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Notes

The Case for Coca and Cocaine: Bolivia's March to Economic Freedom

Daniel Tyler Cook*

INTRODUCTION

For centuries, the Bolivian people have engaged in an intimate relationship with coca.¹ Ancient Indian communities cultivated and consumed coca as a part of their cultural lives.² Today, at least one million Bolivians still consume coca in some form.³ Indeed, coca is recognized as the most indispensable of

* J.D. Candidate, 2004, University of Minnesota Law School; B.A. 2001, Millikin University. I dedicate this article to the late Dr. Robert C. McIntire, whose passion for world politics was second to none. I would also like to thank Dr. Michelle Dear-dorff and Dr. Brian Posler for making me an academic; my family, friends, and the BBP for their unconditional support; every editor and staffer of the Journal who made this article happen; and Josh Munderloh for thinking up a topic on which I could speak my piece.

1. JORGE HURTADO GUMUCIO, COCAINE, THE LEGEND: ABOUT COCA LEAVES AND COCAINE 13–16 (1995); Madeline Barbara Léons & Harry Sanabria, *Coca and Cocaine in Bolivia: Reality and Policy Illusion*, in COCA, COCAINE, AND THE BOLIVIAN REALITY 1, 3–4 (Madeline Barbara Léons & Harry Sanabria eds., 1997); JAMES PAINTER, BOLIVIA AND COCA: A STUDY IN DEPENDENCY 1 (1994); Alison L. Spedding, *The Coca Field as a Total Social Fact*, in COCA, COCAINE, AND THE BOLIVIAN REALITY, *supra*, at 47.

2. ROBERTO LASERNA, TWENTY (MIS)CONCEPTIONS ON COCA AND COCAINE 11–12 (1997); PAINTER, *supra* note 1, at 1 (noting centuries-old Bolivian traditions of the use of coca for medicinal, cultural, and religious purposes); Elayne Zorn, *Coca, Cash, and Cloth in Highland Bolivia: The Chapare and Transformations in a “Traditional” Andean Textile Economy*, in COCA, COCAINE, AND THE BOLIVIAN REALITY, *supra* note 1, at 71, 95 (noting that many coca growers believe coca is necessary for survival and a prosperous future).

3. PAINTER, *supra* note 1, at 1; *see also* LASERNA, *supra* note 2, at 60–61 (citing studies finding that around ninety percent of Bolivia's rural population consumed coca in some form in the mid-1970s, as well as twenty percent of the total population).

Bolivian crops to its citizens.⁴ Coca also constitutes the raw material for cocaine.⁵ This fact ignites international concern, principally in the United States.⁶ As a result of the international drug trade, coca and its regulation has shaped, and continues to shape, Bolivian foreign affairs and domestic policy.⁷

The U.S.-led "war on drugs" has primarily targeted the coca growing Andean Nations, including Bolivia.⁸ In doing so, the United States targets the supply side of the drug trade, attempting to eradicate drug production in these source countries with the aim of preventing consumption within U.S. borders.⁹ While drug use and abuse might justify such policies from a North American perspective, a Bolivian perspective could hardly justify current international coca policies. Rather, such a U.S.-led perspective exposes the inefficacy of current drug policies aimed at Bolivia.¹⁰

This Note attempts to provide an assessment of current U.S.-backed drug policies from a Bolivian perspective. Part I traces the history of coca/cocaine production, use, and legislation in Bolivia and in the international community in order to demonstrate the integral role played by the United States in Bolivia's coca regulatory regime. Part II examines alternatives to current Bolivian drug policies and offers a different approach to coca/cocaine regulation. This approach emphasizes Bolivian interests over the interests of other countries, specifically the United States, by proposing a unilateral approach to drug regulation to benefit and buttress Bolivia's culture, society, and economy. This Note concludes that Bolivia's acquiescence to a

4. Madeline Barbara Léons, *After the Boom: Income Decline, Eradication, and Alternative Development in the Yungas*, in COCA, COCAINE, AND THE BOLIVIAN REALITY, *supra* note 1, at 139, 166.

5. Eduardo Gamarra, *Bolivia*, in INTERNATIONAL HANDBOOK ON DRUG CONTROL 102 (Scott B. MacDonald & Bruce Zagaris eds., 1992).

6. Eduardo A. Gamarra, *Fighting Drugs in Bolivia: United States and Bolivian Perceptions at Odds*, in COCA, COCAINE, AND THE BOLIVIAN REALITY, *supra* note 1, at 243, 245-46; see Léons & Sanabria, *supra* note 1, at 21-27; Melanie R. Hallums, Note, *Bolivia and Coca: Law, Policy, and Drug Control*, 30 VAND. J. TRANSNAT'L L. 817, 818 (1997).

7. See *infra* notes 68-193 and accompanying text.

8. Hallums, *supra* note 6, at 818.

9. *Id.* at 819-21; see also RICHARD DAVENPORT-HINES, THE PURSUIT OF OBLIVION: A GLOBAL HISTORY OF NARCOTICS 1500-2000, at 338-83 (2001). For example, U.S. policy aims to keep coca profits at a level that makes the growing of alternative crops a viable economic alternative. Thus, reduction of coca prices is a goal of the war on drugs. LASERNA, *supra* note 2, at 81.

10. Léons & Sanabria, *supra* note 1, at 3.

self-interested U.S. drug policy not only fails to promote Bolivia's interests, but also causes more harm than it alleviates.

I. COCA AND COCAINE REGULATION IN BOLIVIA: A HISTORICAL COMPENDIUM

For centuries, coca has played a prominent cultural, economic, political, and social role in Bolivian society.¹¹ Moreover, as the basis of cocaine, coca has played a pivotal role in international relations, particularly the relations between Bolivia and the United States.¹² Coca has engendered diametric feelings of admiration and hate, hope and dread, unity and division.¹³ Where polemics reign, conflict often follows, and serenity rarely triumphs. This is the Bolivian reality.

A. FROM COCA TO COCAINE

At the outset, it is important to recognize the material/chemical distinctions between coca and cocaine. Simply put, cocaine is the end product of processing coca, just as whiskey comes from barley, or wine from grapes.¹⁴ Cocaine results from a three-stage process.¹⁵ The first stage involves mixing coca leaves with sulfuric acid, stomping the leaves, mixing the stomped leaves with kerosene, diesel fuel, and calcium oxide, and finally, adding sodium carbonate to yield cocaine paste.¹⁶ In the second stage, which is optional and done primarily to purify the end product, the paste is washed in kerosene, dissolved in sulfuric acid, and mixed with potassium permanganate and ammonium hydroxide to form cocaine base.¹⁷ In the final stage, involving the use of complex equipment and rare chemical inputs, the cocaine paste is dissolved in acetone and water, heated, mixed with ether, and added to hydrochloric acid to pre-

11. See *supra* notes 1-4 and accompanying text.

12. See *supra* notes 5-9 and accompanying text.

13. See generally DAVENPORT-HINES, *supra* note 9, at 119, 168-69 (noting the history of coca/cocaine use from a variety of perspectives); *infra* notes 25-39, 83-199 and accompanying text (suggesting, generally, that differing views as to coca and cocaine exist, and that such views have created various conflicts).

14. See PAINTER, *supra* note 1, at 25.

15. *Id.* at 23.

16. Léons & Sanabria, *supra* note 1, at 15. Cocaine paste contains forty to fifty percent cocaine alkaloid. *Id.*

17. PAINTER, *supra* note 1, at 23. Cocaine base contains eighty-five to ninety percent cocaine alkaloid. Léons & Sanabria, *supra* note 1, at 15.

cipitate the cocaine crystals.¹⁸ This process yields cocaine hydrochloride, or more simply, cocaine.¹⁹

As this process demonstrates, much goes into converting coca to cocaine. Furthermore, from this process one learns that cocaine is substantially dissimilar from coca. The two substances are neither identical in make nor similar in uses.²⁰

B. COCA'S ROLE IN BOLIVIAN SOCIETY

Within Bolivia, three primary areas yield most of its coca: the Yungas in La Paz, the Chapare in Cochabamba, and the Yacapani in Santa Cruz.²¹ These areas consist mainly of rural farmers living in extreme poverty who grow coca because of a lack of other economic opportunities.²² When confronted by anti-drug advocates that link, however accurately, coca with cocaine, these farmers defend their right to grow coca on two grounds: (1) coca's sacredness to their ancestors, and (2) coca's role in their ability to earn a living.²³ While cocaine is derived from coca, the two have very different histories within Bolivian society.

For centuries coca, a non-addictive stimulant,²⁴ has played an important and essential role in Bolivian life.²⁵ This is especially true for the poor who grow coca on family farms; it is these

18. Léons & Sanabria, *supra* note 1, at 16.

19. *Id.*

20. PAINTER, *supra* note 1, at 25; LASERNA, *supra* note 2, at 28 (reporting that coca chewing produces a "tropine 80 times less toxic than cocaine.").

21. Hallums, *supra* note 6, at 826. The Chapare region surpassed the Yungas region as the main coca-growing region in Bolivia in the 1960s. For example, in 1985, it produced between ninety to ninety-five percent of Bolivia's coca. HARRY SANABRIA, *THE COCA BOOM AND RURAL SOCIAL CHANGE IN BOLIVIA* 41 (1993). However, as recent eradication efforts have focused extensively on the Chapare region, the dominance of this region has been called into question. See Kevin G. Hall, *U.S. Faces Opposition to Anti-Drug Campaign from Bolivian Legislator*, KNIGHT RIDDER/TRIB. NEWS SERV., July 2, 2002, available at LEXIS, News Library, Knight Ridder/Tribune News Service File (noting that most of the recently eradicated coca was grown in the Chapare region).

22. Hallums, *supra* note 6, at 825-26. The people of these regions previously mined tin and silver; however, around 1985, the price of tin plummeted, leaving many peasants without work. *Id.* at 826 n.1. They turned to coca for their livelihood. *Id.* at 826.

23. *Id.* at 827.

24. GUMUCIO, *supra* note 1, at 24. "The desire to chew coca can be abandoned indefinitely, without suffering physical or psychological effects, or the appearance of compulsive behavior to alleviate the desire." *Id.*

25. See Spedding, *supra* note 1, at 69 ("The coca field can . . . be seen as a social nexus that unites . . . diverse elements and activities: it is a total social fact.").

people, and not wealthy drug lords, who rely most heavily on coca production.²⁶ Those who consume coca typically suck the leaves through a process called “acullico,”²⁷ but one might also consume coca in teas and medicinal preparations.²⁸ Its beneficial uses abound: the coca leaf contains vitamins and minerals to assist in nutritional needs; relieves hunger, thirst, pain, and fatigue; and helps alleviate high-altitude stressors such as cold and low oxygen levels.²⁹ Coca is also used for religious and cultural rituals.³⁰ For instance, Bolivians exchange gifts of coca as part of marriage rituals and to solidify other social obligations.³¹ Coca also serves as “an index of cultural identity, and serves as a medium of communication between humans and supernatural beings.”³² In many parts of the Andean region, coca is, and has been for some time, currency.³³ Employers exchange coca for services, and in many fields, coca is necessary to mobilize labor.³⁴ As such, coca is an integral component of Bolivian culture and serves an important economic role, even when divorced from the cocaine trade.³⁵

Coca’s role in the Bolivian economy is critical. In the early 1990s, before heavy eradication efforts took effect,³⁶ there were around 60,000 Bolivian farmers growing coca, and thousands more citizens involved in its picking, selling, transporting, processing and distribution.³⁷ These people have suffered greatly from eradication efforts that limit, and in some instances ban, coca production.³⁸ As Bolivia’s citizens suffer, so does the coun-

26. Léons & Sanabria, *supra* note 1, at 8-9.

27. LASERNA, *supra* note 2, at 21 (describing the process of acullico as placing coca leaves between the cheek and gum, wetting the leaves in the mouth with a mixture of saliva and high carbon ash lye, and sucking, rather than chewing, on the substance for up to four hours); GUMUCIO, *supra* note 1, at 23.

28. LASERNA, *supra* note 2, at 60.

29. SANABRIA, *supra* note 21, at 38 (noting that coca’s medicinal uses range from coca tea to coca ointment to bathing solutions as folk remedies); Melanie Takefman, *Bolivia Stands Strong Against Economic Globalization*, ALTERNATIVES, Feb. 2, 2003, at <http://dev.alternatives.ca/article303.html>; PAINTER, *supra* note 1, at 25; LASERNA, *supra* note 2, at 22, 24, 27; GUMUCIO, *supra* note 1, at 23, 26, 28, 30.

30. SANABRIA, *supra* note 21, at 38; GUMUCIO, *supra* note 1, at 17-19.

31. SANABRIA, *supra* note 21, at 38.

32. *Id.*; PAINTER, *supra* note 1, at 1; GUMUCIO, *supra* note 1, at 14, 19 (noting that Bolivia’s ancestors used coca to forecast coming events, to cure natural ailments and disasters, and to communicate with supernatural forces).

33. SANABRIA, *supra* note 21, at 38.

34. *Id.*

35. *Id.*

36. *See infra* notes 116-26 and accompanying text.

37. PAINTER, *supra* note 1, at 40.

38. Léons, *supra* note 4, at 146.

try's economy. According to one source, the virtual eradication of coca from the Chapare region has cost Bolivia's national economy an estimated \$500 million.³⁹

Much of coca's economic success comes from the fact that coca thrives under Bolivia's ecological conditions.⁴⁰ To grow coca, a region must ideally be at an altitude between one thousand and fifty-nine hundred feet above sea level, have a mean annual temperature between sixty-four and seventy-eight degrees Fahrenheit, and have an average annual precipitation of about four inches.⁴¹ Bolivia, and particularly the Chapare region, provides such favorable conditions.⁴²

A comparison with other crops, namely coffee, passion fruit, and rice, demonstrates coca's superiority in Bolivia.⁴³ The coca plant tolerates Bolivia's extreme temperature fluctuations, while other crops are incapable of survival.⁴⁴ Furthermore, coca grown in the Chapare region yields from four to six harvests a year compared to two or three harvests from other cash crops.⁴⁵ Because it is easily stored, transported, and sold in markets, coca is the most stable and reliable cash crop in Bolivia.⁴⁶ Coca is also less susceptible than coffee and rice to disease and insects⁴⁷ and does not require nearly as much land to grow effectively compared to other crops.⁴⁸

Moreover, coca yields a higher profit than all other alternative crops.⁴⁹ According to one source, coca production yields about \$475 an acre annually, compared to \$35 to \$250 a year for bananas and grapefruit.⁵⁰ In essence, coca production thrives

39. George Ann Potter & Linda Farthing, *Eradicating Democracy*, IN FOCUS POLY BRIEFS (Foreign Policy in Focus/Interhemispheric Resources Ctr., Silver City, N.M.), Oct. 2000, at <http://www.fpiif.org/pdf/vol5/38ifbolivia.pdf>.

40. See SANABRIA, *supra* note 21, at 44.

41. *Id.*

42. *Id.*

43. Léons, *supra* note 4, at 159, 162.

44. SANABRIA, *supra* note 21, at 44.

45. *Id.*

46. LASERNA, *supra* note 2, at 86.

47. SANABRIA, *supra* note 21, at 44.

48. LASERNA, *supra* note 2, at 72.

49. *Id.* at 71, 121 (noting that coca is Bolivia's "cash" crop, and noting that areas with coca plantings yield profits four times higher than those without coca plantings).

50. Hallums, *supra* note 6, at 822 (citing Mathea Falco, *U.S. Drug Policy: Adicted to Failure*, FOREIGN POLY, Mar. 22, 1996, at 120, 124); see also Léons, *supra* note 4, at 159 (noting that "coffee is simply not as profitable as coca," as it takes twice as much land in coffee to give an equal return to coca); SANABRIA, *supra* note 21, at 46 (comparing the price of a sack of coca against a sack of potatoes from 1983

because of the economic futility of other major cash crops.⁵¹ Without coca production, Bolivia's poverty-stricken farmers would fall far deeper into debt.⁵² Income from coca exports also plays a significant role in subsidizing services and imported goods, replacing absent export revenues from other commodities, offsetting the financial drain of international debt service, and stabilizing the political order.⁵³

C. COCAINE'S ROLE IN BOLIVIAN SOCIETY

In contrast to coca, cocaine has no lengthy history as a hallmark of Bolivian society.⁵⁴ There is nothing to suggest that Bolivians built their traditions around cocaine consumption or production. Even today, cocaine use is less common than the use of other drugs.⁵⁵ Indeed, although Bolivia has exported cocaine for some time now, it was the increase of demand in the United States and, to a lesser extent, in Europe that led to a boom in production within Bolivian borders.⁵⁶

Domestically, cocaine usage affects a small percentage of the Bolivian population.⁵⁷ Most Bolivian government officials concede that cocaine trafficking is not a serious national security threat and that drug lords do not threaten Bolivian institutions.⁵⁸ Bolivian traffickers, unlike those in Colombia, are generally peaceful, thus posing little threat to the citizenry.⁵⁹ Some

to 1985, revealing that coca yielded anywhere from \$318 to \$80 more profit than potatoes); Takefman, *supra* note 29 ("[C]oca is twice as profitable as pineapples and up to five times as profitable as macadamia nuts . . ."). *But see* PAINTER, *supra* note 1, at 20 (indicating that both rubber and macadamia nuts yield a higher net income per hectare than coca).

51. Kevin G. Hall & Cassio Furtado, *Andean Coca Production Nears All-Time High Despite Billions in U.S. Eradication*, KNIGHT RIDDER/TRIB. NEWS SERV., July 21, 2002, available at LEXIS, News Library, Knight Ridder/Tribune News Service File ("[T]he main incentive spurring coca production is the sorry state of prices for coffee, the most popular substitute crop."). A twenty-five pound sack of coca garners a market price almost four times higher than that of coffee. *Id.*

52. See LASERNA, *supra* note 2, at 71, 85 (noting that coca provides from forty to eighty percent of farmers' income).

53. Léons & Sanabria, *supra* note 1, at 3.

54. Hallums, *supra* note 6, at 822.

55. *Id.*; LASERNA, *supra* note 2, at 35, 37-42, 54 (citing studies indicating that Bolivians use alcohol and other drugs more often than they use cocaine).

56. Gamarra, *supra* note 5, at 101.

57. *Id.* at 117.

58. Eduardo A. Gamarra, *supra* note 6, at 243-44.

59. Léons & Sanabria, *supra* note 1, at 11. *But see* Léons, *supra* note 4, at 144 (describing past illegal activities such as arms proliferation, elevated violence, and robberies that once accompanied the cocaine economy in the Yungas, the traditional

evidence even suggests that cocaine use is declining in certain areas of Bolivia.⁶⁰ Nevertheless, rather than focus resources elsewhere, the United States continues to target, denounce, and discourage cocaine production, trafficking, and consumption in Bolivia.⁶¹

Such policies are especially troublesome in light of figures linking employment and economic success with the coca/cocaine industry.⁶² A pair of studies reports that, in the late 1980s, the value generated by the coca/cocaine economy in Bolivia reached \$1.4 to \$1.5 billion,⁶³ representing three to four times the value of legal exports.⁶⁴ Another source estimates that cocaine trafficking brought an estimated \$356 million into the Bolivian economy in 1994.⁶⁵ In the early 1990s, it was roughly estimated that over 120,000 to a maximum of 500,000 Bolivians worked within the coca/cocaine industry.⁶⁶ Indeed, one researcher has posited that the cocaine trade creates new opportunities and channels for social mobility for the poor, and promotes social differentiation.⁶⁷ With such potential, prohibitive regulation can adversely affect the Bolivian economy.

D. DOMESTIC AND INTERNATIONAL COCA/COCAINE REGULATION IN BOLIVIA

Due to Bolivia's economic dependence on the coca/cocaine industry for export earnings and employment, government officials have historically shied away from any aggressive crack-down on the drug trade.⁶⁸ Most major departures from this strategy originated from international, rather than domestic,

coca growing zone of Bolivia).

60. See generally Léons, *supra* note 4 (noting anecdotal evidence that cocaine use is on the decline in the Yungas region).

61. See Gamarra, *supra* note 6, at 244-45.

62. Léons & Sanabria, *supra* note 1, at 18-19.

63. *Id.* at 19.

64. *Id.*

65. *Id.* at 20. Note that such numbers are difficult to gauge given the illegality of the illicit drug trade; because the trade cannot be documented officially, the discrepancies in numbers are inevitable. PAINTER, *supra* note 1, at 36.

66. PAINTER, *supra* note 1, at 40.

67. Léons & Sanabria, *supra* note 1, at 11.

68. PAINTER, *supra* note 1, at 77. Without employment created by the drug trade, Bolivia's economic situation, both past and present, would be arguably much worse. See Léons & Sanabria, *supra* note 1, at 14 (stating that employment in the drug trade was one of the most critical factors cushioning the effect of economic contraction).

pressure.⁶⁹ In this respect, the international drug trade regime is important in understanding coca regulation in Bolivia.

1. *Coca/Cocaine Regulation's Incipience*

Chemists and physicians did not isolate cocaine from coca leaves until the 1860s.⁷⁰ In 1884, Sigmund Freud began promoting cocaine as a cure for morphine addiction.⁷¹ As a result, cocaine production increased dramatically.⁷² "Cocaine rapidly became one of the most important pharmaceutical products in Europe and the USA."⁷³ Yet, by 1893, American attitudes began to label cocaine use a vice.⁷⁴ Restrictive U.S. legislation soon followed, which had "worldwide ramifications."⁷⁵

Concomitantly, the movement toward international drug regulation began around the turn of the twentieth century.⁷⁶ Factors that instigated the movement toward regulation included: (1) China's opium problem;⁷⁷ (2) medical research exploring the possible harmful effects of drug use;⁷⁸ (3) technological advances developing new drugs at low costs;⁷⁹ (4) social reform movements;⁸⁰ and (5) U.S. annexation of the Philippines and its corresponding opium problems.⁸¹ Nevertheless, with the beginning of World War I in 1914, the international drug trade and its regulation evanesced to the background of world affairs.⁸²

69. PAINTER, *supra* note 1, at 77.

70. DAVENPORT-HINES, *supra* note 9, at 7.

71. *Id.* at 111, 113-14.

72. *Id.* at 117. In 1883, production was at .4 kilograms, but by 1884, production rose to 1673 kilograms. *Id.*

73. *Id.* at 118.

74. *Id.* at 123.

75. DAVENPORT-HINES, *supra* note 9, at 151.

76. WILLIAM B. MCALLISTER, DRUG DIPLOMACY IN THE TWENTIETH CENTURY: AN INTERNATIONAL HISTORY 24 (2000); W.W. WILLOUGHBY, OPIUM AS AN INTERNATIONAL PROBLEM: THE GENEVA CONFERENCES 14 (1925).

77. DAVENPORT-HINES, *supra* note 9, at 159; MCALLISTER, *supra* note 76, at 14.

78. DAVENPORT-HINES, *supra* note 9, at 14. At that time, the medical community had just begun its involvement in the testing and regulation of controlled substances. *Id.* Before this, the medicinal purposes of controlled substances were rarely questioned or explored. *Id.*

79. MCALLISTER, *supra* note 76, at 16-17. With lower costs came more public exposure and thus more public scrutiny by various governmental actors. *Id.*

80. DAVENPORT-HINES, *supra* note 9, at 14-21. At this time, religious temperance movements developed, questioning the propriety of drug usage. *Id.*

81. DAVENPORT-HINES, *supra* note 9, at 154; MCALLISTER, *supra* note 76, at 27; PAUL B. STARES, GLOBAL HABIT: THE DRUG PROBLEM IN A BORDERLESS WORLD 17 (1996).

82. WILLOUGHBY, *supra* note 76, at 35.

When drug talks were reinitiated after World War I, Bolivia held an anti-regulation stance in an effort to protect its coca industry.⁸³ At the Second Geneva Opium Conference in 1925, Bolivia unsuccessfully objected to proposed measures restricting trade in coca leaves and processed drugs such as cocaine.⁸⁴ Nevertheless, under international pressure,⁸⁵ Bolivia passed four laws from 1928 to 1931 aimed at regulating the trade in opium, morphine, marijuana, and cocaine; however, this legislation said nothing of limiting coca production or consumption.⁸⁶

In 1931, fifty-seven nations, including Bolivia, convened and drafted a treaty on limiting the manufacturing and regulating the distribution of narcotic drugs.⁸⁷ However, as the United States moved to the lead of the international drug regime,⁸⁸ Bolivia and most of its Latin American counterparts did practically nothing to implement the treaty.⁸⁹ In Bolivia, the economy's dependence on coca limited the government's ability to enforce controls on its production or distribution.⁹⁰ More importantly, the Bolivian people's dependence on the coca crop for subsistence, medicinal, and religious purposes limited the government's ability to prohibit its cultivation.⁹¹

83. WILLIAM O. WALKER, *DRUG CONTROL IN THE AMERICAS* 48 (1981).

84. *Id.* at 50; *see also* WILLOUGHBY, *supra* note 76, at 536-39. Bolivia chose not to sign this convention until 1928. WALKER, *supra* note 83, at 60; WILLOUGHBY, *supra* note 76, at 555. Loopholes apparent in import/export controls with regard to such non-signatories limited the agreement's effectiveness. MCALLISTER, *supra* note 76, at 77. Moreover, the convention's failure to criminalize the drug traffic and to place limitations on agricultural production and consumption gave signatories much leeway in ignoring any significant obligations. STARES, *supra* note 81, at 18.

85. WALKER, *supra* note 83, at 48. This pressure came from a U.S. delegation intent on imposing improved coca controls throughout the world. *Id.* The United States used both its military and economic supremacy to convince the Latin American countries to follow its lead. *Id.*

86. *Id.* at 58.

87. MCALLISTER, *supra* note 76, at 95; ANDRE MCNICOLL, *DRUG-TRAFFICKING: A NORTH SOUTH PERSPECTIVE* 90 (1983). Under the treaty, signatories were required to submit estimates for manufactured drugs by August of the following year. MCALLISTER, *supra* note 76, at 96. Once a country had reached its annual estimate, the treaty required it to cease importation and/or manufacturing of the drug. *Id.*; DAVENPORT-HINES, *supra* note 77, at 207.

88. MCALLISTER, *supra* note 76, at 108. The United States began to confront those nations that ignored or disobeyed international agreements, and often made public statements embarrassing those nations on a global level. *Id.* The United States also began to work more closely with League of Nations entities on the suppression of drug trafficking and the limitation of agricultural production. *Id.* at 109.

89. WALKER, *supra* note 83, at 83-92. Only two nations, Mexico and Uruguay, even attempted to address concerns over the illicit traffic in drugs. *Id.* at 81-83.

90. *Id.* at 93.

91. *Cf.* Spedding, *supra* note 1, at 48 ("The integration of coca with the local

Because of these economic, social and cultural reasons, most Latin American states rejected domestic controls on the illicit drug trade.⁹² Instead, “official inattention and incompetence, even corruption, defined the spectrum of [Latin American countries’] responses to drug problems.”⁹³

2. An International Drug Regime Forms Despite Bolivian Resistance

In 1953, countries from around the globe convened to draft yet another treaty, this time to limit agricultural opium production, and to enact reporting requirements.⁹⁴ Although a Protocol was drafted, it contained numerous deficiencies.⁹⁵ The Latin American nations ultimately ignored it, and the protocol was never ratified.⁹⁶ For the time being, control advocates thought it best to let Latin America rest with regard to international drug regulation.⁹⁷ The failed opium Protocol, however, spurred the opium and coca powers into action.⁹⁸ Clearly, Latin American nations saw the treaty as a potential threat to their own interest if its stipulations were extended to other drugs in the next round of international negotiations.⁹⁹

ecology and social structure of the peasant family and community . . . is one of the factors that makes it almost impossible to eradicate coca without also eradicating, or expelling, the entire population [of the Yungas region].”). Although Spedding’s observations are based upon fieldwork conducted between 1986 and 1995, the cultivation of coca is a centuries-old tradition in the Yungas. *Id.* at 48-51.

92. MCALLISTER, *supra* note 76, at 119.

93. WALKER, *supra* note 83, at 83.

94. MCALLISTER, *supra* note 76, at 179. The agreement, known as the Opium Protocol, “contained the most stringent drug-control provisions yet embodied in international law.” *Id.* at 181. It extended to raw opium the reporting procedures already applicable to manufactured drugs. *Id.* From henceforth, nations were required to submit to the Drug Supervisory Body estimates of the amount of opium planted, harvested, consumed domestically, exported, and stockpiled. *Id.* The treaty granted an international regulating agency the power to make inquiries into any discrepancies, conduct inspections, and impose embargoes on signatories and non-signatories alike. *Id.* It placed heavy emphasis on reducing cultivation and supply. DAVENPORT-HINES, *supra* note 77, at 207.

95. MCALLISTER, *supra* note 76, at 179. On-site inspections could only be carried out with the approval of the target country. *Id.* The provisions allowed for the appeal of embargoes, and did not require military stocks to be reported. *Id.* Furthermore, the treaty was silent with respect to domestic consumption, and an escape clause allowed countries to disregard the treaty in cases of emergency. *Id.*

96. *Id.* at 202-03.

97. *See id.*

98. *Id.* at 182.

99. *Id.* at 181-82.

This next round of negotiations came eight years later and resulted in the 1961 Single Convention on Narcotic Drugs.¹⁰⁰ Its inception came about despite a Latin American veto coalition formed to preclude excessive international regulations.¹⁰¹ Bolivia ratified the treaty in 1961, and in 1962 passed a decree calling for a census of coca cultivation and prohibiting the planting of new coca fields.¹⁰² Provisions were made to introduce new crops as substitutes for coca throughout Bolivia.¹⁰³ However, coca growers, recognizing the threat to their livelihoods, objected to these measures, and while coffee was introduced as a substitute cash crop, its planting expanded only to areas undesirable for coca.¹⁰⁴ Thus, as applied to Bolivia, the treaty did little to reduce coca cultivation and production.

In 1973, legislation passed in Bolivia requiring registration and licensing of all coca cultivators.¹⁰⁵ Yet, as with the 1962 decree, coca growers ignored the provisions and they were rarely enforced.¹⁰⁶ In conjunction with Bolivian domestic legislation, the United States and Bolivia entered into bilateral agreements that provided funds to Bolivia for the Chapare-Yungas Development Project (PRODES), a development project aimed at promoting coca crop substitution with financial and technical assistance from the United States Agency for International Development (USAID).¹⁰⁷

100. MCNICOLL, *supra* note 87, at 90. See also MCALLISTER, *supra* note 76, at 207. Under its fifty-one articles, the treaty “effected a significant simplification of the control regime.” *Id.* Article four stated the general obligation “to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use, and possession of drugs.” *Id.* Thus, the new treaty retained previous agreements’ statistical reporting requirements on imports, exports, and stocks, and retained the import/export certification system in place since 1912. *Id.* For the first time producer states would have to report statistics directly to the INCB. *Id.* The treaty also required governments to license manufacturers, traders, and distributors, and required all drug handlers to maintain records of their transactions. *Id.* The treaty, in Articles 26 and 27, placed less exacting requirements on coca-producing states. *Id.* Furthermore, while Article 28 dealt with the control of cannabis, it avoided placing serious restrictions on its consumption, distribution, or production. *Id.*

101. MCALLISTER, *supra* note 76, at 207.

102. Léons & Sanabria, *supra* note 1, at 21.

103. *Id.*

104. *Id.* at 22.

105. *Id.*

106. This legislation also called for crop substitution; this requirement continues to be unrealized. *Id.*

107. Léons & Sanabria, *supra* note 1, at 21 (noting that Bolivia received some \$11 million from the U.S. Government for this project in the 1970s). According to USAID’s website, its twofold purpose is to further “America’s foreign policy interests

In 1981, Bolivia passed legislation recognizing that the cultivation of specific substitute crops as part of an overall development program, while not as profitable as coca, had other advantages that would approximate coca's profits in the long run.¹⁰⁸ Those advantages centered on increased employment from the cultivation of these crops, as well as increased employment in public works and infrastructure programs needed to support the nascent development program.¹⁰⁹

As a result of Bolivia's lackluster efforts to regulate cocaine production, unilateral action by the United States in the mid-1980s helped to ensure Bolivia's acquiescence in fighting America's drug war.¹¹⁰ In 1986, the United States passed the Foreign Assistance Act,¹¹¹ which provided for the suspension of economic aid to countries unwilling to assist the United States in its drug efforts.¹¹² In declaring drug control a top priority, this Act created a certification system which remains the key enforcement tool in the Andean region.¹¹³ Under this system, the United States uses economic foreign aid to encourage foreign governments to enact domestic drug control measures by only "certifying" those countries taking sufficient steps to eradicate crops such as coca.¹¹⁴ If a country is "decertified," the United States ceases aid and opposes World Bank and other development loans to that country.¹¹⁵

To reinforce its objectives, two years later in 1988 the United States enacted the Anti-Drug Abuse Act, which called for increased multilateral and regional involvement in controlling the international drug trade.¹¹⁶ The Act set forth a certification system that placed crop eradication at the forefront of the U.S.-

in expanding democracy and free markets while improving the lives of the citizens of the developing world." USAID, *About USAID*, at http://www.usaid.gov/about_usaid/ (last visited Nov. 9, 2003).

108. Léons & Sanabria, *supra* note 1, at 22.

109. *Id.* President Paz Zamora's policy of "coca for development" in the 1980s is an example of this policy, as it focused not only on agricultural substitution, but also public works and infrastructure programs to employ former coca growers. *Id.*

110. See *infra* notes 111-117 and accompanying text.

111. 22 U.S.C. § 2291 (1988) (as amended by the Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, § 2005, 100 Stat. 3207-61 to 62 (1986)).

112. *Id.*

113. Hallums, *supra* note 6, at 844.

114. Sandi R. Murphy, Note, *Drug Diplomacy and the Supply-Side Strategy: A Survey of United States Practice*, 43 VAND. L. REV. 1259, 1262 (1990).

115. Mathea Falco, *Passing Grades: Branding Nations Won't Resolve the U.S. Drug Problem*, FOREIGN AFF., Sept. 19, 1995, at 18.

116. Murphy, *supra* note 114, at 1264.

Bolivian drug policy.¹¹⁷ With the looming threat of losing economic aid, Bolivia subsequently undertook an eradication strategy and today has eliminated a good deal of its coca crops.¹¹⁸

In 1987, the United States and Bolivia entered into the Narcotic Drugs Agreement to reinforce Bolivian cooperation in the elimination of coca production.¹¹⁹ Under the treaty, the United States loaned Bolivia aircraft and operational, financial, and technical support to implement coca eradication programs.¹²⁰ Under the "Three-Year Plan," four subprograms were developed to address and attack Bolivia's coca industry: (1) agricultural transition;¹²¹ (2) economic reactivation;¹²² (3) regional development;¹²³ and (4) narcotics awareness and rehabilitation.¹²⁴ The treaty was amended in 1990 to focus on promoting alternative development, eliminating cocaine production, reducing coca cultivation, and eliminating facilities used to make cocaine.¹²⁵ As part of this effort, the treaty expanded Bolivian Armed Forces participation in the anti-drug program.¹²⁶

In 1988, international efforts resumed, this time in Vienna, to address the international drug trade,¹²⁷ with the resultant ratification of the Convention Against Illegal Trade in Narcotics and Controlled Substances.¹²⁸ Although the Convention called

117. *Id.* at 1265.

118. *Id.* at 1268.

119. Agreement on Narcotic Drugs, Feb. 24, 1987, U.S.-Bolivia, T.I.A.S. No. 12053 [hereinafter Narcotic Drugs Agreement].

120. *Id.* at 8-9.

121. Narcotic Drugs Agreement Annex II, *supra* note 119, at 23-24. Agricultural transition is a form of economic assistance; rather than sending money to the Bolivian government, economic assistance goes to farmers who voluntarily eradicate coca and who agree to participate in legal income-generating activities. Hallums, *supra* note 6, at 848.

122. Narcotic Drugs Agreement Annex II, *supra* note 119, at 23-24. With economic reactivation, coca farmers are given credit resources to expand legal agricultural productivity so that their income does not suffer from coca eradication. Hallums, *supra* note 6, at 848.

123. Narcotic Drugs Agreement Annex II, *supra* note 119, at 23-24. Regional development focuses on improving infrastructures of those regions affected by the Plan. Hallums, *supra* note 6, at 848.

124. Narcotic Drugs Agreement Annex II, *supra* note 119, at 23-24. Narcotics awareness and rehabilitation provides assistance and resources to projects that promote narcotics awareness. Hallums, *supra* note 6, at 848.

125. Agreement Concerning Cooperation to Combat Narcotics Trafficking, May 9, 1990, U.S.-Bolivia, Hein's No. KAV 2505, Temp. State Dep't No. 90-161 [hereinafter Supplemental Agreement].

126. *Id.*

127. Léons & Sanabria, *supra* note 1, at 22.

128. *Id.*

for the eradication of coca, because of Bolivian influence, it also urged integrated rural development and economically viable alternatives for coca growers.¹²⁹ While Bolivia ultimately signed the agreement, it noted its reservations, maintaining that coca by itself is not a narcotic and has no harmful psychological or physical effects when used traditionally.¹³⁰ Again, as on previous occasions, Bolivia agreed to coca/cocaine regulations while maintaining a positive position on coca production in general.

3. *The Passage of Ley 1008*

In 1988, Bolivia passed what has become notorious legislation known as Ley 1008.¹³¹ Ley 1008 was enacted in response to U.S. pressure to prohibit coca production.¹³² In fact, USAID helped to write the legislation.¹³³ Ley 1008 requires gradual eradication of coca through both voluntary and forced removal techniques.¹³⁴ Moreover, the law requires international development assistance to ensure effective coca eradication.¹³⁵ Ley 1008 also establishes strict criminal processes for prosecuting drug traffickers, users, and producers.¹³⁶

Nevertheless, and despite U.S. influence, Ley 1008 formally recognizes the licit uses of coca. It allows for coca cultivation so long as it is for agricultural, social/cultural, medicinal, or religious/ritualistic use.¹³⁷ It bans coca cultivated to produce cocaine.¹³⁸ It also distinguishes between coca in its natural state and chemically processed cocaine.¹³⁹

129. *Id.*

130. *Id.* By 1997, only two Latin American countries, Bolivia and Peru, had signed the treaty, and these countries did so primarily because of heightened criticism from the United States. Hallums, *supra* note 6, at 841.

131. Ley del Regimen de la Coca y Sustancias Controladas: Ley 1008 (1988) [hereinafter Ley 1008].

132. Léons & Sanabria, *supra* note 1, at 22; Hallums, *supra* note 6, at 830.

133. Hallums, *supra* note 6, at 830. Léons & Sanabria, *supra* note 1, at 24 (highlighting figures showing that USAID receives much aid to assist in Bolivia's eradication efforts); see also *supra* note 107 and accompanying text.

134. Hallums, *supra* note 6, at 831.

135. See *id.* International development assistance refers to foreign aid.

136. Ley 1008, *supra* note 131, tits. III, IV, V. For instance, anyone accused under the law remains in jail for the length of the judicial proceedings. Hallums, *supra* note 6, at 832. A typical case takes three to four years before final adjudication. *Id.* at 832 n.84. Moreover, mandatory sentencing provisions exist, which has led to overcrowding in Bolivia's prisons of drug offenders, most of whom are impecunious.

137. *Id.* art. 2.

138. *Id.*

139. *Id.* art. 3.

Despite these concessions, Ley 1008 still sparked heated debate within Bolivia.¹⁴⁰ The Bolivian government's position on the law has been ill-defined.¹⁴¹ From July 1993 to October 1994, the government proposed twenty different positions on coca control.¹⁴² Indeed, until ten years after its passage, much of the law had not been implemented fully because of internal political pressure on the Bolivian government.¹⁴³ In fact, many Bolivians feel as if Ley 1008, as a product of international compulsion, threatens national sovereignty in addition to their cultural and historical traditions related to coca.¹⁴⁴ Most Bolivians do not support the law and its focus on large-scale reduction.¹⁴⁵ It is known throughout Bolivia as the "Law of Foreigners."¹⁴⁶ According to one scholar, "the anti-drug strategy of which Ley 1008 is a part, has undermined the country's sovereignty, led to human rights abuses and penalized the poor majority, who in the face of one of the century's worst economic crises are engaged in an often desperate struggle for survival."¹⁴⁷

4. Post-Ley 1008 Legislation

The following year, in 1989, the United States announced its Andean Strategy, a five-year plan under which the United States would give \$2.5 billion to Bolivia, Peru, and Columbia for drug eradication efforts.¹⁴⁸ This policy, similar to previous efforts, focused on three main areas: (1) law enforcement, (2) crop eradication, and (3) economic assistance.¹⁴⁹

On a regional level, in 1990, the first Andean drug summit meeting assembled in Colombia, as the Presidents of Bolivia,

140. Hallums, *supra* note 6, at 833.

141. *Id.*

142. *Id.* Such positions ranged from "continued eradication of 'excess' coca leaf, voluntary eradication, alternative crop development, and 'opcion 0,' or total eradication of all coca in the main growing region within six years," to international legalization of coca cultivation, the last position being rejected by the international community. *Id.* at 833-34.

143. *Id.* (noting that the law is not enforced because a national consensus on the evils of coca cultivation is lacking).

144. Hallums, *supra* note 6, at 833-34.

145. *Id.* at 835; Hall & Furtado, *supra* note 51.

146. Hallums, *supra* note 6, at 835.

147. Linda Farthing, *Social Impacts Associated with Antidrug Law 1008, in COCA, COCAINE, AND THE BOLIVIAN REALITY*, *supra* note 1, at 269.

148. CLARE HARGREAVES, *SNOWFIELDS: THE WAR ON COCAINE IN THE ANDES 18* (1992). Under this plan, nearly seventy percent of the U.S. drug control budget went to international supply reduction efforts. *Id.*

149. *Id.*

Peru, Columbia, and the United States pledged to cooperate in a joint attack against the drug trade.¹⁵⁰ The United States agreed to finance programs for alternative development, crop substitution, and economic revitalization with the hope of reducing the amount of coca and increasing public awareness of drug control issues.¹⁵¹ The Bolivian government, dependent on foreign aid from the United States, acquiesced to the agreement despite explicit recognition of such policies' failures.¹⁵² For instance, former Bolivian president Sanchez de Lozada called alternative development "a great disaster" for the Bolivian people.¹⁵³ Yet, in practice, very few Bolivian policymakers seriously encourage the expansion of such food crops as corn, wheat, or potatoes, as "cheap food" policies keep prices so low that an individual could not benefit from such yields.¹⁵⁴ Furthermore, crop substitution only extends to those crops that would not compete with U.S. produced crops in the international market.¹⁵⁵

In 1994, leaders from the western hemisphere convened at the Summit of Americas to address concerns and agreed to combat illicit drug trafficking by reducing drug production and use.¹⁵⁶ The countries agreed to new enforcement methods to disrupt drug trafficking, including increasing prosecution of those active in the drug trade.¹⁵⁷

5. *Plan Dignidad and the Present Bolivian Reality*

In 1998, Bolivia put in motion Plan Dignidad, an anti-drug strategy designed to eradicate cocaine production throughout

150. Raphael F. Perl, *U.S.-Andean Drug Policy*, in *DRUG TRAFFICKING IN THE AMERICAS* 26 (Bruce M. Bagley & William O. Walker III eds., 1994).

151. *Id.*

152. Léons & Sanabria, *supra* note 1, at 26, 48 (noting that those who accept payments to eradicate often learn that the monetary award is not enough to support a family for a sufficient amount of time and such stories discouraged others from eradicating their crops for payments).

153. *Id.*

154. *Id.* at 25; Spedding, *supra* note 1, at 52 (calling alternative development strategies "failures").

155. Léons & Sanabria, *supra* note 1, at 25 (noting that powerful interests representing large-scale U.S. soybean and citrus growers successfully lobbied against legislation that would have awarded technical and credit assistance to Bolivian farmers to grow soybeans and citrus fruits, despite expert reports that such products have an excellent chance of competing in the international market).

156. Summit of the Americas: Declaration of Principles and Plan of Action, Dec. 11, 1994, 34 I.L.M. 808 (1995) [hereinafter Summit of the Americas].

157. *Id.* at 819.

the country.¹⁵⁸ Under this plan, the Bolivian government, with U.S. assistance,¹⁵⁹ has focused on coca eradication and crop alternatives simultaneously to fight America's drug war while attempting to maintain some economic success.¹⁶⁰ The "success" of this strategy in eradicating coca has been striking.¹⁶¹ However, its results, motivated and encouraged by U.S. policies, have recently led to massive resistance.¹⁶²

Coca growers participate in both national and international conferences of coca cultivators, and have managed to bring coca issues to center stage in Bolivian politics.¹⁶³ This is demonstrated by the Bolivian national elections held in June 2002.¹⁶⁴ The near-victory of Evo Morales,¹⁶⁵ the socialist leader of the coca workers' union signals that Bolivians have finally decided to confront the U.S.-backed drug policy.¹⁶⁶

This is also apparent based on the recent plantings of coca fields throughout the Chapare region.¹⁶⁷ More strikingly, pro-

158. See generally Takefman, *supra* note 29 (noting how the U.S. and Bolivian governments have introduced alternative crops to the coca-rich Chapare region).

159. *Id.* For instance, in 2002, the United States allocated \$29 million to Bolivia to assist in alternative crop production, infrastructure projects, and academic scholarships. *Id.* Not surprisingly, this money is contingent on successful eradication efforts. *Id.*

160. See *id.*

161. UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF STATE'S INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR): BOLIVIA, available at <http://bolivia.usembassy.gov/english/CertificacionBoliviaeng2002.htm> (2002) (claiming that by 2001 Bolivia had reduced its cultivation of "illicit coca" by more than seventy percent since 1996, from 48,100 hectares to an estimated 19,900 hectares); Hall & Furtado, *supra* note 51 (noting that by 2001 Bolivia had nearly ended coca growing for illegal purposes); *A Hardline on Coca Meets Bloodshed*, ECONOMIST, Sept. 14, 2002 (stating that coca production was down to 6,000 hectares in 2001).

162. See *A Hardline on Coca Meets Bloodshed*, *supra* note 155 (noting coca farmers' recent and repeated blockades of roads and towns).

163. Léons & Sanabria, *supra* note 1, at 28-29.

164. See Hall & Furtado, *supra* note 51.

165. See *id.* (noting that Morales campaigned in favor of growing coca and shutting down United States Drug Enforcement Administration operations).

166. *The New President Faces a Weak Economy and a Combustible Polity*, ECONOMIST, Sept. 14, 2002; Takefman, *supra* note 29 (noting that "Morales's success was a blow to U.S. hegemony," and explaining that Morales' anti-U.S. stance did much to win votes).

167. Léons & Sanabria, *supra* note 1, at 17 (noting that such plantings are considered a "continuing phenomenon"). For instance, despite eradication efforts in the mid-1990s, U.S. accounts document slight increases in coca cultivation during that period. *Id.* LASERNA, *supra* note 2, at 87 (stating the U.S. war on drugs has not discouraged coca production in any significant respect); see also Alison L. Spedding, *Cocataki, Taki-Coca: Trade, Traffic, and Organized Peasant Resistance in the Yungas of La Paz*, in COCA, COCAINE, AND THE BOLIVIAN REALITY, *supra* note 1, at 133-34 (stating that "[N]o one eradicates a coca field in good production. The fields sacri-

tests, often violent, are becoming commonplace throughout Bolivia.¹⁶⁸ On January 14, 2003, Mr. Morales and coca growers (cocaleros) in the Chapare erected roadblocks,¹⁶⁹ one of which stretched across the country's most traveled highway, demanding an end to coca eradication and Bolivia's withdrawal from the Bush administration's proposed Free Trade Area of the Americas (FTAA).¹⁷⁰ Protestors lifted the roadblocks on January 28, 2003 after the Bolivian government agreed to hold talks with the local cocaleros over the U.S.-backed crackdown on coca growing.¹⁷¹ Nonetheless, President Gonzalo Sanchez de Lozada neither called for a cease-fire, nor withdrew the thousands of troops patrolling Bolivia's largest highway.¹⁷² During the thirteen days of protests, ten civilians and two Bolivian security force members were killed.¹⁷³ According to the Bolivian government, the blockade cost the nation \$80 million in lost commerce.¹⁷⁴

Today, law enforcement issues also generate much conflict between the Bolivian government and its people. In Bolivia, drug trafficking organizations are not seen as socially disruptive.¹⁷⁵ Rather, many of its participants come from Bolivia's traditional elite. Bolivian traffickers, with some exceptions, avoid violence.¹⁷⁶ Even so, law enforcement efforts tend to target small producers and buyers, mostly poor young men who are

ficed are either completely choked with weeds and yielding nothing, or 'grandmothers' with only a scattering of aged plants").

168. See *infra* notes 169-74 and accompanying text.

169. The Bolivians made the roadblocks using tree trunks and boulders. See *Bolivia Begins Talk with Coca Growers*, Media Awareness Project, at <http://www.mapinc.org/drugnews/v03/n134/a01.html> (Jan. 26, 2003).

170. Takefman, *supra* note 29; see *Bolivia Coca Protests End as Government Agrees to Talks*, Reuters Environmental News Network, at http://www.enr.com/news/2003-01-29/s_2376.asp (Jan. 29, 2003) [hereinafter *Bolivia Coca Protests End*].

171. *Bolivia Coca Protests End*, *supra* note 170, at http://www.enr.com/news/2003-01-29/s_2376.asp (Jan. 29, 2003).

172. *Violent Coca Protests Lead to Talks in Bolivia: Soldiers Continue to Patrol Largest Highway*, CNN.com/World, at <http://www.cnn.com/2003/WORLD/americas/01/27/bolivia.talks.ap/> (Jan. 27, 2003) [hereinafter *Violent Coca Protests Lead to Talks*].

173. *Bolivia Coca Protests End*, *supra* note 170 (noting that since the late 1990s, some fifty people, mostly farmers, have died in protests responding to anti-coca campaigns led by trained U.S. soldiers); *Police, Farmer Killed in Bolivia Coca Clashes*, Reuters AlertNet at <http://www.alertnet.org/thenews/newsdesk/N26334255> (Jan. 26, 2003) (noting that at least eighty people were wounded during the roadblocks).

174. *Violent Coca Protests Lead to Talks*, *supra* note 172.

175. Léons & Sanabria, *supra* note 1, at 9.

176. *Id.* at 11.

drawn to the trade for economic activity, but who often land in prison.¹⁷⁷ These small producers are easily replaced because of the lack of economic opportunities in Bolivia and the possibilities of economic success linked to the drug trade.¹⁷⁸

6. *The Failure of Enforcement*

There is also a lack of coordination between Bolivian and U.S. agencies involved in enforcing Bolivia's drug laws.¹⁷⁹ The presence of U.S. troops in Bolivia enforcing such policies, without the approval of the Bolivian Congress, has angered Bolivians concerned with maintaining national sovereignty.¹⁸⁰ Furthermore, official corruption within Bolivian anti-drug police forces causes citizen concern.¹⁸¹ Political contributions from drug traffickers to politicians also limit the reach of law enforcement efforts in Bolivia.¹⁸² Young, rural men often protest against physical abuses by the anti-drug police.¹⁸³ In fact, throughout Bolivia, most classes of society detest the Bolivian police force; many people refuse to cooperate with them.¹⁸⁴

Thus, the various international, U.S., and Bolivian strategies aimed at coca regulation have ultimately failed. Despite the huge influx of money, efforts aimed at creating an economically stable Bolivia free of coca have ended in disaster. Currently, Bolivia is "awash in international 'aid' of one form or another, and it is certainly not a paradox to suggest that this gush of capital probably will not result in improving the living standards of most Bolivians."¹⁸⁵ While various agreements have been reached on different political levels (unilateral, bilateral, regional, and international), it is most important to understand the power dynamics played out between the United States and

177. *Id.* at 12; see Farthing, *supra* note 147, at 262-63 (noting that most of those detained are in their twenties, from rural areas, and are uneducated).

178. See Léons & Sanabria, *supra* note 1, at 10-12.

179. See Gamarra, *supra* note 6, at 250-51.

180. *Id.* at 249.

181. Farthing, *supra* note 147, at 256-57; see Léons & Sanabria, *supra* note 1, at 12 (noting the prevalence of bribes and payoffs throughout the Bolivian police force).

182. Léons & Sanabria, *supra* note 1, at 12-13. For instance, in 1980, a "coup of the coca dollars" brought General Luis García Meza to power. *Id.* This instigated the placement of Luis Arce Gómez as Minister of the Interior, who subsequently became known as the Minister of Cocaine. *Id.* at 13.

183. Farthing, *supra* note 147, at 264; Zorn, *supra* note 2, at 79 (finding peasants who reported that UMOPAR officers regularly beat coca growers).

184. Spedding, *supra* note 167, at 122.

185. Léons & Sanabria, *supra* note 1, at 23.

Bolivia. Throughout all of this, “Bolivia is not able to negotiate with the U.S. in any way as an equal but can only evade and selectively comply with the demands put on it . . . in ways reflective of different national interests as well as profound mutual misperception and misunderstanding.”¹⁸⁶ One author proclaims that, “[t]he promise of alternative development in return for eradication, but no commitment to its substance, has been proxy rhetoric for the power imbalance between the U.S. and Bolivia”¹⁸⁷ In reality, the United States controls Bolivian politics by providing economic assistance conditioned on the passage of Bolivian anti-drug laws.¹⁸⁸ The relational imbalance between the two countries suggests that a Bolivian-initiated drug policy, with only Bolivian interests in mind, might look different, and might work much better, than the current U.S.-led policies.¹⁸⁹

E. ANTI-U.S. SENTIMENT

Before moving from present realities to potential future alternatives, it is important to note briefly the growing presence of animosity by Bolivians toward the United States. Much of the current acrimony comes from the passage of Ley 1008.¹⁹⁰ As mentioned earlier, the Bolivian people responded negatively to its passage, viewing the law as an attack on national sovereignty and economic freedom.¹⁹¹ Plan Dignidad, initiated in 1998, has also done much to spark anti-U.S. sentiment throughout Bolivia.¹⁹² For instance, in late January, a new group of Indians, the “Army of National Dignity,” “made a call to battle security forces” in defense of coca growing.¹⁹³

186. *Id.* at 28; Farthing, *supra* note 147, at 269; see also Hallums, *supra* note 6, at 862 (stating that “[u]ntil the region and the specific coca producing nations themselves determine what their involvement should be, the ‘war on drugs’ will continue to be a U.S.-imposed ‘war’ with a half-hearted regional support framework,” and that “[u]ntil [Bolivia] is able to negotiate freely . . . and to address the many conflicting elements of its current situation, Bolivia will remain dependent on coca and subject to international demands”).

187. Léons & Sanabria, *supra* note 1, at 27; see also Gamarra, *supra* note 5, at 249.

188. See Léons & Sanabria, *supra* note 1, at 23-25.

189. See *supra* notes 179-88 and accompanying text.

190. See *supra* notes 131-39 and accompanying text.

191. See *supra* notes 140-47 and accompanying text.

192. See *supra* notes 158-62 and accompanying text.

193. Rene Villegas, *Bolivia Indian Group Takes up Arms over Coca Plan*, Reuters AlertNet, at <http://www.alertnet.org/thenews/newsdesk/N22312688> (Jan. 22, 2003). After learning of this group, Evo Morales stated that conditions were inappropriate for “armed struggle,” and that he would attempt to persuade the group

This sentiment extends beyond the coca growing community. During the January blockades, after police killed a miner, workers at Bolivia's largest tin mine went on strike for four days as a show of solidarity with the cocaleros.¹⁹⁴ The pro-coca movement, led by Evo Morales, has some suggesting that Bolivia's government might be forced to repeal its laws eradicating coca.¹⁹⁵ This expanding rebellion is just the latest signal of growing resentment toward the United States in Latin America.¹⁹⁶ Morales himself has called the U.S. war on drugs "a[n] excuse to control our countr[y]."¹⁹⁷ Cocaleros' anti-U.S. sentiment is evident when they speak of the special U.S.-funded Bolivian army unit that enforces eradication.¹⁹⁸ In addition, many Bolivians accuse the United States of lobbying Bolivian officials to ban Morales from parliament.¹⁹⁹ A cursory examination of Bolivia's affairs reveals a strong bias against the United States.

II. CRITIQUES AND AN ALTERNATIVE POLICY TO BOLIVIAN COCA/COCAINE REGULATION

Given recent protests by Bolivians over current drug policies, and the power dynamics inherent in their development, an analysis of those policies from a Bolivian perspective is in order. This Note argues that Bolivia's current policies fail to reflect its own economic, social, and cultural needs. This section first critiques current policies found in the various agreements and laws discussed in Part I, noting major flaws as viewed from a Bolivian perspective. This section then sets forth an alternative approach to drug regulation in Bolivia. This approach differs from current policies primarily because it emphasizes the interests of the Bolivian people while setting aside the interests of the United States.

to choose a "peaceful struggle." *Id.*

194. *Bolivia's Huanuni Tin Mine Resumes After Strike*, Reuters AlertNet, at <http://www.alertnet.org/thenews/newsdesk/N22268334> (Jan. 22, 2003).

195. Tim Padgett, *Letter from Bolivia: Taking the Side of the Coca Farmer*, CNN.com, at <http://www.cnn.com/2002/ALLPOLITICS/07/29/time.bolivia/> (July 29, 2002).

196. *Id.*

197. *Id.*

198. *Id.* This special unit has been linked to the deaths of numerous cocalero leaders. *Id.*

199. Padgett, *supra* note 195. In fact, during the 2002 elections, U.S. ambassador Manuel Rocha openly stated that a Morales victory would signal a drastic reduction in U.S. economic aid, which amounts to over \$150 million a year. This comment helped Morales become a legitimate presidential candidate. *Id.*

A. PROBLEMS OF THE PAST: FAILED STRATEGIES

Other authors have cogently noted the inefficacy of a U.S.-imposed war on drugs in Bolivia and other Latin American countries.²⁰⁰ While not inherently lacking, this war on drugs fails primarily because the United States controls the parameters of operation. This can be seen in the many prominent drug control strategies proposed by the United States and implemented in Bolivia.²⁰¹

1. *Crop Eradication*

Since 1986, crop eradication has become the primary anti-cocaine strategy advocated by the United States and adopted by Bolivia.²⁰² Yet, coca eradication ignores the fact that income from coca exports plays a significant role in the Bolivian economy.²⁰³ The Bolivian economy has indubitably benefited from cocaine money.²⁰⁴ In the 1980s, the cocaine trade's creation of employment and its multiplier effects²⁰⁵ served as one of the most critical factors that cushioned the effect of a Bolivian recession.²⁰⁶

Because most coca is grown by poor cultivating family farms, eradication efforts fail to attack the true problems of the international drug trade, namely the personnel of the cocaine export pipeline, who go about their business relatively unimpeded.²⁰⁷ Given the recent plantings of new coca fields, one must also question the utility of coca eradication as a long-term solution.²⁰⁸ Eradicating coca causes difficulties because unprocessed coca is not illegal. In many parts of Bolivia, coca is crucial for existence, not just a crop that provides good profits.²⁰⁹ Many growers believe it is necessary for survival and a prosperous future.²¹⁰ Thus, Bolivians often protest eradication efforts as infringing their rights to grow and consume coca, a legal crop.²¹¹

200. See *supra* notes 117-28 and accompanying text.

201. See *supra* Part I.D.2-4.

202. See *supra* notes 111-18 and accompanying text.

203. See *supra* notes 33-39 and accompanying text.

204. See *supra* notes 49-53 and accompanying text.

205. See *supra* note 90 and accompanying text.

206. See *supra* note 68 and accompanying text.

207. See *supra* note 22 and accompanying text.

208. See *supra* note 167 and accompanying text.

209. See *supra* notes 1-3 and accompanying text.

210. See *supra* note 2 and accompanying text.

211. See *supra* notes 162-66 and accompanying text.

In the end, Bolivia's farmers view coca eradication as a policy dictated by the United States to serve U.S. interests, rather than a policy representing a true expression of Bolivian will.²¹² This view further undermines the legitimacy of Bolivia's actions in regulating coca/cocaine in the eyes of its people.²¹³ As a result, while some might eradicate a portion of their coca crop, Bolivians rarely abandon coca altogether, despite the eradication programs.²¹⁴

2. Crop Substitution / Alternative Development

Crop substitution and alternative development strategies perennially have stood at the vanguard of solutions to Bolivia's "drug problem."²¹⁵ In almost every major treaty or piece of legislation passed concerning Bolivian drug regulation, alternative development is a proposed means of curbing the cocaine trade.²¹⁶ Yet, Bolivian policymakers have continuously recognized the inefficacy of alternative development strategies.²¹⁷ As noted earlier, alternative development is known as a great disaster in much of Bolivia.²¹⁸

U.S. demands for coca reduction are not aimed at providing real economic alternatives for coca growers; coca substitution surfaces only after coca eradication efforts are in place.²¹⁹ Given the fact that coca provides a year-round income and full employment in many families, benefits lacking when growing other crops, any policy calling for coca substitution, or eradication for that matter, should be inherently suspect.²²⁰

3. Economic Assistance

Because of the impoverishment of the Bolivian government, economic assistance has been involved with virtually every piece of legislation or international agreement focusing on Bolivian coca.²²¹ In doing so, the United States has flooded Bolivia with

212. See *supra* notes 162-99 and accompanying text.

213. See *supra* notes 162-99 and accompanying text.

214. See *supra* note 167 and accompanying text.

215. See *supra* notes 103, 107-08, 119-25, 150-51, 158-60 and accompanying text.

216. See *supra* notes 103, 107-08, 119-25, 150-51, 158-60 and accompanying text.

217. See *supra* notes 153-55 and accompanying text.

218. See *supra* notes 153-55 and accompanying text.

219. See *supra* notes 153-55, 187 and accompanying text.

220. See *supra* notes 11-34 and accompanying text.

221. See *supra* notes 107-20, 148, 151-52, 159, 185-88 and accompanying text.

foreign aid that has done little in assisting Bolivia and its economic problems.²²² The possibilities for coercion and manipulation from this relationship are numerous.²²³ Unfortunately, those possibilities have become reality in much of the Bolivian-U.S. relationship.²²⁴ Thus, while unqualified economic assistance is most always beneficial to the recipient, qualified economic assistance raises some concerns.²²⁵

Much of this economic assistance goes to promoting neo-liberal proposals aimed at fostering free and open international trade.²²⁶ Ironically, imposition of controls on the cocaine trade violates the free market principles that neo-liberalism promotes. USAID spends an overwhelming amount of aid to support and enforce coca eradication efforts.²²⁷ Large sums of money also go to development assistance, anti-drug efforts, the Bolivian military, and law enforcement agencies.²²⁸

With all of this assistance, no alternative crop has yet been found that could provide an equivalent return to growing coca.²²⁹ Thus, while economic assistance pours in, very few, if any, concrete solutions to Bolivia's economic problems have materialized.

4. Law Enforcement/Drug Trafficking Interdiction

Since President Bush announced the Andean Strategy in 1989, Bolivia has maintained law enforcement efforts with the purpose of curbing international drug trafficking.²³⁰ While law enforcement efforts might well be needed for such purposes, U.S. influence in this area calls into question the utility of such policies.

Bolivia's drug trade is much different than the U.S. drug trade.²³¹ Without the concomitant violence associated with the Bolivian drug trade, one wonders whether the need to suppress that trade is compelling, or even desirable. The nature of the

222. See *supra* notes 185-88 and accompanying text.

223. See *supra* notes 185-89 and accompanying text.

224. See *supra* notes 185-89 and accompanying text.

225. See *supra* notes 221-22 and accompanying text.

226. See *generally* LESLEY GILL, TEETERING ON THE RIM: GLOBAL RESTRUCTURING, DAILY LIFE, AND THE ARMED RETREAT OF THE BOLIVIAN STATE 1-22 (2000).

227. See *supra* notes 185-88 and accompanying text.

228. See *supra* notes 107-20, 148, 151-52, 159, 185-88 and accompanying text.

229. See *supra* notes 43-54 and accompanying text.

230. See *supra* notes 148-57 and accompanying text.

231. See *supra* notes 175-76 and accompanying text.

Bolivian trade suggests that Bolivia has much less reason to suppress drug trafficking than other nations who frown upon their drug traffickers, especially if one puts aside the moral issues associated with drug production and use.

Moreover, laws targeting drug trafficking have failed because of the continual entrance of new, savvy traffickers who are as successful as those groups arrested, prosecuted, and jailed.²³² As long as these people have the resources and ability to replenish jailed traffickers, drug trafficking policies will fail. Because strong foreign demand for drugs remains, their imprisonment does little to stifle the drug trade.

The presence of the United States in the Bolivian military and police force also raises serious concerns when addressing the utility of Bolivian drug laws.²³³ It seems rare that a nation's citizens would willingly obey laws enforced by another country's police. Official corruption within Bolivian anti-drug police forces also add to this feeling of hostility, as does police abuse aimed at Bolivian citizens.²³⁴

All of this suggests that a strategy involving U.S. enforcement of Bolivia's drug laws, as well as U.S.-led Bolivian forces, leads to a failing policy. To think that Bolivians should essentially obey U.S. laws undermines the basic precepts of national sovereignty that have defined international relations for centuries. Such thoughts breed revolutions and political turmoil, not economic, political, and social successes.

5. Agricultural Transition and Economic Reactivation

As two of the four sub-programs of the Narcotic Drugs Agreement, agricultural transition and economic reactivation have played meaningful roles in U.S.-led policies to curb Bolivian cocaine production.²³⁵ Although this money goes directly to the Bolivian people, these policies still have major deficiencies.

One major weakness with such strategies is the Bolivian citizenry's support of coca growing. Coca's symbolic value helps to explain the reluctance of many Bolivian peasants to eradicate coca even when offered money to do so.²³⁶ Moreover, the strength of organized labor in the coca industry has limited the

232. See *supra* notes 177-78 and accompanying text.

233. See *supra* notes 179-80 and accompanying text.

234. See *supra* notes 181-84 and accompanying text.

235. See *supra* notes 121-22 and accompanying text.

236. See *supra* notes 1-3 and accompanying text.

ability of the Bolivian state to impose terms set forth by international demands.²³⁷ Such widespread support, in the face of economic assistance to abandon coca, suggests that U.S. economic aid directly to Bolivian farmers is an ersatz for coca growing.

The enforcement of such programs also demonstrates their weaknesses. For instance, Bolivian agents often threaten farmers into eradicating their coca crops, and if met with resistance, the agents forcefully eradicate the crops and withhold payments.²³⁸ Such "voluntary" eradication conceals an array of repressive and coercive acts. In addition, many who take the money often live to regret it, especially in the absence of a government-initiated development program.²³⁹

6. Regional Development

Regional Development, the third of the four subprograms of the Narcotic Drugs Agreement, aims to develop infrastructure to support the regions most affected by crop eradication.²⁴⁰ This program, much like economic reactivation, is aimed at providing a framework for Bolivian peasants so that options exist if those peasants refrain from growing coca.

Regional development has the potential to succeed. However, as long as U.S. aid is spent in Bolivia with the purpose of supporting U.S. interests, such policies will fail to address Bolivian needs. As with any domestic issue, the Bolivian people and its government know best the infrastructure that might yield future profits. While foreigners might study the situation to offer educated advice, with a vested interest in the outcome, that advice is inherently suspect. Such infrastructure might, if developed, work to the disadvantage of U.S. business interests. Yet, such interests should not factor into an analysis from a Bolivian perspective. If such things were ignored, a plan of regional development, created and implemented by Bolivians, might do well for the economic vitality of the Bolivian people.

7. Narcotics Awareness and Rehabilitation

The last of the four subprograms from the Narcotic Drugs Agreement, narcotics awareness and rehabilitation, sets forth a

237. See *supra* notes 162-66 and accompanying text.

238. See *supra* notes 177-78 and accompanying text.

239. See *supra* note 152 and accompanying text.

240. See *supra* note 123 and accompanying text.

public policy against cocaine consumption in Bolivia. While admirable, it is questionable whether such a policy is needed. Cocaine use seems to be on the decline in Bolivia.²⁴¹

Nevertheless, if the Bolivian government chooses to take a moral stand against narcotics consumption, it is difficult, especially today, to object to that stand. At the same time, if the Bolivian government chooses neutrality on the drug issue, that decision should be respected as well. The United States should not force its own morality on other nations, including Bolivia. Thus, while some drug education is acceptable, forced drug education is not.

B. A BRIGHTER FUTURE: BOLIVIA AND UNILATERAL ACTION

Many of the problems associated with the above-mentioned anti-drug policies do not relate to their moral or practical worth. It is reasonable to assume that a nation would pass laws prohibiting or regulating drugs or crops used in producing drugs. Yet, drug prohibition or regulation is not a necessary action by any means. While the United States chooses to wage its war on drugs, it does not follow that Bolivia should do so as well. In light of the Bolivian reality, coca/cocaine prohibition has substantial costs that might outweigh any benefits prohibition fosters.

Nonetheless, at present, the policy initiatives summarized and critiqued above have failed to provide for Bolivia's interests.²⁴² These policies have taken profitable opportunities from Bolivia's farmers and growers without providing economically viable alternatives to coca.²⁴³ These policies have replaced the coca/cocaine earnings with U.S. economic aid.²⁴⁴ In essence, Bolivia has moved from living independently to something akin to living on food stamps. It has become a debtor nation by sacrificing its most profitable cash crop, the coca plant. And it has done this at the urging, indeed the coercion, of the United States.²⁴⁵

Bolivia would be better off if it precluded the United States from playing any role in its drug policies. As long as Bolivia is one of the poorest nations in the western hemisphere and the United States the richest, the two nations cannot negotiate

241. See *supra* note 61 and accompanying text.

242. See *supra* Part I.D.3-5.

243. See *supra* Part I.B.

244. See *supra* notes 110-26, 134-36, 147-53, 158-60, 185-89.

245. See *supra* Part I.D.5 and Part I.E.

freely and equally.²⁴⁶ As long as this relationship exists, any agreement between the two undoubtedly inculcates U.S. interests over Bolivian interests.²⁴⁷ While the United States has a drug problem, Bolivia does not.²⁴⁸ Bolivia's citizens do not consume drugs at such high rates as do U.S. citizens.²⁴⁹ Moreover, the United States' primary cash crop has not been targeted as illicit because of a derivative product banned throughout the world. The two nations stand in remarkably different positions.²⁵⁰ As such, the two nations are not in any sort of position to engage in bilateral action on an issue that affects each differently.

This Note suggests that Bolivia divorce the United States as a partner in its drug control policies. If done, Bolivia would be free to regulate coca without fretting over foreign aid the United States foists upon it. This loss of income undoubtedly has consequences. Yet, other nations might pick up where American aid leaves off, narrowing some of the gap. Moreover, without intense drug interdiction and enforcement efforts, Bolivia would save money administratively. And, through liberalization of its drug laws, particularly with regard to coca, much of the Bolivian population can return to attainable goals of sustenance without worrying about violating any of a number of drug laws.

Bolivia might also legalize cocaine as a commodity. While its export would face severe restrictions, legalization might actually have the effect of assisting international drug regulation. In essence, if Bolivian traffickers were forced to procure cocaine through a legal channel, foreign governments could easily locate those people attempting to smuggle drugs across borders. If traffickers were still able to obtain cocaine clandestinely, legalization would most likely have the effect of raising cocaine prices to pay for the intermediary buying the licit drugs to sell to traffickers engaged in the illegal international drug trade. Ultimately, a comprehensive regulatory cocaine regime would create employment opportunities in a legal market, while regulations would keep cocaine from becoming any more dangerous than it already is in a vast, illegal market. Indeed, the violence associ-

246. Léons & Sanabria, *supra* note 1, at 3 (noting, "the Bolivian government is dependent on bilateral aid from the U.S."); *see supra* notes 185-89 and accompanying text.

247. *See supra* notes 185-89 and accompanying text.

248. *See supra* notes 55-60 and accompanying text.

249. *See supra* notes 55-60 and accompanying text.

250. *See supra* notes 185-89 and accompanying text.

ated with an illegal drug market would diminish substantially if the illicit market were converted to a licit market.

In Bolivia's interest, strict coca regulations would cease, and Bolivians would again be allowed to produce coca to consume and sell on the open market. Confrontations between Bolivian drug police and coccaleros would undoubtedly lessen, limiting dissension and saving lives. With the legalization of cocaine, an illicit market diminishes. The Bolivian government would then assume the power to regulate cocaine production, distribution, and consumption within its borders. The country concomitantly would save needed funding that currently goes to eradication and supply-side reduction efforts that fail to benefit Bolivia's interests. In the end, Bolivia's citizens would prevail.

CONCLUSION

For centuries, the coca plant has played a prominent role in the lives of Bolivia's citizens. Within the last century, cocaine, a derivative of the coca plant, has become a target in the U.S.-led war on drugs. As a result, the United States perennially has offered economic aid to a cash-strapped Bolivia in exchange for Bolivia's active participation in the eradication of its coca crops. Despite its citizens' daily reliance on the coca plant, the Bolivian government actively assists the United States in its war on drugs. Such efforts contravene Bolivian interests. Bolivia should divorce itself from the U.S.-led war on drugs and instead adopt policies to promote coca growing throughout the country. Such policies have the potential to provide much needed income, income other than foreign economic assistance. Through such policies, Bolivia can begin to climb out of its status as a debtor nation, free itself from neo-imperialist policies, and act as a sovereign nation.