s and early 2000s. Increased political competition led to increased competition in the illicit market. Corruption and weak rule of law — two problems that existed under the PRI government and were never quite reformed — were given new, violent expression through cartel violence, displacement, and threats to civil society that today represent a serious threat to the country's democratic future.

In the United States, prohibition has played a significant role in re-establishing institutional racism through a criminal justice system that is more likely to imprison a Black person than a member of any other minority group, even when they commit the same crime. Other minority groups are also disproportionately affected: in 2012, 37% of drug offenders in federal prison were Hispanic or Latino, though this group made up just 16% of the U.S. population at the time.[245]

The drug war has played a significant role in creating these threats to human rights and democracy. Lifting prohibition would weaken armed groups and criminals, reduce the amount of profit to be gained through the illicit market, and allow states to regulate the markets

to ensure the safety of consumers. It could also open the way for drug use to be destigmatized, and for health care workers to be able to provide much-needed treatment to victims of drug abuse and addiction. However, lifting prohibition won't alone solve these endemic problems with the state in each of these cases, and criminals may well find other ways to make money — as they have done in Mexico by entering into people smuggling and human trafficking. Lifting prohibition would need to be coupled with deep institutional rehabilitation and reform to improve the overall health of the justice systems, police departments, electoral bodies, and more, in order to truly end human rights violations.

In fact, these cases also show how institutional strength can lead to better human rights outcomes. The countries examined in this report, and those mentioned above, are all democracies. The existence of a civil society there — however embattled — created some room for drug reform advocacy, and the importance of elections gave politicians incentive to heed voters' concerns. But in authoritarian countries, where civil society is repressed or nonexistent, how would reform happen? In China and Iran, the justice system uses the death penalty to punish perpetrators of drug crimes.[246] In Venezuela, the authoritarian regime of Nicolás Maduro has used the illicit drug trade[247] to keep funding the corrupt state it has captured, even after the precipitous collapse of the Venezuelan economy. In the Philippines, strongman Rodrigo Duterte is killing thousands of alleged addicts in the name of prohibition in security campaigns that could amount to crimes against humanity.[248]

Lifting prohibition would weaken armed groups and criminals, reduce the amount of profit to be gained through the illicit market, and allow states to regulate the markets to ensure the safety of consumers

Is there hope in these countries of reversing the effects of prohibition's proxy wars? This report has asked how prohibition interacts with democratic political systems. One future avenue for research would be to explore its interaction with authoritarian ones. Our hypothesis would be that the war on drugs gives authoritarians another means to exert their will on the people.

In the context of Mexican democracy, intrepid advocates have risked their lives to advocate for drug reform and are making serious gains. In October 2018, the Supreme Court ruled that the ban on recreational marijuana was unconstitutional, leaving it up to Congress to regulate its use.[249] The result of this advocacy can be seen also in AMLO's intent to invest government money in forensic investigations of disappeared people and other newly-announced initiatives. In Colombia and the United States, civil society advocacy led governments to reverse harmful policies like aerial spraying and "Stop and Frisk." In Colombia, some of these gains could be attributed to Plan Colombia's human rights and rule of law funding.

Evaluating the effectiveness of alternative drug policies, and whether or not they are weakened by the simultaneity of prohibition, falls outside the scope of the report, but also warrants further investigation.

Other countries, too, offer perspectives on alternatives to prohibition, including the legalization of "hard" drugs in addition to marijuana. Portugal, for example, has seen a sharp decrease in drug overdose deaths and even violent crime since it decriminalized most drugs in 2001.[250] The Netherlands has also experimented with decriminalization of small amounts of drugs, and also with smarter harm reduction policies such as needle exchanges and easily accessible treatment for addiction. A 2013 report by the Open Society Foundations found that the Dutch experience has also been a success,[251] reducing harm and the population's exposure to dangerous drugs, as well as improving health outcomes for the general population.[252] Mexico is starting to follow this pattern right now, as the legislature looks into ways to decriminalize marijuana and potentially other drugs.

However, shifts in one market, as we've learned, can impact others. The creation of a legal market in destination countries like Portugal may well be responsible for increases in violence in production and transit countries, shifting criminal competition from one market to another. Ultimately, what is needed is a new global consensus around treating drug abuse not as a criminal or security threat, but as a health problem. Consensus at the international level must translate into coordinated action that eliminates negative incentives up and down the supply chain. The current consensus, prohibition, has simply failed to produce the desired results, and it is long past time for alternatives to be considered.

We hope that this report has made progress in connecting the dots between prohibition and poor human rights outcomes. Competition in the illicit market sparks violence. Corruption weakens the rule of law. Criminalization creates stigma and harms minority groups. Though some of the most violent actors in the drug war are criminals, a government policy is what creates the incentives that make their crimes possible. So far, it seems that most drug policy groups fight for change on their own, without support from international human rights organizations. Our research has made clear that if we hope to decrease human rights violations in these countries, prohibition needs to go. HRF is committed to supporting drug policy groups, and we urge our partners in the human rights space to do the same.

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