

SHARING ACCOUNTABILITY FOR THE WARS THAT FAIL: HOW THE “WAR AGAINST DRUGS” DEEPENS HUMAN INSECURITIES

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This paper will try to explore the relation between some Central Human Functional Capabilities (CHFC) and human rights in order to propose some conceptual tools that may bring about the possibility of new political approaches within a more comprehensive framework of human security. This is neither a purely empirical research, nor a normative one, but rather it attempts to combine descriptive and prescriptive elements of analysis, in order to tackle the issue of the “war against drugs”.

This will be done in three parts:

I. Environmental damage

In this part I will describe how some Central Human Functional Capabilities (CHFC) are severely damaged in countries like Colombia and other andean countries as a consequence of the “war on drugs”. I will concentrate on two of them, following Nussbaum list in her book WOMEN AND HUMAN DEVELOPMENT. Choosing these two does not mean that other capabilities on the list could not be the object of similar analysis. These are:

- Affiliation “having the social basis of self respect and non-humiliation” (7B) (I will refer to it in the second part)
- Control over one’s environment (10) political (A) material (B). (Which will be examined here)

In this part I will refer to the environmental damage caused by the practice of indiscriminate aerial spraying (fumigation) on people, animals and plants. Let us illustrated this with the words of David Olson previous Director of Conservation Science at the World Wildlife Fund: “from a global biodiversity perspective, defoliating and poisoning vast areas of Colombian forests –an area equivalent to over 3 national parks each year – is like dinamiting the Taj Mahal, a global jewel of humanity’s cultural heritage”¹. This criticism is usually responded by the U.S State Department and also by Colombian governments by claiming that the environmental devastation caused by illicit crop production is a much greater danger.

¹ Marsh, Betsy. “Going to extremes. The U.S. Funded Aerial Eradication Program en Colombia”, The Latin America Working Group Education Fund, Marzo 2004, p. 30.

The anti-drug program to eradicate coca and opium poppy (raw material for cocaine and heroin) funded mainly by the USA government uses modified military planes to spray a potent herbicide over large extensions of land in regions of the Colombian countryside where illicit crops are grown.

The spraying “destroys a critical source of income for more than a hundred thousand poor Colombian farming families who rely on coca and opium poppy production to meet their basic needs. For a majority of those families, no long term alternatives or short term food aid is provided. From 2000-02, despite the enormous allocation of resources and considerable human costs of this drug control policy, coca production in the Andean region stayed virtually the same according to State Department figures”².

The cost effectiveness, the human impact and the environmental risks do not seem to indicate that this kind of solution produces results that are in any way beneficial. On the contrary, official and unofficial reports indicate that aerial spraying cause significant damage to food crops, livestock and agricultural development projects; not to speak of the displacement of people and the general environmental damage caused by it.

As a matter of fact, it has been established that the results of chemical spraying show some reductions of plantations in fumigated areas, as a short term effect. But in longer term effects what is produced is the migration of plantations and people dedicated to it. This has been called the *globe effect* where cultivated areas and violence move from one region to another. It was at the end of the 80's that repression on coca plantations in Bolivia and Perú made it possible for drug traffickers to cultivate the plant in Colombia. In the same fashion, with the intensification of fumigations in Putumayo (at the south of Colombia) which traditionally had been the region with the biggest area of coca cultivation in the country, cultivated areas moved to other *departamentos* (provinces) such as Nariño, Guaviare, Arauca, among others. However Putumayo still holds a good proportion of the cultivated areas. There can be little doubt that fumigation encourages coca production in new areas, including forests in the Amazon.

It is a matter of great concern that there has been a lack of research and evaluation of the chemical products used; particularly in the case of glyphosate herbicides which is the product most commonly used. Many community leaders and concerned scientist have expressed serious objections to its spraying. It is clear that the U.S. government, with the approval of the Colombian government, is conducting a very risky experiment with the environmental resources of a country like Colombia whose ecology is very important.

Completed studies on the health and environmental effects of glyphosate herbicides have not been carried out. In general glyphosate herbicides are

² *Ibíd.*, p. 1

considered benign, but it is glyphosate herbicide formulations, which are being used in the fumigations in Colombia, which are known to be more toxic. These are a mixture of Glyphosate with other chemicals, and this is what makes more difficult to predict its effects. Within American governmental agencies there is no agreement on the effects of chemical spraying. While the Department of State asserts that the spray program is completely safe for human health. The U. S. Environmental Protection Agency - EPA- admits that it has been unable to adequately evaluate the potential health and environmental damage due mainly to the fact that it is impossible to determine whether aerial spraying is making people sick without testing subjects before and after the spraying. In a consultation report produced the EPA noted that the State Department has not provided "a case definition for what would constitute a glyphosate-related poisoning"³ and finally recommended that the Department of State conducts "prospective tracking of reports of health complaints, documenting times of exposure and onset of symptoms"⁴. Though they were extremely cautious in their conclusions, they were sufficiently emphatic in saying that more studies are required before the issue of safety could be settled.

There were other matters that were less controversial. For instance, the EPA established that the average application rate of glyphosate per area in the U. S. is much lower than in the spray program in Colombia and therefore it is here where people and animals that are close to the fields which are sprayed, are exposed to much higher levels of pesticide. All these assessments have been questioned by many US and Colombian scientists particularly, on the basis that they do not consider exposure to the herbicide spray mixture as it is used in Colombia; among other things because it becomes very difficult to have access to information during spray operations and the media is not particularly enthusiastic about hearing the community voices and testimonies.

The Colombian government has not carried out long term public health studies to determine the effect of spraying substances like glyphosate on human health. In the meanwhile we could say that Colombian people particularly poor farmers are being treated as if they were the subjects of an experiment whose consent they have not been asked for.

The Inter-American Drug Abuse Control Commission of the Organization of American States is beginning a scientific assessment of environmental and health effects of the eradication program but the results will not come out until 2005. This shows at least that as a matter of prudence and respect for its citizens, Colombian governments should have been more cautious before permitting aerial spraying in their territory. Even if it is admitted that the research on the health effects has not been conclusive, then what common sense would tell is to wait until we know better. Moreover, the complaints of communities affected are too persistent not to be taken seriously. The human impact and the environmental damage to ecosystem should be the object of an open, well informed, public debate that has

³ Ibid., p. 18.

⁴ Ibid, p. 19.

so far been absent from the mainstream media in Colombia and the U. S. A.

It certainly is an scandalous situation that given the present development of science (including environmental science) and the amount of existing technical expertise, the international community, international governmental and non governmental agencies have not been able to come to an agreement on the type of empirical studies required for establishing the extent of the human impacts and the environmental damage produced by this fumigation practices. This remains as task to be done and given that information on this problems is definitely restricted, citizens from both North and South should work together in order to preserve their right to know.

II. A paradigm of human insecurities

While it could be admitted (at least for the sake of argument), that the environmental damage is still a matter of some controversy depending on the result of further scientific studies, the geopolitical notions of security, the growth of internal armed conflict, the displacement of people, the growth of organized crime and illegal economics are far more pressing realities.

Peasants, poor farmers and unemployed rural youth find themselves involved in such illegal activities as illicit crops growing, as a result of marginalization and lack of opportunities. Their involvement with the chain of productivity of illicit substances is the consequence, and not the cause of socioeconomic disparities, militarization and environmental degradation.

In the midst of all this intricate realities the “cure” is far worse than the disease. What prohibition policies and forced solution have created here is a paradigm of human insecurities. Consumers are put into prison in many countries as a consequence of prohibition while at the same time organized crime benefits from the high prizes of forbidden products. Paramilitary and armed opposition groups fund their wars in Colombia and other countries with resources obtained from drugs trafficking. This money is fundamental in maintaining arms trafficking.

Illegal economies have a very negative impact on small business and the cost of living in areas where they are present. Because war on drugs is imposed on Colombia, the state enters at war with poor farmers, who have been given no other opportunities and who have been criminalized from the beginning. Therefore it becomes a question of state legitimacy but also of self respect, which here is as much a right as a central human capability. Affiliation “having the social bases of self respect and no humiliation; being able to be treated as a dignified being whose worth is equal to that of others”⁵. Surely this social basis of self respect is what many Colombian citizens are being denied.

⁵ Nussbaum, Martha, Women and human development, the capabilities approach, Cambridge University Press, 2001, p. 79.

To escape this vicious circle of crime, injustice and environmental damage, caused by this failed wars, the assumption that is made here is quite simple: the present repressive solutions to the drug problem, fumigating farmers and putting consumers in prison will not end a practice carried by million of people in the world. It is clear that reasonable and more humane solutions based on "Commonsense Drug Policy" to use Ethan Nadelmann⁶ expression, should be based on damage reduction. Few would deny that drug abuse is a serious problem for individual and for society as a whole. However, once that we acknowledge that the "war against drugs" has only made matters worse, a whole range of possibilities would open for reducing at least the crime associated with it.

Drugs represent a significant part of the Colombian conflict, but they are neither the cause nor an end in itself for those who have taken up arms. It is a dangerous distortion of reality to make people believe that all this war is about is drugs. The expression "narcoterrorism", which became fashionable in the lips of American diplomats after September 11th and that some Colombian officials enthusiastically repeat, is far too simplistic a notion to describe such intricate reality.

Gross human rights violations occur too frequently associated to the "war on drugs". This is not new discovery. However what should be noted here is that in this kind of scenario not enough emphasis has been made on how human rights interrelate and affect each other: violations of environmental rights affect civil and political rights and vice versa, to take but one example. This also leads to a situation where social, economical and cultural rights of peasants and indigenous communities are not even acknowledged, let alone protected.

However, what i want to suggest here is that the language of rights, no doubt indispensable for the "untouchable" goods it protects and very valuable as it is, both as a legal tool and for the moral weight it has, may prove insufficient in practice. I propose that regarding the "war on drugs" it should be complemented (not replaced) with the language of Human Capabilities. I will give two examples of why this is so.

- For the consumer and for those trying to keep people away from drugs (parents, government officials and educators) capabilities language may prove a better tool for persuading people to develop their capacities and talents, rather than appealing to prohibitionist rhetoric that in most cases is ineffective if not counterproductive. How to do this is a matter of evaluating education programs and giving people opportunities. Certainly this in itself does not prove that drugs consumption would disappear simply because more emphasis was put on people's capabilities. The policies of decriminalization (rather than legalization) show encouraging signs an certainly more respect for humans as agents who

⁶ Nadelman, Ethan, Commonsense, drug policy. In: Foreign Affairs, January/February 1998, Volume 77, Number 1.

are able to make choices.

How any particular society deals with drugs, provides a scenario where human rights and capabilities may complement each other. While from the human rights perspective we can argue for and against policies of drug control on the whole, it is very difficult here to defend complete prohibition. As a matter of what can be permitted and what cannot, human rights discourse would seem to provide enough criteria for protecting individual liberties. But as a matter offering people opportunities to cultivate their own sense of self respect the language of capabilities may prove a better tool. It makes little sense to tell people particularly young people, not to consume drugs or what their rights are regarding these matters while at the same time failing to provide them with jobs, education or the capacity to shape their own lives and participate in political life. What I say here is that this constructive dimension belongs much more to the concept of human capabilities, to what people can actually do for themselves and others. Much more has to be said on this but it is clear that in terms of damage, punitive prohibitionist policies are far worse.

- For third world farmers in countries like Colombia who grow up illegal crops forced by their extreme poverty, a real commitment to development on the part of their own government and governments from affluent countries where drugs markets flourish, would reconstitute their capabilities to control their own environment and to decide and participate in the shaping of their own lives. More important, it would reconstitute them in their dignity. Human development and the implementation of economic and social rights would do much more for them (and for all of us) than the war drug rhetoric.

In theory at least, Colombian governments and USA agencies have understood the need for development as part of an integral response to the problems of illicit crops cultivation. Since it is generally accepted that [Colombian farmers] have few if any options for earning sufficient income to meet their basic needs due mainly to insecurity, poor marketing and the absence of credits. Traffickers on the other hand, offer credit and protection, transport crops to the market and pay prices that are not offered for other products. Interestingly enough and despite the apparent economic benefits of illegal crops, communities themselves have always taken the initiatives to end the illegal commerce for they have first hand knowledge of the consequences of the war.

There were during the former government (2001) thirty three pacts signed which were called "Social Pacts for Voluntary Eradication and Alternative Development" and that involved close to 40,000 families in production areas. Technical assistance, training and environmental assessment were not provided by the state on time though it was part of the deal government made with communities. It was expected that after a year eradication would take place but without the state honouring its part of the deal it was extremely difficult that these families could switch to planting other products and still make a living. This is after all the very simple reason why they went into these activities in the first place.

Undesirable consequences arise if the state is not fully committed to Alternative development and abandon farmers to their own luck. The first and most obvious is that when no short term aid is given conditions become very harsh once their sources of income are lost. There are also documented cases where as a consequence of chemical spraying other no drug related products are damaged. The second is even more serious for as a consequence of aerial spraying communities are displaced. According to figures from human rights NGO's, there is a direct relation between the number of hectares sprayed and the number of persons displaced. While these figures may still be controversial, the office of the Colombian government ombudsman (Defensoría del Pueblo) and Colombian regional authorities, report that aerial spraying operations cause significant damage to food crops, pasture and livestock.

In the face of all this the idea of paying attention to sustainable development as an alternative to prosecuting peasants who grow illicit crops have been present, even in the minds of some well intentioned American and Colombian officials. In accordance to a document from the Transnational Institute

"The community eradication pacts are based first on establishing credibility between the communities and the state, and second on support for producers so that they can improve production of food for family consumption, produce a surplus using appropriate technologies and expand community participation. According to the Plan Nacional de Desarrollo Alternativo (PNDA), "the alternative development strategy consists of establishing a process for improving social, economic and environmental conditions for producers in the areas covered by the program, making possible the identification and consolidation of activities that provide an alternative to illicit crops."

"As we can see, this involves a process to ensure that producers are actually able to create liquidity through the strengthening of the components of their production system, as well as by complementing it with other alternatives..."

"The stepping up of eradication goals expressed in hectares, in order to comply with US government demands, has decreased the possibility for communities to contribute their skills, experience and knowledge to enrich the technical proposal. This is aggravated by the implementing agencies' lack of knowledge of the idiosyncrasies of coca growers.

"In that sense, decisions such as the indiscriminate aerial spraying of crops, an external condition imposed by the United States, become factors in dietary insecurity, forced displacement, the loss of income and health risks that do not reinforce the state's credibility"⁷.

A comprehensive human security framework would integrate conceptual tools from human rights discourse, with those from the human capabilities discourse. It would also allow for better and more deliberative answers to problems whose "solution" have so far been imposed by some governments on others, without taking into account the needs of communities.

⁷ Vargas, Ricardo. Alternative development and conflict in Colombia. Cross Purposes. Transnational Institute TNI Briefing Series. N° 2003/4. p:16,21

III. ACCOUNTABILITY AND JUSTICE

In this part I will formulate an ethical and political argument that has to do with accountability. It basically says that it is morally wrong for countries which have not succeeded in reducing adictions (or drug abuse) or finding reasonable and more humane ways of dealing with this prolems, to impose war on developing countries from the South specially, because in this particular case it affects those who are most vulnerable: poor farmers, afro-colombians and indigenous communities. At the same time those who are at other levels of this chain of productivity, armed groups, organized maffias, dealers and corrupt officials, remain untouched.

This is not an easy question for it has to do with a question of justice and national sovereignty. It is difificult to be precise about the kind of justice we are talking about since it refers to relations between states, but also about citizen who are affected by legislation of states different from their own. In this idea of transnational justice a basic intuition is felt that legislators have the moral obligation to evaluate their acts in terms that go beyond national interest, particularly where human lives are concerned.

In what sense can we say that policies against drugs are unjust? Let us try to formulate a general argument first about the nature of this injustice. In the first place there is by now a general perception in most latinamerican countries that they have not caused the problems of drug comsumption. In the second place they do not see themselves as an important part of the market. this is not to say that these countries are drug freee or that they do not have problems of drugs abuse. But certainly drugs become a profitable activity both for Colombian and American maffias, for the international market they represent.

On the other hand the question of demand remains largely ignored. The problem of the need for drugs in affluent societies and the legislation related to it has been more the product of prejudice and misconception than the product of an open well informed debate. There does not seem to be on the other hand, a satisfactory answer to the question of why people particularly young people are drawn by drugs. Certainly this is not an easy question and any attempt to produce an explanation would have to take into acount the complexity of the matter and probably it would be wrong to produce purely psychological approaches. But from a moral point of view it is clear that these societies should face this question before putting the responsability somewhere else.

At the level of the consequences of prohibitionist policies a much more difficult question remains as to whom has taken the worst part of it. The argument of those who defend these policies particularly U.S.A. and some Colombian officials appeals to the number of lives that are ruinen by drugs, the level of violence and crime that are caused by drugs or activities related to them. The war on drugs, the argument goes, protects their people from being damaged.

Leaving aside very sensible considerations about the rate of crime, illegality and drug abuse as being the consequence of prohibitionist measures rather than their justification, a far more important argument can be offered here: the extremely high levels of violence which have affected virtually all sectors of society in Colombia, the number of homicides, disappearances and displacement of people, the commerce of arms, the flourishing of illegal economies, the appeal to violence as a way of dealing with everyday's problems are far greater damages than any other that can be inflicted on any society. This is not to say of course, that all the violence has been caused by "war on drugs".

There is also a different form of violence that makes itself be felt in the way people are treated and discriminated against and stigmatized as nationals of a particular country, sometimes even by their own government.

A further argument is given here that is particularly important. It says that given the huge economical benefits that countries like Colombia obtain from drug trafficking from consumers in the North the authorities in these countries have the right not only to protect their citizens but to punish those countries who do produce all this damage. The profits obtained from this commerce are so high that they would compensate for any damage done. But this is simply not true. Local and international mafias do benefit, but not Colombian society as a whole. Much to the contrary, what a good number of studies in the field suggest is that Colombian economy is severely damaged by these illegal activities. Economic growth is reduced not stimulated by it. I will not go into it now but it is not very difficult to imagine how capitals obtained in illegal economies are not likely to be controlled or taxed or integrated into the chain of productivity in ways such that they can be beneficial.

One of the most damaging effects of it has to do with the possession of land. In many territories peasants and small farmers who traditionally have owned small farms have been displaced. No matter how good the prizes they may have obtained for their properties are (that is if they have not been forced to leave), no amount of money would compensate for the loss of their natural and cultural environment, for the loss of their roots and their sense of community and their sudden, unexpected entrance into urban life for which they are not prepared.

To establish whether or not it is true that countries who supply the raw materials for drugs production (the chemical components are a different matter and are usually a contribution from the north) obtain the economic benefits they are said to obtain is a very important field of study that should be approached internationally. For this would contribute to settle at least part of the controversy. During the last twenty years the economic benefits of drugs trafficking on society as a whole, have not shown themselves in any Iberoamerican countries except of course for organized crime, armed opposition and paramilitary groups and corrupted officials. The studies carried out by most economists who have reflected on this matter so far; do

not back the theory of great advantages for the economy of these countries.⁸

On the other hand even if there were some advantages for the economy, to maintain that this would justify the “drug on wars” on the basis that the suffering imposed on these societies is compensated by the material benefits they obtain, is indeed a perverse argument. None of it if were true, would compensate for the loss of life, the corrupting power of illegal economies, the decline of important social values, the destruction of natural and cultural environments, the lack of respect including self respect and the discriminatory treatment exercised on some citizens on the basis of their nationality or the region they come from. This is no doubt a paradigmatic case of human insecurities affecting deeply central human capabilities and functionings.

Here we come back to the issue of accountability. To understand why there is a very strong urge for drugs particularly in affluent societies, is the duty of governments and all those concerned. It is a question of moral responsibility that should be dealt with before imposing war on less developed countries. Plants and substances in themselves are not arms to kill anyone. A deeper understanding of the relation between consumers and substances is needed. If human beings are seen as agents (as is the case with the capability approach) who make choices and take their own options (even if these options are not always fortunate). The relation of different people to some substance is also different, from the occasional consumer to the drug abuser; they all have different motives or desires. This is not to say that we must simply favour legalization as such, for we may run the risk of sending the wrong message. Decriminalization and damage reduction seem to be the best we have so far.

On the other hand this also implies that governments from the south where the planting of illicit crops takes place would have to commit themselves to development and to policies that improve the quality of life of their own citizens in ways such that they do not have to go into illegal economies. Accountability is something that must be shared. But these issues can be better understood if it is acknowledged that certain wars have been imposed on some countries and that the governments, who have thus acted, must be accountable to their own citizens, but also to citizens of those countries which have been most damaged. What we have here then is a question of international or to be more precise, transnational justice.

The issue of transnational justice becomes very important and cannot be treated within the traditional framework of nation states. If we thought in terms of a counterfactual situation where a cosmopolitan order existed, we could say that the acceptance of a particular legislation would have to take into account all those affected by it. In the case of the legislation on drugs if we followed this reasoning it would make perfect sense to question on what grounds it can be justified that the

⁸ Rocha, Ricardo. Aspectos económicos de las drogas ilegales. En: Thoumi, Francisco, et al. Drogas Ilícitas en Colombia: Su impacto económico, político y social. PNUD. Ariel, Bogotá. 1997. p 137-275

legislation of the United States can affect the lives of citizen from other countries. All the more so when we think that this legislation fails to avoid the conduct for which it was first established but at the same time has profound international consequences. In this case the legislation of the United States of America affects deeply the lives of many human beings in countries from the South. In no way have these citizens participated in the making of these laws. Here is where the nature of the injustice lies in relation to the concept of transnational justice⁹. Millions of consumers are willing to pay the price for substances that are produced in some countries. These prices become so high as a consequence of prohibition, that is, as a consequence of legislation that stimulates rather than diminishing, high profits. Thanks to this legislation “war on drugs” is declared and citizens from other countries different from the one where this legislation originates, are punished. A terrible tragedy for these societies and a terrible tragedy for consumers too. But what is worst is that this enormous market of forbidden substances has been created by the present laws.

The Human Development Report- COLOMBIA 2003 Commissioned by the UNDP proposes:

“a new international dialogue on drugs, opening the way for an anti-drug policy which will avoid nourishing the conflict and that will truly affect the illegal drug industry, an industry that produces the immense revenues spent by armed groups to greatly enhance their military capacity.

The new dialogue, based on rational arguments more than on prejudices in North and South alike, would be based on a damage-control strategy for consumers and producers, and would counteract some of the negative consequences of present drug policy. This type of policy would focus its action on the mid-level links of the drug trade chain and would open up legal options for drug-producing peasants or for those tempted to get involved in that illegal activity”¹⁰

Regardless of the notion of justice we use here (whether transnational justice or even restorative justice), there remains a question of moral responsibility towards those who have taken the worst part. A “new deal” is necessary where responsibility for the damage and the deepening of unjustified war should be acknowledged and reparations be made. A commitment to development and human capabilities on the part of governments and international agencies is, from the point of view of moral responsibility, a constructive answer to the issue of accountability. The question of how we do this should not frighten us, if we just listened with attention to what all involved parts have to say particularly, the courageous communities of men and women in the South, who insist on their search for peace despite war having been declared on them.

⁹ DE GREIF, Pablo. (Ed). Drugs and the limits of liberalism: Moral and legal issues. Cornell University press, 1998. Spanish translation: Drogas, soberanía nacional y legitimidad democrática. En: de Greif, Pablo y de Greif, Gustavo compiladores. Moralidad, legalidad y drogas. México, Fondo de Cultura Económica, 2000.

¹⁰ HDR-Colombia-2003 (versión inglés). PNUD, 2003; UNDP, 2003; EIU, 2003. p. 21