

Illicit drugs and peace negotiations in Colombia: challenges for the government and the FARC

By **Mónica Serrano**

■ Executive summary

This expert analysis critically assesses the political implications of the inclusion of the issue of illicit drugs in Colombia's peace negotiations. It considers the ways in which the parties have approached the drug problem and lays out some of the critical questions regarding drug policy options. It also discusses what these negotiations tell us about the parameters within which drug policy reform may be realistically pursued in Colombia, which could also affect regional and international approaches to the issue. Drug policy reform has already prompted some searching questions in Latin America and an increasingly heated global debate.

In the course of ongoing negotiations between the government of Colombia and the Revolutionary Armed Forces of Colombia the parties agreed to include the question of illicit drugs as the negotiations' fourth agenda item, which is likely to test the process's capacity to achieve far-reaching change. More than any other country (perhaps with the exception of Mexico), Colombia has shown that drug control policy needs urgent rethinking, as does the way in which the policy is applied. Will the peace negotiations mark a turning point in Colombia's drug policy? And through the negotiations, will Colombia lead the way towards a more visionary international drug policy?

Standard interpretations of Colombia's protracted conflict have generally acknowledged that the drug problem has been at the heart of the conflict and its ramifications have impacted on many fronts, including extreme levels of violence, land concentration, forced displacement, and domestic and international political alignments. Indeed, in the course of five decades, not only has drug trafficking (and the attendant war on drugs) colonised sectors of society and altered social expectations; it has also helped to subvert political dynamics, infiltrated armed movements, and fostered the emergence of paramilitary and contract killer forces. As a recent chronicle of the conflict concluded, "it became the vital fuel of the armed conflict" (Lima, 2013).¹

At first sight, the perspectives on illicit drugs of the parties to the ongoing peace negotiations in Havana suggest some ground for convergence. At various points the Santos

administration and the Revolutionary Armed Forces of Colombia (FARC) have endorsed the need to explore decriminalisation and legalisation routes. The three broad drug-related subthemes that have been identified to guide the negotiations – crop substitution and development, prevention and consumption, and production and commercialisation – provide an indication of the parties' readiness to discuss this inherently complex problem.²

However, it is hard to avoid the sense that the parties' positions will be deeply informed by their past records. The negotiations take place against a background in which massive investment through Plan Colombia – the most ambitious anti-narcotics and counterinsurgent U.S.-funded programme in the region – has provided the government with unprecedented coercive power and positioned the country as a counternarcotics model.

1 Humberto de la Calle, head of the government peace delegation, concurred with this view. In his words: "without attacking this phenomenon there would not be an end to the real conflict, because this conflict has precisely fed off drug-trafficking" (*El Nuevo Día*, 2013).

2 In a forum held in Havana in September 2013, more than 900 representatives of civil society organisations discussed these broad issues (*Semana*, 2013a).

As for the FARC, the political context in which the peace talks are taking place is punctuated by years of heavy losses and outrage at the extent of Central Intelligence Agency (CIA) covert action in helping Colombian forces to kill at least two dozen FARC leaders. Discussions on illicit drugs could easily provide the FARC with an opportunity to seek propaganda retribution (Priest, 2013).

Perspectives in conflict?

The diverging logics of the parties' perspectives can best be captured in the narratives that have accompanied their calls to include the issue of illicit drugs on the agenda for the peace talks.

1. Disentangling the parties' positions and common negotiating ground will require effort and determination.

- The government justified the inclusion of drugs on the agenda for the talks in blunt but idealistic terms: "freeing Colombia of coca."³ From this perspective, the FARC's cooperation as an active ally in crop substitution is needed for the good of the nation.

- While the FARC has made clear its resolve to tackle drug policy through negotiations, it may be tempted to use the peace talks as a platform to denounce the failure of the U.S.'s imperial drug policies. The FARC has in principle agreed to the goal of a coca-free Colombia, but is bent on highlighting the distinction between coca leaf and cocaine, and upholding the virtues of a plant that has "historic medical uses" (El País, 2013).

2. Colombia's gestures towards a change in drug policy are promising, but still uncertain. While the Santos administration has issued a number of statements on drug policy reform, its efforts on this front have been modest.

The Santos administration may have thought the issue of little significance to Colombia's external relations, but the outcome of the negotiations could have wider implications for both the country's relations with the U.S. and its current international standing. As it seeks to address the drug problem, Colombia will have to carefully navigate its complex relationship with the U.S. and its contribution to the prohibition-based drug control regime.

- In the period between 2000 and 2012, backed by Plan Colombia and massive U.S. military aid,⁴ two of Colombia's achievements dominated perceptions of the country's response to the drug problem:

- The total area of coca crop cultivation was reduced from 162,510 to 47,790 hectares, and coca production by 56%.
- In roughly the same period the homicide rate dropped from 70 per 100,000 inhabitants in 2002 to 32 in 2012, and overall levels of violence declined.

- The involvement of Colombia's National Police in training courses in 15 institutions from the Americas, Europe and Africa testifies to the country's role as a counternarcotics and anti-terrorist policies model.
- Moreover, as the government has highlighted, close cooperation with other countries enabled Colombian authorities to arrest 44 drug lords who were hiding in countries that included Argentina, Ecuador, Brazil and Venezuela (El Universal, 2013b).

3. The FARC's attempts to develop a sovereign drug policy illustrate both the magnitude of the challenge and the degree of policy confusion on a critical transnational issue.

The FARC's position reflects some of the dilemmas that the movement faced as it meddled with illicit drugs. FARC leaders, including Ivan Márquez, have acknowledged their involvement in the drug trade in taxing and regulating drug sales, while "protecting peasants from intermediaries and traffickers" (El País, 2013; Infolatam, 2013a).

The list of ten points that the FARC circulated in early December is an interesting appeal for ambitious global drug policy reform, but an unrealistic proposal for a short-term national plan.⁵ Unless further clarified, some of the points included in this list could be easily dismissed as insensitive to political realities and disruptive of the spirit of the negotiations.⁶ Much will depend on the interpretation of the scope of these points.

- One genuinely difficult issue should immediately be taken into account that touches on the international legal framework that underpins drug policies and highlights the need to pursue regional and international advocacy to make room for national reforms.
- While the limits of a "sovereign and democratic" drug policy are to a large extent defined by this international legal framework, the parties could work out a plan for national reform, and agree on a platform for regional and international action.

3 In the president's words, "to have a Colombia without cocaine" (Infolatam, 2012b).

4 In July 2000 the U.S. Congress approved the Clinton administration's request for \$1.3 billion in "emergency" aid to Colombia and its neighbours. Over the next ten years additional disbursements approved by successive U.S. administrations amounted to \$6.5 billion. More recent estimates put the figure at \$9 billion, plus the "black" package that funded CIA covert operations (Priest, 2013). Colombia thus became the second-largest recipient of U.S. military assistance after Israel.

5 The ten minimum points put forward by the FARC are: (1) an integral, sovereign and democratic drug control policy; (2) overcoming the illicit use of coca, marijuana and opium poppy cultivation; (3) recognition and promotion of traditional and cultural uses of coca, marijuana and opium poppies; (4) crop substitution and development promotion; (5) the immediate suspension of aerial eradication and the provision of reparations for eradication; (6) non-imperial interventionism, peasant decriminalisation and the demilitarisation of drug policy; (7) the decriminalisation of consumption and the adoption of a public health approach to drug policy; (8) the dismantling of paramilitary and mafia-type state structures; (9) financial control of illicit drug proceeds; and (10) global and regional commitments by and responsibilities of central capitalist states (Comisión Intereclesial de Justicia y Paz, 2013; El Universal, 2013a; Semana, 2013b).

6 Eduardo Montealegre, Colombia's prosecutor general, swiftly dismissed the FARC's proposal to legalise drug cultivation in view of the country's international obligations (Vanguardia, 2013).

- Some of the issues will need more detailed discussion, but there are a few areas of potential consensus where agreement could be reached. These include the adoption of a public health approach that puts the emphasis on prevention, manual eradication, crop substitution and development, and potentially the legalisation of coca and marijuana cultivation.
- Any observer of recent drug policy debates should know that changes inconceivable a few years ago now appear inevitable. Not only have many countries endorsed the public health approach, but various governments and international organisations, including the Global Commission on Drug Policy and the Organisation of American States (OAS), have shown their readiness to explore non-traditional approaches and downplay the role of the criminal justice system in drug control. Moreover, a number of countries – and the OAS in its 2013 report – have already departed from standard orthodoxy and leaned towards the outright legalisation of marijuana.⁷
- While crop substitution and development seem uncontroversial, negotiations over manual eradication also seem promising. In fact, as happened in Peru under President Fujimori, the introduction of manual eradication in Colombia in 2006 significantly contributed to containing the growth of illicit crops. The difficult question will be to put together the funding for what effectively are labour-intensive programmes.
- Although Colombia, unlike Bolivia, cannot easily claim an indigenous coca culture, the distinction between cocaine and coca leaf and the argument in favour of legal coca cultivation could find a precedent in Bolivia's successful return to the 1961 Single Convention in 2013, after registering a reservation against the convention's criminalisation of coca leaf chewing.⁸

Longer-term perspectives

In the longer term there are also powerful incentives that could motivate both parties to enter more ambitious negotiations on illicit drugs.

While Colombian authorities made significant progress on the security front, this owed much to unprecedented cooperation with the U.S., and in some quarters not only is there a sense that sustaining these gains will prove challenging, but that the process may in fact be stalling. In assessing Colombia's future security prospects, two realities should be recognised:

- Firstly, Colombia's successes depended not just on its commitment to anti-narcotic policies, but on its close

cooperation with the U.S. Not surprisingly, over the past years Colombia has harboured the most pro-U.S. governments in the region.

- Secondly, and perhaps most importantly, Colombia made progress in dislodging and dismantling large criminal organisations, but the war on drugs is far from being over:
 - It is true that by controlling the drug marketplace, Colombian authorities have been able to maintain the upper hand. Yet some fear that the overall short-term benefit of dismantling large organisations has outweighed the risks of entrusting the market to 126 or so smaller, nimbler organisations. According to Jordi Raich, head of the International Committee of the Red Cross in Colombia, "today, criminal gangs are responsible for as many deaths, threats, forced displacements and disappearances as those that are being dealt with through the Havana process" (*El Tiempo*, 2013).
 - Thus, Colombian policymakers remain caught in a trap, unable to reverse a course to which they have committed so much, but also unable to generate the conditions that would allow them to claim total victory over illicit drugs.
 - Although President Santos recently claimed that "if an agreement is reached with the FARC on illicit drugs ... Colombia would be freed from cocaine", the insurgents are by no means the only relevant actor in the drug marketplace (*Infolatam*, 2012a).

The question remains whether the FARC would of its own accord genuinely pursue drug policy reform. The organisation has little to gain from a continuation of orthodox drug policies:

- While it undoubtedly tapped into the drug business, its involvement became more problematic than its leaders had perhaps initially imagined.
- After nearly two decades of an unyielding war on drugs, FARC leaders may have started to accept certain realities of the illicit drug trade that should have been clear from the outset:
 - The use of drug money as a means of financing its political and military expansion came at the cost of criminalisation and diminishing moral authority.
 - An unexpected consequence was the FARC's vulnerability to the exceptional powers claimed by the U.S.

⁷ As the OAS report explicitly states, "sooner or later decisions in this area [the decriminalisation and legalisation of marijuana] will need to be taken. Decriminalisation is here seen as an integral component of a public health approach, while decriminalisation and legalisation are considered as measures that can help reduce police extortion as well as abuse and human rights violations and build confidence in police and criminal justice institutions" (OAS, 2013: chap. 10).

⁸ In 2001 Bolivia abandoned the 1961 Single Convention, claiming that coca chewing is part of the country's indigenous culture and tradition. In January 2013 it secured the two-thirds of the vote needed to return to the convention while retaining its reservation. Although 14 countries voted against Bolivia's return (including Mexico), according to John Walsh, coordinator of the Washington Office on Latin America's programme on drug policy, this case indicates that drug conventions can be reformed and can adapt to current realities (*Reforma*, 2013).

since the 1980s against international narcotic traffickers. This, together with the subsequent powers granted to the CIA against terrorist organisations, left FARC leaders exposed to U.S.-Colombian covert assassination operations.

- As counterinsurgency and counternarcotics operations gathered force, it became increasingly difficult for FARC leaders to push their members into combat. Fronts collapsed, and mass desertions and chaos followed.⁹
- Although these realities may have encouraged some FARC leaders to seriously consider a policy shift, others may be tempted to exploit the transient advantage of exposing the government as the accomplice of the U.S. in its controversial “war on terror”.¹⁰ It is hard to avoid the impression that the FARC’s initial policy statement is somehow clouded by ideology.

Conclusion

In identifying the three subthemes that should guide the negotiations on illicit drugs, the parties to the Colombian peace talks have prepared the ground, but have not as yet established a solid foundation for realistic policy change. But in different ways and degrees, the drug problem has the potential to continue harming both parties, and should provide incentives for serious negotiations.

Yet both the government and the FARC have brought their own agendas to the negotiating table: a government that cannot dissociate itself from the legacy of Plan Colombia and an armed movement that appears reluctant to dissociate itself from anti-U.S. rhetoric. It would be ingenuous to believe that the Colombian government will take any steps on the issue of drug policy without clearing the way with its U.S. partner. On the other hand, the symbolic capital of a negotiated settlement with the FARC cannot be underestimated. An honest approach to the drug problem will be a condition for success.

This makes the intervention of an independent European angle both desirable and urgent. The chances that the drug problem will cease to be a serious problem in Colombia (and the region) without radical reform still appear remote. How the parties agree to tackle this complex issue is central not only to the prospects for peace in Colombia, but also to the future stability of the region. There is much more in the negotiations than is contained in the parties’ positions.

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⁹ Notwithstanding this, reintegration experts, including the Colombian Agency for Reintegration, estimate that a successful peace process could lead to the demobilisation and eventual reintegration of as many as 25,000 people (*Infolatam*, 2013b).

¹⁰ Not only was President Santos (as President Uribe’s defence minister) a key figure in the design of CIA covert operations, but their pace significantly increased under his presidency. As the *Washington Post* reported, almost three times as many FARC leaders – 47 vs. 16 – have been killed under Santos as under Uribe (Priest, 2013).

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