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Summary

Barack Obama came to office amid a growing global consensus on the failure of a century of costly “war on drugs” policies. The new administration inherited a legacy of US leadership focused on increasingly militarized and politicized supply reduction efforts rather than evidence-based and rights-based drug policy. The George W. Bush administration, in particular, explicitly sought to undermine the credibility and scientific evidence behind harm reduction approaches, especially needle exchange as an essential HIV prevention measure. Obama’s predecessors escalated measures such as aerial crop reduction in the Andes even in the face of overwhelming evidence of their ineffectiveness.

This paper, written early in the Obama administration, describes the political and historical constraints inherited by the new government and also seeks to highlight the opportunities the Obama White House has for turning the page on the wasteful and abusive drug policies of the past. It suggests that the first actions of the new administration signal a different tone for drug policy and a shift toward respect for science as the basis for policy. It remains to be seen, however,

whether courageous leadership from the Obama White House will result in real resource and programmatic change in the face of inevitable ideologically driven attacks. The stakes are high as US policy, for good or ill, shapes global drug policy decision-making. Leadership on evidence-based drug policy could be among the Obama administration’s most important contributions to improved global health.

Introduction

The year 2009 marked the 100th anniversary of the global “war on drugs.” It was in February of 1909 that foreign diplomats came together in Shanghai at the first international conference on drugs, establishing the International Opium Commission and laying the groundwork for the world’s first international treaty on drug control, the International Opium Convention, ratified at The Hague in 1912.¹ Over the course of the past year, the 100-year history of drug control efforts has been celebrated by some and decried by others. On the one hand, agencies such as the United Nations Office on Drugs and Crime (UNODC) have claimed that a century of war on drugs has brought the situation “under control” and “stabilized” the drug market.² On the other hand, observers ranging from activist organizations concerned about the rights of drug users

to mainstream media sources such as *The Economist* have openly declared that “prohibition has failed” and has fostered “gangsterism on a scale that the world has never seen before.”³ Central to such debates is whether drug policy should emphasize judicial solutions and crime control or, alternatively, accurate public education, public health principles and harm reduction – in other words, whether drug control should be viewed as a question of law and order or a question of human health, rights and well-being.

During the closing years of the 20th century, particularly with the emergence of the HIV epidemic and a growing awareness of the role of injection drug use and needle sharing in driving this epidemic in many countries outside sub-Saharan Africa public health experts highlighted the need for risk-reduction to take precedence over criminal approaches to the problem of drug dependency. A significant increase in social and behavioral research carried out in response to HIV and AIDS in the late 1980s and the early 1990s provided an unprecedented level of scientific evidence for the effectiveness of harm reduction services, such as medication-assisted drug dependence treatment, needle exchange, and safer injection facilities, in improving the health of drug users without increasing levels of drug use.⁴ As evidence for the effectiveness of such measures in preventing injection-driven HIV infection grew during the late 1990s and into the present decade, it seemed reasonable to assume that the harm reduction approaches grounded in public health principles would be adopted, and that the unprecedented scale-up of HIV services would, in turn, force a rethinking of the global war on drugs that impeded access to HIV services and pressed hundreds of thousands into institutions where no such services were available.

Yet any review of global policy debates over the course of the past decade would have to conclude that the results have been far more ambiguous than might have been expected. At best, the international community seems to have oscillated between reaffirmation of the drug war mentality and relatively timid steps in the direction of public health approaches. If we open the timeframe of our analysis to include the 1998 20th United Nations General Assembly Special Session (UNGASS) on illicit drugs, we find the UN General Assembly committing member states to achieving “a drug-free world.”⁵ The 1998 UNGASS Declaration outlined what it described as a comprehensive global strategy for simultaneously reducing both the supply of and demand for illicit drugs and developed a mandate

for the UN International Drug Control Programme (UNDCP) to “develop strategies with a view to eliminating or significantly reducing the illicit cultivation of the coca bush, the cannabis plant and the opium poppy by the year 2008.”⁶ Disappointing those who had hoped for meaningful drug policy reform, it basically reasserted the same goals that had driven the global war on drugs for decades. HIV was unmentioned.

Just a few years later, however, at the 2001 UNGASS on HIV and AIDS, an assembly of the same nations seemed to signal a possible shift of emphasis, including harm reduction efforts and access to sterile injecting equipment as part of the stated goals in its Declaration of Commitment.⁷ In 2003, at the mid-term review of the UNGASS on drugs, the focus seemed to have reverted back to prohibition, with UNODC arguing that important progress had been made on reaching the goals and targets that had been established in 1998 and citing long lists of drug control measures undertaken by member states in the five years that had passed.⁸ In June of 2005, the Programme Coordinating Board (PCB), which governs the Joint United Nations Programme on AIDS (UNAIDS), pushed back in the opposite direction, approving a UNAIDS policy position paper, “Intensifying HIV Prevention,” that officially affirmed support for needle exchange programs as a key part of the global fight against the epidemic; both the paper and the PCB report approving it, however, explicitly noted that the USA (the largest donor to UNAIDS) could not support needle exchange because it contradicts its domestic drug policies.⁹ And in 2008, at the ten-year review point for the 1998 UNGASS, which was initiated at the 2008 meeting of the Commission on Narcotic Drugs (CND) in Vienna, the debate seemed to veer back yet again, with the UNODC claiming major successes in the control of coca and opium production and reaffirming the need to place greater emphasis on demand reduction in resource- rich consumer countries.¹⁰

While a range of complex factors have surely affected the development of these contradictory policy debates, probably nothing has been more important than the policy positions promoted and defended internationally by the US government. Indeed, no matter which side of the debate one comes down on, for or against the war on drugs, all observers agree that the US has been at the center of most of the major decisions and activities driving international drug policy since its inception more than a century ago, and US policies related to drugs have largely determined

drug control practices globally. Even in the wake of the global HIV and AIDS epidemic, US commitment to the war on drugs has been one of the central factors underlying resistance to the adoption of more scientifically-informed policies grounded in contemporary public health approaches to health promotion and disease prevention.

The history of US policy in relation to these issues has also been marked by changes over time, as well as by conflicts and differences of opinion that have shifted policy emphasis both within and between different administrations. There can be no doubt, for example, that the policies pursued by the Bush administration, from 2001 to 2009, and the Bush administration's commitment to promoting those policies globally, are among the most important factors that have shaped the development of international drug policy debates over the course of the past decade. Recognizing the importance that US policies have had in shaping responses to drug use globally, and the likelihood that this will continue to be the case in the future, this paper seeks to review the development of US policy on drugs over the course of the past decade, with a primary focus on its relevance for the politics of global public health more broadly. We are particularly interested in looking at the consequences of US policy during the eight years of the Bush administration, from 2001 to 2009, as well as the initial steps taken by the Obama administration, since its inauguration at the start of 2009, in order to assess the potential policy impact of both administrations in relation to the broader context of global public health in the early 21st century.

With these goals in mind, we begin with a discussion of the drug control policy positions (both global and domestic) under the Bush administration, as well as a Republican-led Congress, over the past decade to understand the recent history of drug policy issues. We highlight what has made it difficult, if not impossible, to advance more progressive directions in drug policy, including harm reduction, both domestically and internationally – recognizing that many of the barriers to harm reduction (especially needle exchange) preceded the Bush administration, but were then reinforced either through non-action, direct action, or as part of the administration's broader political agenda. Following this review of drug control policies under the Bush administration, we then provide an overview and analysis of the ways that the Obama administration has or has not taken a new policy stance or paved the way for new policy directions during its first year in office. Threaded throughout the discussion of US drug policies

under both Bush and Obama will be a look at not only the policies themselves but also how they have spun out internationally and what their impact appears to have been on global policy debates and programs. We conclude by identifying what we view as some of the key guiding principles that should be followed in advancing a more effective approach to drug policy and the ways in which such an approach could contribute to moving forward a broader agenda for global public health.

Drug Control Policy through the Bush Administration

GENERAL APPROACH

George W. Bush chose established “drug warriors” to oversee drug policy in his administration. He named as White House Office of National Drug Control Policy (ONDCP) director John Walters, who had been the assistant to William Bennett, the avidly prohibitionist “drug czar” in the administration of Bush's father. Walters was criticized by Senators Joe Biden (D-Delaware) and Patrick Leahy (D-Vermont) for his espousal of long sentences for minor drug crimes, his lack of support for funding for treatment of drug dependence, and his denial of racial disparities in drug-related arrests and incarceration.¹¹ Before his appointment, Walters had published criticism of the “therapy-only lobby,” espousing the view that a prison sentence was a key element of drug “rehabilitation.”¹² Walters was nonetheless confirmed by the Senate. Bush answered critics of Walters' hard-line views, noting: “Acceptance of drug use is simply not an option for this administration.”¹³ To head the Drug Enforcement Administration, Bush appointed Asa Hutchinson, a former US attorney who had supported policies aimed at drug prohibition as a member of the House of Representatives. As DEA director, Hutchinson strongly advocated for prohibitionist measures and asserted their effectiveness.¹⁴ Hutchinson left DEA in 2003 to take a high-level position in the newly created Office of Homeland Security.¹⁵

During his tenure, Walters regularly beat the drum for military and policing approaches to drug use and denigrated public health approaches. He was a frequent and vocal critic of any move to decriminalize marijuana under any circumstances, calling, for example, Arizona's ballot initiative on decriminalization of possession of small amounts a “stupid, insulting con.”¹⁶ After September 11, 2001, the

administration also frequently linked the “war on terror” to the “war on drugs,” ostensibly as a way to increase support for the war on drugs.¹⁷ In December 2001, President Bush made the public statement that “if you quit drugs, you join the fight against terrorism,” which was also worked into a television advertisement shown to the large Super Bowl football championship audience in January 2002.¹⁸

Over \$75 billion in federal money was spent on the war on drugs from 2001 to 2008.¹⁹ From FY 2002 to FY 2009, the portion of the administration’s drug-control budget allocated to international supply reduction activities, such as crop eradication, increased by 100 percent, and the portion allocated to interdiction of drugs at US borders increased by 98 percent; the portion for treatment of drug dependence increased by 22.7 percent and constituted less than 10 percent of the overall budget.²⁰

THE POLICY LEGACY FACING GEORGE W. BUSH

The George W. Bush administration inherited a long history of foreign policy based on severe, even repressive control of both supply of and demand for illicit drugs. The US came to the negotiation of the UN Single Convention on Narcotic Drugs in 1961 – a negotiation that would produce an international treaty streamlining a range of diverse international regulations – with an established reputation as a leader among the nations that saw strong policing as the centerpiece of global drug control.²¹ At those talks, the US failed in its effort to describe drugs in the Convention as a “grave evil” but otherwise succeeded in producing a treaty that gives governments wide latitude to criminalize narcotic use not linked to “medical and scientific purposes.”²²

In 1971, Richard Nixon coined the term “war on drugs” in stepping up domestic and overseas operations targeting “America’s public enemy number one:” the drug problem that Nixon said “will surely in time destroy us.”²³ As public fear grew about heroin addiction among US soldiers returning from Vietnam, Nixon brought both domestic and international drug operations under direct White House control, creating the Drug Enforcement Administration. The US under Nixon also played a central part in establishing the multilateral drug control architecture. With \$2 million from the US, the UN Fund for Drug Abuse Control (UNFDAC) was established in 1971, institutionalizing US influence on global drug policy to a significant degree. With UNFDAC’s emphasis on law enforcement

and forced crop eradication, many member states saw it as a US tool and refused to contribute to it.²⁴ (UNFDAC was later folded into the UN International Drug Control Program, which became part of today’s UNODC.)

Under Ronald Reagan in the 1980s, the drug of greatest concern to the US government was no longer heroin but cocaine. Many scholars have examined the way in which cocaine and crack were effectively demonized in the media and in policy discussions in the 1980s, far beyond their real impact, stirring widespread public fear.²⁵ The invention of the cocaine threat, in turn, opened the political space for sweeping criminalization and incarceration, trends that have not abated since. Congress passed harsh drug laws three times before Reagan left office and allocated billions in criminal law measures as Reagan asserted that the global drug problem was a threat to US national security. While Nancy Reagan’s “Just Say No” campaign reinforced the idea that drug addiction is a function of weakness of character, her husband’s administration oversaw expansive criminal laws at home along with interdiction at the borders as the heart of its national drug policy.²⁶ Support for methadone programs established under Nixon declined as the Reagan administration was swayed by “zero-tolerance” proponents who believed that effective addiction treatment centers could become a rationale for drug use for some people.²⁷

George H.W. Bush was the first president to mention drugs as a major social problem in his inaugural address. Combating drug trafficking was also one of the rationales the administration used to justify sending 27,000 troops into Panama in 1989. Under the first President Bush and his “drug czar” William Bennett, the US Department of Defense was given the coordinating role in the Andean Initiative, the program announced by Bush in 1989 to shore up police and military power to attack cocaine production. The Pentagon thus eclipsed the State and Justice Departments’ roles in drug control in Latin America, overseeing a drug war fought with Blackhawk helicopters, Navy war planes and Special Operations maneuvers.

US ACTIVITIES IN SUPPLY REDUCTION AND INTERDICTION

The Clinton years saw expanded and ever more militarized crop eradication, interdiction and other narcotics-control activities in the Andes, including the

creation in 1999 of Plan Colombia. This ambitious and expensive initiative, meant to reduce drug trafficking and coca production in Colombia by half over six years, set the stage for intensified “drug war” activities under George W. Bush. Plan Colombia was ardently embraced by the Bush White House. From 2001 to 2008, the Plan Colombia price tag was over \$6 billion,²⁸ making Colombia the fourth largest recipient of US foreign assistance.²⁹ Reviews of counternarcotics activities in Colombia by the General Accounting Office (now the Government Accountability Office) repeatedly questioned the benefits and real costs of the military operation and the assumption that the Colombian military would be able to take over the operation at the end of the Plan.³⁰

After September 11, 2001, the “war on terror” met the “war on drugs” in a graphic way within Plan Colombia. At Bush’s urging, the Republican-controlled Congress opened the door to an even broader militarization by authorizing the Colombian government to use military assistance in Plan Colombia for anti-terrorism purposes – that is, against organizations such as FARC that it would designate as terrorists.³¹ Rep. Jim McGovern (D-Mass.), who tried to stop this legislation, said the US was “plunging head-first into a grinding, violent and deepening civil war that has plagued Colombia for nearly four decades.”³² In October 2008, a consortium of civil society organizations including the Center for International Policy and the Washington Office on Latin America, urging a complete change in direction in US policy toward Colombia, noted that “Colombia’s production of cocaine is virtually unchanged [since 2000], and peace with Colombia’s guerrillas is still a distant prospect.”³³ By 2008, even the mainstream US press asserted that Plan Colombia was as much a counter-insurgency as a counter-narcotics effort.³⁴

UNODC estimates that land used for cultivating coca in the Andes hovered around 175,000-200,000 hectares (1 hectare = 10,000 square meters) during the Bush years (2001-08), a period of intense US-funded eradication efforts.³⁵ Coca production across the Andes has been similarly resilient. As Table 1 shows, by the US government’s own reckoning, suppression of coca production in one country was quickly compensated for by increases in neighboring countries. Aerial spraying of coca bushes has unintentionally spread coca cultivation to new areas as farmers disperse their planting away from the targeted areas and find clandestine planting sites that are harder to detect from the air.³⁶ Before Plan Colombia, coca cultivation

was limited to three of the country’s 32 districts or departments; by 2007, it was found in 23 departments.³⁷ Plan Colombia’s supply reduction goal was meant to drive up the price of cocaine for users in the US, making it less available and attractive. Remarkably, at the end of the Bush administration, the street prices of both cocaine and heroin were at historical low points.³⁸

Bush administration officials sometimes made claims of successes in the Andes that were at odds with the evidence at hand. At a public event in May 2006, David Murray, the chief scientist at the ONDCP, asserted, “Overall the news remains positive, and Andean coca production is down,” though the US’s own figures and UN data suggested the opposite.³⁹ Robert Charles, the US Assistant Secretary of State of International Narcotics and Law Enforcement under Bush, told Congress in 2003 that the “efficiency of State Department contractors” put US efforts “ahead of [the] mark” of 50 percent reduction in coca production by 2005,⁴⁰ though there were no data to corroborate this assertion. The *New York Times* in a July 2008 editorial criticized as baseless drug czar Walters’ public assertion that the administration’s efforts in Colombia and Mexico were “disrupting the production and flow of cocaine.”⁴¹

Eradication of coca by aerial spraying, intensified by the Bush administration, had and continues to have dire consequences for Andean farmers. The interspersing of coca with subsistence food crops, a common practice in the Andes, means that herbicides sprayed from the air also destroy food supplies, driving families and communities deeper into poverty. As Joy Olson, the director of the Washington Office on Latin America, testified to Congress in 2006:

Every time we spray and displace small farmers without providing them with some sort of alternative, we leave families without food and drive them from subsistence to desperation.... These people are not going to lie down and die. They are going to struggle to survive, whether that means moving to a new plot of land, joining an illegal armed group, or migrating.....We have made poverty and forced migration...a standard result of US policy.⁴²

Aerial fumigation has also been linked to health problems such as nervous system disorders, digestive disorders, skin problems and respiratory impairment.⁴³ In addition to contaminating food crops, fumigation has

damaged the livestock of poor families.⁴⁴ Small farmers have been stigmatized as “narco-terrorists” without regard to the lack of alternatives available to them to sustain their families.⁴⁵ Andean farmers have continually been promised livelihood activities other than coca farming, but those activities have been inadequate or non-existent.⁴⁶

Among the other consequences of the enormous counter-narcotics operation in the Andes are widespread human rights violations. Youngers and Rosin note that drug control activities conducted under the aegis of the Pentagon “circumvent both oversight and human rights safeguards.”⁴⁷ As they document extensively, the US military in the Andes lent strong support to police and other officials with long records of heinous human rights violations. Many human rights organizations have pushed for more rigorous application of the Leahy Amendment, a provision of US law that prohibits the provision of US assistance to security forces implicated in human rights violations unless the recipient government is taking measures to bring violators to justice.⁴⁸

On the other side of the world, in Afghanistan, the Bush administration expanded eradication of opium poppy crops. Opium poppy production, however, skyrocketed with the fall of the Taliban following the 2001 invasion of Afghanistan, reaching a record 8870 metric tons in 2007 in spite of eradication efforts.⁴⁹ As in the Andes, the alternative livelihoods promised to impoverished farmers often did not materialize, and the security situation makes many other economic activities impossible.⁵⁰ Poppy cultivation is 10 to 30 times more lucrative than other farming activities, not least because eradication efforts essentially institutionalize a black market and black market prices.⁵¹ Forced crop eradication has reportedly led farmers to have to sell their daughters to repay debts that would normally be repaid by proceeds from the opium harvest, and it has forced many families to migrate to Pakistan.⁵²

The Bush administration’s last major drug program, the Mérida Initiative, is a \$1.5 billion, three-year program (2008-2010) to suppress drug trafficking in Mexico, Central America, Haiti and the Dominican Republic by strengthening police and security forces in the region, without committing US troops.⁵³ Congress gave it initial funding of \$465 million in June 2008. Senator Patrick Leahy (D-Vermont) noted that in passing the law, Congress was persuaded by the deepening problem of uncontrolled drug trafficking in Mexico but criticized the Bush administration for not consulting

the US Congress, the Mexican and Central American national legislatures or civil society while shaping the Initiative.⁵⁴ He also warned of the consequences of allying US efforts with military and police forces with “a long history of human rights violations – including arbitrary arrests, torture, rape and extra-judicial killings – for which they have rarely been held accountable.”⁵⁵ The Washington Office on Latin America criticized the Initiative for focusing assistance on military rather than civilian institutions and for allocating insufficient funds to reform corrupt justice systems.⁵⁶

HARM REDUCTION ON THE INTERNATIONAL STAGE

In its international activities, the Bush administration generally took a very hard line against support for or even reference to harm reduction and particularly against needle exchange. Key proponents of this policy were some of the same players who led the charge on supply reduction. As Assistant Secretary of State Robert Charles, quoted above in praise of the effectiveness of crop eradication in the Andes, led a global effort to discredit needle exchange. David Murray, a special assistant to the director of ONDCP and an influential voice on drug policy in the administration, publicly denounced scientific evidence on the effectiveness of needle exchange for HIV prevention.⁵⁷

With respect to needle exchange, the administration again inherited a policy that facilitated its intransigence. A 1988 ban on federal funding for domestic needle exchange programs for people who inject drugs withstood the George H.W. Bush, Clinton and George W. Bush administrations in spite of at least seven evaluations funded by the US government that found that needle exchange prevents HIV without encouraging drug use.⁵⁸ Until 2009, the US was the only industrialized country that did not fund domestic needle exchange programs.⁵⁹ Many observers expected President Bill Clinton to overturn the funding ban, as his health advisors urged, but in the end he failed to do so, a move he later said he regretted.⁶⁰ (As noted in more detail below, the ban was finally overturned in 2009.)

The federal ban did not legally apply to foreign assistance. But those administering the President’s Emergency Program for AIDS Relief (PEPFAR), Bush’s flagship global health initiative, acted as though it did. The purchase of needles was not permitted under PEPFAR.⁶¹ This ban clearly undermined the health

impact PEPFAR could have, including in African countries where drug injection is driving a new HIV epidemic.⁶² USAID money has supported some related services, such as telling people where they can get needles,⁶³ and even these interventions have been criticized by drug war proponents. In 2007, only about 8 percent of people who injected drugs in the world were estimated to have access to sterile syringe programs.⁶⁴

In addition to refusing to fund sterile syringe programs as part of the US' global response to HIV/AIDS, the US under George W. Bush took positions that impeded the efforts of other countries. In June 2001, when the administration was new, the UN General Assembly passed a unanimous declaration on HIV/AIDS in which member states pledged to expand access to sterile injection equipment and "harm-reduction measures" as part of HIV prevention.⁶⁵ Over the next several years, the Bush administration undertook an effort to push international policy away from the use or endorsement of needle exchange and harm reduction approaches. In November 2004, Robert Charles urged the UN Office on Drugs and Crimes (UNODC) to purge its documents and public statements of references to needle exchange and harm reduction. UNODC Director General Antonio Costa wrote to Charles, assuring him that at UNODC "we neither endorse needle exchange as a solution for drug abuse, nor support public statements advocating such practices."⁶⁶

In 2005, the US signaled its intention to use an HIV/AIDS-focused session of the UN Commission on Narcotic Drugs (CND) to seek CND's condemnation of needle exchange and harm reduction. Civil society organizations around the world wrote press statements, letters and op-ed pieces on the importance of needle exchange,⁶⁷ and *The Washington Post* and *The New York Times* both ran editorials endorsing needle exchange as a central element of HIV prevention.⁶⁸ In the end, in the debate at the CND session, every delegation that spoke except for those of the US and Japan asserted a commitment to needle exchange in HIV responses.⁶⁹ The ONDCP director at the head of the American delegation emphasized, in contrast, that the US believed abstinence to be the best method of HIV prevention.⁷⁰ At the same meeting, a resolution introduced by the Brazilian delegation to endorse harm reduction approaches was blocked with the help of the US.⁷¹

Later in 2005, the governing body of the UN Joint Programme on HIV/AIDS (UNAIDS) was scheduled to

consider a policy paper on accelerating HIV prevention. Once again, the US signaled that it would block any endorsement of needle exchange. Following difficult negotiations, the paper endorsed by the member states included an explicit disclaimer noting that "the United States could not fund needle and syringe programmes because such programmes are inconsistent with current law and policy, and...this external partner cannot be expected to fund activities inconsistent with its own national laws and policies."⁷² At a conference of Asia-Pacific nations organized by the World Health Organization in September 2006, the US blocked a resolution on universal access to HIV services because it described needle exchange as part of essential HIV prevention measures.⁷³ In the 2007 CND annual session, the US delegation likened needle exchange to drug legalization and other means of "normalizing and promoting acceptance of drug enabling behaviors."⁷⁴

In contrast with its hard line on needle exchange, the Bush administration generally did not oppose access to methadone programs for people with opiate dependence. At the CND session in March 2005 described above, the US delegation noted the effectiveness of methadone treatment and endorsed its availability.⁷⁵ In 2008, PEPFAR began supporting a methadone program in Vietnam,⁷⁶ and USAID supports methadone treatment for 150 patients in Ukraine.⁷⁷ The State Department's annual *International Narcotics Control Strategy Report* in the Bush years regularly affirmed, country by country, that drug dependence treatment was inadequate, and then described US assistance focused on policing and drug interdiction rather than treatment.⁷⁸

The 2008 State Department report emphasized the US's concern for assisting countries in drug demand reduction and noted that US-funded projects encompass "a wide range of initiatives, [including] efforts to prevent the onset of use, intervention at 'critical decision points' in the lives of vulnerable populations to prevent both first use and further use, and effective treatment programs for the addicted."⁷⁹ But these programs generally do not seem to include methadone. In a few cases, USAID-supported programs in countries with extensive heroin use have focused on drug "demand reduction" without including methadone. A notable example is the \$16 million 2003-2007 Drug Demand Reduction Program in Uzbekistan, Tajikistan and parts of Kyrgyzstan.⁸⁰ Kyrgyzstan has a fledgling methadone program, and Uzbekistan and Tajikistan have thousands of heroin users who would benefit greatly from methadone. Overall, less than 5

percent of the State Department's 2008 narcotics control budget was clearly allocated to demand reduction and treatment programs.⁸¹

Drug Control Policy and the Obama Administration

It is early in the Obama administration. Key strategies that will signal the policy directions of the administration are still awaited at this writing. The White House said it would announce a new national drug strategy in February 2010.⁸² A national strategy on HIV/AIDS is also awaited. At a January 2010 meeting at the National Institute for Drug Addiction, the director of the White House Office of AIDS Policy and the deputy director of ONDCP both indicated that there would be coherence between the AIDS strategy and the drug strategy.⁸³ This is welcome news in view of the absence of consideration of HIV in previous national drug strategies. Though at the time we are writing the administration has not yet presented its policy directions, the below consideration of first actions of the administration is presented in the hope that useful lessons may be drawn from it.

APPOINTMENTS, APPROACH AND RHETORIC

The election of Obama raised optimism in some quarters that the US's long attachment to "drug war" approaches might be loosened or mitigated in the new administration. As the new administration turned its attention to drug control, many major media quoted Obama's 2004 statement that the war on drugs had been an "utter failure."⁸⁴ In an interview with *Rolling Stone*, Obama, then a presidential candidate, said with respect to drug policy that he believed "in shifting the paradigm, shifting the model" to focus more on public health.⁸⁵ During her March 2009 visit to Mexico as the new secretary of state, Hillary Clinton commented on US drug policy with some candor: "Clearly, what we have been doing has not worked."⁸⁶ Clinton said the US needs to do better in addressing the "insatiable demand" for drugs in its own population, a recognition that had long been called for by many in drug-producing countries. This level of self-examination and humility about "drug war" approaches may at least justify the hope that State Department officials in the Obama administration will not exaggerate the impact of crop eradication efforts.

To lead ONDCP, Obama chose Gil Kerlikowske, chief of the Seattle Police Department. Opponents of "drug

war" approaches expressed disappointment that the ONDCP head would not be a public health expert but noted that as police chief of a major city, Kerlikowske did not actively oppose needle exchange or other harm reduction measures.⁸⁷ In 2003, while Kerlikowske was police chief, Seattle voters passed a referendum that that rendered minor marijuana crimes a low priority for policing, a measure opposed by Kerlikowske.⁸⁸ Kerlikowske had served in the Justice Department during the Clinton administration with Obama's attorney general, Eric Holder.⁸⁹ While the ONDCP director or "drug czar" position had been a cabinet-level position under George W. Bush, the new administration announced that it would not have that status under Obama.⁹⁰ The announcement of Kerlikowske's appointment by Vice President Biden, rather than by the president, may have been designed to emphasize the more junior status of the position.⁹¹

Kerlikowske went out of his way in one of his first major media interviews to note that the Obama administration would avoid the use of the term "war on drugs." "Regardless of how you try to explain to people it's a 'war on drugs' or a 'war on a product,' people see a war as a war on them; we're not at war with people in this country," he told *The Wall Street Journal*.⁹² It was not clear whether this announcement was meant to signal a shift toward more emphasis on treatment and less on policing.

The administration also appointed a public health expert rather than a law enforcement official as Kerlikowske's deputy. A. Thomas McLellan is a professor of psychiatry at the University of Pennsylvania, the founder and executive director of the Treatment Research Institute (TRI), and a practitioner with a long history of experience in the treatment of drug dependence.⁹³

Obama's choice to serve as the State Department Global AIDS Coordinator or director of PEPFAR was Dr. Eric Goosby. A physician with extensive experience in AIDS programs, Goosby was CEO and chief medical officer of the Pangaea Global AIDS Foundation. Under President Clinton, he served as deputy director of the Office of National AIDS Programs (ONAP), director of the Office of HIV/AIDS Policy of the Department of Health and Human Services, and first director of programs linked to the Ryan White CARE Act.⁹⁴ While at ONAP, Goosby oversaw federally funded studies that demonstrated the effectiveness of needle exchange for HIV prevention and co-authored articles underscoring the same point.⁹⁵

Obama also appointed New York City Health Commissioner Thomas Frieden to lead the US Centers for Disease Control and Prevention. Frieden's backing of needle exchange and other science-based measures in New York City was widely cited and praised by the Infectious Disease Society of America and others in reaction to his CDC nomination.⁹⁶

DOMESTIC LAW ENFORCEMENT POLICY RELATED TO DRUGS

While the link between domestic and international drug policy may not always be very direct, under Obama's predecessors, heavy reliance on policing as a response to drug use was reflected in both domestic and international policy. While the full range of domestic policy measures of the new administration will not be known before the new national drug strategy is announced, it is of note that Obama's attorney general, Eric Holder, announced early in the administration (followed by written guidelines in October 2009) that the Justice Department would not make it a priority to prosecute persons using marijuana for medical purposes in accordance with state law.⁹⁷ Holder said federal prosecutions would focus on "serious drug traffickers" while accounting for state and local regulations. This policy represents a stark departure from the intensification of marijuana arrests under a wide range of circumstances under the previous administration. Holder's announcement was quickly criticized by those who view medical marijuana facilities as "fronts for illegal marijuana distribution."⁹⁸

THE OBAMA ADMINISTRATION AND THE UNITED NATIONS

In March 2009, the UN Commission on Narcotic Drugs (CND), the drug policy-making body of the United Nations, provided an opportunity for the new administration to signal a new direction in international drug policy. The CND's annual session in 2009 was a special one in which member states would be reviewing the performance of the international drug control regime in the period since the 1998 UN General Assembly Special Session (UNGASS) on the "world drug problem." The declaration from the 2009 CND was meant to lay out directions for international drug policy for the next ten years.

It was perhaps an unfortunate accident of timing that this key once-in-a-decade moment of reflection for the United Nations came at a time when the administration

was so new. Political declarations from major United Nations meetings are generally the result of months of negotiation. In the case of the 2009 CND session, the negotiations were already far along by the time of Obama's inauguration on January 20, and the session was only seven weeks away. It was clear by January, as well, that the prohibitionist slant of the 1998 UNGASS declaration, which was pitched around the theme "a drug-free world – we can do it," was going to be difficult to dislodge.⁹⁹ Unlike some UN bodies, the CND works on a consensus system – that is, all resolutions are adopted with unanimity, and one dissenting country can block a resolution.¹⁰⁰ Even if the US were to have tried to introduce a less prohibitionist paradigm, it is likely it would have been defeated, as anything suggesting anti-prohibitionism has regularly been scuttled in CND.

In the event, the US delegation to the high-level session was dominated by holdover ONDCP and State Department staff from the previous administration. The final CND declaration did not depart much from a "drug war" paradigm, did not explore the failings of "drug war" measures, and did not, in its final form, mention harm reduction.¹⁰¹ Acting ONDCP director Edward Jurith, a long-time ONDCP employee and member of the US delegation, praised the results of the meeting as having "breathed new life into the international drug control treaties."¹⁰² Notably, however, as an expression of frustration with the CND process on the part of countries with more progressive drug policies, the German delegation, speaking for 26 countries, insisted that those countries would interpret the term "related support services" in the declaration to include harm reduction measures.¹⁰³ While this intervention did not change the wording of the declaration, it did appear in the record of the session, and it constitutes one of the first substantive mentions of country support for harm reduction in any CND record.

If the US had stood with the mostly European countries (and Bolivia and Saint Lucia) that registered their support for harm reduction, it would have been a breakthrough moment in global drug policy. It is worth noting, however, that in its opening statement to the CND, the US delegation for the first time stated that needle exchange programs "prevent the spread of HIV and AIDS among injection drug users" and noted that needle exchange would be part of the upcoming national drug control strategy.¹⁰⁴ While US support for harm reduction beyond this statement was not palpable in the session, this statement stands in stark

contrast to the demonization of syringe programs by the previous administration.

The US had another high-profile opportunity to signal a position on international drug policy when ONDCP Director Kerlikowske joined the director of UNODC for the launch of the UN's annual World Drug Report in June 2009. The 2009 report represented a small softening of UNODC's previous hard line in that the UNODC director's introduction to the report called for law enforcement efforts to be focused more on drug traffickers and less on drug users and underscored the importance of the "right to health" of people with addictions – language not previously used.¹⁰⁵ Kerlikowske's remarks at the launch were a significant departure from anything that could have emerged from the previous administration:

In the United States, we are moving away from divisive 'drug war' rhetoric....We recognize that addiction is a disease and are seeking public health solutions. My top priority is to intensify efforts to reduce the demand for drugs which fuels crime and violence around the world....Further, we will make sure those caught up in our criminal justice system due to their involvement in drugs get the help they need.... We can no longer afford to simply incarcerate them while leaving their addiction untreated and their problems unaddressed.¹⁰⁶

Kerlikowske noted that the FY 2010 budget of the administration proposed tripling funding for support for drug treatment in state prisons. While there was no explicit endorsement of the UNODC call for focusing law enforcement on traffickers rather than users, on this occasion the US made a useful commitment to public health approaches to drug control, and it has subsequently reiterated its commitment to shifting funds to treatment and to greater integration of drug dependence treatment and other health systems. In a January 2010 public appearance, Kerlikowske's deputy, A. Thomas McLellan, stressed again that integrated treatment models, as opposed to stand-alone methadone clinics, for example, which have been the norm, were a goal of the new administration.¹⁰⁷

Kerlikowske is also participating with his counterpart and others in the Russian Federation on several task forces. It is certainly a missed opportunity that the statement emerging from his first meeting says nothing about encouraging the Russian government to make methadone – currently illegal in Russia – available to

the millions of Russians who live with heroin dependence, or about strengthening sterile syringe programs.¹⁰⁸ Shortly after this meeting, in December 2009, the Russian Federal Drug Control released a draft strategy that identified harm reduction as a "risk" to effective drug control policy, equated prescription of methadone with drug trafficking, and proposed possible prosecution of those participating in needle exchange for propaganda in favor of illicit drugs.¹⁰⁹

NEEDLE EXCHANGE AT HOME AND ABROAD

As noted above, the administration inherited a ban on federal funding for domestic needle exchange programs and the practice, not mandated by that ban, of excluding needle exchange from PEPFAR programs. As a presidential candidate, Barack Obama advocated for the overturning of the domestic ban.¹¹⁰ A statement in favor of federal support for needle exchange as an HIV prevention measure was on the White House website for the first months of the administration and then was removed at about the same time that it became clear that the president's first budget request included no federal funding for domestic syringe exchange programs.¹¹¹ A White House spokesperson said that the president still supported needle exchange but wanted to "work with Congress" to develop needle exchange as part of a comprehensive national policy.¹¹²

In December 2009, in spite of stiff opposition from some quarters, both houses of Congress finally passed a spending bill that did not include the ban on use of federal funds for domestic syringe programs. This breakthrough was due largely to the efforts of a veteran member of the House of Representatives. In July, Rep. David Obey (D-Wisconsin), chairman of the House Appropriations Committee, sent the Health and Human Services appropriations bill to the House of Representatives with an explicit overturning of the federal ban, citing overwhelming scientific evidence of the importance of syringe programs for HIV prevention.¹¹³ This attempt at overturning the ban was quickly hobbled by an amendment that would prohibit support for any needle exchange located within 1000 feet of a school, park, video arcade, or other locations where children were likely to be found.¹¹⁴ Though this action formally affects only domestic programs, the Office of the Global AIDS Coordinator has signaled that it, too, will release new guidance for grantees working abroad. At the international retrovirus meetings in Cape Town in July and again at Washington meetings in September and December, OGAC head Ambassador Eric Goosby indicated that "we are clear" about the need for

needle exchange in PEPFAR and that guidance would be forthcoming.¹¹⁵

CROP ERADICATION AND INTERDICTION

The eradication of coca plants in the Andes and opium poppies in Afghanistan was a central part of US drug policy throughout the George W. Bush administration. The Obama administration signaled an important change in policy direction with the announcement by a high-level official that, at least with regard to Afghanistan, crop eradication would no longer be a priority. Richard Holbrooke, the State Department's special representative to Afghanistan and Pakistan, told reporters at the Group of Eight conference in June 2009 that crop eradication "alienated people and drove people into the arms of the Taliban."¹¹⁶ Holbrooke said efforts would continue to promote alternative livelihoods for poppy farmers and to ensure interdiction of opium supplies. An analysis of this new direction by the Brookings Institution praised the administration's decision as "a courageous break with previous misguided efforts there" but suggested that interdiction could cement the link between the Taliban and drug traffickers if not well implemented and that alternative livelihoods would take years, perhaps decades, to establish unless overall security improved.¹¹⁷

With respect to the Western hemisphere, there has to date been no such repudiation of crop eradication. In February 2009, David T. Johnson, assistant secretary of the Bureau of International Narcotics and Law Enforcement Affairs of the State Department, told the press that Colombia continues to "consolidate the gains it has achieved" including "improving its ability to eradicate coca fields."¹¹⁸ The government of Colombia, however, has itself reportedly cut back on aerial fumigation of crop land in favor of somewhat less harmful manual eradication with continued interdiction measures.¹¹⁹ In November 2009, 34 members of the House of Representatives sent a letter to the Secretary of State, urging that the FY2011 budget "scale down assistance for Colombia's military," completely defund aerial crop eradication, and focus on both community development programs in Colombia and greatly expanded treatment for drug dependence in the US.¹²⁰ The administration's FY 2010 budget for counternarcotics expenses in Colombia was \$50 million less than in FY 2009, but Colombia is to receive an additional \$46 million from the US Department of Defense for expansion of the Palanquero military base.¹²¹

The Mérida Initiative has been a test of the administration's commitment to human rights in foreign policy. President Obama has consistently professed support for the Initiative and for Mexican President Calderón's efforts to fight drug cartels: "...we have been very supportive of the Mérida Initiative, and we will continue to be supportive."¹²² By law, the Department of State is charged with evaluating the human rights practices of governments receiving Mérida aid, including whether they are prosecuting human rights violations committed by military and police officers. When the new administration was about to issue its first Mérida human rights report in August 2009, it briefed Senator Leahy's staff, who concluded that the State Department's findings contradicted other reports on extensive human rights violations, including torture and forced disappearances, in the Mexican drug war.¹²³ The State Department issued the report nonetheless, a move called "premature" by Leahy, who said that "neither the Mexican government nor the State Department has treated human rights abuses by the military...as a priority."¹²⁴ Human Rights Watch and Mexican human rights organizations criticized the State Department report as failing to show that Mexico met the human rights conditions of the Leahy amendment.¹²⁵ In spite of these criticisms, the administration released the funds held back pending the human rights evaluation.¹²⁶ The Mérida Initiative is a three-year program scheduled to end in 2010. The administration's FY 2011 budget request may be the best indication of how it sees the prospects for softening the "war on drugs."

As noted with respect to Secretary of State Clinton's observation on the intractable demand for drugs in the US, the Obama administration has repeatedly emphasized the need to give greater weight to demand reduction measures, which were overshadowed by supply reduction in previous administrations. The administration's FY 2010 budget included an 11 percent increase in funds for treatment of drug dependence through the Substance Abuse and Mental Health Services Administration (SAMHSA), but overall the treatment and prevention budget remains about half that destined for law enforcement and supply reduction.¹²⁷

Future Directions

In April 2009, the influential health journal *The Lancet* ran an article under the headline “The USA shifts away from the ‘war on drugs’,”¹²⁸ an example of many hopeful expressions from the public health world that a new era of progressive US leadership on drug control was dawning. In light of the evidence presented here, that headline seems premature. The Obama White House has aligned itself rhetorically, to some degree, with those who would manage illicit drug use as a public health rather than a criminal law problem, but funds, programs and statements in key international forums have not materialized to concretize that stance. It is, certainly, early in the administration, and, as is often repeated by the president and his staff, extraordinary economic and political problems have confronted the new White House since its first hours. It may be that the Obama administration has explicitly sought to delay tackling divisive social issues to keep the focus on what are perceived to be more central concerns, perhaps mindful of the Clinton White House’s experience on gays in the military in its early days. Nonetheless, lives continue to be lost to ill-conceived and inhumane policies related to illicit drugs. A new direction for US policy on illicit drugs cannot come too soon.

The need for new thinking on US drug policy is all the more urgent in light of the enormous global influence that US action and leadership have had and will continue to have in this area. The administration faces a global policy environment where receptivity to progressive drug policy directions may be greater than it supposes. The 26 countries that defied business as usual in the March 2009 session of the Commission on Narcotic Drugs by insisting that harm reduction was an essential part of services for drug users represented frustration with military and criminal law solutions. In February 2009, the Latin American Commission on Drugs and Democracy, convened by former presidents of Mexico, Colombia and Brazil, explicitly called for a turn away from “war on drugs” policies in the region in favor of more humane and effective health-centered strategies.¹²⁹ In addition, in its “outcome framework” for 2009-2011, UNAIDS has committed itself, somewhat more forthrightly than in the past, to removal of “punitive laws” that impede effective responses to HIV and to “ensuring that legal and policy frameworks serve HIV prevention efforts” among drug users.¹³⁰

President Obama, whose instinct for caution often shows itself to be well developed, should not fail to appreciate the room that he has internationally and, increasingly, domestically for boldness in this challenging policy arena. An administration that loses no opportunity to differentiate itself from its predecessor in its commitment to evidence-based policies must make that commitment real in this policy area that has been lethally compromised by ideology and fear-mongering. The administration’s leadership is urgently needed in the following ways:

END PROHIBITIONISM AS POLICY DIRECTION

There must be an official rethinking of prohibitionist strategies and their dire consequences for people who use illicit drugs and their societies more broadly. It is promising that the new director of ONDCP is concerned that “drug war” rhetoric makes people feel as though their government is at war with them, but the administration should speak and act boldly on the breadth and depth of the harms of prohibitionism as it leads a movement toward peace in the drug war. A president who unquestionably knows how to use his privileged public platform should take on the task of helping US and global audiences to appreciate the benefits of other sound and pragmatic approaches to illicit drugs. The administration should become the ally of those who have carefully documented the political, social, human rights and human life costs of the war on drugs and should ensure that persons most harmed by past policies play a meaningful role in shaping a new policy direction. The administration should recognize in an explicit and public way the structural factors that prevent people living with drug dependence from receiving humane and affordable medical care as well as those that lead impoverished rural people with few alternatives to grow coca or opium poppies.

On the United Nations stage, backing away from prohibitionism as the central tenet of drug control would place the US in a progressive leadership position that could dramatically change the course of international policy and the lives of millions of people who use illicit drugs. The administration’s delegation to the next CND should work side by side with countries that have already expressed the need for humane and effective policies and national and multilateral budgets that are not dominated by supply reduction measures. At little or no political cost to itself, the Obama White House could help inaugurate a new era of affordable, humane and respectful treatment for drug dependence, accompanied by

international standards of practice and effective mechanisms for monitoring and redress – all of which have been blocked by approaching drug addiction as a crime or a character flaw. Broader leadership on harm reduction – a phrase that seems to bring out the worst irrationality in drug policy debates – will be more challenging, but the administration would find itself in the company of many other countries if it set out to reduce that irrationality.

BE TRUE TO A COMMITMENT TO EVIDENCE-BASED POLICY AND PROGRAMS

Whether the subject is stem cells, abstinence-only sexuality education, or climate change, the Obama administration has repeatedly sought to differentiate itself from its predecessor by asserting its commitment to scientifically sound, evidence-based policy. It would be an important step forward for the White House to acknowledge publicly the vast body of scientific evidence that shows the ineffectiveness – and, indeed, counter-productiveness – of policies, including crop eradication, that have been central to US drug efforts for decades. A serious review of the science – complemented by meaningful involvement of farmers themselves – would be useful in shaping livelihood programs and other non-punitive approaches for communities that rely on cultivation of coca and opium poppies. Efforts in the Andes should benefit from the same rejection of crop eradication that has been announced for Afghanistan. The Pentagon’s involvement in illicit drug control abroad should be phased out. US engagement in training for military- or police-run compulsory drug “treatment” centers where abuses including beatings, forced labor, starvation and interruption of medical treatment, without any efficacy in treatment of drug dependence, should be reexamined; US involvement should be restricted to humanitarian assistance rather than “capacity building” of inhumane and ineffective institutions.

These issues are a test of the administration’s commitment to science, as is the need for leadership in the face of new federal policy on the funding of needle exchange. The president should rediscover his voice as a leader on this issue internationally. The White House should ensure that PEPFAR policies, as repeatedly promised, clearly enable US support for life-saving sterile syringe programs. Increasing public awareness of the importance of needle exchange domestically and internationally is urgently needed and would be a distinctive achievement of the administration.

Similarly, while the US has funded some methadone programs abroad, it has not been a leader in the struggle for humane, scientifically sound and affordable treatment for drug dependence in the many parts of the world where leadership is sorely needed. Leadership from the Obama administration in this area should take several forms, including (1) increasing US funding for scientifically sound drug treatment as a central part of official development assistance, (2) leading global advocacy for international standards on the practice of treatment for drug dependence and an independent international monitoring mechanism to highlight abuses, and (3) ensuring that US funding is never applied to drug “treatment” that amounts to torture or cruel, inhuman and degrading practices. It is also high time that the federal guidelines for methadone and buprenorphine therapy in the US, including the requirement of directly observed ingestion of methadone for patients that have demonstrated long-term adherence, be revisited. Good practices in drug treatment in the US can be useful models for the world.

BRING HUMAN RIGHTS CONCERNS TO THE CENTER OF DRUG POLICY

The human rights cost of decades of drug war-driven policies is incalculable. The Leahy amendment is a step in the right direction, but it was treated almost dismissively in the 2009 evaluation of the Mérida Initiative and related developments. The administration’s leadership in this respect should include several elements:

- There should be thorough and independent assessment of the human rights impact of US actions, including assistance to military and narcotics police, crop eradication and other supply reduction efforts, and support to governments that engage in “treatment” for drug dependence that is cruel and inhuman. The letter and spirit of the Leahy amendment should be respected, preferably by including independent human rights monitoring before planned interventions as well as during and after implementation and, obviously, avoiding programs and practices that violate rights. On the other side of the coin, as policies are reformed, the human rights benefits, for example, of shifting from aerial spraying of crops to working with rural communities to find viable alternative livelihoods should be documented.
- Beyond US policy, the Obama administration should spearhead a new global engagement in

rights-based policy by supporting and urging the UN and its member states to support human rights monitoring of national, regional and multilateral drug policies and practices. NGOs document the human rights cost of repressive policies but do so on a shoestring. Funding and bold leadership in this area could help transform policy environments in many countries. High-profile and systematic denunciation of crackdowns, torture and inhumane practices in detention, disproportionate sentencing, and lack of access to humane (or any) health services for drug users would go a long way in shifting drug policy debates. The US should also lead the fight for the International Narcotics Control Board to base its work on human rights principles and for the CND rules to be reformed to allow real debate on human rights issues.

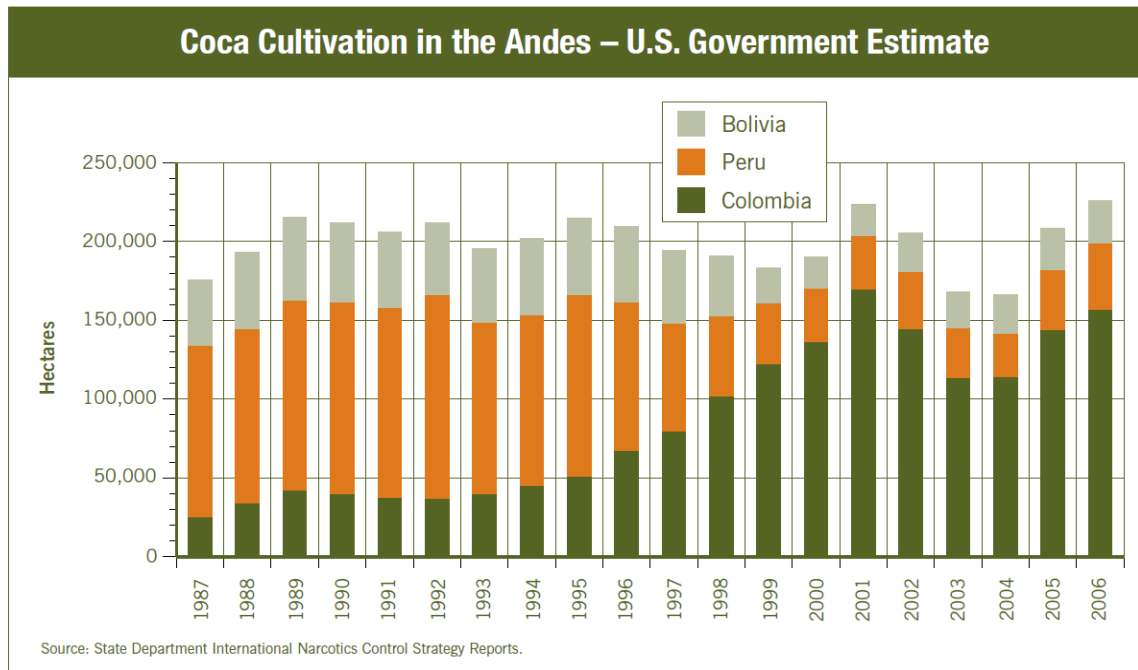
- The new national drug strategy should be based on a human rights framework in concrete and measurable ways. The right to access to affordable, accessible, acceptable, humane and scientifically-sound treatment for drug dependence should be central to domestic programs and official foreign aid in the area of drug control. Working with countries to find ways to reduce drug trafficking that do not penalize minor drug crimes is an area in which US leadership would be welcomed globally. Joining the many countries that recognize access to sterile syringes as the right of people who inject drugs would send a strong message of commitment to rights-based drug control, as well as to science-based policy.
- Improving public awareness, in the US and abroad, of the human rights impact of drug policy and drug control practices should be an important part of

engaging voters in the understanding of new approaches.

Following these recommendations would put the US at the vanguard of a new era of global drug policy. Most importantly, it would move both domestic and international policy away from criminal law approaches and military action – that is, away from the kinds of approaches that have guided work on drug control for more than a century now – and toward a strategy that is finally informed by reasonable public health principles and practices. It is crucial to emphasize that taking such a challenge seriously would entail more than a call to the principles of harm reduction. It would involve a fundamentally new policy direction in which the approach that has dominated official drug policy for so long would be reconsidered and transformed.

By ending prohibition as a guiding policy, by making a true commitment to evidence-based policies and programs, and by bringing human rights principles to the center of its approach to drug policy, the Obama administration could make a fundamental contribution not only to overturning the misguided battlefield mentality that is so clearly the legacy of the George W. Bush administration, but also to transforming the failed approach to drug control that the US has promoted for decades both at home and abroad. Much more than US policy is in the balance; a change in direction by the US would also reshape the global drug policy discussion for the better. This fundamental change is long overdue; in few areas of global health policy could a new direction make such a profound difference.

Table 1



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