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ALTERNATIVE DRUG POLICIES IN THE AMERICAS

*Fernando Avelar**

THE Summits of the Americas conferences began in Miami, Florida, in 1994, premised on the notion that democratic principles should be expanded throughout the Western Hemisphere via the participation of the member states in institutionalized gatherings.¹ The leaders of the member states discuss common policy issues and commit to tackling regional problems with combined resources.² The best interpretation of the conferences is that they are an opportunity for all of the heads of state to come together in one place and have a “forced moment” to talk about the various issues that are prevalent among the countries of the Americas.³

Recently, the Sixth Summit of the Americas was held in Cartagena, Colombia, from April 14th through the 15th.⁴ The Summit brought together “more than [thirty] North and South American countries” to discuss several topics currently at issue in many of the participating countries.⁵ The central theme of the Summit was “Connecting the Americas: Partners for Prosperity.”⁶ This theme focused on how physical integration and regional cooperation could be used to increase levels of development and to overcome challenges facing the Western Hemisphere.⁷ Some of the more prominent issues discussed were energy in the region, free trade among the Americas, and the drug problems plaguing several of the countries.⁸ The so-called “War on Drugs” was one of the hot topics at the Summit and highlighted some of the “sharpest distinc-

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1. *Background and Previous Summits*, SUMMITS OF THE AM., http://www.summit-americas.org/previous_summits.html (last visited May 21, 2012).

2. *Id.*

3. Jackie Calmes, *Trade, Energy and Drugs are Topics for Obama at Summit of the Americas*, N.Y. TIMES, Apr. 13, 2012, at A12 (internal quotation marks omitted).

4. Mariano Castillo, *Drug War, Including Legalization, Hot Topic at Summit of the Americas*, CNN (Apr. 14, 2012), http://articles.cnn.com/2012-04-15/americas/world_americas_summit-of-the-americas_1_legalization-drug-war-drug-issue?_s=PM:AMERICAS.

5. *Id.*

6. *What Did the Hemisphere's Leaders Discuss?*, Summits of the Am., <http://www.summit-americas.org/sixthsummit.htm> (last visited May 21, 2012).

7. *Id.*

8. Calmes, *supra* note 3.

tions” among the several leaders.⁹

The discussion of drugs at the Summit was controversial in that many of the South and Central American countries believe that the “War on Drugs,” first mentioned during former U.S. President Richard Nixon’s administration (1969-1974), has ultimately failed since its adoption four decades ago.¹⁰ Several of the countries want the United States to acknowledge that the current policies in place to combat the drug problem in the Western Hemisphere are not working. Certain leaders have been very outspoken about seeking alternative policies to combat drugs, “decriminalization” being the most popular alternative, and have risen to the forefront of the issue in their support of implementing new alternatives.¹¹

I. FOR AND AGAINST DRUG REFORM

The host country of the Summit was Colombia, a nation with a notorious history of being a center for cocaine growth and distribution, but one that has recently made tremendous progress as a country.¹² The President of Colombia, Juan Manuel Santos, and his administration stated prior to the Summit that “a range of options” were available to combat the drug problem.¹³ Colombia has come a long way from the country that was known for its infamous coca fields. It is now a nation boasting improved levels of security and economic growth, having flourished under President Santos.¹⁴

In support of Colombia’s openness to debate on various alternatives to drug policy, the President of Guatemala, Otto Pérez Molina, has likewise been very outspoken on the need for reforms in drug policy.¹⁵ President Molina has recently begun to advocate openly for decriminalization of recreational drug use, primarily because he believes that the war on drugs is a failure and is costing the countries of Central America millions yearly.¹⁶ And, indeed, President Molina has reason to be concerned ever since Colombia began to seriously pursue the eradication of coca plants within its borders. Colombia’s mission to substantially eliminate the coca

9. Castillo, *supra* note 4.
10. Jeff O’Connor, *Drugs, Cuba Dominated Summit*, *LATINAMERICA PRESS* (Apr. 20, 2012), <http://lapress.org/articles.asp?art=6610>.
11. Calmes, *supra* note 3.
12. *See id.*
13. Steve Elliott, *Summit of the Americas: Drug War Will Be on the Table*, *TOKEN TOWN* (Apr. 10, 2012, 9:43 AM), http://www.tokeofthetown.com/2012/04/summit_of_the_americas_war_on_drugs_will_be_on_the.php.
14. Sibylla Brodzinsky, *Drug Policy and Cuba Headline Summit of the Americas*, *CHRISTIAN SCI. MONITOR* (Apr. 16, 2012), <http://www.csmonitor.com/World/Americas/2012/0416/Drug-policy-and-Cuba-headline-Summit-of-the-Americas-video>.
15. Calmes, *supra* note 3.
16. Nikolas Kozloff, *The Summit of the Americas, WikiLeaks and the Failed War on Drugs*, *ALJAZEERA* (Apr. 13, 2012, 7:18 PM), <http://www.aljazeera.com/indepth/opinion/2012/04/2012413115618939119.html>.

fields present in the country has largely been successful.¹⁷ But the coca fields quickly sprouted in Peru and Bolivia through a “balloon effect,” and much of the drug trafficking violence has spilled over into neighboring countries such as Guatemala and Mexico.¹⁸

President Santos acknowledged that Colombia’s success in decreasing the amount of drugs within the country has negatively affected other countries. It is because of this effect that he would like to pursue other approaches to drug policy.¹⁹ But in order to have successful reform to drug policy there must be a consensus on using alternative policies among the primary players in the drug war, including the United States.

The United States has taken the hard-line approach of prohibitionist policy to the War on Drugs since the Nixon administration.²⁰ According to a CIA report, the United States is the world’s largest consumer of cocaine, Colombian heroin, and both Mexican heroin and marijuana, in addition to being a “major consumer of ecstasy and Mexican methamphetamine.”²¹ Because of this, the U.S. policy on drugs plays a large part in what happens in the rest of the Americas in relation to drugs. Where there is a demand, a supply will be made. The strict policy of prohibition against illicit drugs is championed in the United States and largely followed and enforced in Latin America and the Caribbean.²²

Even with all of the evidence indicating the failure of the present war on drugs and the support for alternatives such as decriminalization, the United States still keeps a strong stance towards prohibition of any illicit drugs.²³ During the Summit, President Obama expressed his administration’s disapproval of legalizing drugs in the United States twice, once during a meeting alongside the Brazilian and Colombian presidents, and again during the Summit’s opening day remarks.²⁴ Latin America does not view the strict U.S. approach to drugs favorably because the drug war is being fought on Latin American soil.

II. EFFECTS OF THE CURRENT DRUG POLICY

Colombia has largely been successful at ridding the country of coca fields and cocaine production.²⁵ Even with the \$8 billion (USD) that the United States spent to assist Colombia in this effort, the coca fields were not destroyed, but merely transplanted to another region of Latin

17. Brodzinsky, *supra* note 14.

18. *Id.*

19. *Id.*

20. Castillo, *supra* note 4.

21. *Illicit Drugs*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/fields/2086.html> (last visited May 21, 2012).

22. Castillo, *supra* note 4.

23. Calmes, *supra* note 3.

24. Castillo, *supra* note 4.

25. *See Summit of the Americas Agree War on Drugs a Failure*, GLOBE & MAIL, <http://www.theglobeandmail.com/news/opinions/editorials/summit-of-the-americas-agree-war-on-drugs-a-failure/article2404215/> (last updated Apr. 16, 2012).

America.²⁶ Colombia's tough position on cocaine production within its country merely shifted the production and fields to the surrounding countries of Peru and Ecuador.²⁷ This "balloon effect," as described above, is an analogy in which new drug growth points appear where none existed when they are eradicated in other areas.²⁸ After Peru and Ecuador, new smuggling routes were then setup through Guatemala and El Salvador, which, in turn, have contributed to those countries having the highest homicide rates worldwide.²⁹ Mexico has also seen a dramatic rise in drug trafficking violence, and homicides related to drug trafficking are being reported almost daily.³⁰

The U.S. domestic drug policy has not been effective at decreasing the demand for illicit drug use, and the spillover violence is affecting Latin America.³¹ The U.S. government pursues the war on drugs by training and financing militaries and police abroad to fight the cartels.³² In 2007, the United States launched the Mérida Initiative, which sent military aid and provided training to Mexican forces.³³ Since the launching of the Mérida Initiative, over 50,000 people have been killed and thousands of people have gone missing or been displaced.³⁴

In 2004, a study was published analyzing the impact of U.S. policy on the war on drugs in Latin America.³⁵ The study found that U.S. international drug policy does not have a significant effect on the price and availability of illicit drugs inside the United States, and in addition, causes collateral damage to Latin American countries.³⁶ As a result of the drug policy continued by the United States abroad, the balloon effect is actually spreading drug activity into countries that had not been affected by drug issues before.³⁷

Decades of such policies have led to a general consensus of disapproval of the U.S. drug policy of prohibition. Both current and past presidents of prominent Latin American countries have been increasingly support-

26. *Id.*

27. Brodzinsky, *supra* note 14.

28. *Id.*; see also Richard Feinberg, *Drugs and Democracy in Latin America: The Impact of U.S. Policy; War and Drugs in Colombia*, FOREIGN AFF., <http://www.foreignaffairs.com/articles/60725/richard-feinberg/drugs-and-democracy-in-latin-america-the-impact-of-us-policy-war> (last visited May 21, 2012) (book review) (describing the results of a significant study of U.S. drug policy).

29. GLOBE & MAIL, *supra* note 25.

30. *Id.*

31. Claudia Rodriguez, *Drug Policy and its Consequences: Summit of the Americas*, WITNESS FOR PEACE (Apr. 23, 2012), <http://witness4peace.blogspot.com/2012/04/drug-policy-and-its-consequences-summit.html>.

32. *Id.*

33. *Id.*

34. *Id.*

35. Feinberg, *supra* note 28.

36. *See id.*

37. *Id.*

ive of a multi-national reform on drug policy.³⁸ President Santos' questioning of U.S. drug policy opened the table for a discussion of alternatives at the Summit.³⁹ The current President of Mexico, Felipe Calderón, has also criticized the U.S. anti-drug policy and blames the consumption of drugs in the United States for the ongoing drug-related violence in Mexico.⁴⁰ Calderón further criticized the United States and suggested that if the United States is to continue importing drugs, then market alternatives and clear points of access other than the Mexican border should be sought after.⁴¹ Guatemala's President Molina has also called for the decriminalization of drug trafficking instead of an anti-drug policy.⁴²

In 2009, a report was released by a panel of former presidents that included former Brazilian President Fernando Henrique Cardoso, former Mexican President Ernesto Zedillo, and former Colombian President César Gaviria. This prominent panel stated that the drug war was a failure and that alternative strategies should be implemented instead.⁴³

The United States has recognized that there is a general consensus towards looking at new approaches for drug policies. In March of 2012, U.S. Vice President Joe Biden visited Mexico and made it clear that the Obama administration is not going to change its policy on drugs, but that the subject was one "worth discussing."⁴⁴

III. ALTERNATIVES TO CURRENT DRUG POLICY

At the Summit, a few alternative solutions to the drug issue were discussed publicly, but, behind closed doors, the debate was probably more in-depth.⁴⁵ President Santos was the most open about what types of alternatives he believes are available. Santos mentioned alternatives from complete legalization at one extreme to what he called the "Asian" model at the other, referring to the strict anti-drug laws in some Asian countries, some of which apply the death penalty to drug crime violators.⁴⁶

Many available alternatives are currently employed in countries throughout the world. In Canada, Prime Minister Stephen Harper created a mandatory minimum prison term to be served at home for minor drug offenses. Recently, however, Prime Minister Harper has distanced himself from this "current approach" and stated that, while this approach

38. Darcy Crowe, *Latin American Leaders to Question U.S. Drug Policy at Summit*, WALL ST. J. E. EDITION, Apr. 13, 2012, at A10, available at <http://online.wsj.com/article/SB10001424052702303624004577340212625723878.html>.

39. *See id.*

40. *Id.*

41. *Burn-out and Battle Fatigue*, ECONOMIST, Mar. 17, 2012, at 43, available at <http://www.economist.com/node/21550296>.

42. Crowe, *supra* note 38.

43. *Burn-out and Battle Fatigue*, *supra* note 41.

44. Crowe, *supra* note 38.

45. Elliott, *supra* note 13.

46. Brodzinsky, *supra* note 14.

is not working, a viable alternative has yet to be found.⁴⁷

The Netherlands has chosen the alternative of decriminalizing recreational drug use by allowing licensed coffee shops to sell small amounts of marijuana.⁴⁸ There, the amount of cannabis use in the population is only five percent as opposed to the fourteen percent figure in the United States.⁴⁹

In 2001, Portugal “became the first European country to officially abolish all criminal penalties for personal possession of drugs, including . . . cocaine and heroin.”⁵⁰ Instead of punishing drug users, Portugal offered its drug users therapeutic help in the way of a panel that consists of a psychologist, a social worker, and a legal adviser.⁵¹ Five years after personal possession was decriminalized, illegal drug use among teens in Portugal had declined, HIV infections via sharing dirty needles decreased, and the number of people that sought treatment for drug addiction doubled.⁵²

At the other extreme from Portugal lies Singapore. Singapore is known for having “very draconian laws” that include the death penalty as an option for a drug trafficking offense.⁵³ Any adult, over the age of eighteen, who is convicted of trafficking at least 15 grams of heroin, 30 grams of cocaine, or 500 grams of marijuana, will face mandatory execution.⁵⁴ Singapore defends its harsh penalties for drug trafficking by stating that the punishment of death has deterred major drug organizations from establishing a stronghold in Singapore.⁵⁵

IV. GOING FORWARD FROM THE SUMMIT

As mentioned, the debate over alternatives at the Summit went on mostly behind closed doors, but the result of that debate could be characterized as progress. The heads of the member states who participated in the Sixth Summit of the Americas delegated a task to the Organization of American States (OAS).⁵⁶ The compromise between all of the participating countries at the Summit was to direct the OAS to form a study of

47. See *GLOBE & MAIL*, *supra* note 25.

48. *Id.*

49. *Id.*

50. Maia Szalavitz, *Drugs in Portugal: Did Decriminalization Work?*, *TIME* (Apr. 26, 2009), <http://www.time.com/time/health/article/0,8599,1893946,00.html>.

51. *Id.*

52. *Id.*

53. Palash R. Ghosh, *Singapore: Drug Laws and the Death Penalty*, *INT’L BUS. TIMES* (June 22, 2011, 8:37 AM), <http://www.ibtimes.com/articles/167519/20110622/singapore-drug-laws-conviction.htm>.

54. *Id.*

55. *Id.*

56. *OAS Secretary General Opens Meeting of the Inter-American Drug Abuse Control Commission*, *ORG. OF AM. STATES* (May 9, 2012), http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-166/12.

possible alternatives to the current policies in place.⁵⁷ OAS Secretary General José Miguel Insulza stated that the OAS will look at several different methods of tackling the drug problem, including analyses on the success and failure of various European countries who have experimented with decriminalization and regulation of drugs.⁵⁸

Some believe that this additional research is merely a tactic to delay the actual report from being released, pushing back the date when a decision will be made.⁵⁹ This is because the Washington-based OAS is perceived to be overly bureaucratic.⁶⁰ But recent contact with OAS Secretary General Insulza says otherwise. Insulza stated that the OAS wants to complete the study by the end of 2012 and have it ready for release by March of 2013.⁶¹

Although U.S. Vice President Biden's remarks in Mexico should be seen as allowing for some discussion on the matter, chances are slim that the Obama administration will change its stance on drug policy, especially in an election year.⁶² The Obama administration is unlikely to risk creating any vulnerability to its campaign by being looked upon as taking a soft position on drugs.

There are several different advantages and disadvantages to certain drug policies, but one thing is clear—the current international policy of prohibition on drugs in the Americas has not been effective or efficient. An array of alternatives is available, but because of the close integration between South and North America, a quasi-uniform policy among the primary international players is needed in order to truly tackle the drug problems plaguing the Americas.

57. Andres Oppenheimer, *In My Opinion: War on Drugs Will Change Course in 2013*, MIAMI HERALD (Apr. 26, 2012), <http://www.miamiherald.com/2012/04/26/2768021/drug-war-will-change-course-in.html>.

58. *Id.*

59. See Brodzinsky, *supra* note 14.

60. *Id.*

61. Oppenheimer, *supra* note 57.

62. Kozloff, *supra* note 16.

