Fixing a broken system
Modernizing drug law enforcement in Latin America

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I. Introduction: Collateral Damage of Prohibitionist Policies

Despite efforts by governments in Latin America, illicit drugs continue to provide one of the largest incomes for criminal organizations, enabling them to penetrate and corrupt political and social institutions. Criminal organizations exploit the vulnerabilities of the state and take advantage of governments' inability to provide security to their citizens.[1] With few exceptions, the weak capacity of Latin American governments is reflected in high rates of homicides, notorious levels of impunity, and the feeling of mistrust that citizens harbour regarding justice institutions and the police.[2]

Drug law enforcement in Latin America operates in a context of institutional fragility in which the "war on drugs" has mostly failed to reduce supply and demand, while generating new problems and vast collateral damage. The perverse incentives created by the prohibitionist approach in the face of a persistently strong market demand for drugs has been an important cause of violence and crime in many places. At the same time, state responses to repress this illegal market have serious negative side effects, but only a limited capacity to impact upon the drug chain.

Given this reality, different voices are demanding changes in the way the state responds not only to the drug problem but also to the threat of multiple criminal economies that affect the everyday lives of the citizens. The assumption is that moving away from the "war on drugs" can contribute to de-escalating violence and crime and can deprive organized crime groups of resources. Institutional characteristics in the region prompt some relevant questions: How can the current paradigm be transformed in a context

Key points

• Drug law enforcement in Latin America operates in a context of institutional fragility in which the "war on drugs" has mostly failed to reduce supply and demand, while generating new problems and vast collateral damage.

• The modernization of drug law enforcement can be a galvanizing force for changing the broader criminal justice system and perhaps show the way toward fixing a broken system.

• The 4W-Challenge (Wrong assumptions; Wrong goals and indicators; Weak institutions; and Worse outcomes) outlines the four main challenges to modernize drug law enforcement in the region

• In future law enforcement strategies violence reduction must be a priority and law enforcement measures should not cause additional harm.

• The criminal justice system should be focused on the most prejudicial and dangerous criminals, those that have more resources and capacities to use violence and corruption.

• Alternatives to incarceration should be developed for the weakest links in the drug trade.

• "Success" should be measured not via process indicators (arrests, seizures, extraditions) but rather in terms of outcomes and the impact of policy upon societies(levels of corruption, public health andhuman security).

• The United Nations General Assembly Special Session (UNGASS) on the drug problem in 2016 provides an opportunity to rethink drug law enforcement and its consequences for security and development.

of institutional fragility? How can drug law enforcement be modernized given high levels of corruption and impunity?

Institutional reform processes require time and significant resources, and the transition from a fragile state to a functional one is slow and uncertain. In the meantime, however, we need to think about measures that can be adopted while countries start down the path toward more fundamental reforms. From this perspective, the modernization of drug law enforcement can be a galvanizing force for changing the broader criminal justice system and perhaps show the way toward fixing a broken system.

Section II outlines the logic and problems with the current paradigm and its consequences in Latin America. Thereare four main challenges to modernize drug law enforcement in the region, which are labelled "the 4W-Challenge": wrong assumptions; wrong goals and indicators; weak institutions; and, worse outcomes. In some localities, authorities are moving away from a zero-tolerance and undifferentiated targeting in law enforcement, towards strategies to reduce the negative effects of organized crime and shrink the scale of illegal economies. Based on these experiences, Section III identifies some feasible steps toward a new strategy to respond to the violence and crime associated with illegal drugs.

II. Challenges to modernizing drug law enforcement in a context of state fragility

Drug policy in Latin America – in particular strategies aimed to reduce supply and demand – have shaped the allocation of government resources and also the mindset and bureaucratic cultures of law enforcement institutions. The conviction that it is possible to eliminate drugs, and the associated crime, has promoted policies of "zero-tolerance" and "iron fist" enforcement. The result is a punishment-centred approach that, in practice, fails to achieve the objective of eradicating illicit drug markets and reducing levels of violence and crime.[3]

In a context of weak institutions the "war on drugs" not only failed to reduce the size

of the market but generated new problems, exacerbating violence and insecurity. The result has been a mismatch between goals such as community health and wellbeing, measures implemented, and results obtained.

Given this reality, the implementation of smarter law enforcement approaches to tackle the drug problem, reduce violence, and minimize harm, face a variety of difficulties. These can be grouped into four main challenges as the "4W-Challenge":

> *Wrong assumptions*. The mindset behind the "war on drugs" and its conviction that it is possible to achieve a "drug free-world."

> *Wrong goals and indicators*. Perverse incentives that prioritize process measures (arrests and seizures) over indicators of improved community health and security for the citizens.

> *Weak institutions*. Powerful criminal organizations that magnify and exacerbate institutional weaknesses and fragile institutions, which become even less trusted and weaker when they submit to criminal groups.

> *Worse outcomes*. Despite progress in some areas, the overall magnitude of drug demand has not substantially changed at the global level. In Latin America, the use of drugs is widespread across the region, and is associated with the spread of criminal activities and violence.

This section analyzes these challenges, taking into account available evidence and recent trends of illegal drug markets in Latin America.

Wrong assumptions

The United Nations General Assembly held a special session in 1998 with the official slogan, "A drug-free world, we can do it," and produced a declaration and plan of action with a 2008 target.[4] After more than a decade of implementation there is ample evidence that the objective remains far from achieved. Despite a global and regional commitment to eliminate drugs and the associated crime, the

countries with the weakest institutions have found that criminal organizations have in fact been strengthened, undermining the very foundations of the state and its capacity for good governance.[5]

Available evidence shows that the goal of eliminating organized crime and illegal markets is simply not viable, even in states with the strongest capabilities. In the best case scenario, it is possible to mitigate the negative consequences of criminal economies, transform the behaviour of criminal groups to reduce harms, and reduce their social, economic, and institutional influence. It is not possible, however, to eradicate their influence.[6] The adoption of a maximalist approach against illegal markets in a context of scarce resources and limited capacities produces negative results. In practice, such drug law enforcement targets minor offenses and the weakest links in the chain, with limited effects toward reducing the scale of criminal economies and their negative consequences.

A main assumption of the current paradigm is that supply reduction will lead to sustained price increases, which should reduce drug consumption, thus diminishing the incidence of drug "abuse". According to Harold Pollack and Peter Reuter, however, there is little evidence that raising the risk of arrest, incarceration or seizure will raise prices, let alone retail prices.[7] From this perspective, the amount of resources and efforts expended to reduce supply and consumption has had a limited effect in global and regional terms.

In the specific case of Latin America, most of the attention has been focused on the cocaine trade and the corridor from the Andean region to the main consumption markets in North America and Europe. According to the United Nations Office on Drugs and Crime (UNODC) database, in South America 2,152 tons of cocaine were seized and more than 1 million hectares were eradicated between 2003 and 2011. In many countries the number of people jailed for drug offenses has seen remarkable growth.[8] What happened with respect to prices and availability of cocaine? The street price of cocaine in the United States rose from US$150 to US$177 for a gram of pure cocaine[9] and the amount of cocaine consumed in this country decreased by about 50 percent.[10]

Can these changes be explained by supply reduction efforts? Causation is difficult to demonstrate because there are many factors that affect the level of consumption and the price of drugs. In any case, from the Latin American perspective the cost of supply reduction measures has been high, with limited and transitory achievements and the emergence of new problems. The volume of cocaine production has changed only modestly in the Andean region, in part because the declining US market has been offset by increases in Europe and Latin America. In Western and Central Europe indicators of overall supply suggest a rebound in the availability of cocaine, and the retail market in several countries in Latin America has grown.[11]

The current paradigm is based on a cost-benefit presumption that the benefit of the state intervention exceeds the cost of allowing access to drugs.[12] In practice, a prohibitionist drug policy can have beneficial effects on governing institutions and civil society, but it can also be detrimental and counterproductive. In several cases interventions under the prohibitionist model produced collateral damages, exacerbating the violence and insecurity they were intended to remedy. In the latest systematic review of this effect, Werb et al. conducted a meta-analysis of fifteen studies culled from a selection of 314. They found that gun violence and high homicide rates may be an inevitable consequence of drug prohibition and that, paradoxically, disrupting drug markets can increase violence.[13]

In the case of Latin America some studies argue that prohibitionist drug policies transfer the cost of the drug problem from consumer to producer and transit countries. Colombian economists Daniel Mejía and Pascual Restrepo argue that what these countries are doing is "…implementing supply-reduction policies so that drugs don´t reach consumer countries at the cost of very pronounced cycles of violence and political corruption, with the consequent losses of legitimacy of state institutions".[14]

The UNODC *2008 World Drug Report* noted that prohibitionist policies can produce several unintended consequences: the creation of a criminal black market, *geographical displacement* (the "balloon effect"), *policy displacement* (with more resources for law enforcement than for prevention or harm reduction), and *substance displacement* (illicit use of a different drug with similar effects but less stringent controls). For Latin American countries, it is relevant to consider not only these unintended consequences but also how the exacerbation of violence and corruption erodes state capacities.[15]

Wrong goals and indicators

The stated objective of the UN Conventions is to advance the "health and welfare of mankind" (Preamble of 1961 Single Convention on Narcotic Drugs). The international drug control regime seeks to ensure access to psychoactive drugs for scientific and medical purposes but to prohibit access for other uses.[16] To these ends, the Convention mandates the criminalization of those who cultivate produce, sell, or purchase drugs, defining these activities as criminal offences. This is a foundational premise of the current approach: the "war on drugs" criminalizes and suppresses as many alleged "criminals" as possible to achieve the ultimate goal of eliminating the illicit market. Repression and interdiction has been the rule, with few restrictions on law enforcement actionsand with insufficient attention given to implications relating for public health and citizen security.

By prohibiting a wide range of behaviours but without setting clear priorities, the current policy endows authorities with considerable discretion. As a result, in its crusade against the illicit drug economy the criminal justice system ends up dealing with problems of illicit drug use and dependence, which should be left to the public health system.[17]

At the same time, the "war on drugs" in Latin America has skewed the definition of serious offenses by concentrating state action on conduct that might not require repressive measures, thereby clogging the justice system in the process. In some countries,

for example, the harshest sentences for drug trafficking offenses are years longer than those for murder and rape.[18] Similarly, efforts to eliminate illicit crops tend to target small-scale producers, while rarely identifying the principal elements behind the criminal economy, and actions against trafficking focus mainly on prosecuting street dealers and micro-traffickers, but seldom net the bigger "fish".

In certain areas, the "war on drugs" has not merely been used as a metaphor, but indeed as a full blown strategy. There, authorities have truly waged a war involving "enemies" (consumers, mules, dealers), utilizing military forces, and leaving behind many victims and substantial collateral damage.

In this regard, Benjamin Lessing studies what he calls "criminal conflict" in Mexico, Colombia, and Brazil, organized armed violence involving non-state actors who, unlike revolutionary insurgents, are not trying to topple the state.[19] Lessing shows how the level of lethal violence in these countries is higher than the number of deaths in countries affected by armed conflicts. According to him, the state crackdown "provokes (additional) cartel-state violence when they occur in a context of widespread police corruption, and when they are unconditional, i.e., do not target violent cartels for additional or differential repression".[20]

One of the main challenges of defining the goal of suppressing the drug market is how to measure "success". For law enforcement agencies the strategies and tactics have been designed to maximize the destruction of drug crops and drug seizures, and disrupt trafficking groups through the threat and application of arrest and punishment. The logic is to deter current and potential participants in the drug chain, including people who use drugs.[21] In Latin America and elsewhere the metrics that accompany this approach are simplistic: numbers of arrests, quantities of seizures, hectares of drug crops eradicated, indictments, and convictions.

In this optic, many actions are construed as achievements per se, without any relation to community health and wellbeing. Using the analogy proposed by the Brennan Center

for Justice, these metrics correspond to the situation in which hospitals would count the number of emergency room admissions instead of the number of lives saved.[22] Given this reality, the Global Commission on Drug Policy states: "Process measures can give the impression of success, when the reality for people on the ground is often the opposite."[23] This is what happens in many countries in Latin America where repressive interventions against drug markets are disconnected from their actual impacts on society in terms of exacerbating violence and corruption and worsening public health.

In a context of weak law enforcement institutions, these types of metrics create perverse incentives as authorities revert to the traditional, and automatic, strategy of conducting more arrests and seizures, and they open the door to police abusiveness and human rights violations. Civil society organizations in Latin America consistently report abuses committed by police and military forces in the course of the "war on drugs".[24]

Weak institutions

"Weak institutions" is a controversial concept in Latin America. Sometimes it means the absence of the state, but it can also refer to the capture/co-optation or reconfiguration of state institutions by private interests and illegal actors. According to Guillermo O'Donnell, in certain areas the presence of the state is weak or non-existent, the rights of citizens are not respected, and there are no institutions to ensure compliance with the law.[25] In such areas, criminal organizations can impose their own social control and assume the basic duties of the state.

Desmond Arias paints a different picture with respect to the *favelas* (slums) of Rio de Janeiro. Arias argues that "persistently high levels of violence… result not from the failure of institutions, [but] rather, from networks that bring criminals together with civic leaders, politicians, and policemen… Rather than creating 'parallel states' outside of political control, these networks link trafficker-dominated areas with Rio's broader political and social systems".[26] From this perspective, criminal economies and groups

emerge not only in places without state presence but also in territories in which the state's presence can be reconfigured in ways that facilitate criminal activities.[27]

The nexus between organized crime and politics is a key element of the fragility of the state in Latin America.[28] Criminal organizations use corruption and violence to develop and protect their businesses, which has several implications for law enforcement and the capacity of the state to provide security.[29] In some places, criminals have territorial control and demand political and legal decisions that suit their interests, sometimes in competition with the traditional elite and other times in coalition with the existing powers structures.[30]

There is a set of conditions that determine the capacity of the state to fulfil its basic functions. The starting point is that a resilient state must be able to deliver certain services to meet citizens' needs and expectations. The United Nations Development Programme, analyzing the security situation in Latin America, identifies three main dimensions of the state capacity:[31] 1) institutional environment, 2) strategic autonomy, and 3) legitimacy.

Table 1 summarizes the key components of each of these dimensions and identifies which are characteristic of "low state capacity". The table provides some data that illustrate the current situation regarding the state and the rule of law in Latin America, based on the perceptions of citizens and objective data.

The dimensions of the illegal drug market and the influence of criminal organizations often emerge where states lack the capacity to enforce their own laws. Criminal organizations can magnify and exacerbate these vulnerabilities, and institutions become less trusted and weaker when they don't provide security for their citizens.[33] The result is a broken system in which a fragile state adopts policies that do not deliver public goods and services, such as justice or security, but rather reinforce the dynamics of crime, violence and corruption. In the case of Mexico, John Bailey identified this situation as a "security trap": political institutions fail to enforce the law and hence lack legitimacy.[34]

Table 1. Dimensions of state capacity in a broken system

Dimension	Component (low state capacity)	Perceptions and objective data
Institutional environment	Incentives for institutional corruption	In 6 of the 18 countries more than 50% of those interviewed said that corruption was "very prevalent" (LAPOP-UNDP 2012).
	Use of institutions for political or personal ends rather than for the public good	A median of 76% say corrupt political leaders are a very big problem in their country (Pew Research)[1]. A person in a position of authority (police, military official, prosecutor, judge) participated in 14.5% of the crimes committed by inmates in Brazil and 10% of crimes in Mexico and El Salvador (Comparative Study of the Prison Population, UNDP, 2013).
	Institutional ineffectiveness	The global rate for homicide convictions is 43 for every 100 murders; in Latin America it is close to 20 (UNODC). The homicide rate for 11 of the 18 countries is more than 10 for every 100,000 inhabitants (UNODC), a rate considered by the World Health Organization (WHO) as epidemic.
Strategic autonomy	Limited technocratic knowledge	Only 28% (regional average) believe that governments work for the good of all the people; most think that governments work for private interests (Latinobarómetro 2012-2013).
	Lack of alliances to support reform processes	
Legitimacy	Low levels of trust in the authorities	46% of those interviewed state that the police are involved in crime (LAPOP-UNDP 2012). Except for Nicaragua and Panama, more than half of the citizens in Latin America expressed little or no confidence that the courts would act in a reliable manner in the case of victimization by robbery or assault (LAPOP-UNDP 2012).
	Low citizen respect for the rule of law	35.7% approve taking the law into one's own hands when face with abuse; 35,2% "would not approve but would understand" (LAPOP-UNDP 2012).

Based on United Nation Development Programme (UNDP), Citizen Security with a Human Face: Evidence and Proposal for Latin America. Regional Human Development Report 2012-2014 (New York, United Nations, 2013). Sources: UNODC, LAPOP-UNDP and Pew Research.

In the specific case of police institutions and the criminal justice system, the punitive approach of the "war on drugs" has distorted their responsibilities, their relationship with the public, their use of resources, and the way in which their performance has been evaluated. As Alex Stevens states, the punitive approach to policing is usually counterproductive, as police action tends to fall disproportionately on certain population groups, particularly the young and the poor. In addition, police action is prone to corruption by criminal organizations; it repeatedly infringes on the law and only yields modest results.[35]

In the words of Colombian Police General Oscar Naranjo (ret.), the adoption of a predominately punitive and reactive approach has pitted the police forces against "four huge monsters": brutality, ineffectiveness, lack of solidarity, and corruption.[36]The "war on drugs", and on crime in general, has undermined trust in the police and fuelled perceptions of rampant corruption and growing scepticism about their response capabilities. These problems are worsened in a context of glaring institutional weaknesses, including low levels of professionalization, scant control mechanisms, and poor working conditions.

But a dysfunctional police is just one of the dimensions of the fragility of the state. Socio-economic conditions and high levels of inequality in large segments of the population create the conditions in which criminal organizations build their social base. According to Vanda Felbab-Brown, in areas "…with an inadequate or problematic state presence, great poverty, and social and political marginalization are dependent on illicit economies for their livelihood".[37] Most of the time authorities perceive these neighbourhoods as natural havens for drug dealers and are uninterested in improving the socioeconomic status of those communities. There again, the negative relationship between the citizens and law enforcement undermines the legitimacy of the state, diminishing its capacity.

Worse outcomes

The prohibitionist paradigm and the "war

on drugs" have failed according to their own definition of success. According to a recent UNODC report, despite the progress made in some areas, overall drug demand has not substantially changed at the global level.[38] In the case of Latin America, available information shows that cocaine use is widespread across the region, in some countries reaching levels similar to those found in Europe. The Southern Cone has been particularly hit hard by cocaine-base paste (*pasta base* or *crack*).[39] In this context, countries that used to be transhipment routes are witnessing the emergence of retail drug markets, with negative implications for local security.[40] Around the region, authorities have identified the retail drug trade as one the main triggers of violence and crime.

State intervention in drug markets in Latin America, under the umbrella of the "war on drugs", has produced different outcomes and impacts. The "kingpin" approach that sought to dismantle drug syndicates by killing or capturing their leaders has stimulated confrontations between criminal factions, fracturing organizations and, in some cases, increasing violence.[41] The removal of the first and second tier criminals creates a power vacuum that is not occupied by the state but by a new generation of criminals. At the same time, these types of law enforcement interventions have led to the spread of criminal activities to countries with more limited response capacities and more favourable conditions for illegal activities, fuelling the "criminal diaspora" of organized crime.[42] Central America's Northern Triangle – consisting of Guatemala, Honduras and El Salvador – being a primary example.[43]

The "war on drugs" has had important impacts at the local level. Although criminal organizations generally lack the capacity to directly challenge state authority at the national level, they have focused on predatory activities, including extortion and kidnapping. Given this trend, one of the challenges is that police forces that specialized in capturing leaders and striking the larger structures are ill prepared to tackle everyday security problems and develop effective prevention strategies.

An additional consequence of the punitive approach is the saturation of prison systems.

Box 1. **Recent reform initiatives in Latin America**

Guatemala: The coordination mechanism between the Attorney General's Office, the Ministry of Interior, and the International Commission against Impunity in Guatemala. Guatemala launched an initiative in 2007 to strengthen the criminal investigation capacities of its National Civilian Police, adopting a decentralized management model for the unit responsible for violent crimes. In the process, it strengthened collaboration between the Ministry of Interior – which has jurisdiction over the police – and the Attorney General's Office. Supported by the International Commission against Impunity in Guatemala (CICIG),[44] the strategy has proven effective in solving high-profile cases and bringing down the impunity rate for homicides. Prosecutors supervise police investigators as they collect evidence, obtain arrest or search warrants, and carry out wiretapping.[45]

Colombia: The "Quadrants Plan" and a decentralized police system based on establishing close ties with the community. Colombia's National Plan for Community Policing by Quadrants (Plan Nacional de Vigilancia Comunitaria por Cuadrantes), which has been implemented in eight cities, developed a decentralized law enforcement strategy based on establishing close police ties with the community in order to address social problems and respond to crime. It is implemented based on a strategic study of each quadrant and relies on geo-referenced data to inform decision making and improve resource distribution. An evaluation by the *Fundación Ideas para la Paz* found that police stations with units fully trained to operate under this model were more effective at controlling crime compared to their counterparts who had not received this training.[46]

Brazil: Rio de Janeiro's Pacifying Police Unit (UPP), a community policing programme created to regain control of the *favelas* in Rio de Janeiro. Based primarily on establishing territorial control, this strategy is carried out in three phases: 1) "tactical" intervention by the military police; 2) stabilization; and 3) consolidation. The UPP is responsible for the latter two stages. According to Fernández de Castro et. al., in contrast to the previous "strike and retreat" strategy, this model operates as a form of community policing where territorial presence and quality of service differ significantly from traditional policing models.[47] The units are made up of new recruits who receive higher salaries and training in community relations, human rights, and conflict resolution.[48] Since its creation the programme's gains in public security have been evident, but recently the confidence in the UPP has been sapped by a series of human rights abuses by police officers. In some places disputes between drug traffickers and police have resurged. Some people argue the "pacification" has not been followed by improvement in social service and infrastructure.[49]

Brazil: Minas Gerais's "Fica vivo" ("Stay Alive"), created to reduce the number of murders in high-risk populations. Launched in 2003, this program grew out of a geo-referenced study on violent crimes committed from 1992 to 2002 conducted by the government and the Federal University of Minas Gerais. It aims to reduce the number of murders in high-risk populations, namely young men aged 15 to 19. According to Fernández et al. *Fica Vivo* began with three basic premises: 1) violence tends to be concentrated in specific locations; 2) the use of violence is "contagious" and can spread among the most vulnerable groups; 3) violence is usually employed by a small group.[50] Consistent with this thinking, the programme targeted six disadvantaged neighbourhoods with the highest violence rates. It set up task forces comprised of police, prosecutors, and representatives of the child welfare agency and the schools to design long-term strategies tailored to the problems in each area.[51]

Colombia: Priority to high-impact crimes by the Attorney General's Office. The Attorney General's Office is undergoing a reorganization to address low case resolution rates and backlogs in the justice system. One of the key strategies in this process has been to prioritize high-impact crimes in a particular time period or region. The Attorney General's Office is also coordinating investigations scattered among different offices in the justice system in order to detect patterns of "macrocriminality," or organized powered networks. The sub-unit for case prioritization will play a key role in this reform by making it possible to spotlight certain cases on the premise that the simultaneous investigation of all crimes is an impossible task. To this end, the Attorney General's Office will identify thousands of seemingly unrelated homicides in order to detect potential patterns. It is too soon to make a balance of the prioritization, but in a context of high levels of impunity, this is a step in the right direction.[52]

In a significant number of countries of the region, people incarcerated for drug offenses constitute a substantial percentage of a growing prison population, aggravating overcrowding of the penitentiary system.[53] It is striking to observe the over-penalization and "feminization" of drug-related crimes, coupled with a growing and increasingly young prison population, the vast majority of who are imprisoned for minor drug-related offenses.[54]

In his study on Mexico, Eduardo Guerrero suggests that by seeking to incapacitate as many alleged criminals as possible, the prohibitionist approach contributes to widespread impunity by allocating too much of its limited capabilities and resources on the general administration of the justice system, instead of a specific strategy to reduce the extremely high levels of violence of particular crime groups.[55] Similarly, Felbab-Brown warns that the failure to correctly prioritize crimes and criminal groups – which are not necessarily always related to the drug trade – often diverts police focus from the most violent and serious offences and most dangerous criminal groups.[56] Given this reality, state intervention in the illicit drug market has a negative impact on the region, diminishing the capacity of institutions to protect the population.

In terms of public security, it is important to recognize that Latin America is one of the most violent regions in the world and that the drug trade and the prohibitionist model have played a role in this dynamic. Significant levels of violence occur across drug-transit regions, such as the Caribbean and Central America. In many cities high-impact crimes and the retail drug trade tend to overlap in the same area.[57] Additionally, in countries like Colombia where production is under the influence of illegal armed organizations, violence is used to control territories and to confront the state.

According to the United Nations, organized crime, including drug trafficking, is responsible for 33% of homicides committed in the region. This percentage can be higher in zones in dispute between several crime groups and lower in the territories in which a particular criminal group exercises control. In some cases, lower homicide rates in areas controlled by organized crime are attributable not to the state's effectiveness in imposing control, but to criminal organizations' ability to control and influence the state. This is especially true when criminal gangs are able to penetrate the political system, create a context for impunity, forge community ties, and operate in a weakened culture of legality. Given this reality, violent deaths are an insufficient indicator of the impacts of organized crime. There are other negatives to consider, such as extortion, threats against citizens or restrictions on their freedoms, and corruption in government institutions.

III. How to fix a broken system?

Modernization of the police and the criminal justice systems has been identified as a crucial step in responding to insecurity in Latin America. Based on this premise, multiple reform attempts have been attempted around the region, with varying outcomes and implications.[58] In countries where drug trafficking is more intense, the transition from a fragile to a functional state has faced important challenges. Reforms have been undercut by anachronistic organizational cultures rooted in models that prioritize the use of force and provide incentives for corruption and abuse. Given this reality, there are justified doubts regarding the capacity of the state to move away from a "war on drugs" approach toward a management of markets in a way that minimizes harmful impacts on communities and institutions.

Despite obstacles to implement reforms, some countries and cities in Latin America are adopting a different law enforcement approach, redefining their priorities, changing metrics to measure progress, promoting good institutional practices, and improving the security of their communities. They have not eradicated criminal organizations or eliminated illegal economies, but they provide better approaches to tackle violence and crime. The aim of these interventions has not been a profound transformation of state institution; rather they assume a pragmatic approach, focusing scarce resources on the most serious threats and emphasizing a reduction in violence.

To explore this perspective, Box 1

summarizes five specific experiences, identifying some elements that help us imagine how to modernize drug law enforcement in Latin America. Rather than providing an in-depth study of these cases or proposing a set of "good practices", the aim is to highlight some policy options and illustrate the opportunities that these interventions can offer. The cases include: the coordination mechanism between the Attorney General's Office, the Ministry of Interior, and the International Commission against Impunity (Guatemala); the Quadrants Plan (Colombia), the Pacifying Police Units (Rio de Janeiro, Brazil); the programme "Fica vivo" ("Stay Alive") in Minas Gerais (Brazil); and the prioritization of high impact crimes in the Attorney General's Office (Colombia).

These short-term programmatic efforts to build state capability and reduce violence and crime have some elements in common. First, they assume a more realistic approach than eliminating organizing crime or eradicating illicit economies. These interventions focus on the reduction of high impact crimes, especially those involving lethal violence. Second, they introduce a new set of indicators, increasing the value of deterrence in specific territories. Third, in the case of Quadrants Plan, the UPP, and Fica Vivo, they develop mechanisms to build close police ties with the communities. Fourth, they improve coordination among institutions. Finally, they provide positive outcomes, at least in the short term.

Table 2 summarizes some of these common elements, using the 4W-Challenge structure. The aim of this exercise is to identify paths of changes and relevant factors to adopt a smart approach on crime.

One of the main challenges in a context of institutional fragility is the sustainability of these interventions. In most cases these initiatives have not contributed to more radical reform, and did not confront institutional subcultures that remain sceptical about their implementation.

The cases analyzed in this section are still the exception rather than the rule. There are vigorous public debates about drug policy in the region, but there are few significant changes in the way governments respond to the drug problem and criminal economies. The "war on drugs" is still characterized by enforcement measures that primarily target the weakest links in the chain, by militarization of the state security forces, and by a disconnect between the measures implemented and the results obtained.[59] The persistence of the overarching punitive approach to crime, fueled in part by the "war on drugs", works against attempts to bring about change and to rethink the way success should be measured. In this context, the adoption of a harm reduction approach encounters powerful resistance, in part because traditional elites see their interests better served by existing practices.

Fixing this broken system is going to take a long time, especially if the only option is ambitious structural reforms to "rebuild" the state. The reform of the police and the criminal justice system is urgent and necessary, but there is a risk that reduced capacity in the early stages of reform can be used as an excuse to reject change. Reform is vulnerable to the argument that the state is not prepared to regulate or manage the behaviour of criminal economies and organisations. From this perspective, shifting the objective from "war" and a frontal assault on organized crime to reducing the harm caused by criminal economies can be interpreted as a permissive posture that would further weaken the state.

The problem is that the efforts by governments to enforce prohibition have been ineffective and, beyond the good intentions and promises, the punitive approach has had poor outcomes. The system is broken and the region doesn't need an iron fist to fix it. Latin America requires a smart drug policy that focuses scarce resources on reducing the negative impacts of drug markets, keeping in mind that a reduction in criminality makes sense only insofar as it brings greater security to citizens.[60]

Conclusions and recommendations

The "war on drugs" has exerted a strong influence on law enforcement in Latin America. It rests on a punishment-centred approach by the police and the criminal justice system that fails to reduce the

Table 2. The 4W Challenge: Paths of and factors for change

4W-Challenge	Path of change	Changing factors
Wrong assumptions	To adopt new assumptions	Understand that eliminating organized crime and illegal markets is not achievable. What is feasible is to reduce the impacts produced by illicit drug markets and organized crime. Understand that violence and crime tend to be concentrated in specific locations and usually involve a small population group. Consider that the state can exert negative influences: indiscriminate action against organized crime can exacerbate violence. Assume that reducing criminality is meaningful only in so far as it improves citizen security.
Wrong goals and indicators	Correct the current goals and indicators	Choose realistic objectives: a) reduce the harms/impacts that criminal economies cause in society; b) reduce the scale of criminal economies to the maximum extent possible. Understand that resources are always limited and scarce so institutions need to decide what is important. Change incentives, increasing the value of prevention and deterrence.
Weak institutions	Short-term programmatic efforts to build capability to reduce violence and crime	Use technology and improve the information available. Improve coordination between institutions, and the relationship between the police, the justice system and the communities. Adopt a strong territorial focus, taking into account the local context and with the participation of communities. Strengthen protections for vulnerable populations. Take into account the underlying conditions that cause crime and violence.
Worse outcomes	Generate better outcomes	- *Guatemala*: Prosecution rate for homicides increased from 5% to nearly 30%; this reduction coincided with a decrease in homicides from 46 per 100,000 inhabitants in 2009 to 34 per 100,000 inhabitants in 2012. - *Colombia*: An evaluation by the *Fundación Ideas para la Paz* attributed 18% of the drop in homicides in the cities studied to the QuadrantsPlan. - *Brazil*: A study by the Violence Analysis Laboratory (*Laboratório de Análise de Violência*) in 13 *favelas* where the UPP program was implemented from January 2006 to June 2011 found that lethal violence rates declined by as much as 78%.[61] In Minas Gerais, from 2004 to 2007, the programme's targeted communities saw an average of over 50% drop in the murder rate, surpassing the overall decrease for the city as a whole.

influence and harms of the illicit drug market. Despite efforts made by states, illegal economies remain hugely profitable, and criminal organizations will almost always find new markets and transit routes that will exacerbate violence and corruption. At best, drug law enforcement responses have led to the fragmentation and displacement of criminal structures, transforming national or regional security threats into serious public safety challenges at the local level.

The result is a broken system in which states with limited capacities adopt policies that do not deliver essential public goods, like justice or security, but rather generate a dynamic of crime, violence and corruption. In a context of institutional fragility, criminal organizations magnify and exacerbate the structural problems of the state. In territories where the state is weak or non-existent, criminal factions impose their social and political control and reconfigure institutions to accord with their interests. In areas where the state has more resources, the prohibitionist approach has been focused on the less influential levels of the drug chain, with a limited impact on the scale of the illegal drug trade and its negative effects. The result is a disconnect between the measures implemented and the results obtained.

Given this reality, the modernization of drug law enforcement emerges as a necessary change to reduce the levels of violence and crime in Latin America. Resources and capabilities should be used to shape the behaviour or the most dangerous criminal organizations and to limit the growth of criminal economies. The good news is that some law enforcement institutions have started to move in this direction.

The experiences analyzed in this paper provide grounds to argue that approaches that prioritize relations with citizens, identify new methods for measuring police effectiveness, and include robust prevention components can produce better results, particularly when compared with the poor performance of "iron fist" strategies. There are concrete steps that can help to modernize the drug law enforcement and strengthen state capacity:[62]

Violence reduction must be a priority. We

need to reject tolerance for "collateral effects" and ensure that law enforcement measures do not cause additional harm.

Focus the criminal justice system on the most prejudicial and dangerous criminals, those that have more resources and capacities to use violence and corruption. Reserve the harshest penalties for the most important and prejudicial elements of the drug trade.

Develop alternatives to incarceration for the weakest links in the drug trade, especially for those individuals that cultivate or possess small amounts of drugs. According to the 1988 Convention (Art.3 para. 4 (c)) it is possible to apply alternatives to conviction or punishment against people caught for minor offences related to personal use.

In order to curb the influence of criminal economies on the state, it is necessary to define and delimit institutional discretion by establishing clear objectives centred on citizen protection. This must be accompanied by accountability mechanisms based on evaluation systems that prioritize prevention and improved security indicators.

"Success" should be measured not by actions (arrests, seizures, extraditions) but by results (harm reduction, positive trends in indicators, and improved security). As for drug policy, we should abandon the notion that reduced consumption and price hikes are the main indicators of success. The emphasis should be on mitigating the negative impacts on society and on political institutions and reducing vulnerabilities and risks.

Improving standards of living, providing new opportunities for employment and self-realization, and involving development agencies in the consolidation of state presence.

Regarding the international context, the United Nations General Assembly Special Session (UNGASS) on the drug problem in 2016 provides an opportunity to rethink drug law enforcement and its consequences for security and development. It is also important to support the inclusion of measurable targets for justice, good governance and the rule of law in the new development agenda (the post-2015 Sustainable Development Goals).

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Endnotes

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