

IDPC Advocacy Note

Correcting a historical error: IDPC calls on countries to abstain from submitting objections to the Bolivian proposal to remove the ban on the chewing of the coca leaf

January 2011

The International Drug Policy Consortium (IDPC) is a global network of NGOs and professional networks that specialise in issues related to illicit drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces occasional briefing papers, disseminates the reports of its member organisations about particular drug-related matters, and offers expert consultancy services to policy makers and officials around the world.

In 2009, the Bolivian government requested that the United Nations amend the 1961 UN Single Convention on Narcotic Drugs¹. The proposed amendment would remove the unjustified ban on coca leaf chewing while maintaining the strict global control system for coca cultivation and cocaine². The 18-month period to contest Bolivia's requested amendment ends January 31, 2011. Several countries, including the United States, Colombia, the Russian Federation, Japan, France, the UK, Germany, Italy, Sweden and Denmark, are considering submitting formal objections to the Secretary General.

IDPC calls on these governments to think again. The continuation of the ban clearly conflicts with official multilateral government declarations, including the 2007 UN Declaration on the Rights of Indigenous Peoples³. Protecting the indigenous and cultural right of Andean-Amazon peoples to chew coca does not undermine the international efforts to address the significant problems related to the illicit cocaine market. The amendment's defeat would demonstrate that the international community continues to prioritise a punitive zero-tolerant approach to drug control over the rights of indigenous peoples. Objecting to the requested amendment would perpetuate an obvious violation of these liberties. Furthermore, reasonable and technically sound amendments to the drug control Conventions should be seen as a normal part of the modernisation process to make them fit for purpose in the 21st century.

¹ Economic and Social Council (15 May 2009), Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961 (New York, 8 August 1975) - Proposal of amendments by Bolivia to article 49, paragraphs 1 (c), E/2009/78 and 2 (e), http://druglawreform.info/images/stories/documents/ECOSOC_Bolivia_Coca_EN.pdf

² Cocaine is the concentrated alkaloid extracted from the coca plant. The process of extracting this alkaloid is difficult and lengthy, involving numerous chemicals and requiring significant quantities of coca leaves (upwards of 100 kilos). It is not economically viable to extract cocaine from sun-dried coca leaves, coca tea or coca flour available in the legal consuming markets in the Andes region. See Henman, A & Metaal, P. (2009) *Coca Myths*. TNI Drugs and Conflict Debate papers, June 2009, No. 17, http://www.tni.org/sites/www.tni.org/files/download/debate17_0.pdf.

³ United Nations Declaration on the Rights of Indigenous Peoples, Adopted by General Assembly Resolution 61/295 on 13 September 2007, <http://www.un.org/esa/socdev/unpfii/en/drip.html>

Background

The 1961 Single Convention on Narcotic Drugs⁴ is the key United Nations agreement that enshrines the global drug control system. When it was drafted and agreed, one of the drugs that Western governments wanted to bring under tight international control was cocaine. However, a dilemma existed in the widespread and culturally embedded traditional practice of chewing coca leaves in several Latin American countries (Colombia's Indigenous territories, the Brazilian Amazon, Peru and Bolivia and the North of Argentina and Chile). Unlike cocaine use, chewing coca leaf causes no known health or social problems. Nevertheless, chewing coca was banned, with governments being given twenty-five years to eradicate the practice. That deadline expired in 1989⁵. Since then, the International Narcotics Control Board has constantly pressured countries to enforce the ban.

The ban on coca chewing was passed in a time when scant attention was given to cultural and indigenous rights, and records of the debate around coca leaf at that time show that the international community did not consider the rights and interests of the communities that consumed coca leaves to perpetuate religious, social, cultural and medicinal traditions.

The findings of the UN 1950 Coca Leaf Enquiry Commission report formed the justification for the ban on coca leaf chewing in the Single Convention⁶. Analysts sharply criticised the report as arbitrary, imprecise, racist, and culturally insensitive. Fifty years on, the United Nations has commendably agreed much stronger protections for indigenous rights. These resolutions raise questions regarding some aspects of the drug control conventions.

There have been several efforts to rectify this error:

- 1) The 1988 Trafficking Convention stipulated that any measures “shall take due account of traditional licit uses,” but immediately neutralised its possible application by holding that it could not undermine obligations assumed in previous treaties.
- 2) The World Health Organisation and the United Nations Interregional Crime and Justice Research Institute initiated the Cocaine Project⁷ in the early 1990s. This project concluded that traditional consumption of coca leaves has no negative health effects and fulfils positive therapeutic, sacred and social functions for indigenous Andean populations. However, U.S. diplomatic pressure blocked the study's publication, revealing a determination to assure that ideology prevails over scientific evidence.

Widespread Support for Reform

Over the past fifty years, national and international law have firmly embedded indigenous peoples' rights in a number of legal instruments and declarations. The 2007 UN Declaration on the Rights of

⁴ 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, http://www.unodc.org/pdf/convention_1961_en.pdf

⁵ The 1961 Single Convention on Narcotic Drugs entered into force in 1964. The deadline for banning the chewing of coca leaves was the 12th December 1989.

⁶ Economic and Social Council (May 1950), *Report of the Commission of Enquiry on the Coca Leaf*, <http://www.tni.org/archives/drugscoca-docs/enquiry1950.pdf>

⁷ World Health Organization & United Nations Interregional Crime and Justice Research Institute, *Cocaine project*, <http://www.tni.org/archives/docs/200703081409275046.pdf>

Indigenous Peoples states that “indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions.”⁸

In April 2010, the Permanent Forum on Indigenous Issues, an advisory body to the UN Economic and Social Council (ECOSOC), welcomed Bolivia’s amendment on the traditional use of the coca leaf. “The Forum recommends that Member States support this initiative.”⁹ In May 2009, the Forum stated that it “recognizes the cultural and medical importance of coca in the Andean region and other indigenous regions of South America” and recommended “the amendment or abolishment of the sections of the Convention relating to the custom of chewing coca leaf that are inconsistent with indigenous people’s rights to maintain their traditional practices in health and culture enshrined in Articles 11, 24 and 31 of the Declaration”¹⁰.

Representatives of Latin American indigenous peoples have successfully fought for and secured their place in modern politics and society, defending traditional practices including the consumption of the coca leaf. Correcting the historical error banning coca use in its natural form is an indispensable measure to respect the rights of indigenous peoples in Bolivia, Peru and Colombia. For example, the Bolivian UN amendment proposal arose from the recognition in the nation’s 2009 Constitution that the coca leaf is an integral part of Bolivia’s cultural heritage.¹¹ Peru has always maintained a legal coca market and the National Culture Institute declared coca chewing in 2005 as immaterial cultural patrimony¹². Colombia allows traditional use of coca in its indigenous reserves and Argentina also legally recognizes coca leaf use and protects the rights of its consumers¹³. With the August 2009 Presidential Declaration of Quito¹⁴, all South American nations expressed support for the Bolivian proposal, requesting that the international community respect the ancestral cultural practice of coca leaf chewing.

Potential Outcomes

If no UN members submit objections by 31st January, the amendment would automatically enter into force. If some nations object, ECOSOC will have the following options:

- (a) Approve the amendment, which would not apply to objecting nations;
- (b) Reject the amendment in response to objections and the substantive arguments provided; or
- (c) Convene a Conference of the Parties to discuss the matter.

⁸ Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples, Adopted by General Assembly Resolution 61/295 on 13 September 2007, - <http://www.un.org/esa/socdev/unpfii/en/drip.html>

⁹ Economic and Social Council, *Permanent Forum on Indigenous Issues, Report on the 9th session* (19-30 April 2010), E/2010/43-E/C.19/2010/15, http://www.un.org/esa/socdev/unpfii/documents/E_2010_43_EN.pdf

¹⁰ Economic and Social Council, *Permanent Forum on Indigenous Issues, Report on the 8th session* (18-29 May 2009), E/2009/43 - E/C.19/2009/14, http://www.un.org/esa/socdev/unpfii/documents/E_C_19_2009_14_en.pdf

¹¹ Article 384 of the Bolivian Constitution: “The State protects the original and ancestral coca leaf as part of the cultural heritage, and a renewable natural resource of Bolivia’s biodiversity: in its natural state it is not a narcotic. Its valuation, production, trade and industrial uses will be defined by law”.

¹² Resolution 1707/INC of December 6th 2005, Peruvian National Culture Institute, http://www.inc.gob.pe/patrimonio_cultural.shtml?x=23

¹³ Criminal Law, N 23.737, 1989, Art. 15: “The possession and consumption of the coca leaf in its natural state, destined for the practice of “coqueo” or chewing, or its use as an infusion, will not be considered as possession or consumption of narcotics”. <http://infoleg.mecon.gov.ar/infolegInternet/anexos/0-4999/138/norma.htm>

¹⁴ Declaración Presidencial de Quito (10 August 2009), III Reunión Ordinaria del Consejo de Jefas y Jefes de Estado y de Gobierno de la Unión de Naciones Suramericanas (UNASUR), http://www.comunidadandina.org/unasur/10-8-09Dec_quito.htm

Conclusion and Recommendations

IDPC strongly urges the international community to abstain from submitting objections to the proposed amendment to ensure that the discriminatory and scientifically unsubstantiated ban on natural coca leaf consumption can finally be eliminated. IDPC also calls on ECOSOC Member States to support the amendment's approval, with the understanding that its stipulations will not apply to objecting nations. Resolving this contradiction between the 1961 Single Convention, the 1988 Convention and the UN Declarations on the rights of Indigenous Peoples is long overdue.

For further background information:

Aide-Memoire on the Bolivian Proposal to Amend Article 49 of the 1961 Single Convention on Narcotic Drugs, Government of Bolivia,

http://www.druglawreform.info/index.php?option=com_flexicontent&view=items&cid=96&id=989&Itemid=33

Coca leaf: Myths and Reality, TNI web page with links to all relevant coca publications,

http://druglawreform.info/index.php?option=com_flexicontent&view=category&cid=96:unscheduling-the-coca-leaf&Itemid=33&lang=en