

# Uruguay: Marijuana, Organized Crime and the Politics of Drugs

by Geoffrey Ramsey

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## ABSTRACT

Uruguay is poised to become the first country on the planet to regulate the production, sale, distribution, and consumption of marijuana. This report looks at the political, economic, and criminal challenges to Uruguay's new marijuana regulations.



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## *Uruguay: Marijuana, Organized Crime and the Politics of Drugs*

### **Uruguay's Marijuana Bill Faces Political, Economic Obstacles**

If Uruguay's proposal to regulate the production, sale, and distribution of marijuana is properly implemented and overcomes political and economic hurdles, it could be the most important drug regulation experiment in decades.

From the beginning, marijuana legalization has been a tough sell in the country. In June 2012, Uruguayan President Jose Mujica -- citing the "terrible consequences" of the dominant paradigm in global drug policy as well as increasing crime and consumption of harder drugs like cocaine paste -- sent a bill to Congress which sought to make Uruguay the first country to legalize the cultivation, distribution and purchase of psychoactive cannabis.

Mujica's initial proposal met with harsh criticism from the opposition, which accused the government of using its majority in Congress to steamroll controversial legislation without engaging critics. A December Cifra poll found that that 64 percent of Uruguayans opposed marijuana legalization, 10 percent had no opinion, and just 26 percent approved. In response, Mujica put the measure on hold, calling for a longer period of debate in the country.

The initiative was revised over the following months, and a far more comprehensive version was introduced in the Chamber of Representatives (the lower legislative house) in November. This bill was embraced by a diverse coalition of human rights NGOs, lawyers, public health and development workers in the country, which began a public awareness campaign to support it under the banner of a platform known as "Regulacion Responsable."

Further changes were added as the bill gained the backing of congressmen in the ruling Frente Amplio (FA) coalition. Unlike its predecessor, the updated bill does not allow the state to have a direct hand in marijuana cultivation or its sale. Instead this will be left to private entities, which will be regulated by a new government agency.

Several opposition lawmakers have since expressed measured support for the initiative as well, though it is unlikely that their parties' leadership will allow them to vote in favor. It now appears set to pass the lower house in a July 31 vote with the support of the FA's slim majority, despite the fact that public opinion remains mostly opposed to the measure.

#### **Essence and Justification**

The specifics of the bill set it apart from other marijuana legalization initiatives around the world. Unlike in the Netherlands, where cannabis cultivation is still technically banned, this will legalize and regulate every step in the process of marijuana production and distribution. In that sense, it is closer in scope to the



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recent legalization of marijuana in Colorado, where adults are allowed to purchase the drug from licensed shops as well as grow up to six plants for personal use, and the development of a regulatory framework for commercial cultivation is underway.

Uruguay's bill permits three forms of marijuana cultivation. The first of these is home cultivation, in which -- like in Colorado -- individuals can possess up to six plants in their homes, with a maximum annual yield of 480 grams. The second involves so-called "membership clubs," which allow cannabis enthusiasts to form growing cooperatives of between 15 and 45 members, and collectively grow up to 99 plants. Third, the bill authorizes the state to grant licenses for private enterprises to grow marijuana for commercial purposes, though only the government can lawfully purchase this harvest.

This privately-produced marijuana will in turn be sold exclusively in pharmacies -- though the drug will be available without a doctor's prescription -- to those who have signed on to a federal registry. The registry will be private, not made available to potential or current employers. To prevent "marijuana tourism," legal purchase will be limited to Uruguayan citizens and will be capped at 40 grams per month.

The specifics of regulation and licensing of marijuana in Uruguay will be handled by a new government office, named the Institute of Regulation and Control of Cannabis (IRCCA). The above activities will have to be authorized by the IRCCA, and all other forms of marijuana cultivation, production, sale and cross-border trafficking will be penalized with between 20 months and 10 years' imprisonment. The bill also establishes strict penalties for giving the drug to minors and driving under the influence of marijuana.

The logic behind the bill is straightforward. Marijuana use has been effectively decriminalized in Uruguay since 1974, when a law was passed allowing judges to use their discretion in cases where individuals possess small amounts of illicit substances intended for personal use. Because the law doesn't provide a specific benchmark quantity, and marijuana cultivation and purchase are still illegal, there is an apparent contradiction in the legal code. The bill's supporters claim it is addressing this decades-old contradiction.

"It is paradoxical. The state allows individuals to use the substance, but forces them to buy it on the black market. Those who try to avoid this by growing marijuana for themselves are punished," said Martin Fernandez, a lawyer who has defended several clients arrested for marijuana cultivation. According to Fernandez, the current government has taken a more relaxed attitude to small-scale marijuana growth, but it was not always that way. Before 2009, it was not uncommon for those arrested with a dozen cannabis plants to face a year in jail, at least.



### Uruguay's Marijuana Market: the Supply Chain

By regulating marijuana, the government hopes to free up police resources to focus on growing insecurity and traffic in more harmful substances, as well as hit the pocketbooks of criminal networks profiting from marijuana sales. Government drug



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officials claim the country's marijuana market generates between 30 and 40 million dollars a year.

In essence, the success of Uruguay's marijuana legalization bill relies heavily on the government's ability to undercut street prices and offer a better product than the imported Paraguayan cannabis consumed by most users in the country, as well as strict monitoring of cannabis plots.

While Uruguay's criminal landscape is a far cry from Mexico's or Colombia's, there are foreign groups involved in the drug's supply chain. According to the estimates of the Uruguayan Association of Cannabis Studies (AECU), an organization of experts on cannabis growth, roughly 80 percent of the marijuana smoked in Uruguay comes from Paraguay.

AECU President Juan Vaz claims that the going price for freshly-cultivated marijuana in Paraguay is around 10 dollars per kilo. The cannabis buds are harvested, dried, and then pressed into bundles either with a hydraulic press or by placing the harvest in bags or between sheets of plastic and burying it in shallow pits.

This process is largely done by cultivators in rural areas in eastern Paraguay, who sell the pressed marijuana in bulk to traffickers in the area. These traffickers, in turn, make roughly 35 dollars for every kilo they move, according to Vaz. While some of this product is flown directly to Uruguay on small private planes, most marijuana makes its way into the country by land via Brazil or Argentina.

Polls conducted by Uruguay's National Drug Council (JND) have found that that the country has an estimated 120,000 users of marijuana, of whom 18,000 are daily users. The JND estimates that domestic demand can be satisfied with around 25 tons annually, while AECU places it at 35 tons. Still, both numbers are small compared to the markets in neighboring Brazil and Argentina. For example, the JND estimate is less than half of the marijuana seized in successful raids by antidrug agents in Argentina last year (54 tons).

Exactly how much of this marijuana enters Uruguay from Argentina and how much comes in from Brazil is a matter of debate. In 2011 and 2012, Uruguayan officials seized roughly two tons every year (1.96 and 1.98 tons, respectively), a tiny percentage of what is presumably entering the country to satisfy its demand. According to police, the vast majority of this was seized along the border with Argentina, at customs stations on the three bridges that span the Uruguay River or in the port of Montevideo. Police officials, and most drug experts, believe these are the most common routes for marijuana entering the country.

However, JND drug expert Fernando Olivera claims this may not be entirely accurate.

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"Most of the seizures in the country are made at fixed checkpoints," said Olivera. "Very few occur on the Brazilian border, which is much more open, but this does not necessarily mean it is more secure."

Policing this border is a nearly impossible task. The northeastern border with Brazil is a 1,068 kilometer-long stretch of land that lays almost entirely unguarded. In some cases, as in the northern city of Rivera, only a road separates the two countries, and the locals speak a peculiar mix of Spanish and Portuguese known locally as "Portuñol."



The closest thing to a border partition in Rivera: at right is Uruguay, left is Brazil. *Photo by Geoffrey Ramsey*

Rivera has thrived as a result of its location. The city's sprawling business district is full of duty-free shops, hotels and casinos aimed at Brazilian tourists looking for a weekend getaway and cheaper consumer goods. Because of the fluid and porous nature of the border there, it is also popular among illicit smugglers.

According to Antonio Aguirre, a representative to the Rivera province legislature, this has always been the case, and locals see smuggling as part of the culture.



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"To us it is a way of life, taking goods from one side to the other," said Aguirre. "To people here, whether it's [contraband] alcohol, cigarettes, or yes, even a couple of kilos of marijuana, it is seen as the same. For many the border is an artificial line."

#### **Growing Cheaper, Better Marijuana**

Regardless of its entry point, in economic terms the Paraguayan marijuana will be the main competition for the government. In order for the regulation bill to work, the state will have to make the marijuana sold in pharmacies more attractive to users than the imported product, available on street corners in cities and towns across the country.

This is no easy task. According to Juan Vaz, purchasing 25 grams of marijuana in Montevideo costs the equivalent of between 100 and 125 dollars. But cannabis experts and activists from elsewhere in the country consulted by InSight Crime suggest this varies considerably depending on location. A member of the pro-legalization Movida Cannabica, of Florida province, claimed that the going price for 25 grams there was half that, at roughly \$50. Another cannabis legalization activist from Paysandu claimed that 25 grams can be purchased along the Argentine border for a quarter of that price, around \$22.

The government's regulation bill does not set a price for the marijuana sold in pharmacies. However, last year JND Secretary Julio Calzada told reporters that his office estimated that 40 grams should be sold for around \$35, or roughly \$22 per 25 grams. Obtaining this price point may be the difference between a successful and an unsuccessful bill. Assuming it does not increase significantly, at that price it would definitely undercut the market in Montevideo, home to some 1.3 million of the nation's 3.3 million people. That is sure to take a bite out of the profits of drug smugglers, and make the Uruguayan market much less appealing to them.

But in the event of any major fluctuation in price, the youth thought to be top consumers of the marijuana may simply opt for the cheaper product, regardless of the quality. In addition, \$22 per 25 grams may not beat the prices in the interior and in border areas, which may remain vulnerable to the intrusion of the Paraguayan product.

It is in these areas that the government hopes to beat the black market in quality rather than price. Compared to the dry, imported Paraguayan product, the state-sold marijuana will be safer and of higher quality. The bill specifically bans legal cultivators from pressing marijuana, a process that is believed to make cannabis less potent, as well as leave it more susceptible to bacteria and fungi.

Of course, the IRCCA may alter the price when the bill goes into effect, depending on the associated production and administrative costs. Effective regulation of the marijuana market will require cultivators of all sizes to take precautionary





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measures to prevent their crop from falling in the wrong hands. For household growers, this is a matter of keeping their six plants indoors or behind locked gates. For membership clubs and licensed commercial growers however, this is a different matter.

"Security isn't cheap," says Juan Vaz. "It could mean cameras, alarm systems and even private guards, costs which may be passed on to the consumer."

#### **The Future of Marijuana Regulation**

The future may also bring political pressure for the state to raise taxes on the drug to generate more revenue, which would obviously increase the price and make it less competitive with Paraguayan marijuana. While the bill does not mention any specific taxes on the growth or sale of cannabis, this could change considering the unpopularity of the measure.

Polls show that public opinion has not changed on the marijuana issue, with 66 percent of Uruguayans opposing legalization in an April survey. Another argument for leveling taxes on the drug may come from Tabare Vazquez, the former president who is widely expected to win the presidential race in October 2014.

Although he is a member of the same political coalition as President Mujica, he has refrained from endorsing marijuana regulation, saying: "There is no reason to smoke marijuana."

Excise taxes on cigarettes were a hallmark of a strict, highly successful tobacco regulation law that Vazquez sponsored during his 2005-2010 presidency, and he may be more open to leveling taxes on marijuana to discourage its use.

For this reason, some of the biggest threats to the effectiveness of Uruguay's experiment are political. If politicians succumb to pressure to limit the scope of marijuana regulation by tampering with the availability or price of the drug in pharmacies, then the initiative will be doomed to failure.

Marijuana users are already being forced into a vulnerable position by submitting their names to a federal registry. While this database cannot legally be shared with employers, it provides an undeniable incentive for users to keep buying the drug from their regular suppliers rather than going the legal route. For those that remain willing to purchase from pharmacies, raising the price could be the final straw.

As long as the law is implemented well, the proper security measures are followed and the price of the drug is kept low enough to be competitive, the bill will likely drastically reduce the black market for cannabis in Uruguay. While plenty of undetermined variables remain, the reliability of the country's institutions makes it well-suited to the challenge of properly regulating the marijuana market.



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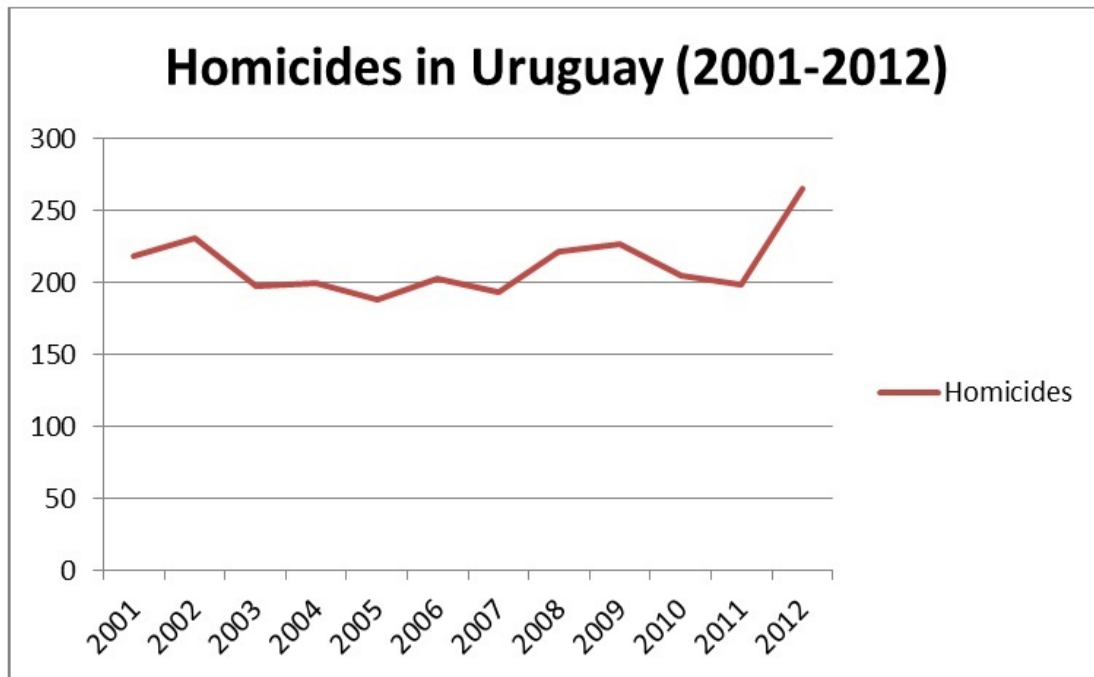
Uruguay ranked 20th in Transparency International's 2012 Corruption Perceptions Index, tying with Chile for a spot just below the United States. Because of its high degree of accountability, its strong state presence and stable government, it is difficult to imagine a better country in Latin America than Uruguay to experiment with marijuana legalization.

## Uruguay's Marijuana Bill and Organized Crime

Though it has long been one of the safest countries in Latin America, insecurity and organized crime are on the rise in Uruguay, making it an interesting, if imperfect case study to test the impact of marijuana regulation on criminal groups.

To be sure, the relative safety of Uruguay makes it an unlikely candidate to measure the impact of marijuana regulation on organized crime. Other countries clamoring for a paradigm shift in drug policy -- Guatemala and Colombia, for instance -- are some of the most violent in the region and their calls follow a shared logic: the shift of resources away from repression of drug users will allow them to focus security forces on the most violent actors.

Uruguay has few of these violent actors. Indeed, the issue of insecurity is something of a political paradox in Uruguay. The country has long had low levels of violent crime, and its homicide rate of six per 100,000 is among the lowest in the region. Yet at the same time, the perception of insecurity among Uruguayan citizens is surprisingly high. A May 2012 region-wide survey by Corporacion Latinobarometro found that Uruguay has one of the highest gaps in Latin America between the level of perceived insecurity and actual victimization rate.



*Source: Ministry of the Interior*



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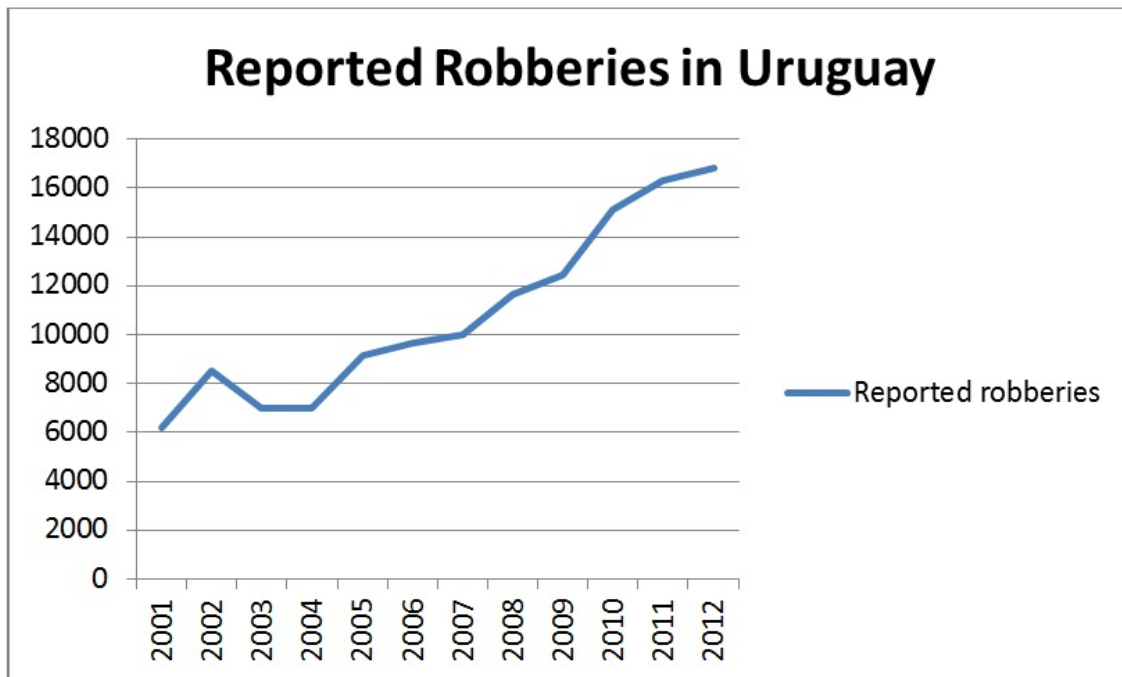
Despite the low level of crime, 40 percent of the country rated citizen security as the biggest issue facing the country, and 84 percent said crime had worsened in the last two months. One recent study found that residents of the capital Montevideo are more likely to rate their country as “highly unsafe” than those polled in either of Colombia’s two largest cities, Bogota and Medellin, which each see roughly ten times as many murders annually.

The consensus among Uruguayans seems to be that insecurity is a recent phenomenon, a product of the past decade. “Ten years ago this was a different country,” said National Drug Secretary Julio Calzada. “People used to leave their houses unlocked, their car doors open while they went into the store. Not anymore.”

#### **New Illicit Drugs, More Crime**

So what changed? According to Calzada, one of the main factors was the influx of an unprocessed cocaine derivative known as “pasta base,” or what is also known as “cocaine paste,” around the turn of the century. Though it was almost unheard of in the 1990s, in the early 2000s consumption of paste became widespread in low income areas in Uruguay.

Uruguay’s cocaine paste problem has several causes. Drug officials and police claim that the arrival of the drug coincided directly with increased regulation of precursor chemicals in Colombia and Peru in the early 2000s, forcing traffickers to look for new ways to sell unprocessed cocaine. To make matters worse, a devastating economic crisis in Uruguay in 2002 caused unemployment to spike, and provided an increased market for the cheap drug.



Source: *Observatorio Fundapro*

This rise of cocaine paste, coupled with a sudden decrease in economic opportunity, fueled criminal activity in the South American country. According to the non-governmental Observatorio Fundapro, in 2002 there were some 8,500 reported robberies in the country. By 2006 this figure went up to 9,669 and in 2012 it was at 16,812, roughly a 200 percent increase over ten years. In 2005 officials registered a total of 188 homicides. In 2012 there were 265, the highest number on record.

#### **Organized Crime in Uruguay: a Mugshot**

While Uruguayans are highly concerned about insecurity, organized crime is not considered to be a major issue in the country. However, there is a sense that the dynamic is shifting. In January, Deputy Director of the National Police Raul Perdomo told leading daily *El Pais* that officials attributed a recent spate of killings in Montevideo to a “budding phenomenon” of rising gang activity. Perdomo claimed these groups were concentrated in three western neighbourhoods of the capital city.

Other police sources consulted by InSight Crime confirmed this trend. In poor neighbourhoods in cities around the country, a number of rudimentary street gangs have sprung up in recent years. So far their criminal portfolio is fairly limited. Police say they are involved in car theft and robbery, as well as the sale of marijuana and pasta base, but only in relatively small amounts.

While these are by no means major players in the drug trade, there have been a handful of Uruguayan drug traffickers over the years. The most famous was Omar

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Clavijo, referred to in local papers as the “czar” of the country’s underworld. His 2001 arrest for smuggling 300 kilos of marijuana made headlines, as he was rumoured -- but never proven -- to have political connections in Uruguay’s congress. Once in prison, he continued to lead a sizeable trafficking network from his cell, which investigators claim included police officials in the northern province of Salto. Clavijo escaped in 2001 and fled to Paraguay, hoping to expand his illicit business.

However, it seems the Uruguayan narco bit off more than he could chew. In July 2003 Clavijo was gunned down in the Paraguayan city of Pedro Juan Caballero, located on the border with Brazil. Locals claimed he was killed by his boss, a Paraguayan trafficker named Magno Rios, after making one too many costly mistakes. Days before he was killed, Paraguayan police seized 17 tons of marijuana reportedly belonging to Rios.



A more recent example of a Uruguayan drug trafficker is 30 year-old Luis Alberto Suarez Correa, alias “El Betito,” pictured left.

Arrested in 2006 for leading a stick-up gang known as the “Profesionales,” Betito has taken advantage of his incarceration as an opportunity to branch out, and, according to officials, has had success. In

December, organized crime judge Nestor Valetti Rodriguez described him as “the most dangerous criminal” in Uruguay.

“He’s in a maximum security prison, reserved for drug traffickers, and controls an army of 50 gunmen. That’s how he wins turf in some areas. He leads from jail,” said Judge Valetti.

The judge also claimed that his time in prison had allowed him to make contact with Brazilian prison gangs like the First Capital Command (PCC).

In October 2012, an investigation published in *Busqueda* magazine found that Betito had expanded his group over the years, and was running a microtrafficking operation in neighbourhoods in west Montevideo. According to the report, Betito’s organization controlled around one hundred drug-dealing locales, and was locked in a deadly conflict with a rival drug gang over territory.

### **The Marijuana Bill's Impact on Organized Crime**

It is criminals like Betito and Omar Clavijo who will be most affected by marijuana regulation in Uruguay. The government’s most recent drug abuse statistics show that while 20 percent of the country has consumed marijuana at some point, only 6.2 percent has tried cocaine, and only 1.1 percent had ever consumed cocaine’s



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cheaper alternative, cocaine paste. This suggests that if the government can undercut them in pricing and quality, they will lose a significant chunk of their profits.

Successful regulation will rely on thorough monitoring of licensed crops, paired with strict punishment of illegal trafficking and cultivation. Users must be compelled to purchase or grow the drug legally in order for the measure to be effective. While it may be unpopular among marijuana legalization advocates, this means that the penalties the law mandates for those who deviate from legal production will have to be strictly followed. This will be especially important in isolated border areas, otherwise Uruguay risks becoming a marijuana-exporting country.

Fortunately the administration of President Jose Mujica appears to be conscious of the need to supplement regulation with targeted enforcement. An underreported fact about the initiative is that it was first proposed in June 2012 as part of the governing Frente Amplio coalition's plan to address insecurity in the country. Known as the "Strategy for Life and Coexistence," its 15 points included measures like raising mandatory sentences for corruption and large scale trafficking, creating more streamlined investigation processes for the small-scale illicit drug trade and offering reparations to victims of crime. In the past year, the government claims it has implemented 11 of the provisions, including all three of those mentioned above.

In order to fully tackle the problem, it will also be imperative for the government to address police corruption. While not generally associated with law enforcement in Uruguay, it is an issue nonetheless. According to Rafael Paternain, a leading Uruguayan criminologist and former member of an advisory council to the Interior Ministry, this is a key component of these local gangs' territorial control.

"While I am not convinced these groups represent 'organized crime' in a traditional sense, it is difficult for me to believe that they operate without collusion of police," Paternain said.

According to Paternain, this amounts to district police offices in these areas accepting regular payments from gangs in exchange for permission to operate with impunity. In 2012, some 76 police were found guilty of corrupt dealings, including receiving kickbacks, arms trafficking and extortion.

#### **Transnational Crime in Uruguay**

Domestic gangs are not the only criminal groups in Uruguay. According to Officer Douglas Da Silva, a member of the National Police's Organized Crime unit, transnational crime is becoming a greater problem every year.

"The biggest criminal structures operating in the country are foreigners, especially Colombian and Peruvian groups," Da Silva said.



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However, according to Da Silva, compared to local criminal groups involved in drug dealing, foreign actors attract far less attention, and cannot be linked to insecurity in the country, as they are mostly interested in Uruguay as a bridge to the cocaine market in Europe. They are unlikely to be affected by marijuana legalization, according to Da Silva, because they are on “another level.”

There are other reasons for criminals on this level to be interested in Uruguay: it represents an attractive place for these foreign criminal organizations to launder illicit profits. The US State Department’s 2013 International Narcotics Control Strategy Report found that Uruguay’s relatively high dependence on the dollar made it “vulnerable” to money laundering schemes, something the government has become highly concerned with over in recent years. Officials say more than 100 people have been jailed since 2005 for money laundering, and the governments of both Argentina and Brazil have expressed alarm over the trend.

Ultimately, legalizing marijuana will do little to affect major transnational criminal networks. These will remain unless the government takes a more aggressive stance on money laundering and border security. But it will take a major bite out of the profits of Uruguayan traffickers, the main contributors to insecurity in the country.

Insecurity would be further addressed if the bill were accompanied by a wave of police operations targeting gang activity and cocaine/pasta base dealing in urban areas. Provided officials prevent these groups from adjusting to the changed law and making up their profits with other criminal activity, the bill stands a good chance of reducing homicides and other violent crime.