

**THE GENESIS OF GLOBAL NARCOTICS CONTROL: AN  
ANALYTICAL EXAMINATION OF THE PROCESS OF  
PROHIBITION**

by

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## **ABSTRACT**

A more holistic understanding of the contemporary international “war on drugs” can be achieved by uncovering its historical roots. Many researchers cite formative events occurring in 1914 as setting the stage for narcotics policies at both national and international levels. However, in 1909, the United States government called upon the leaders of twelve other countries to help eradicate non-medical opium use. Thus, the Shanghai International Opium Commission should be viewed as the true genesis of global narcotics control.

Although descriptive accounts of this event exist, they often lack an analytical foundation. The work of Lowes (1966), when supplemented by archival sources and other seminal pieces of research, renders a testable hypothesis regarding these global origins of narcotic prohibition. The thesis concludes that three theoretical perspectives are inherently grounded within the data: the pluralist conflict model of law creation, the “moral crusader” prototype and Kingdon’s (2003) agenda setting policy model.

**Keywords: Historical; Narcotics Control; Drug Policy; Opium; Shanghai; Prohibition; Kingdon; Agenda Setting; Harrison Narcotics Act; War on Drugs; Global Origins; Genesis**

*To my children,  
may your world become a more tolerant and humane place  
...one where understanding of "the other",  
rather than fearfulness,  
no longer dictates public policy.*

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## **CHAPTER 1: CHEMICALS WITHIN, CHEMICALS WITHOUT**

Justice is not one single entity or policy, but rather the imposition of different strategies that supposedly are geared to control crime. This fails to take into account the dialectic nature of control schemes whereby attempts to control crime often result in increased amounts of that which is to be controlled. A good example has been the criminalization of certain drugs on the national and international level. At each juncture of the increased control, the drug trade has shown greater vitality.

~ Milovanovic & Henry (1992)

From a biological point of view, humans, or any other known biological system, are chemicals held together by an electrodynamic field. Indeed, we are chemical beings. From the amino acids that comprise the molecular structure of our DNA, to the trillions of cells that make up our brain, human beings at the most base level of understanding are the results of chemical compounds and structures producing chemical reactions. Specific chemical reactions in our brain tell us when we are hungry or tired. These same chemical reactions in our brain instigate the fight or flight reactions we associate with fear or give us the feeling that we are attracted to another person. When there are imbalances of chemicals in the brain, dramatic mood swings, such as those we describe as depression or schizophrenia, can occur. Indeed, if the social and religious aspects of life are put

aside, the sum of our life experiences and memories is a story of our internal chemical reactions and structure, in relation to the chemical compounds and reactions produced in our external environment.

Through thousands of years of evolution our species has been able to discern those external compounds that are necessary to sustain life, such as food and water, from those compounds that can cause a chemical reaction resulting in pain or death, such as various poisonous plants and animals. Humans have also been able to identify chemical compounds that produce an altered physiological and psychological state when absorbed into our bodies. In the contemporary English based system of language, these compounds often fall under the general rubric of “drugs” and the history of human beings is a history of drug taking. Some researchers, such as historical writer Richard Davenport-Hines (2001: ix), contend that not only have humans used these chemical compounds we commonly refer to as “drugs” since the dawn of human history, but that “absolute sobriety is not a natural or primary human state.” Drug consumption is a phenomenon that stretches across all cultures and historical epochs.

Sumerian records, which are the oldest form of written text and language in human history, indicate that opium was used for various purposes around 3100 BC in Mesopotamia. Moving forward in time, opiate use was a part of both ancient Greek and Roman societies. For example, the legendary Greek writer Homer recounts in the *Odyssey* several instances of both alcohol and opiate use among his various characters. Grecians Hippocrates and later Galen, arguably

the two greatest physicians of the ancient world, wrote in detail about the use of opium within Greek culture and later use by the Romans from about 460 BC to 200 AD. In 55 AD, the Roman emperor Nero, who “fiddled while Rome burned around him”, used an opium mixture to take over the throne from Britannicus (Ibid: 9). Another famous Roman, Pliny the Elder, wrote that Romans during this time period used opium and opiate laced concoctions to treat a myriad of ailments including elephantiasis, liver problems, epilepsy and scorpion bites.

As history progressed, we see increased use of opium in medicines in Europe beginning around the 15<sup>th</sup> and 16<sup>th</sup> centuries. Also during this time, written accounts by western Europeans who traveled abroad, to then exotic locations like Asia and the Middle East, began to appear. These tales were eagerly devoured by the educated and ruling classes and began a curiosity with the recreational use of substances such as opium. This curiosity with opiate use coincided with a re-organizing of the world based on ocean-going commerce and exchange. Plants, animals and microorganisms long confined to one continent or hemisphere spread elsewhere. For instance, “New World” foods like potatoes and maize had an effect on rapid population growth in Europe and Asia (Courtwright, 2001b). Along with this rapid spread of ideas and commodities came an increased exposure and demand for foreign intoxicants.

## **1.1 A Brief History of European Attempts to Control Foreign Intoxicants**

It would seem that there is an innate need to alter or enhance our waking conscious with the use of mind-altering substances. Traditionally, when Western

culture has come into contact with “foreign” or “exotic” substances, there has been a cycle of discovery, curiosity, exposure and seemingly heavy use by a visible minority of users. These actions are then met with suppression tactics for various reasons from those in positions of power within the given societies. Once governmental controls have been established, there is often little effect on rates of use as users continue their habits, albeit in a more hidden or secluded manner, or a revival of the drug in question will take place by a younger generation. Thus, the cycle seems to perpetuate itself every 50 years or so.<sup>1</sup>

Even if the social dynamics and reasons given for suppression may change, this need to control and in many cases criminalize the use of foreign intoxicants is not a recent social or legal construction. Although it has become well engrained into the policy and legislative spheres over the last century, the drug cycle has been a part of Western history to some degree for several hundred years. This point is illustrated by examining how two common substances in our modern world were dealt with historically within the Western setting: tobacco and caffeine.

For European based culture, tobacco was first encountered by Columbus in 1492, when two members of Columbus’s party observed First Nations peoples of the Tainos tribe smoking leaves rolled into large cigars. Subsequent contact revealed that the substance was also chewed and sniffed; methods of administration that one day would be emulated by millions of Europeans, as well

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<sup>1</sup> This cyclical notion of use and control is what I hereafter refer to as “the drug cycle”. Through personal conversations with other academics such as Neil Boyd and David Garland, as well as comments in works such as Musto (1999; 2002a) and McAllister (2000), it would seem that within Western culture over the past 200-300 years that this cycle of social control, suppression and rebirth seems to be present in many cases.

as the peoples of Africa, Asia, India and Middle East regions, such as Iran. By 1620, tobacco was, by definition, a global crop and as time progressed into the 18<sup>th</sup> century, members of all social classes and genders used it.

Although tobacco was not responsible for crimes per se during this time period, it is here that attempts to control its use take root. Russian smokers suffered beatings and exile, while snuff takers had their noses cut off (Courtwright, 2001b; Boyd, 1991). Elsewhere in Europe a barrage of laws and regulations that resulted in fines, floggings, mutilations and threats of death and damnation awaited those who indulged in this substance. Tobacco, as its critics tirelessly pointed out, fouled the breath, stained the teeth, soiled the clothing and brought forth streams of snot and spittle and in many cases, tobacco users were equated with "evil".

A similar approach to caffeine was also taken in the past. Caffeine is the earth's most widely used drug<sup>2</sup> and throughout the late 20<sup>th</sup> century has consistently trailed only oil as the world's most widely traded commodity (Courtwright, 2001b; Davenport-Hines, 2001). Caffeine, in its most popular form of coffee, appears to have its roots in Ethiopia, where residents chewed the leaves rather than infused the beans for the stimulating effects. Coffee drinking seems to have its roots in Yemen sometime prior to 1470. The use of teas and coffees began to become widespread in European societies around the mid-17<sup>th</sup> century. It was also Europeans who made caffeinated beverages, such as teas and coffees a global commodity.

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<sup>2</sup> Alcohol is second; nicotine is third.

This globalization of coffee created competition between the major colonizing powers of the time such as France, Great Britain and Spain, all of which vied for the precious colonies that could produce this substance. The pirating and looting of cargo ships was not unheard of and profits from selling caffeinated beverages boomed. However, much like with tobacco, we begin to see dissent among certain members of society against this “new threat” and attempts to control its use began to originate. Coffee was only sold within certain areas and in certain shops, usually alongside other intoxicants in a pub or saloon style setting. Due in part to this, a vocal minority began to preach the “evils” of tea and coffee use. Consequently, attempts at establishing laws and punishment for those who associated themselves with the use of caffeine bloomed. For instance, in 17<sup>th</sup> century France there was a short-lived attempt to flog anyone who bought or sold tea in certain provinces of that country (Courtwright, 2001b). Although the backlash to caffeine was not as pronounced as the one for tobacco, it still demonstrates this incessant need to make laws to control the use and users of certain intoxicants.

These are but two examples of different commodities that, in general, are well ingrained into our society and are accepted, if not used, by many of us. Yet, when they began to first be widely used by a visible minority of people in European society, those in power sought to denounce this use and demonize the users. Indeed, one would be hard pressed to find many people in our contemporary society who would claim that indulging in tobacco, coffee, or tea is “evil”. Although these substances eventually became mainstays of European

societies, North American culture has also reflected this drug cycle at various points in history.

## **1.2 “New World” Attempts at Controlling “Old World” Demons**

North American culture has shared similarities with the experiences of Europe over the past 150 years. Attempts to control the altering of consciousness are often founded on fears of the lower or foreign classes use of certain substances and that this use will spread to the majority of society in the form of a social plague. There are also similarities in that these fears are often based on a Western notion of morality or religion, and were often seized upon by those in authority to control the masses and to politicize the matter to be used in issues of power and knowledge. In North American society, opium became the first focal point of this backlash against recreational drug use and was then expanded to include other substances like cocaine and marijuana.<sup>3</sup>

Many people do not realize the criminalization of recreational drug use is a recent social and legal construction in North America. Canada established the first federal level anti-opium regulations less than one hundred years ago in 1908. The drug cycle is clearly evident with the passage of the 1908 *Act to Prohibit the Importation, Manufacture and Sale of Opium for other than Medical Purpose*.<sup>4</sup> The historical evidence overwhelmingly supports a view of law creation

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<sup>3</sup> Although alcohol was intrinsically related to prohibitions and control mechanisms during this period, alcohol is not commonly associated with “drug use” in contemporary discourse; hence the term “drugs *and* alcohol.” Prohibitive measures against alcohol will be mentioned in brief throughout this thesis; however, my research is primarily concerned with the international control origins of illicit drugs and it would be beyond the limited scope of my thesis to present a history of control for all types of intoxicants.

<sup>4</sup> Hereafter referred to as *The 1908 Opium Act*.

based upon racial biases and the political opportunity for Mackenzie King to “get some good” out of the anti-Asiatic riots that took place in Vancouver, B.C. in 1907 (Boyd, 1984, 1998; Green, 1979; Solomon and Madison, 1976-77). Soon after, the United States passed similar anti-opium and narcotics legislation and then took the illicit drug issue to an entirely different level than any other country in the world.

Although the slogan “war on drugs” has been used since the Nixon administration of the 1970s, the United States has had a long and sordid history with drug use, and policies attempting to control it. This history has its roots in the latter part of the 18<sup>th</sup> century. It began with the widespread use of opium in home remedies and over-the-counter patent medicines, followed by the discovery of morphine, cocaine, heroin and hypodermic needles (Inciardi, 1999: 3). By 1905 there were more than 28,000 pharmaceuticals containing psychoactive drugs (Young, 1961: 15). These substances were readily available throughout the nation, as well as most of North America.<sup>5</sup> The products were sold in an unrestricted manner by “physicians, over-the-counter from apothecaries, grocers, postmasters, and printers, from the tailgates of medicine show wagons as they traveled throughout rural and urban America, and through the mail by newspaper advertisements and catalog sales” (Ibid: 19-23).

There is no denying that the United States has taken the lead role in defining the international drug question and has promulgated a strict prohibitive stance against the non-medical use of drugs at a global level. Within previous research, the Harrison Narcotics Act of 1914 is often referred to as a critical

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<sup>5</sup> See Green (1979) for insight into Canada’s experience with patent medicine.



moment in drug control history as it set the stage for federal prohibition of non-medical narcotic use in the U.S., which, in turn, has affected international policy.<sup>6</sup> Since the passage of the Harrison Narcotics Act, which is seen as the antecedent of the current drug policies in the United States, federal policies on drug use and control have taken many forms. At first, supply-and-demand reduction strategies, which were grounded in the classic deterrence model, were employed (Inciardi, 1999). The ideas behind this approach centered on the notion that through legislation and criminal penalties individuals would be discouraged from using drugs. It was thought that by making examples out of traffickers, the government could force potential dealers to seek out other “legitimate” economic pursuits. In time, other components were added, such as treatment for the user, education and prevention for the potential user, as well as research to determine how best to develop and implement plans for enforcement, treatment, education and prevention.

By the early 1970s, the “war” to control drug use and distribution appeared to be winning few, if any, battles. This led to new strategies aimed at further reducing the supply and demand of narcotics (Ibid). Coast Guard, Customs and Drug Enforcement Administration operatives were charged with intercepting drug shipments coming into the United States from foreign ports. At the international level, the United States Government proactively sought to eradicate drug-yielding crops at their source. These initiatives also included crop substitution programs

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<sup>6</sup> See Inciardi (1999) and Musto (1999) for a more detailed discussion of the Harrison Act. Also refer to Brecher, et al. (1972), Clark (1976) and King (1972) for examples of work that treat the Harrison Act of 1914 as the critical starting point of contemporary narcotics control, as opposed to the Shanghai Commission of 1909.

and training of Latin American military groups to fight the drug war on their local soil. However, these strategies seemed to have little effect and illicit drug use continued to spread.

By the late 1980s and early 90s, it had been decided by many observers that the more than 75 years of federal prohibition which came into effect with the passage of the Harrison Act were “not only a costly and abject failure, but a totally doomed effort as well” (Ibid: 12). It was argued that drug policy approaches and enforcement had served mainly to create enormous profits for drug dealers and traffickers, overcrowd jails and prisons and add to police and other government corruption. Additionally, it was argued that these policies created a distorted foreign policy and predatory street crime committed by drug abusers in search of funds, as well as increasing gang related violence, as different factions sought to control the black market centered around narcotics (cited in Inciardi, 1999: 14). With trillions of dollars spent and hundreds of thousands of people incarcerated on a global scale since its inception, and with the U.S. leading a United Nations effort promising a drug free 21<sup>st</sup> century by 2008,<sup>7</sup> critical questions pertaining to the legitimacy and effectiveness of fighting this “war” are abundant.

The debate about drug control policy, at both national and international levels, has been carried into the 21<sup>st</sup> century. Most of the discourse emanating from these debates falls into one of two categories; those who cling to a strict

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<sup>7</sup> The initiative to stamp out recreational narcotic use is outlined in several policies contained in the United Nations International Drug Control Programme, whose tenets fall under the international law focus of the U.N. Also see Jones (2001: 203-208) and Musto (2002b: 200-25) for more comments pertaining to the “drug-free world” promise made by the head of the UNIDCP, Pino Alacchi.

punitive model of deterrence and those who argue for drug regulation and/or decriminalization. However, are these our only alternatives? Perhaps we have been debating the same questions since the turn of the 20<sup>th</sup> century. In order to understand our current views on the drug control issue, particularly at the international level, we must look to our past. We must understand this contemporary “war on drugs” is not specific to North America, nor did it begin in the conservative political environment that characterized the United States during the early 1970s and into the 80s.

More importantly, we must also realize this was not the first time the U.S. attempted to spearhead a global effort to contain the manufacture and distribution of illicit drugs. This modern-day declaration of “war” on certain types of intoxicants eerily mirrors events which took place at the turn of the twentieth century when the United States government called together the leaders and diplomats of twelve other nations in an effort to stamp out the perceived evil of opium smoking. This was problematic for numerous reasons, as the trade and consumption of drugs, particularly opium, had been an integral part of the global economy for at least two centuries prior to this historical meeting.

In 1909, an international commission assembled in Shanghai to discuss the effects that the unregulated use of opium had on the nations that were represented. This event was sponsored by the United States in hopes of developing international policy that would prohibit the manufacture and sale of opiates for non-medical purposes. Although it was ultimately decided this initial meeting of delegates could not make binding policies, it directly led to a number

of international conventions in the following years. The most important of these convened at The Hague in 1911, 1913, and 1914. It was at these conventions where a number of nation-states ratified international policy attempting to control both the manufacture and trade of opiates and instituted various laws in an attempt to control the recreational use of opium and its derivatives, as well as other substances, such as cocaine and cannabis.

However, the success of these three follow-up conventions overwhelmingly hinged upon the resolutions and precedents set at Shanghai in 1909. Many of the nations that came to represent themselves within this policy formation process simply did not want to address the narcotics issue on an international platform, based on the moral and prohibitive notions stemming from the United States. The 1914 Harrison Narcotics Act in the U.S., which was nothing more than a federal level enactment of the treaty provisions ratified at the first Hague International Opium Convention, would not have been established in the manner in which it was, had it not been for the successful penetration of the international policy sphere in 1909. In the preamble of this historic 1911 meeting, where for the first time in history nations had officially sanctioned treaty powers to create and invoke a system of international narcotics controls that represented binding agreements between all nations in attendance, the very first paragraph after listing the states which signed the convention reads: "...Désirant marquer un pas de plus dans la voie ouverte par la Commission internationale de Shanghai

de 1909..."<sup>8</sup>. As such, the Shanghai International Opium Commission of 1909 should be viewed as the starting point for global narcotics control. Thus, understanding the processes which allowed for the success of the 1909 commission becomes crucial in any research that wishes to address issues related to contemporary drug policy, as this was the true genesis of international narcotics control that has since influenced and shaped national control strategies for both Canada and the United States.

By examining the policies set forth at this historical meeting, particularly the documents pertaining to the build-up and culmination of the initial Shanghai Commission in 1909, this research will attempt to shed light upon our current global drug war by tracing its social and political roots. We cannot fully understand the social dilemma of non-medical drug use unless we ask the right questions. In order to do this, it is essential to understand how this issue has been politically and socially framed since its inception in 1909.

By examining historical documents stemming from the formative period of international narcotics control, in conjunction with seminal pieces of literature that have been produced by other scholars, a descriptive account can be derived that provides an intellectual foundation from which further analysis can take place. Specifically, the work of Lowes (1966) provides a testable hypothesis as to why this genesis of international control was successful. However, as will be shown, use of these documents and subsequent pieces of literature are only able to

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<sup>8</sup> Translated to English: "...wishing (or intending) to step forward along the path opened by the Shanghai 1909 International Commission..."; Report of the International Opium Convention at The Hague, 1911-1912, Vol. I, Records of the Department of State, U.S.A., Preliminary Inventories # 76, Entry 34.

grant a partial explanation as to the genesis of this particular type of public policy construction. In an attempt to address the grey areas within our understanding, after the significance of Lowes (1966) has been empirically established, this thesis will interpret the historical data and descriptions by use of an original theoretical triangulation technique. A core tenet of this theoretical “trialectic” is an established agenda-setting model of policy formation developed by Kingdon (2003). However, Kingdon’s model was not originally intended to be used as a way to analyze policy formation from a historical point of view. Thus, an elaboration upon this model by use of two other established social and criminological theories creates a more holistic perspective and appreciation of these historical roots. It is my hope that this trialectical adaptation of existing political and social theories will provide a unique way of addressing the illicit drug question at both national and international levels.

### **1.3 Overview of Chapters**

The following chapter will present the methods and methodologies used by others and myself in relation to the procurement and analysis of the historical data. Prior to further scrutiny, I feel that it is important for the reader to get a sense of the nature and scope of this and other previous works dealing with the initiation of international narcotics control. It begins by addressing the works of Lowes (1966), Taylor (1969) and Musto (1999)<sup>9</sup>, who wrote the first three widely accepted scholarly accounts of this subject. These three seminal pieces of

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<sup>9</sup> Musto’s work was originally published in 1973, with subsequent editions being published in 1987 and 1999. My research primarily draws upon the 1999, or 3<sup>rd</sup> edition of this work.

literature acted as “signposts” for my own research and provided me with a template from which I could then go and gather my own data. The thesis moves on to examine in detail the methodology used in order to produce this piece of work. The chapter concludes by addressing the limitations, both inherent and imposed, of my approach.

Chapter three discusses the competing explanations offered by various scholars in relation to the formation of narcotics policy from an empirical level of understanding. In order to make sense of these competing explanations, I begin by an analysis of the hypothesis presented by Lowes (1966: 190-1).<sup>10</sup> Out of the primary exemplars consulted for this thesis, the work of Lowes offers the only attempt at providing a tangible and testable hypothesis based upon what he describes as the essential “contributory factors” that lead to the formation of international narcotics control. An empirical test of this hypothesis will then be conducted by using the work of other seminal authors in this field, as well as historical documents gathered from archival sources within the U.S.

Once the validity of Lowes (1966) has been established, it will become apparent that although a rich descriptive account of the genesis of international narcotics control exists, the literature lacks a detailed theoretical foundation. This renders our understanding of these events incomplete from a scholarly point of view. The discussion in chapter four will attempt to illuminate these blind spots through an analysis of the data which draws upon relevant sociological, criminological and political science based theories that are “grounded” in the

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<sup>10</sup> See p.58 f47 of this thesis for justification relating to this method.

historical record.<sup>11</sup> These theories are then formulated into what I describe as a “theoretical trialectic”. By conducting an analytical test of the data in this manner, I hope to offer the reader with an easily digestible way of examining the complexities behind some of the procedural elements of anti-narcotics policy, as well as offering other scholars a piece of literature that provides an inductive, hypothesis-generating model which can act as a springboard for future research and knowledge creation. By using the two tests presented in chapters three and four, a more holistic understanding of these historical events is achieved.

Once the basis of this story has been established at both levels of analysis and the adapted theoretical models have been presented and scrutinized, chapter five concludes this thesis by reflecting upon the notion of the “trialectic” and how it contributes to our understanding of the formation of global narcotics control. The concluding chapter also discusses the social and political impacts the genesis of narcotics control has had upon on current drug control strategies, as well as presenting further avenues from which future research can be predicated and expanded.

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<sup>11</sup> See Strauss and Corbin (1998) for a detailed examination of the “grounded theory approach.”



## **CHAPTER 2: METHODS AND METHODOLOGY**

Before I orientate my work within the literature that surrounds drug and policy issues, it is important to familiarize one's self with common empirical notions of how data have been collected by others within this field of inquiry, as well as the analytical elements of my own methodology that informs this thesis. To begin, a focus on how information was gathered by other seminal authors and myself will be examined and considered. The three exemplars presented are important to reflect on, as they provided me with a qualitative roadmap that was used to guide and contextualize my research. This will be followed by a review of the analytical notions and processes that informed my personal journey within this area of research. The discussion will conclude by examining the limitations of my approach and my attempts to minimize the impact on the research process.

### **2.1 Empirical Methods and Data Collection**

My research utilizes unobtrusive measures<sup>12</sup> and draws its source from what social researchers Strauss and Corbin (1998: 36) would describe as a "suggested or assigned research problem." Neil Boyd, Professor of Criminology at Simon Fraser University, collected an initial forty-two historical documents in

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<sup>12</sup> The term "unobtrusive measures" is often associated with the work of Eugene J. Webb and his colleagues in their 1966 work entitled *Unobtrusive Measures: Nonreactive Research in the Social Sciences*.

the summer of 1997 from the Library of Congress's Manuscripts Division in Washington D.C., the United States National Archives at College Park, Maryland and the British National Archives located in London, U.K. These documents range in length from a single paragraph to 172 pages and were originally composed in the period of 1890 to 1920. The data highlight events and discussions centred on the International Opium Commission of 1909 at Shanghai, as well as containing two documents that pertain to follow up conferences held in The Hague in 1911, 1913 and 1914. Professor Boyd collected these documents to further his own research pertaining to the control of narcotics. However, he was unable to analyze the documents in the years that followed. I was provided these documents after meeting Professor Boyd via a graduate course in the fall of 2002.

Initially, an "open coding" technique was applied to Boyd's data in order to familiarize myself with its content and relevance (Ibid: 101-123). Described as the "analytic process through which concepts are identified and their properties and dimensions are discovered in data," this stage contains an important introductory procedure known as "conceptual ordering" (Ibid: 19; 101-2). The data were first sorted into three categories: documents originating from the U.S., documents originating from the U.K. and a miscellaneous category that includes a document pertaining to the Netherlands and two documents of unknown origin.

The data were further refined within these three discrete categories by sorting the documents chronologically and then colour coding the documents based on their type. Yellow labels were used for documents that represented

personal correspondence; green labels were used to denote “official” documents, such as congressional records, and a green/yellow combination was used to denote documents that were a mixture of the two.<sup>13</sup> This method allowed me to visualize the breadth of the original documents and it became apparent that the majority of the documents were either of personal or governmental origins.

Next, I attempted to ascribe meaning to the entire documents themselves by following suggestions by Strauss and Corbin (1998: 120). By asking questions, such as, “what is going on here?” and “what makes this document the same as, or different from, the previous ones that I coded?” I attempted to find common patterns of themes within the documents, as well as establishing basic differences. These insights were transformed into notes, which were kept in the margins of the documents and in my journal.

Prior to receiving my data from Professor Boyd, I had been keeping a journal of my thoughts and ideas pertaining to my future thesis work for several months. This journal not only acted as a medium in which I could write down my thoughts and my research findings, but also acted as a quasi-self interview by allowing me to reflect upon my own ideas. This process allowed me to examine and incorporate my own personal experience that I brought into the research, which, in turn, provided a deeper level of understanding of my data and research findings.

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<sup>13</sup> For example, one of the yellow/green combination documents was issued by the British Crown to its delegates at the 1909 Shanghai Commission, which contains two volumes. The first volume is entitled “Correspondence Relevant to the 1909 Shanghai Opium Commission” which contains several personal correspondences between Cecil Smith and members of the American delegation, as well correspondences with Theodore Roosevelt. The second volume is entitled “Instructions to the Delegates of the 1909 Shanghai Commission” which contains the official instructions to the British delegation as constructed by the British Crown and Parliament.

Because of a lack of chronological rhythm in the data, I often felt as if I was attempting to construct a puzzle that was missing most of its pieces. This caused me to turn my focus to the 1909 Shanghai Opium Report<sup>14</sup> that was generated at the first international meeting. I began to code each individual session by asking similar questions to those mentioned previously in an attempt to garner basic understandings of the tone and progression of the commission. Basic research questions began to emerge, such as “who spoke and how often, and what nation did these speakers represent?” or “whose ideas were represented within the commission’s final resolutions and why?” However, due to my novice experience within this area of inquiry, as well as the need to contextualize the Boyd documents within their specific historical setting, the need for secondary sources became apparent.

In order to reach a more complete understanding of what took place at the 1909 commission, by filling in the gaps of my own data, as well as providing a forum in which I could compare my findings to those of fellow academics, a series of technical literature<sup>15</sup> was examined and used as secondary sources of information. Following suggestions from Boyd, as well as using a keyword search of the Simon Fraser University’s library collection catalogue and the Web of Science journal database, the works of Arnold H. Taylor (1969) and David F. Musto (1999) surfaced. These studies provided me with two somewhat different

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<sup>14</sup> *Report of the International Opium Commission, Shanghai, China, February 1 to February 26, 1909. Vol. I: Report of the Proceedings. Vol. II: Report of the Delegations.* National Archives at College Park, Maryland. Record Group 43. Hereafter *Shanghai Report*.

<sup>15</sup> Strauss and Corbin (1998: 35) define technical literature as “reports of research studies and theoretical or philosophical papers characteristic of professional and disciplinary writing that can serve as background materials against which one compares findings from actual data.”

and very descriptive accounts of not only the 1909 commission, but of the complex social and political setting which both preceded and followed this initial international meeting that addressed the opium issue. By examining the scholarly chain of information used within these two texts, the work of Lowes (1966) seemed an important reference point for both Taylor and Musto. The technical literature was used to sensitize myself to meanings found within my own data, as well as discrepancies that exist in the current literature that pertain to the Shanghai Commission. Before I began my own analysis, I conducted a cursory literature review centred on the social-historical context that surrounded the 1909 commission.<sup>16</sup> This process also reaffirmed the need to gather more information on Charles H. Brent, who is often described by other researchers as a pivotal figure in the genesis of international narcotics control (see Taylor (1969), Musto (1999), and Giffen et al. (1991)).

At this point in my research, I felt a definite need to test empirically<sup>17</sup> these secondary interpretations offered within the various pieces of scholarly work, as opposed to relying solely upon validation by other authors. I also felt compelled to gather more data in hopes of filling in some of the chronological gaps between documents. As a necessary element to conducting this empirical test of the literature, it was important to examine the sources and methods used by the other seminal authors in this field.

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<sup>16</sup> Although this examination of the existing technical literature helped interpret my data, it is important to question the effect that this review had on my actual findings. Although a conscious effort was made to distance other researchers' perceptions of what took place at the commission from my own, it is impossible to completely forget what was read prior to the analyses. Although not necessarily a negative issue, it must be stated that these other researchers definitely had some role in the way I perceived what took place in and around the 1909 meeting.

<sup>17</sup> Inspired by a personal conversation with Professor N. Boyd.

Published in 1966, Peter D. Lowes's book *The Genesis of International Narcotics Control* is arguably<sup>18</sup> the first published scholarly text that delves into this area. This work entails a comprehensive empirical review of the historical events that lead not only to the Harrison Narcotics Act of 1914, but to the true beginnings of international control that took place in Geneva in 1920 when the League of Nations was instituted. Prior to his study, much of the research in the 1960s on narcotics control was concerned with events that took place after World War I (Lowes 1966: ix). Lowes began his work by collecting data from archives located in Geneva, due to the substantive amount of international narcotics treaties and organizational bodies that had their starts there. In addition, Geneva continued to be the meeting ground for many of these groups on an annual basis.

Next, enquiries into the thirteen governments that were represented at the Shanghai commission of 1909 were conducted. It soon became apparent that the bulk of relevant documentation was located in London and Washington D.C. (Ibid). Accordingly, these are the national capitals for two of what Lowes dubs the "Big Three"<sup>19</sup> governments which took the lead in the formation of international narcotics control during this pre-WWI period.

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<sup>18</sup> According to Lowes (1966: xi-xii) "the final preliminary was to establish that the subject had not been treated before. Accordingly, I checked and rechecked by cross-references, all the headings under which any earlier study on the subject might have been listed. In addition, I asked the elder statesmen who had been active in the field in the days of the League, and I also made enquiries at The Hague. These various enquiries revealed nothing more than the interwar studies of the current problem to which allusion has already been made, and a series of pre-World War I works dealing with the opium in China and the Indian-Chinese opium trade. None of these approached the problem from an international viewpoint. It seemed that a study of the genesis of international narcotics control had not yet been made."

<sup>19</sup> China was the third power with a high degree of involvement during this formative period that took place prior to WWI.

In London, Lowes collected data accessed from the Public Records office and consulted Hansards that went back to the 1830s, as well as relevant issues of the London Times newspaper (Ibid). In Washington, data were collected at both the National Archives and the library of the Federal Bureau of Narcotics (Ibid). With this large collection of information, Lowes was able to provide a very thorough description of the events that transpired at the conferences and conventions held at Shanghai and The Hague, as well the events that transpired prior to the initial meeting in 1909.

Three years after Lowes's work, Taylor (1969) published a similar piece of work that analyzed the historical data from a more pronounced American perspective. Although Taylor (1969) does take an international approach in his work, he was more concerned with the particular role the United States played in these formative years of narcotics control. Akin to the collection methods used by Lowes (1966), the primary data sources consulted for Taylor's inquiry were State Department Records, primarily from the years of 1909-1939 and the records of the Bureau of Insular Affairs for the years 1899 to 1939 (Taylor 1969: 339). At the time, both of these record types were held in the U.S. national archives In Washington D.C.<sup>20</sup> Additionally, the papers of Bishop Charles H. Brent held at the manuscript division of the Library of Congress were a primary source (Ibid). Other sources include public documents from Great Britain<sup>21</sup> and documents held at the League of Nations library in Geneva. Finally, a considerable amount of

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<sup>20</sup> It should be noted that since Taylor's (1969) study, the Department of State records are now held at the National Archives II in College Park, Maryland.

<sup>21</sup> Primarily Parliamentary papers.

material in the form of books, articles, newspapers and unpublished Ph.D. dissertations were consulted (Ibid).

The third piece of literature in what I would argue has been the “Big Three”<sup>22</sup> in terms of scope and use within other publications and studies in this research area, stems from the work of another American scholar. Arguably, one of the most cited authors within the contemporary literature is David F. Musto, and in particular his book *The American Disease: Origins of Narcotics Control*. Although Musto’s collection method is very similar to the approaches used by Lowes (1966) and Taylor (1969), his work primarily draws upon sources only from within the United States. Aside from the data collected at the National Archives in Washington D.C. and College Park, Maryland, the archives of the American Medical Association, the Library of the American Pharmaceutical Association, the Library of the Bureau of Narcotics and Dangerous Drugs, the Wellcome Institute of History of Medicine and the Yale Medical, Medical-Historical and Sterling Memorial Libraries just to name a few, were also consulted.

Supplemental to Taylor (1969), Musto’s (1999) work primarily focuses on the American experience with narcotics and how this lead to an involvement, and arguably a “take over” of the international aspects of the problem. In other words, it is a study of how the domestic American problem was universalized and promulgated to the rest of the world by penetrating the international sphere. As will be discussed in the following chapter, the archival collection-based methods employed by these three pieces of literature, as well as the information contained

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<sup>22</sup> To use a term from Lowes (1969).



within them, proved invaluable in my own intellectual foray into this subject matter. It would also seem that many other scholars, some of whose work was relevant in my own research, have also used and expanded upon similar techniques of historical inquiry.

For example, Courtwright (2001a: xiii) draws upon a “synthesis” of information gathered from archival sources, particularly the files of the Bureau of Narcotics and its successor agencies within the U.S., as well as “tapp[ing]” and melding “many of the statistical and ethnographic studies that have appeared in the last 50 years.” Another seminal text, the comprehensive Canadian study presented by Giffen et al. (1991), draws solely upon previously published accounts that include the three exemplars presented here.<sup>23</sup> Thus, it would seem that the empirical method of drawing from the historical record using archival sources housed within the national capitols of various nations,<sup>24</sup> in combination with the use of scholarly pieces of literature as a collaborative and verification technique, is the chosen method for a majority of the descriptive historical accounts with this field of inquiry.

Therefore, in the Fall of 2003 using Musto's (1999) and Lowes's (1969) books as my archival tour guide, I visited The National Archives I & II at Washington D.C. and College Park, Maryland, as well as the Library of Congress's Manuscripts Division. Over two thousand pages of additional data

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<sup>23</sup> This is in regard to the disappointingly small section that seeks to explore the origins of Canadian narcotics prohibition at the turn of the 20<sup>th</sup> century in relation to the international control and anti-opium movements that were taking place.

<sup>24</sup> If Lowes (1969) was correct in his findings, then indeed, a majority of this data is held in Washington D.C. and London, as well as in Ottawa. I can personally attest to the substantial amount of data held at various archives throughout Washington.

were gathered and then examined over the course of the next two years, applying the open coding strategies discussed previously.

This “new” data collected and utilized for my research primarily fall in the nontechnical literature category as described by Strauss and Corbin (1998: 35)<sup>25</sup>. It consists of personal correspondence between the U.S. and Great Britain delegates with the political leaders of their home countries, personal correspondence between the delegates of these nations, Congressional records from the United States, microfilm containing copies of articles and correspondence retrieved from Hamilton Wright’s scrapbooks and the reports generated from the 1909 Shanghai commission, as well as The Hague conventions that closely followed. In all, my sources contain most of the dialogue that took place among the participants during the formative period of international narcotics control.

A majority of the personal correspondence was either composed by or addressed to the head of the American delegation, The Right Reverend Charles Henry Brent, as well as another member of the American delegation, the medical doctor turned diplomat, Hamilton Wright. From the British delegation, there are several personal letters composed by Sir Cecil Clementi Smith, who acted as the head of the British delegation at the Shanghai Commission of 1909, as well as several other letters containing correspondence between the British delegation members and the British Crown.

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<sup>25</sup> Strauss and Corbin (1998: 35) describe “nontechnical literature” as “biographies, diaries, documents, manuscripts, records, reports, catalogues, and other materials that can be used as primary data, to supplement interviews and field observations, or to stimulate thinking about properties and dimensions of concepts emerging from data.

However, despite the amount of personal correspondence that was collected, one of the primary pieces of literature utilized in my research is the official minutes of the 1909 Shanghai Commission. This document is contained within two volumes. The first volume contains a detailed account of the proceedings which lasted from February 1<sup>st</sup> to February 26<sup>th</sup>, 1909. The second volume contains the reports that were presented by the various nations represented at the commission. These reports outline the various control strategies employed in the countries, as well as their colonies or possessions in the Far East.

This document became one of my primary sources of data for two reasons. The first is that by deconstructing the events and discourse that emanate from the commission itself and then reconstructing the events within the specific historical setting in which the conference took place, a complex web of social and political relationships emerged. It then became possible to examine how compromise between various delegations shaped the final resolutions proposed by the commission. These final resolutions would set the tone for the conferences and conventions that followed and would provide the basis for the strict prohibitory stance that would soon characterize international narcotics control.

The second reason I chose the record of the 1909 commission as a primary focal point is that the document provides the most complete record of what occurred on a day-to-day basis at the 1909 commission.<sup>26</sup> Through a

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<sup>26</sup> Or at least the most complete account of the “front-stage behaviour” of the various delegates involved (See Goffman (1959) and his concept of the “dramaturgical model”).

contextualized and grounded approach, themes began to emerge from this document and it was as if I could actually sense the tension between some of the delegates as they strived to implement what they each felt was the proper course of action to take to deal with the narcotics issue.

## **2.2 Epistemological and Theoretical Underpinnings**

Apart from understanding the empirical methods employed in data collection, a need to reflect upon the basis of my own knowledge and its effects upon this research is important in granting further insight into my work. Thus, a journey into the analytical realm becomes necessary to complete the knowledge puzzle created within these pages. This journey hinges upon deconstructing the notions of epistemology and theory in relation to my thesis.

### **2.2.1 Epistemology**

Although often categorized as being apart from one another, the notions of epistemology and theory are not only inseparable, but also form the building blocks of knowledge generation and critical social research. As Harvey (1990: 1) contends, “methodology” is the result of the “interface” between the research methods employed, substantive theory and the epistemological underpinnings that guide the research. Although each of these concepts plays a distinct role in research, they do not exist in a vacuum. Instead, it is the effects each concept has upon the others, and how the other two concepts define and shape the third, which ultimately forms knowledge and research methodology. The primary

epistemology that informs my research is best described as a “postmodern way of knowing.”<sup>27</sup>

As described by social researchers Brent Slife and Richard Williams (1995: 77), “for postmodernists, the focus of attention shifts altogether from the mind to social processes. Traditional epistemologies [such as empiricism and rationalism] consider social processes to be derived from more basic individual principles, such as learning and cognitive process. Postmodern approaches, on the other hand, consider such individual principles to be derived from social processes, such as language use and interpersonal relationships.” More specifically, the postmodernist perspective known as “social constructionism” informs my research.

The constructionist perspective is mainly concerned with how people interpret and reify reality through the use of language and communication. This approach felt “natural” in relation to engaging with historically based subject matter such as mine, which relies heavily on written communications containing both personal and official discourse. As described by Slife and Williams (1995: 78) “social constructionists look for common forms of understanding, common “constructs,” or views of the world, that are created and shared by most people in a society.” A similar view is presented by criminologist Ted Palys (1997: 19) citing Schwandt (1994) who states “constructivists are deeply committed to the

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<sup>27</sup> Slife and Williams (1995: 77); Much like the rubric of “Marxism”, the use of the general term of “postmodern” or “postmodernism” has become problematic. Notions of what constitutes the “real” meaning of these terms has proliferated in so many different directions that it would take a volume of work to merely describe the various analytical perceptions and definitions of what is implied by use of this term. Thus, I have tried to be as specific as possible in relation to my use of terms like “postmodernism”.

view that what we take to be objective knowledge and truth is [actually] the result of perspective. Knowledge and truth are created, not discovered by mind.” This is not to say that reality does not exist outside of our “construction” of it, but instead the constructionist perspective ascertains that reality cannot be completely understood without questioning the meanings we attach to phenomena and objects, as well as examining the processes behind how these meanings are constructed within a specific socio-cultural context.<sup>28</sup>

Ultimately, one of my research goals was to deconstruct the “drug mythology” which colors our personal feelings towards drug use and those who use them. The notions that are often held by the general public are based on exaggerated images portrayed in anti-drug propaganda. This, in turn, is often translated into, or affects, general public policies. Often, these policies not only view drug use as an individual pathology, with no thought given to the social structures which are responsible for this form of social behavior, but are often so far removed from the actual needs and experiences of drug users that it would seem the only thing changing is a rise in the incarceration rates of these individuals. By examining a series of crucial events related to the construction of this mythology that took place in its formative period, I hope to provide a piece of research which goes beyond the common myths held by the general public by showing how the use of opium was not seen as a social “problem” until it began to be described or “constructed” as such by certain groups and individuals who held, or were vying for, positions of power within their particular societies. It is

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<sup>28</sup> Best (1995) and Loseke (1999) were vital to my understanding of the constructionist perspective in relation to social “problems”.

essential to understand how these early constructs were in part created and affected the views of “proper” drug use by various nation-states, as reflected within general public policies which have endured and continue to color our perceptions in the 21<sup>st</sup> century.

### **2.2.2 Theory**

Theory and knowledge are inseparable. We, as human actors, cannot holistically experience the world around us. “To hear and see ‘everything’ would overload our senses to the point that we would hear and see nothing” (Stark, 2001: 13). Since it is impossible to experience every aspect of the events that take place around us, we are forced to limit the scope of what we experience. In order to make sense of these bits and pieces of reality, we construct concepts. Concepts enable us to take the world apart and name the pieces according to generalized categories. These concepts form the building block of theory (ibid). While concepts help us to define a finite piece of reality, it is theory that helps us to understand how different concepts are related to each other. In other words, theories are statements or thoughts that express the relationship between events or phenomena we observe.

Through a process of trial and error, these relationships eventually become what we consider to be “common knowledge.” This has been a continuous process since the beginning of our species, with knowledge being disseminated down through the ages using oral and written accounts. By the same token, if a theory of relationship does not fit what we consider to be common knowledge, it will be readily dismissed and replaced with a different

construct that does not conflict with what we “know.” Theory and knowledge that are accepted build upon previous theory and knowledge and create an endless dialectic. This dialectical relationship can be visualized as a spiral, where knowledge is continually generated and refined without a definite beginning or end.

The knowledge generated in my research can also be visualized in this manner. Through a constant interplay and exchange between substantive theories, historical work developed by other scholars, my research notes and data, in conjunction with the historical record, I hope to develop a piece of research which can not only inform academics and policy-makers, but contributes to the state of “common knowledge”<sup>29</sup> about drug control issues. Another aim of my research is to develop theory and meaning that is “grounded” in my data that can provide a unique insight into what took place during these formative years of international narcotics control.<sup>30</sup>

In the beginning stages of my research, two theoretical concepts were represented in my data on numerous occasions. These theoretical concepts guided my inquiry into my data, as well as providing an aid that helped enhance my understanding of the events that took place at and around the 1909 Shanghai Commission. A brief analytical foray into the basics tenets of these concepts

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<sup>29</sup> In this case, perhaps “drug mythology” may be more appropriate. A fallacy that we all seem to overlook is to assume that something is “common knowledge,” which is often associated with “truth.” We, as a society, must make a conscious effort to actively question our taken-for-granted meanings of words and experience by engaging in a dynamic process of self-reflection and ask ourselves questions such as “who benefits from this state of knowledge?” and “who claims this knowledge is ‘true’ and why?” Ultimately, we need to understand the role that social construction plays in controlling and limiting our perceptions of experience.

<sup>30</sup> See Strauss and Corbin (1998) and Kirby and McKenna (1989) for two examples of how to develop a “grounded theory” approach to research.



follows; a more detailed examination of each in relation to my historical data follows in chapter four of this thesis.

### **2.2.2.1 The Pluralist Conflict Approach**

The first approach considered falls under the rubric of a pluralist conflict model of law creation. This model rejects the notion that laws are created by a system that is tightly controlled by a small group of power elite that reside at the top of the social hierarchy. Instead, as sociologist Ronald Akers (2000: 171) writes, “[the pluralist conflict model] is characterized as a decentralized, ‘loosely coupled’ system into which multiple elites and competing groups interject their influence, but which responds to institutional, economic, and political changes...[this model] applies to democratic societies in which competing interest groups attempt to uphold their values through the legislature and government.” For example, by using the resolutions that were unanimously agreed upon at the 1909 commission as a starting point,<sup>31</sup> then deconstructing them into individual events which lead to their construction, it becomes apparent that some were a product of compromise between the various delegations involved. A few of the resolutions had even caused open hostility between various delegations, as different members had opposing perspectives and ideologies that each felt should take the forefront in “solving” the opium question.

However, there are limitations to this approach. For example, the theory is limited in the level of detail it provides pertaining to those individuals involved in the law or policy creation process and it does not address the effects language

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<sup>31</sup> See Appendix (A).

and meaning play in the law creation process. It seems limited in its ability to answer certain aspects of “why”-type questions, such as “why are certain laws created and others denied?” It would be a folly to think that all laws are created to only benefit the ruling classes of society and some would argue that instead it is perhaps more accurate to say that laws are created to uphold and maintain the capitalist system as a whole (e.g. Chambliss and Seidman, 1982).

#### **2.2.2.2 Becker’s Moral Crusader Model**

Another theoretical perspective that initially helped glean meaning and knowledge from my data stems from the research of sociologist Howard S. Becker and his 1963 work *Outsiders: Studies in the Sociology of Deviance*. Specifically, Becker’s (1963: 147) concept of the “moral crusader” provided a model which helped to make sense of the actions of some of the delegates to 1909 commission. This model expands upon the pluralist conflict perspective by providing a different level of analyses of how law and policy are created by addressing the behaviours of some individuals and groups within the policy-making arena.

Becker describes the moral crusader in the following manner:

The prototype of the rule creator, but not the only variety...is the crusading reformer. He is interested in the content of rules. The existing rules do not satisfy him because there is some evil which profoundly disturbs him. He feels that nothing can be right in the world until rules are made to correct it. He operates with an absolute ethic; what he sees is truly and totally evil with no qualification...The Crusader is fervent and righteous, often self-righteous...It is appropriate to think of reformers as crusaders because they typically believe that their mission is a holy one.

It is important to keep in mind that while Becker's model offers the "moral crusader" as an ideal type, there is a large variety of other individuals and groups of moral entrepreneurs who do not reach the level of "crusaders". As described by Einstadter and Henry (1995: 210) "legislators, lobbyists, interest groups, political action committees, and other powerful blocks who either create laws or suggest that various behaviors be criminalized or not, all fall within [this] category. Advocates of [Becker's] perspective stress that successful moral entrepreneurs are those who have the social power to have their version of morality imposed on the rest [of society]."

Becker's model fits the behavior of many individuals and groups that played vital roles in the creation of international narcotics control. This is particularly true of the discourse emanating from the head of the American delegation to the 1909 commission, Charles H. Brent; the language seems to reflect the traits of a moral crusader.<sup>32</sup>

The notion that the most successful moral crusaders carry with them the social power to enact, or at the very least, get their idea's tabled as official policy agenda, caused me to reexamine the theoretical backcloth of my research. Although both of the two previous theoretical concepts seemed to emerge from my data, neither addressed the political process to any great degree. In other words, while these two theories were useful for building an analytical foundation, they are limited in offering holistic explanations pertaining to an actual process of prohibitional development of narcotics at the international or national level. Thus,

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<sup>32</sup> Although he did not have the religious fervour of Brent, the other prominent American Delegate, Hamilton Wright, also seems to demonstrate some of the traits of the moral crusader. This model also seems to support the enactment of opium regulations in Canada as well (see Green 1979).

the need to further investigate the events that lead to the successful genesis of international narcotics control at another level of abstraction seemed appropriate. Literature based in political science and criminology, specifically research related to policy and policy creation, becomes indispensable in this regard.

### **2.2.2.3 Policy as a Social Construction**

Policy is the result of a dynamic social process. According to Dye (1976: 1), public policy is simply “what governments chose to do or not to do.” Howlett and Ramesh (1995: 4) support the notion that public policy results “from decisions made by governments and that decisions by governments to do nothing are just as much policy as decisions to do something.” The decisions made by policymakers take place within a system that is influenced by social forces from within the governmental apparatus, as well as external forces such as lobbyists, academics and the general public. The system in which policy is developed involves a dynamic process often referred to as “the policy cycle”.

The policy cycle conceptualizes the policy process by attempting to deconstruct the abstract notion of “public policy” into distinct stages or phases. Although there appears to be many versions of the policy cycle and its stages, the common model used today consists of five stages (Jones, 2001: 23). This model is composed of agenda setting, policy formulation, decision-making, policy implementation and policy evaluation (Ibid).

In relation to these five stages, Jones (Ibid) contends that:

Agenda setting is the process by which problems come to the attention of government. Formulation is the process by which

options are formulated within government. Decision-making is the process by which government adopts a particular course of action or non-action. Implementation refers to the process by which governments put policies into effect and evaluation is the process by which the results of policies are monitored.

The policy cycle model facilitates an understanding of public policy-making, aids in theory building, and permits examination of the role of all actors and institutions in the policy process. Nonetheless, the cycle should not be misinterpreted as proceeding systematically or linearly, but rather as constantly evolving.

Thus, as changes occur in the social problem sphere, the policies directed at alleviating these problems are in constant flux.

It is essential to understand that people define and construct social issues such as drug use as problems. Often what is currently considered an important social problem is truly not the gravest situation we, as a collective, are faced with.<sup>33</sup> A competition is created as different factions of society give attention to specific problems. At any given moment, there is a myriad of perceived “problems” vying for the attention of government officials and policy-makers, so that a “solution” may be created.<sup>34</sup> Within this competition, a social problem economy is born as various groups seek support from various governmental agencies in order to legitimize their solutions to the problem. Thus, it is critical to

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<sup>33</sup> See Best (1995) and Loseke (1999) for very well written and comprehensive examinations of the typification and construction of social “problems”.

<sup>34</sup> I use quotes here to draw attention to these two terms “problem” and “solution.” By defining a social issue as a “problem”, the notion of a “solution” logically follows. However, with public policy, and in particular drug policy, we must ask ourselves if there is a solution, at least in the sense of eradicating the problem entirely. There is a myriad of research that traces the use of drugs by humans that stretches back to prehistoric times. In essence, drug use has been a part of human culture since its creation. It is essential that academics and policy-makers alike are conscious of the social aspects that define what is or ought to be a “problem”. Policy makers must ask themselves “who is defining this issue as a problem?”, as well as “who is benefiting from finding a solution to the problem?” In addition, we must be aware of the possibility that there may be no final “solution”. Once this becomes realized, new ideas can be assessed in order to find a more just and efficient way to deal with the recreational drug use issue, as well as those issues that pertain to persons with high rates of use or abuse.

examine the process by which policy-makers decide what social problems will receive their attention. This process occurs at the first stage of the policy cycle, that of “agenda setting”.

#### **2.2.2.3.1 Kingdon’s Agenda Setting Model**

This thesis uses an agenda-setting model that was developed through a detailed analysis of the policy creation procedures used within the federal government of the United States. Although the data collected by Kingdon (2003) is specific to the United States, the basic tenets of the model lend themselves to my analysis of the formation of international drug control, particularly due to the leading role that was played by the U.S. in initiating their formation. Kingdon (2003: 3) defines agenda as “the list of subjects or problems to which governmental officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time.” Kingdon (Ibid) maintains, “out of the set of all conceivable subjects or problems to which officials could be paying attention, they do in fact seriously attend to some rather than others. So the agenda-setting process narrows this set of conceivable subjects to the set that actually becomes the focus of attention [and that] although much is known about how governmental issues are disposed [of], very little is known about how these issues come to be on the governmental agendas in the first place.” In order to reach this understanding, a basic distinction between peoples and processes must be examined.

Kingdon (Ibid) ascribes various degrees of influence to policy-making actors who work both within and outside of the governmental sphere. Participants

within the governmental sphere were found to hold the most sway when determining which social or political issues should be pushed forward on the governmental agenda. Within this group of inter-governmental participants, Kingdon (Ibid: 21-30; 42) notes that “the administration” seems able to push agenda forward with more success than actors on Capitol Hill, specifically Congressional members and their staff.

Kingdon (Ibid) describes “the administration” as one of, or a combination of, three actors: the president himself, the Executive Office staffers responsible to the president and the political appointees in departments who are directly responsible to the president. These actors operate within a top-down power hierarchy, with the president at the top as the most influential actor, who exercises his power through his staff, who in turn seeks to control the actions of the political appointees. Part of the administration’s power, particularly the president’s resources, resides in their ability to veto, hire and fire staff and appointees and the capacity to directly publicize and appeal to fellow partisans, particularly to those “on the Hill” (Ibid: 27).

Members of Congress are also essential in the agenda setting process and play a role in determining alternative ways to implement or coordinate policy ideas once an issue has reached the agenda stage. However, it should be noted that although both the administration and congress are seen as central elements in setting agendas or specifying alternatives, Kingdon (Ibid: 43) found that no single group could be said as “dominating” the policy generating arena because “no single group or individual body dominates these processes.” However, to the

extent that anybody is important, it is elected officials, particularly members of the administration and their appointees, who are seen at the top of policy pyramid (Ibid).

Actors working outside of the formal governmental structure include interest groups, researchers, academics and consultants with interests in the political arena, as well as the mass media, parties and other elections-related actors and the general public (Kingdon, 2003).<sup>35</sup> Of these, the work of interest groups was found to be most important in affecting governmental agenda (Ibid). Kingdon (Ibid: 9; 68) also found that perceptions of a "national mood" do affect agendas, but act "more as a constraint on what is possible than as a promoter of a particular item." Often this notion of a "national mood" is reflected within societies' most prominent pressure groups and media. Kingdon (Ibid) found both mass and specialized media to be less important in directly affecting policy than is generally thought because of its primary focus on reporting events, rather than a proactive approach to political influence. However, the media indirectly affects public opinion, which affects politicians, who then initiate or influence agenda and the processes behind it.

The participants of the policy community described above operate within a constructed social system. Kingdon (2003: 84) describes the processes innate to this system as an elaboration of the "Garbage Can Model of Organizational

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<sup>35</sup> It should be noted that this distinction between actors "inside" and "outside" of the government is used as a conceptual tool and should not be thought of a simple dichotomy. As with a vast majority of social interactions and relationships, the process is fluid and reflexive. For example, many individuals could be associated with both spheres because of lobbying or research efforts. However, Kingdon (2003: 45) stresses the fact that those "inside" government entertain a formal position of authority granted by the statutes of the Constitution, which those "outside" do not. This authority also implies a higher standard of accountability and the rules that accompany it, of which some "outside" may not have to adhere.



Choice” which was initially developed to help better understand organizations dubbed “organized anarchies”.<sup>36</sup> Flowing through these organized anarchies are four separate “streams”: problems, solutions, participants and choice opportunities (Ibid: 85). Each stream is seen as following its own path, mostly independent from the others. Kingdon (Ibid), in reference to the Cohen-March-Olsen model explains:

As a choice opportunity (e.g. the selection of a dean) floats by in the organization (e.g. a university), various participants, each with their own resources become involved. Various problems (e.g. maintaining scholarly quality, curriculum improvement, affirmative action) are introduced into the choice and various solutions (e.g. inside candidates for a deanship, outside candidates, expanding the unit, abolishing the unit) may be considered...a choice opportunity thus is a garbage can into which various kinds of problems and solutions are dumped by participants as they are generated. The mix of garbage in a single can depends on the mix of cans available, on the labels attached to the alternative cans, on what garbage is currently being produced and on the speed with which garbage is collected and removed from the scene. The outcomes, then, are a function of the mix of garbage (problems, solutions, participants, and participants’ resources) in the can and how it is processed...the logical structure [inherent] in such a model is (1) the flow of fairly separate streams through the system, and (2) outcomes heavily dependent on the coupling of the streams----couplings of solutions to problems; interactions among participants; the fortuitous or purposeful absence of solutions, problems, or participants----in the choices (the garbage cans) that must be made.

Keeping in step with this line of thought, Kingdon applied a modified version of the garbage can model to the federal government of the United States. Kingdon (Ibid: 87) observed three “families of processes” involved with setting federal agenda: problems, policies and politics. Refining these notions further,

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<sup>36</sup> See Michael Cohen, James March and Johan Olsen, “A Garbage Can Model of Organizational Choice,” *Administrative Science Quarterly* 17 (March 1972): 1-25, as cited in Kingdon (2003: 84 f12). Hereafter “the Cohen-March-Olsen model.” From an academic standpoint, it is interesting to note that (or perhaps groan at) the empirical referent initially used was university systems.

Kingdon (Ibid) describes the three separate and mostly independent “streams” imbedded within the federal government as “problem recognition”, “the formation and refining of policy proposals within the ‘policy primeval soup’” and “politics” or the political stream.

The essence of the problem recognition stream<sup>37</sup> is understanding how certain items are classified as “problems” from among the large list of potential issues that could prompt government action.<sup>38</sup> Kingdon (Ibid: 90-115; 113) acknowledges some primary mechanisms that bring problems to officials’ attention, namely “indicators” and “focusing events”.

Indicators are systematic tools used to assess both the magnitude of and changes within a specific social issue. Such indicators are abundant in the political arena as both governmental and nongovernmental agencies regularly monitor various activities and events. For example, highway deaths and disease rates are but two of a large myriad of social statistics that various agencies examine and issue reports about on a regular basis (Ibid). In addition, at any given time various studies by researchers and academics are taking place that focus on specific issues and may suggest changes in a problem area that warrants political attention.

Policy participants do not primarily use indicators to determine whether a particular problem exists, as such determination is a matter of interpretation. This interpretation “of the facts” or statistics can have profound effects on the agenda setting process, as different actors will interpret and define the data in

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<sup>37</sup> Or “political dumpster diving” as I like to term it in reference to the garbage can model.

<sup>38</sup> See p.39 f33 of this thesis for my reasoning behind placing the word problem within quotes.

different ways. In the case of “drug facts”, it is not uncommon for data to be either exaggerated or consciously limited in scope at best and outright false and contrived at worse. Thus, it becomes increasingly important to determine who conducted the research, the methodology behind the work and what the ultimate goals of such efforts are.

Because of the nature of indicators and their reliance on interpretation to determine whether an issue should be further scrutinized or not, often times a “focusing event” is needed to give an issue additional momentum in the policy arena. As Kingdon (Ibid: 94-5) describes it:

Problems are often not self-evident by the indicators. They need a little push to get the attention of people in and around government. That push is sometimes provided by a focusing event like a crisis of disaster that comes along to call attention to the problem, a powerful symbol that catches on, or the personal experience of a policy maker.

By themselves, these types of focusing events are seen as rarely projecting an item to the top of the agenda priority ladder and need to reinforce a pre-existing perception of a potential problem (Ibid: 100).

The essence of the second stream that affects agenda setting is understanding how proposals are generated, debated, refined and then either rejected or accepted by members of the policy community. Kingdon (2003: 143) explains this as “the process in which a large number of possible policy initiatives is narrowed to a short list of proposals that are seriously considered.” This process takes place within policy communities comprised of specialists in any given policy area that work both through and outside of government. Within these communities, policy ideas and proposals are floated around between members

on both formal and informal platforms. For example, specialists can “try out” their ideas on others by publishing articles, drafting proposals, holding hearings or by simply taking someone out to lunch (Ibid: 116).

The process of generating proposals and alternatives to these is described as akin to the biological process of natural selection. Kingdon (Ibid: 116-7) expresses this process as:

Much as molecules floated around in what biologists call the “primeval soup” before life came into being, so ideas float around in these communities. Many ideas are possible, much as many molecules would be possible. Ideas become prominent and then fade. There is a long process of “softening up”: ideas are floated, bills introduced, speeches made; proposals are drafted, then amended in response to reaction and floated again. Ideas confront one another (much as molecules bumped into one another) and combine with one another in various ways. The “soup” changes not only through the appearance of wholly new elements, but even more by the recombination of previously existing elements. While many ideas float around in this policy primeval soup, the ones that last, as in a natural selection system, meet some criteria. Some ideas survive and prosper; some proposals are taken more seriously than others.

Some of the criteria for survival or “tests” that ideas and proposals have to overcome include the value acceptability of the item by specialists, the initiatives’ ability to anticipate future constraints such as public acquiescence and the items ability to mutate or combine with other proposals if the initial momentum fails (Ibid: 131-2; 138). If an item can overcome these and other tests, the chance to be short listed, or pushed to the front of political attention, is increased.

Kingdon (Ibid: 122) describes some of the key actors who seriously attempt to push their own ideas forward as “policy entrepreneurs”.<sup>39</sup> These

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<sup>39</sup> This can be seen as supplemental to Becker’s (1963) “moral entrepreneur” notion. Also, see pp. 35-7 of this thesis.

entrepreneurs come from a range of backgrounds within the policy community and can be found both inside and outside of the governmental sphere. Therefore, it is just as viable that a specific entrepreneur may be an elected official or a member of an interest or research group. Akin to a business entrepreneur, the policy entrepreneur is defined by their “willingness to invest their resources---time, energy, reputation, and sometimes money---in hope of a future return. That return might come to them in the form of policies of which they approve, satisfaction from participation, or even personal aggrandizement in the form of job security or career promotion” (Ibid). Other incentives for advocacy can include the promotion of personal interests or values and others are “policy groupies” who participate because they simply enjoy advocacy, or being near the seat of power or action (Ibid: 123).

Flowing independently of the problem and policy stream is Kingdon’s notion of “the political stream”.<sup>40</sup> Kingdon (2003: 145) employs a narrow definition of the word “politics” in this context to mean items related or relating to “electoral, partisan, or pressure group factors.” Thus, the political stream includes such things as perceived public mood, pressure group campaigns, election results and changes of administration (Ibid).

Perceptions of the public, or national, mood affect governmental agendas by promoting items that seem congruent with the mood and by limiting or inhibiting attention to those that do not. Politicians and other policy participants

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<sup>40</sup> Although the term “independently” is used in relation to Kingdon’s three policy streams, he alerts us to be aware that this does not entail exclusivity and that some elements or participants can be found engaging with or affecting more than one stream at any given moment. As stated on p.42 f34 of this thesis, these are merely conceptual categories and a certain degree of social fluidity must be expected.

“believe they can sense both a national mood and changes in that mood” (Ibid: 162). This sense stems from various types of communications such as mail, newspaper coverage, conversations with constituents and visits with other people or specialists outside of the governmental sphere.

The importance of interest group campaigns was discussed previously.<sup>41</sup> In addition to this, and rudimentary to understanding their relation to the political stream, is the extent to which interest group forces are organized or fragmented within the policy community. Thus, if important persons in and around government perceive solidarity among interest groups and other organized forces, whose views and ideas all seem to coincide, the political environment in and of itself provides a powerful impetus to move policy in the same direction. However, if the prominent interests groups within a specific policy area seem fragmented, or conflicts arise, then practitioners are left with a value judgment on how best to achieve equilibrium between these vying forces.

A third component that comprises the political stream stems from forces within the government itself. For example, issues like election results and changes in administration can drastically change the policy landscape. On the other hand, political turnover in central governmental agencies can also maintain momentum if the partisan or ideological outlooks of those newly elected is similar in scope to their predecessors.

Within the larger scheme of things, the political stream acts as a key promoter or inhibitor of high agenda status being granted to particular items (Ibid: 163). When considering the short list of potential agenda items, important people

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<sup>41</sup> See pp. 41-2 above.

in and around government not only judge whether the political equilibrium is shifting in a specific direction, but also must assess whether or not the general public would even tolerate further action being pursued by those in power.

In order for potential agenda issues to effectively navigate the bureaucratic maelstrom of the government, there must be a successful merging or 'coupling' of the three independent streams. Solutions wait to attach themselves to potential problems and both are joined to favourable political forces. Kingdon (2003: 194) sees this joining of the streams as "most likely when a policy window---an opportunity to push pet proposals or one's conceptions of problems---is open." Policy windows are opened by the manifestation of compelling problems or by specific happenings within the political stream (Ibid). Policy entrepreneurs play a critical role in this process.

Policy entrepreneurs are often responsible for coupling the streams by keeping their pet proposal ready and wait for one of two things to occur: a problem floats by in the "soup" to which their solution could be attached, or a development in the political stream, such as a change in the administration, provides a high degree of receptivity for their proposals (Ibid). Policy windows close very quickly, therefore the entrepreneur must be able to take swift action, or risk having to wait an indefinite period of time for another window to open.

Once potential agenda issues have the momentum of the joined streams pushing them ahead, more likely than not, they will be enacted into public policy in some form or another. Thus, the coupling of the three streams creates an agenda "package" instead of just an individual idea or proposal that is left

simmering within the primeval soup. These agenda packages are appealing to those in positions of power within the policy community and an attractive package is much more likely to attract “serious attention” by those in and around government.<sup>42</sup>

Now that the basic tenets of the Cohen-March-Olsen “garbage can” model and Kingdon’s (2003) elaborations have been touched upon, and our previous discussion pertaining to the validity of the work done by Lowes (1966), Taylor (1969) and Musto (1999) has been verified by examination of primary documents and other pieces of secondary literature, a convergence of these explanations pertaining to the historical genesis of international narcotics control and the origins of public policy can aid in a richer understanding of the events that transpired nearly one hundred years ago. By enriching our knowledge of the past in this manner, a fresh and perhaps unique way of investigating the true roots of our current “drug war” can be constructed. However, before further discussion can ensue, it is important to address the limits of my research approach and my attempts to minimize their impact on this work.

### **2.3 Empirical and Theoretical Limitations**

Before proceeding further, I feel that it is important to note the limitations of my data in its current form and how I have sought to minimize these. The first issue is that someone else initially collected my data. Thus, the initial data reflects what Professor N. Boyd thought would be important to examine and is not necessarily the same data that I would have collected for my own research. However, by

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<sup>42</sup> Refer back to Kingdon’s definition of agenda on p. 40 of this thesis.



personally returning to some of the archival sources for a second time, I was able to not only refine what was available to be analyzed, but was able to increase the amount of general data to be considered.

Another limitation of my data is selectivity or “selective survival” (Ajzenstadt 1992: 28). My data in its current form omits written accounts of members of marginalized groups and individuals who did not have access to printed documents or who were not directly involved in the opium issue at the governmental level. For example, I currently have no firsthand accounts relating how the majority of Chinese citizens viewed the opium issue in China, or the accounts of those members at the governmental level who opposed the commission or its findings from a non-Western point of view.<sup>43</sup> Also, it is important to question why the historical documents contained within my data survived, while others undoubtedly did not. For example the documents pertaining to Charles H. Brent were kept by his family for many years after his death and were then donated to the Library of Congress. Consequently, several different family members handled the documents before being made public. Therefore, it is very possible that some of the documents were lost, destroyed or damaged.

A third issue to consider deals with reliability. The majority of the discourse contained in my data could be considered “second-order constructions.” As cited by Ajzenstadt (1992: 29) these second-order constructions are “other people’s construction of what they and their compatriots are up to and might not be

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<sup>43</sup> This is also true for the Pilipino peoples that found themselves suddenly under the colonial stewardship of the United States at the end of the Spanish-American War, who instigated a radical new way of dealing with non-medical opium use in their country.

identical to the observations of individuals who did not engage in these campaigns.” As stated above, a majority of my data contains the personal perceptions of Charles Brent, Hamilton Wright and Cecil Smith. These men are describing what they saw or experienced in their own words. Also, many of the reports that were generated outside of the 1909 commission were based on a Western interpretation of how life was in the Far East. Thus, we must question whether or not the discourse contained in my data has been filtered through an ethnocentric lens.

As previously mentioned, one last point to consider is that China was a major focal point of the commission, yet I have limited data emanating from this country. The first volume of the 1909 commission’s report goes into some detail about the information which the Chinese delegation presented, but I have no actual discourse constructed by these delegates, nor was I able to utilize secondary literature written by Chinese scholars which pertains to the 1909 meeting.<sup>44</sup>

Despite these limitations, the information gathered and presented in this thesis is still very useful to academics and others in the policy community. Aside from the methods discussed above, other collaborative techniques were used to minimize these flaws inherent within my research. By first empirically testing hypotheses generated by Lowes (1966), through use of other pieces of literature, as well as my own foray into the historical record, common themes and perceptions were validated. Once this validation was complete, it was possible to

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<sup>44</sup> An active search is currently ongoing for this type of information. In lieu of this, works such as Walker (1991) were examined that attempt a construction of these events from a Chinese perspective, albeit written by an American.

form other research questions, such as “given the descriptive information present, how was it possible for these events to become successful from a theoretical point of view?” This was accomplished through a triangulation of theories that are grounded in my data. Thus, despite the inherent problems with examining second-hand accounts and historical data in general, the negative effects of this approach were minimized and a useable piece of knowledge was generated.

Now that the methods employed and methodology that produced this thesis have been discussed, chapter three begins the first of two tests used to analyze the historical genesis of narcotics control. This empirical test of Lowes (1966) will provide the foundation for further scrutiny at the analytical level of understanding.

## **CHAPTER 3: COMPETING EXPLANATIONS**

The genesis of international narcotics control is a very complex issue. It involves diplomatic endeavours by various countries, the successful penetration of the political sphere by special interest groups and specific individuals, a dynamic and expanding international policy environment, as well as a dialectical relationship between the policies promulgated at the international level and the national issues stemming from the United States, who assumed leadership of the global narcotics control movement.

In an attempt to reach a greater level of understanding about this complex issue, some conceptual signposts help to inform this process. By using the work of Peter D. Lowes as a starting point and then conducting an empirical test of his hypothesis that draws upon a review of primary documents, as well as some of the other seminal pieces of literature on the subject, the foundation for this understanding will be laid. However, explanations put forth by Lowes and other noteworthy contributors often stem from an atheoretical approach, hence our understanding of this issue will seem limited to a certain degree. To rectify this situation, after the significance of Lowe's findings has been established, the following chapter will attempt to bridge this gap by analyzing the historical evidence through several contemporary theoretical lenses that emerged from the data; namely, the notions of a pluralist conflict model of law creation, the

typification of the “moral entrepreneur” and an agenda setting model developed by Kingdon (2003) can be used to make sense of these complexities. In addition, this approach contributes to the establishment of contemporary criminological and sociological relevance of an event that transpired nearly a hundred years ago.

### **3.1 The Basis of the Empirical Test: Using Lowes as a Starting Point of Reference**

Peter D. Lowes conducted the first published research into the genesis of international narcotics control in 1966, a mere 40 years ago. Lowes conducted an exhaustive review of the historical record<sup>45</sup> in an attempt to illuminate the root causes of what was then present-day international narcotics control and of the institutions charged with overseeing the duties involved with this. Lowes (1966) discovered the events that took place in Shanghai in 1909, as well as the follow-up conventions at The Hague in the years that closely followed, were neither unique nor groundbreaking, but were instead seemingly “inevitable”, given the specific social and political climate of the times.

The “spirit of internationalism” that characterized the 19<sup>th</sup> and early 20<sup>th</sup> century certainly did not start with the Shanghai conference. The meetings that took place to address the international narcotic question evolved in a time when there was already a spirit of international co-operation on many levels. Organizations had been formed such as the International Telecommunications Union and the Universal Postal Union, the second of the two Hague peace

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<sup>45</sup> Discussed in Chapter 2 of this thesis.

conferences had recently been held and many other “non-governmental meetings were in a full flood expansion” (Lowes, 1966: 2).

Lowes (Ibid) contends that the essence of the anti-opium movement was analogous to many other social movements taking place in and around this same time period, which included concern with white slave traffic, temperance and quarantine issues to name a few. However, out of this myriad of *ad hoc* conferences and conventions that had been taking place, it appears that the emergence of an international policy to control narcotics shares the greatest similarities with the movement to curtail the African slave trade, which took place about a hundred years earlier.<sup>46</sup> Lowes (Ibid: 2-3) describes these similarities as taking place within a series of stages in that:

First, there was the recognition of a moral issue [to which solutions could be found only by international action]. Second, the dual pressure both from the “consuming” countries—in the case of slavery mainly the sugar and cotton growers across the Atlantic, in the case of opium mainly China—and from the “producing” areas—Africa for slavery and India for opium. Third there was an initial attack on the trade itself—trans-Atlantic slave-carrying, and the Indian-Chinese opium trade. Fourth, a concern for the victims of the problem, the abolitionist movement against slavery in the U.S.A. and a domestic interest in China in opium-smoking as a social vice. Lastly, there was in both cases a move against the “raw materials”, action *in situ* by the colonial powers, in Africa, and action against the natural narcotics—principally the opium poppy, the cannabis plant and the coca bush.

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<sup>46</sup> Although Lowe’s argument pertaining to the similarities of how these two movements unfolded on the international stage seems valid, a need to examine critically this notion remains. It should be said that the logic behind the two movements was considerably different. The anti-slavery movement was based on the notion that it is inherently wrong to violate a person’s inalienable human right to not be treated as a commodity owned by another person based on race or ethnicity. The anti-opium movement has its roots in a religious-based interpretation that it is morally wrong to seek enjoyment from various intoxicating substances for recreational purposes. The issue of subjugating another human being to the level of property based on race seems rather clear-cut in terms of “right” or “wrong”, or “just” and “unjust”. However, the issue of violating a specific cross-section of Western religions’ definitions of what constitutes “hedonistic” tendencies, and whether or not these are inherently “evil” in and of themselves, has proven to be rather problematic and continues to be debated to this day.

In addition, the way in which the problem was ultimately dealt with is strikingly familiar. Both the anti-slave movement and the anti-opium movement in their early stages had to be content with words. As Lowes (Ibid: 7) states “the resolutions of Shanghai in 1909 were certainly no less platitudinous nor more immediately effective than the expressions [dealing with slavery] voiced at Vienna in 1815 [and that] no time limits were set and no binding obligations entered into, just as was to be the case in the first international meeting condemnations of the abuse of opium and morphine, at Shanghai in 1909 and the Hague in 1912.”

Thus, both movements had to go through a series of international meetings in order secure any sort of binding agreements or policies that dealt with the particular “problem” each faced. With this in mind, Lowes emphasizes the importance of the first international meetings for these two movements, Vienna in 1815 for the anti-slavery movement and Shanghai in 1909 for the anti-opium movement, as they ultimately set the tone and laid the foundation for the conferences and congresses that were to follow. This is an alternative perspective from much of the current body of literature that confines these formative stages to a few paragraphs in the “introduction” section of the work and primarily only addresses issues and events that took place *after* the final ratification of the provisions set forth at the third Hague International Opium

Convention of 1914 and/or the enactment of the Harrison Narcotics Act in the United States.<sup>47</sup>

In alignment with this notion, Lowes (Ibid: 190-191) attempts to form an “estimate of the relative importance of the different factors” that ultimately led to this crucial “first-step” that took place at Shanghai in 1909.<sup>48</sup> Lowes (Ibid) hypothesises that in order for many of the international movements that were taking place during the 19<sup>th</sup> and early 20<sup>th</sup> century to become successful “there must be pressure groups; they must operate through influencing political power; and then there must be personalities to manipulate, even if they are unable completely to control, the movements.”<sup>49</sup> Although Lowes (Ibid) ranks these factors in “order of diminishing importance,” he is careful to point out that all were essential for the formation of international narcotics control.

According to The Lowes Hypothesis, the actions of pressure groups were the most important contributory factor as “these [groups] set the scene in which public opinion could be aroused and later translated into political pressure” (Ibid: 190). This aspect can be seen as containing two elements: the work of the Western missionaries and the work of the anti-opium societies. Of these two groups, the missionaries’ work was the earliest and most consistent. However

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<sup>47</sup> For example, see Brecher, et al. (1972), Clark (1976) and King (1972). See also p.9 note 5 of this thesis.

<sup>48</sup> It should be noted that my decision to use Lowes as a main empirical and theoretical referent, from which an empirical test of the literature and historical data can be accomplished, was done for several reasons: his was the first published account of the origins of narcotics control; the two most cited historical accounts of this era of control (Musto (1999) and Taylor (1969)) followed his style, methods and cite him on occasion; And most importantly, Lowes is the only researcher out of these three seminal authors who attempts an analysis of the data that offers a seemingly coherent and testable hypothesis (see Lowes, 1966: 190-8).

<sup>49</sup> Statement hereafter referred to as *The Lowes Hypothesis*.



their “effect was often dulled by overstating their case, and by the fact that their anti-opium sentiments came to be taken for granted almost as a badge of their calling,” whereas the pressures exerted by the anti-opium societies were more effective as “they represented a wider cross section of opinion and were able to draw on liberal sentiments throughout society” (Ibid: 190). Both of these pressure groups contributed to the success of the anti-opium movement by influencing “political forces,” which is described as the second most influential factor leading to the Shanghai Commission and the formation of international drug control policy.

Lowes (Ibid: 191) saw these political forces as a “political reflex of an aroused public conscience” and that:

in the beginning these [reflexes] were brought to bear upon the [opium] problem as Parliamentary opposition but their final expression was in executive action, principally by the British, Chinese, and United States Governments. However, with even the best of wills in the world no British Government, in the first decade of the twentieth century, was in a position to lead an international anti-narcotic crusade. This was a role for which America’s national temperament was better suited, and for which the acquisition of the Philippines [at the end of the Spanish-American War] gave her the opportunity.

Although these circumstances might have accounted for some of the original American initiative to take an active role in the anti-opium movement, Lowes (Ibid: 190) believes it was the “discovery of a grave and continuing national

problem of addiction”<sup>50</sup> that was ultimately responsible for “her continued enthusiasm.”

The third and least important contributory factor Lowes cites is “the personalities” (Ibid: 191). Although the importance of the moral, social and political work of certain individuals within the anti-narcotics movement cannot be understated, Lowes maintains that the individuals who rose to the top and came to be considered “experts” in this area were an inevitable by-product of the other two major factors, or as he puts it “some individuals to organize the movement were bound to come to the front” (Ibid: 191). For example, Lowes (Ibid: 107-110, 191) cites a specific letter written by Bishop Charles H. Brent to then President Theodore Roosevelt<sup>51</sup> as a crucial event that led to America taking a leading role in the international anti-narcotic movement. However, he is quick to point out that “even if there had been [no letter from Bishop Brent], it is hard to believe that the growing American domestic narcotic problem would have continued indefinitely

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<sup>50</sup> The historical record and prominent literature seem to suggest that this “discovery” did not just suddenly happen, but grew gradually over time and was the result of a culmination of various racial and culturally based fears and prejudices, combined with a relatively small, but visible minority of opium users that stretched across the social-class construct (e.g. from the poor Chinese labourer who smoked opium to the middle-to-upper class women who were “not allowed” to frequent pubs or saloons as their male counterparts were, so instead turned to the patent medicine industry as a means of altering their normal consciousness from the privacy of their own homes). It should also be noted that this “grave problem” was based on unfounded, uninformed and exaggerated data (i.e. Hamilton Wright’s preparatory “research” into the severity of the opium problem within each of the 50 states of America, where a vast majority of the states reported that either there was no large-scale problem, or that no apparatus existed to gauge the amount of use within the state (See Hamilton Wright Papers (hereafter *HWP*), Record Group 43, Entry 47, box 6)). This information was then transformed and disseminated to the international community as “proof” of an enormous problem in the U.S. and was cited as an impetus to engage in international action targeting the counties responsible for the production and distribution of opium abroad.

<sup>51</sup> Bishop Brent Papers (hereafter *BBP*), Bin 6, CHB to President Roosevelt, dated 24 July 1906. See also Appendix (B).

unnoticed<sup>52</sup>. Once American interest in international co-operation had been aroused, the United States would have inevitably become active in the development of the new movement.” Once again, Lowes (Ibid: 192) points out “this order of importance of the three main factors [of The Lowes Hypothesis] can be clearly paralleled in other [social] movements” that were taking place during this formative period of contemporary internationalism.

### **3.2 Analyses of the Lowes Hypothesis**

Subsequent pieces of literature seem to augment and support the hypothesis posited by Lowes. There is no denying that one of the defining characteristics of the 19<sup>th</sup> and early 20<sup>th</sup> century was the tendency to engage in international co-operation on a variety of subjects. Some researchers have defined this international consideration of “non-political questions”<sup>53</sup> as the *most* relevant feature of this internationalizing tendency as it relates to the anti-narcotics movement. For example, Taylor (1969: 339) maintains that this tendency:

represented an expansion of the subject matter of international relations and was marked by new types of participants in international affairs. Experts and specialists in technical and professional fields, government officials outside the foreign offices, and representatives of private interest groups and humanitarian organizations vied with the traditional diplomats in international negotiations, and sometimes replaced them.

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<sup>52</sup> In reference to this “growing problem” that was taking place within the US, research done by Courtwright (2001a) refutes this notion and claims that opiate and narcotic use in general, as well as heavy use by certain members of society were already in their decline many years prior to the era of criminalization.

<sup>53</sup> Drawing upon some of Taylor’s (1969: 339) examples of “non-political questions” that were being addressed during this era were “the slave trade and the traffic in women, obscene literature, liquor, and dangerous drugs.” Once again, see Lowes (1966: 2) for some more examples from the early 20<sup>th</sup> century that were being addressed in this manner.

Hence, the international backcloth for the global control of narcotics was ripe for prohibitory measures in reference to a myriad of subjects and precedence had been firmly established on how to proceed with addressment of these large-scale issues. There had also been a “changing of the guard” in terms of participants in these international events, as these questions were no longer only being addressed by nation-states and their diplomats (Ibid: 339-40). Thus, an environment conducive to the actions of pressure groups outside of the government sphere seems to have been created just by the very nature of the time period.

The work of pressure groups during this period of expanding international cooperation and their ability to influence political manoeuvres is also evident in other research interpretations of the historical record. Taylor (Ibid: 20-1) states:

the immediate sources to which the international antidrug campaign can be traced, however, were involved primarily with opium and kindred matters. Principal among these were the reform movement in China in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries; the anti-opium agitation in England; the concern of reformers in the United States with the prevalence of liquor, opium, and kindred vices among peoples in so-called pagan lands which were viewed as largely the results of the spread of Western civilization to those areas; and the discovery by the United States of an opium problem in the recently acquired Philippine Islands.

In relation to these immediate sources of the genesis of the international anti-drug campaign, Taylor (Ibid: 29) ascribes particular importance to the role that American missionaries played and that “it was the American missionaries in the Far East...who played the *greatest* part in inducing the United States to take

the lead in the [international] movement against the [opium] traffic.”<sup>54</sup> This was contrasted against the work of the other Western missionaries who had penetrated the Chinese culture during the 19<sup>th</sup> and early 20<sup>th</sup> century. According to Taylor (Ibid: 30), “the Americans...unlike the British missionaries...had no opposing vested interests competing for the support of the government and people at home. Therefore they were listened to.” Clearly, this alludes to the fact that the British crown was making an enormous profit from the Indo-Chinese opium trade, profit that they were unwilling to just suddenly abandon. Musto (1999) and Davenport-Hines (2001) also contend that Western Missionaries, particularly ones from the United States, played an important role within the anti-narcotics movement.

In addition to the view that missionaries and the anti-opium societies were monumental in providing a momentum to international control of narcotics, Musto (1999: 13-23) maintains that within the United States the fledgling organizations of the American Medical Association (AMA) and the American Pharmaceutical Association (APhA) provided additional lobbying pressures aimed at federal officials. The AMA, which today may seem “monolithic and powerful,” was at the turn of the 20<sup>th</sup> century a small, disjoint association vying for legitimacy and a larger membership base, as the vast majority of doctors refrained from membership (Ibid: 13). This legitimacy could be achieved with higher standards of training, as well as stricter controls at the federal level in regards to licensing and other controls related to the practice and distribution of medicine. The APhA

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<sup>54</sup> Italics added by author.

was also vying for legitimacy through federal recognition of standards and practices, as many wanted to proclaim themselves “professionals”, thus distancing themselves as far as possible from the “quacks” selling “snake-oils” door-to-door.

Aside from the predominantly moral-based social work of the pressure groups operating within this era, there was also a great deal of political and economic interest in pursuing a global ban on recreational narcotics use. Despite Taylor's (1969: 28-30) claims that the Americans had “no opposing vested interests” in relation to the Chinese opium trade like other European powers of this time, he alerts us to the fact that “it is impossible to gauge how far America's interest in China's opium problem constituted a part of the general American concern for the well-being of China.” Taylor (Ibid) goes on to suggest, “the United States desired a strong, stable, and prosperous China able to resist the incursions of foreign powers and providing opportunities for mutually profitable trade relations. This was the essence of the Open Door policy.” American diplomatic officials in China had stated on many occasions that opium was the most formidable barrier to achieving this, as it was “sapping the economic strength of China to the detriment of foreign trade” and that it was essential to suppress the opium trade in order to regenerate China, “not only economically, but politically and socially as well” (Ibid). This reflects Lowes (1966: 86) contention that, although the rhetoric to “save” China was fundamentally moral in nature, behind it remained the intention of casting a favourable light on opening

markets with the U.S., while at the same time casting a negative image of the “greedy” or “immoral” European powers.

Musto also discusses how a yearning by America to expand its markets overseas, specifically into China, was inherent within the notion of “saving” Her. According to Musto (1999: 24) “at the close of the 19<sup>th</sup> century, the Far East beckoned as a market for American investors. According to enthusiastic calculation, a pair of shoes sold to each Chinese would keep American shoe factories busy for years. American financial leaders coming out of the depression of 1893 believed that expanding markets were the key to future prosperity, blaming bad times on saturation of the home market.” Although China may have needed almost every good to be manufactured and imported, it was already “surrounded and intimidated by the great powers of Europe” (Ibid: 24). Understandably, these European powers did not want to share any profits with the United States that could be gained from the Chinese market, or any of the loan agreements they had with Her.

However, as Lowes (1966) and Taylor (1969) have previously pointed out, this was in direct opposition to the American concept of the Open Door policy that was so admired by President Theodore Roosevelt and Secretary of State John Hay. In particular, Hay “sought equal rights for all nations in the various treaty ports and spheres of interest and a guarantee of territorial integrity of the Chinese Empire” (Musto 1999: 24). It was not until America’s first experiment with imperialism, made possible by the acquisition of the Philippines at the close of the Spanish-American War in 1898, that a successful penetration into the

Chinese markets by the U.S. loomed on the horizon. As Musto (Ibid: 25) contends “the United States had in one stroke become a world power in the style of the European nations; an entrepreneur in the expanding market of the Far East.” The importance of gaining the Philippines as a colony cannot be overlooked and some researchers refer to this as perhaps the most crucial event within the process of global prohibition, as it not only provided legitimacy for the United States to voice their opinions on an international stage, but also brought the first Episcopal bishop of the Philippines, Charles H. Brent, into the picture (Davenport-Hines (2001: 154); see also Lowes (1966: 14; 82) and Taylor (1969: 31-7) in relation to the acquisitions of the Philippine Islands from Spain).

Bishop Brent arrived in the Philippines in 1901 and was immediately alarmed at the perceived “widespread” use of opiates by the indigenous population of the islands.<sup>55</sup> Brent would soon become intricately involved in not only the Philippine Commission, which had been assigned under the War Department to govern the islands, but with the international opium question as well.

Brent *vis-à-vis* the Philippine commission saw “America bringing to colonialism a new attitude and competence that would improve on English methods and on the laissez-faire style of the French administrators” (Musto, 1999: 26). Along with taking over possession of the Philippines, America also

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<sup>55</sup> It should be noted that cholera epidemic had ravaged the island just prior to Brent’s arrival. Opium was the primary, and perhaps only, remedy available to combat the pandemic. Therefore use of opium was most certainly not confined to only recreational smoking, but was used by most, if not all, of the inhabitants of the island who had to deal with this outbreak and certainly a vast majority of the use was for legitimate relief of illness related symptoms.



inherited a large population of Chinese opium smokers who resided on the islands. It was these opium smokers who provided the Islands' newly formed government with an early test of its moral intentions, as well as showing the rest of the world a "successful" way to deal with the opium question (Ibid). This method ultimately took the form of a strict prohibitionist stance on all non-medical opium use for all inhabitants of the Island, culminating in 1907.<sup>56</sup>

With the opium question in the Philippines seemingly solved, the American interests turned their attention to the Indian-Chinese trade. The belief, one which is still strongly held by the United States government in our contemporary "Drug War", was that controlling the crops and traffic in the producing countries would lead to the most effective way of limiting the substances in the United States and in this case, the Philippines (Musto 1999: 28; 2002: 186). However, to accomplish this would require worldwide agreement and, therefore, an international conference (Musto 2002: 186). These claims are reiterated by Musto (1999: 4) when he states:

although motivation for American initiative in the Chinese problem was a mixture of moral leadership, protection of U.S. domestic welfare, and a desire to soften up Chinese resistance to American financial investments, the United States was also led by the nature of the narcotics trade to seek control of international shipments of crude narcotics to manufacturing countries and thence to markets.

It was in this general context that another critical event within the genesis of international controls took place. In July of 1906, Bishop Brent wrote a letter to

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<sup>56</sup> However, as Musto (1999: 28) points out "as late as 1930 American investigators found that smoking opium was easily obtainable." Davenport-Hines (2001) and Trocki (1999) also voice the failures of this approach.

President Theodore Roosevelt<sup>57</sup> in which he “boldly” made the suggestion to “secure international action” in regards to the international opium question (Lowes (1966: 107-8); Musto (1999: 30); Taylor (1969: 37-8, 46). As mentioned previously, Lowes cited this as an important event, others, like Musto (A&E 2006), seem to interpret this as *the* critical moment in the genesis of international narcotics control, as without it there may have not have been the great levels of support from those in offices of power within the U.S. government.

In conjunction with the factors listed above, further credit is given to the moral entrepreneurship of another American delegate, Dr. Hamilton Wright M.D., who formed a crucial role as two of the three American delegates present at the Shanghai Commission of 1909 (Davenport-Hines 2001; Musto 1999; Taylor 1969).<sup>58</sup> Wright played a pivotal role in defining and exaggerating America’s “new drug problem”, even though, for several years prior to Wright’s involvement with the narcotics issue, there had been media accounts of the “cocaine crazed negros” of the south or of the opium smoking “yellow menace” that tainted the western states. Wright was able to legitimize these racist fears with his “official” research. Approximately six months prior to the Shanghai Commission of 1909, Wright “found it necessary to visit the larger centres of population to make a personal investigation of the opium question.”<sup>59</sup>

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<sup>57</sup> BBP, *supra* at note 50. See also: Letter from the Right Reverend Charles H. Brent. Printed on page vii of House Document 380, 68<sup>th</sup> Congress, First Session and Appendix (B).

<sup>58</sup> This is very much in alignment with Lowes’s category of “personalities” who played a role in this process.

<sup>59</sup> HWP, record group 43, E48, box 2: Letter from Hamilton Wright to E. Root, dated August 14, 1908.

Before this investigation, Wright had sent out a short questionnaire to state-level officials in law enforcement, corrections and university-level educational institutions for all 50 states. Despite Wright's hopes that he would indeed unmask a national drug epidemic, a vast majority of his questionnaires showed either low levels of use or non-applicable answers due to no means of measuring peoples' use.<sup>60</sup> "Owing to these inadequate responses,"<sup>61</sup> Wright set out to uncover the "true" nature and extent of the countries "problem". However, despite enormous "fatal flaws"<sup>62</sup> within his research, on February 5<sup>th</sup>, 1909, these findings were presented to the international community in order to show that America, much like China, had a national problem, and thus a legitimate interest in the results of the international meetings that were taking place. By doing so, Wright helped to reify non-existent or exaggerated data into "proof" that America was at great peril.

Brent and Wright's continued social work and successful navigation of the political sphere gave the necessary momentum to push for binding international policy that would ultimately take place at the final Hague Conference in 1914. It was the provisions set forth at this 1914 conference that would ultimately become binding international treaty obligations under the auspices of the League of Nations in 1920. However, without the initial commission at Shanghai in 1909, the success of the 1914 conference is undoubtedly in question.

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<sup>60</sup> HWP, record group 43, entry 47, box 6, also RG 43, E 48, Box 2: data pertaining to narcotics use for each of the 50 states. Data used to show extent of use within the U.S. at the Shanghai Opium Conference, 1909.

<sup>61</sup> HWP, *supra* at note 58.

<sup>62</sup> Term inspired by Dr. Robert Balch, Sociology, The University of Montana.

After reviewing the explanations put forth by Lowes and others, it becomes readily apparent that the emergence of international narcotics control is a multifaceted affair. The issue seems to represent a mixture of contributory factors, including a social and cultural emergence of an anti-narcotics movement in China, Great Britain and the United States. The desire by the American government to successfully penetrate the markets of the Far East and fill the vacuum being left by the diminishing influences of the greater European powers and Japan also contributed, as well as the successful navigation of the diplomatic and political spheres by a handful of personalities who came to the forefront of the anti-narcotics movement. However, there remains a need to expand these explanations at an analytical level. By way of contemporary theoretical notions with roots in sociology, political science and criminology, a greater degree of insight into the events surrounding these international meetings and the work done at them can be achieved.<sup>63</sup>

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<sup>63</sup> It should be noted that aside from Lowes's attempt to categorize and rank contributory factors in terms of importance to this issue of international controls, the other seminal pieces of literature do not state direct and testable hypothesis per-se. Instead, an effort must be made to interpret and "draw out" the theoretical notions that seem inherent within their explanations. Obviously, caution must be used when attempting this and my personal interpretations may differ from others who have reviewed these studies. Despite the innate issues with validity within this approach, useful and important knowledge can certainly be generated that can further our understanding of this formative period in history.

## **CHAPTER 4: CONFLICT, POLICY STREAMS AND MORAL ENTREPRENEURS: AN ANALYTICAL ANALYSIS**

Traditionally, exemplar texts from this area of policy inquiry are largely devoted to structured descriptions of events drawn from the historical record, or rely on a combination of investigations into the historical record supplemented by other scholarly research. Therefore, many of the primary pieces of literature offer an empirical interpretation of the historical events in and around the formative period of narcotics control. As presented in the previous chapter, the Lowes Hypothesis<sup>64</sup> is validated empirically by the work of other researchers, as well as by a direct analysis of archival sources. However, Lowes (1966) offers no apparent theoretical backing for his explanations. Thus, an analytical test of his hypothesis seems appropriate to not only complement and expand his own work, but the other well-known accounts of the genesis of international narcotics prohibition as well.<sup>65</sup>

By dissecting the historical and academic data by way of prominent theoretical models, an analysis of the Lowes Hypothesis at a second level of abstraction becomes possible. As will be discussed throughout this chapter, three theoretical propositions that are inherent within the data seem to complement each other through a process of triangulation; the limitations of one

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<sup>64</sup> Refer to p.58 of this thesis.

<sup>65</sup> Namely the popular works of Taylor (1969) and Musto (1999).

model are minimized by way of a second notion and in turn, a third perspective helps to alleviate the shortcomings of the second model, as well as using the idea's presented by the first. As a result, a "trialectic"<sup>66</sup> is formed in which the three primary theoretical stances balance each other through a dynamic intellectual ebb and flow. Thus, an analytical piece of scholarly knowledge can be generated and used to achieve a separate level of understanding than is presented within the exemplar texts that inform this area of inquiry.

#### **4.1 The Pluralist Conflict Approach**

At the heart of the social conflict perspective lies the notion that conflict, rather than consensus, is inherent within group activities and their relationship with society. "Power" within society represents the ultimate outcome of this conflict. Accordingly, the most powerful groups control the law, which is a reification, either directly or through competitive compromise, of their ideals, morals and ideology. "Conflict is viewed, therefore, as one of the principal and essential social processes upon which the continuing on-going society depends" (Vold, 1958: 204). It would logically follow then that it is in the interests of certain groups to gain access to various economic and political institutions, such as government or education, in order to exercise power and supremacy over other competing groups (Quinney, 1970: 35; Einstadter & Henry, 1995: 241-2).

As mentioned earlier,<sup>67</sup> the pluralist conflict approach rejects the notion that one, all-encompassing group of power elite are responsible for the formation

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<sup>66</sup> As opposed to the theoretical notion of a "dialectic".

<sup>67</sup> See p. 34-5 of this thesis.

of law and policy; rather, this construction happens within a system of competition and compromise among many groups within a given society. As Wright (1993: 145) asserts:

policies gradually emerge through a complex process of negotiation, bargaining, and compromise. Implemented policies seldom resemble the initial proposals of particular interests groups; rather, goals and solutions are twisted, amended, watered-down, combined and distorted, so that while most parties are appeased, few are fully satisfied.

Within this pluralistic competition, interests groups often attempt to mobilize the public consciousness in an effort to perpetuate their ideals and goals through official governmental actions. In general, the groups with the most power and resources, best organization, or the greatest numbers will be the “winners” of this competition. “Highly organized political pressure groups actively seek the protection of their values and interests by legislation and try to influence the actions of governmental officials and bureaucrats in administering the laws” (Akers, 2000: 171). These competing groups need not only exist as distinct, organized groups with headquarters, budgets and registered lobbyists, but can take the form of large-scale grassroots social movements (Ibid: 172). However, this is not to say that these grassroots resistance efforts are not backed or perpetuated by one or more political-action groups. As is the case with the genesis of international narcotics control, a merging of grassroots efforts to change societies’ views of non-medical narcotics use meshed with political ideals, which would then become reified through national policies that, in turn, would pave the way for the Shanghai Commission of 1909. These notions also

seem to strengthen the Lowes Hypothesis, in that the actions of pressure groups were paramount to the formation of international measures to control narcotics.

#### **4.1.1 “There Must Be Pressure Groups...”**

Although opium had been used by certain cultures for thousands of years, it was not until the mid-19<sup>th</sup> century that large-scale social movements began to actively seek its control. One of the major contributors to the anti-opium movement emerged in Great Britain in 1874, but the ideological framework that permeated the movement was soon transplanted to North America. (Giffen et al., 1991: 23; Lowes, 1966: 63). The Society for the Suppression of the Opium Trade<sup>68</sup>, which was originally founded under Quaker leadership, drew religious support from non-conformist and evangelical denominations, with missionaries playing a significant role (Ibid).

The Society started as grassroots resistance to the British government's legalization of the opium trade within China brought about by two so-called “opium wars” in 1839 and 1855. Researchers, such as Trocki (1999) and Davenport-Hines (2001), propose that the British Empire was built on the slave and drug trade, and without it, there would be no British Empire. For centuries the global trade of drugs, including teas, sugar and opium had been a primary source of income for the Crown (Courtwright, 2001b). During the 18<sup>th</sup> and 19<sup>th</sup> century, India was the crown jewel of the British Empire, as well as its main producer of opium. India's main market to export this opium was China, a culture

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<sup>68</sup> Hereafter *The Society*.



that had used opium for thousands of years, as well as a country that shared India's northern border.

Prior to the first opium war of 1839, the Chinese government had enacted several decrees in an attempt to stop the opium traffic imported from foreign countries, thus ridding itself of foreign control and decreasing the amount of domestic usage which had aggrandized as the surplus of British-Indian opium had grown (Trocki, 1999: 3). British-India was able to produce such a significant amount of the drug that China's attempts to cultivate the drug within its own borders, ergo allowing for internal control of its use, were undermined as the imported British-Indian opium was far cheaper to buy than the homegrown substance (Trocki, 1999: 20). This created a huge profit for the British crown. When the Chinese government attempted once again to stop the export of British-Indian opium in 1839, it resulted in the first of the two "opium wars". Giffen (et al., 1991: 24) contends that the reaction in Britain to their "government's apparently forcing opium on the Chinese for commercial reasons came from much the same moral sources as the earlier anti-slavery movement" and as a consequence, The Society was established.

Originally, The Society directed its efforts towards changing the attitudes of "influential elites in society," rather than creating a massive social movement (Giffen et al. (1991: 23-26)). However, The Society's publications found their way into the hands of the general public and soon the British-China opium controversy became a focus of public journals in which "anti-opium views were publicized among educated middle-class society as a whole" (Ibid). At its height

in 1891, The Society produced and distributed more than 40,000 tracts on a global basis (Ibid). The Society's main journal, the *Friend of China*, was the central means of communication for the anti-opium movement that had spread throughout the English-speaking world. In addition, members of the society wrote letters and articles for a myriad of newspapers, magazines and professional journals. Giffen (Ibid: 25) cites statements found in the first issue of *Friend of China* (March, 1875) which are revealing as to how the problem was being framed:

The distinguishing characteristic of opium among the stimulants is the terrible fascinating powers of the drug, whereby from small beginnings it soon holds its victims in a grip of adamant, and coerces him, not to bare continuance, but to a continual increase of a vicious habit...the opium pipe...becomes an imperative necessity, more indispensable than food or clothing...beyond all question the practice of opium smoking is a degrading and ruinous vice, unhappily greatly increasing in China.

Also during this time in Great Britain, we see the beginnings of a dialectical relationship between the discourse of the anti-opium movement and doctors advocating the medicalization of opium use. The moral discourse disseminated by the anti-opium movement was legitimized by the disease view of addiction, which had been espoused by many medical officials who were involved with the anti-opium movement. The most active of these physicians were a small group of medical practitioners who were developing addiction as a medical specialty.

Three main ideas became shared between these two groups of specialists and are still prominent in the contemporary narcotic control debates (Ibid). The first of these ideas is that opium use inevitably escalates into addiction and

continued moderate use is impossible. The second notion is that addiction is morally, as well as physically, debilitating. The third, and perhaps most relevant idea, is a fundamental distinction between medical and non-medical opium use. This dichotomy legitimizes ostensibly therapeutic use under medical control and makes unacceptable either self-medication or hedonistic use. The acceptance of this distinction has had far-reaching consequences for both national and international narcotics policy to this day. As Giffen (Ibid) states, “[the] arguments to support the ‘evilness’ of opium smoking are widely accepted ‘facts’ about opiates and their derivatives in modern times; i.e. opium cannot be consumed in moderation, addiction causes physical deterioration, mental damage, leads to crime [and] deviant behaviour and is worse than alcoholism.” This medical-moral crusade is partially responsible for the development of widely held “truths” about opium and would prove to be the antecedent to the beliefs held by the anti-opium movement which occurred in the United States and Canada at the turn of the 20<sup>th</sup> century.

Although there seems to be a specific population of North Americans who used opium on a regular basis at the turn of the 20<sup>th</sup> century<sup>69</sup>, which mainly

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<sup>69</sup> There is much debate surrounding the actual numbers of “addicts” in North America during this time. Musto (1999: 5) contends there were a “considerably large number of addicts”, numbering about 250,000 persons in the U.S. Courtwright (2001a: 9) argues that even after critically scrutinizing all data sources for this time period, there was never more than 313, 000 persons heavily using opiates on a day-to-day basis prior to 1914. The total population of the U.S. in 1900 was approximately 76, 094,000. This would mean that, even if we use the inflated number given by Courtwright for 1900 as opposed to 1914, only 0.004 % of the population was “addicted” to narcotics. In scientific terms, this percent could hardly be described as “considerably large” or “substantial”. Unfortunately, the Canadian statistics have proven to be more elusive and no coherent record seems to exist. However, it can be speculated that the total number of “addicts” could be no where near the U.S. numbers being as the total population of Canada in 1900-01 was approximately 5,371,000 million people compared to the 76,094,000 in the U.S. (Data taken from Statistics Canada: <http://www40.statcan.ca/101/cst01/demo03.htm>).

consisted of Caucasians, the primary focus of the anti-opium movement in the United States and Canada was aimed at either visible minority groups, or the nation of China. However, this is not to say there was a lack of attention directed at other users, particularly within the United States. Akin to the medical-moral discourse that arose from the anti-opium movement in Great Britain, the American experience contained a similar philosophy.

Medicine and pharmacy were still in the active stages of professional organization at the turn of the 20<sup>th</sup> century. Health professionals in these fields saw the anti-opium movement as a stepping-stone to legitimize their trade. At this time, the status of both pharmacists and physicians was less than desirable, as both suffered from weak licensing laws, meagre training requirements and a growing surplus of practitioners.

During the formative period of the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, the influence of the American Medical Association was weak and a vast majority of doctors refrained from membership (Musto, 1999: 13). The American Pharmaceutical Association was in a similar situation. Retail druggists were divided over the use of patent medicines. Groups who were making profits from the opiate-laced medicines saw the APhA as an enemy who threatened their business, while those who were embarrassed by such unrestricted practices viewed the APhA as a way to limit the amount of opium laced products to the general public. Members of the AMA and the APhA frowned on narcotic use for purposes other than medical and their leaders fought the patent medicine industry on both moral and self-interest grounds (Ibid: 15). Among the major

arguments presented by these two groups was that opium laced products were dangerous, self-medication had inherent risks and that the legitimate trade of these products should be taken out of the hands of the common, or “untrained,” druggist who made their own products. By adopting stricter laws and regulations aimed at the patent medicine industry, it was hoped these “untrained” druggists and physicians would be forced to join the two emerging organizations, in order to receive the “proper training.”<sup>70</sup>

Also during this time period, members of temperance leagues had taken on a major lobbyist role in their moral crusades against alcohol, gambling and prostitution. Opium and other narcotic use were seen as another “evil” that needed to be overcome. Thus, the call to limit the availability of these substances, for both medical and non-medical purposes, was successfully “piggybacked” onto the discourse directed at vice prohibition in general.

Groups such as the Women’s Christian Temperance Union and the Anti-Saloon League had been waging a campaign against alcohol for several decades prior to 1900. This movement had not only swept across the U.S., but members of this group played major roles in the genesis of alcohol regulations in Canada as well.<sup>71</sup> Often there was no distinction made by these groups between alcohol and “drugs”, and the “cures” for both were often the same. A large part of

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<sup>70</sup> It is important to understand that there were many views of how medicines should be used at this time, as well as their effects. The views of the AMA and the APhA were just two perspectives among many. Thus the term “untrained” does not necessarily mean a lack of experience, but rather a rubric used to describe those druggist and physicians who refused to conform to the ideology of the AMA and APhA. For a more detailed examination of the rise of both of these groups, please refer to Musto (1999: chp.1)

<sup>71</sup> See Ajzenstadt (1992) for a very detailed examination of how these groups helped to formulate the alcohol regulations in British Columbia. Also Musto (1999) and Courtwright (2001a) provide some insight into the groups’ effects on U.S. policy.

the discourse that emerged from this movement was directed at the members of the working class or minority groups, primarily Asians. Asian, and in particular Chinese, alcohol merchants were often described as “infecting” innocent Caucasians with the vices of alcohol and prostitution (Ajzenstadt, 1992). Opium smoking, a habit associated with Chinese immigrants, was seen as further proof of the immorality of the Chinese culture. Thus, the Chinese immigrant was portrayed as being so morally corrupt that no amount of missionary work, or “christianizing,” would save them. These views were further legitimized by the discourse promulgated by the emerging medical and pharmacy fields, in which the degenerative effects of opium use had been examined using science.

Aside from the grassroots and professional movements taking place within Great Britain and North America, another moral crusade was being launched on an international level at the turn of the 20<sup>th</sup> century. This crusade, carried out by missionaries in the Far East, did not see the Asian cultures as morally deficient. Instead they represented the view that the “savage” races had the capacity to learn morals and they were merely morally “unevolved.”<sup>72</sup> These “altruistic” missionaries viewed the “savage” races as needing protection and guidance, especially when it came to the white-man’s vices.<sup>73</sup> Since the native races who came into contact with Western society did not have the moral strength to resist

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<sup>72</sup> See Musto (1999), Taylor (1969) and Davenport-Hines (2001) for a more complete analysis of the roles that missionaries played in the genesis of international anti-opium policy.

<sup>73</sup> Research conducted by Ajzenstadt (1992) relates these ideas to a larger social movement, known as the Social Gospel Movement, which was taking place within North America and Great Britain during the later part of the 19<sup>th</sup> and into the 20<sup>th</sup> century. This social movement essentially saw the duty of church officials and members to take a proactive role in shaping politics and policy. They believed that every attempt should be made to shape the policies of the nation (and thus shape society as a whole) from a sound moral perspective. Of course this morality was shaped by strict Christian views.

these vices, it was the duty of all Christian people, as well as the governments of all “good Christian nations,” to take any steps necessary to prohibit substances, such as opium and alcohol, from reaching them. As mentioned previously<sup>74</sup>, Taylor (1969: 29) claims “it was the American missionaries in the Far East who played the greatest part in inducing the United States to take the lead in the movement against the traffic [of opium].” Taken as a whole, the activities of these pressure groups at both national and international levels prompted their home governments to take action based upon the moral-medical discourse. These pressure groups also created a political environment ripe with competition, and in some cases compromise, between various “solutions” to the narcotics control question.

As history unfolded, the overall effects of these social and political pressure groups culminated in the first international meeting to address narcotics control at Shanghai in 1909. At the end of this historical meeting, nine resolutions were passed.<sup>75</sup> Most of these final resolutions uphold the basic tenets of the pluralist conflict approach, in that the most enduring resolutions passed represented a compromise of ideals and solutions to the opium problem between Great Britain and America.

#### **4.1.2 The Shanghai Commission’s Resolutions Analysed**

At the close of the tenth session of the Shanghai Opium Commission of 1909, which was three weeks after the formal opening on February 1<sup>st</sup>, the most

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<sup>74</sup> See p. 63 of this thesis.

<sup>75</sup> See Appendix (A).

controversial and important tasks set before the commission began; the establishment of unanimous resolutions that were to symbolize the “high-water mark, up to date, on [the opium] question.”<sup>76</sup> However, even before the first delegation was to present its countries’ proposals on what the final resolutions should be, it was apparent that not only would unanimity prove to be difficult, but the only way to reach final agreements between various nations was through a process of compromise.

Despite Commission President Brent’s pleas that all delegations “demean [themselves] royally [and] with the recollection that [their] responsibility is ultimately not merely to...individual nations, but to the whole family of nations and to posterity,” that “in all probability in reaching...common ground we will have to traverse disputed territory.”<sup>77</sup> At the heart of this notion of “disputed territory” were the seemingly unyielding opium control philosophies of the United States and Great Britain.

Prior to the commission taking place, conflict had erupted between these two nations, primarily due to Great Britain expressing its concerns that it would be portrayed as an international drug pusher, holding the helpless Chinese in its vile grasp. There was also concern that the United States and other nations would tamper with, or attempt to modify, existing treaties that Britain had already established with China. These legitimate concerns aside, the conflict between these two major proponents of the international commission could be traced to a

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<sup>76</sup> Comments from Commission President C.H. Brent, Shanghai Report, *supra* at note 12, Vol. I, p.42.

<sup>77</sup> *Ibid.*



divergence in world-views about narcotic use that remains to this day: careful government sponsored regulation versus total and immediate prohibition.

From the very onset of correspondence leading up to the Shanghai Commission, the U.S. had expressed, in no uncertain terms, that total and immediate prohibition of all non-medical use was the most moral and responsible way to handle the narcotic question at both the national and international level. With the commission now in full swing, a chance to enter these views into an official record presented itself. The United States, under the heading of "America" was the first nation to present what it felt the final resolutions of the commission should be. As Dr. Hamilton Wright addressed the commission during the 11<sup>th</sup> session, it became readily apparent with the reading of the first American resolution that this was indeed true. The first American proposed resolution reads as follows:

That, whereas the reports submitted to the International Opium Commission by the Delegations present recognise that opium, its alkaloids, derivatives and preparations are, or should be, confined to legitimate medical practice.

Be it Resolved, therefore, that in the judgement of the international Opium Commission a uniform effort should be made by the countries represented at once or in the near future to confine the use of opium...to legitimate medical practice in their respective territories.<sup>78</sup>

Similar wording was present in the third American resolution that read:

...Be it Resolved...that in the judgement of the International opium Commission, the principle of the total prohibition of the manufacture, distribution and use of smoking opium is the right principle to be applied to all people, both nationals and dependent or protected; and that no system for the manufacture, distribution

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<sup>78</sup> Shanghai Report, *supra* at note 12, Vol. I, p.46.

or use of smoking opium should continue to exist, except for the express purpose and no other of stamping out the evil of opium smoking in the shortest possible time.<sup>79</sup>

This was proposed despite the fact that in an earlier session, the Chief Commissioner for Germany, Dr. Walther Rössler, had made comments to the delegates, to which *no objections* were raised to the contrary, when he stated:

You all know that the medical views on this subject are not altogether unanimous. The more then would it be interesting to hear what the three physicians forming part of this Commission have to say on the subject. It is a matter of common knowledge that physicians at home have little or no experience as to the effects of opium smoking, *there being no problem of this kind in Western countries.*<sup>80</sup>

Immediately following the reading of America's resolutions, Sir Cecil Clementi Smith, Chief Commissioner for the British delegation, rose and stated for the record Britain's "formal views"<sup>81</sup> on the American resolutions and the notion of total and immediate non-medical opium prohibition:

*...Regulation, not prohibition is the declared policy of the British Government...[Although] it has been the earnest wish of the British delegation that the labours of the Commission should result in the unanimous recommendation of measures which might have some practical effect in leading to the removal of those abuses which are found, though in varying degrees, to be connected with the use of opium. It is therefore with extreme regret that we find ourselves unable to give the [American Delegates] our entire support in all the proposals they put forward. I may say at that outset that the form of their proposals would alone make it difficult for us to accept them. Misunderstanding and misapprehension, we believe, can only result from a vote in favour of prohibition in the unqualified form in which it is presented in these resolutions...I am not raising speculative difficulties. We know...from actual experience the evils and futility of a policy which can only be maintained by the employment of enormous preventative establishments...*

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<sup>79</sup> Ibid, p.47.

<sup>80</sup> Ibid, p. 38, italics added by author.

<sup>81</sup> Ibid, p. 48.

...It is equally clear...that we cannot, either by excessive restrictions or by direct prohibition, withhold from the peoples of India [for example] a drug which is one of the main household remedies on which they rely.<sup>82</sup>

Thus, the British felt that regulation was a more practical solution to the opium question. Aside from the comments above, the British attempted to strengthen their argument by citing comparative experiences in Burma, where attempts at total prohibition had failed, and in India, where regulation was successful. It was also put forth by the British that until more evidence was presented that opium, unlike alcohol, produced “extensive social degradation,” the necessary public support for a policy stance of complete prohibition would be lacking.<sup>83</sup>

Following this speech, several unsuccessful efforts to compromise the British and American positions ensued, which attempted to soften the American resolutions. However, the British remained unyielding and retorted to these attempts by stating:

To put it perfectly plainly, and to be entirely frank, the British delegation is not able to accept the view that opium should be confined simply and solely to medical uses.

As it would turn out, this disagreement between the Americans and the British on the issue of regulation versus prohibition was to be handled through private, informal, discussions outside of the conference room (Lowes 1966: 143,149). Ultimately, these private discussions lead to the wording of the Commission’s final resolution number 2, which recommended the “gradual suppression” of opium smoking and the wording in final resolution number 3 of

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<sup>82</sup> Ibid, pp. 48-50, italics added by author.

<sup>83</sup> Ibid; See also Lowes (1966: 142).

“the use of Opium in any form otherwise than for medical purposes is held by *almost* every participating country to be a matter for prohibition *or* careful regulation.”<sup>84</sup> After being put to a vote, the American delegation, in an attempt to save face, took one last opportunity to voice their opinion. Dr. Hamilton Wright rose, addressed the Commission in relation to adopting final resolutions 2 and 3, and stated, “I wish to put on record that the principle adopted by our Government is the principle of total prohibition, otherwise I vote for the resolution.”

By the end of the 14<sup>th</sup> session of the Commission, on March 22<sup>nd</sup>, 1909, every delegation had been given ample opportunity to present their resolution ideas, which were then debated, discussed and reworded to a point where “most parties [were] appeased, but few [were] fully satisfied” (Wright 1993: 145).<sup>85</sup> However, a closer examination of the Commission’s nine final resolutions clearly reveals how far they were from being truly “international” in nature; all nine final resolutions originated from, or were directed at, the specific experiences of China, Great Britain or the United States.

Four of the nine resolutions were specifically aimed at the issue of opium in China.<sup>86</sup> However, by 1912, when the first of The Hague Conferences met to “conventionalize” the Shanghai resolutions, opium problems relegated specifically to China were already being phased out (Lowes 1966: 153). In 1925, at the next Opium Convention Conference, they were forgotten entirely (Ibid).

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<sup>84</sup> See Appendix (A), italics added by author. It is important to note that the wording of “*legitimate medical practice*” that was present in the original American resolution had been changed.

<sup>85</sup> Taken from the previous discussion on the basic tenets of the purist conflict approach. See p. 73 of this thesis.

<sup>86</sup> Commission final resolution #'s 1,7,8 and 9. See Appendix (A)

Accordingly, the remaining five final Commission resolutions had the most enduring effects on international narcotics control<sup>87</sup>; of these “final five”, four of them represent a compromise of the resolutions presented by the American and British delegations.

Resolution number two, as discussed previously,<sup>88</sup> represented a midway point between the American and British views of gradual suppression versus outright and immediate prohibition. Although the issue was scarcely raised at the 1912 Hague Convention, it became a major issue at the 1925 Opium Convention Conference. It was here that the closed opium agreement of February 11, between Great Britain, China, France, Japan, the Netherlands, Portugal and Siam was signed in Geneva (Lowes 1966: 154). These actions would ultimately culminate in 1959, when the United Nations pressured the Thai government into passing a law to close their opium dens. Thus, the final legitimate opium smoking practices in the world were finally outlawed (Ibid).<sup>89</sup>

Final resolution number three, also discussed previously,<sup>90</sup> represented a compromise of the first American resolution presented to the Commission. Britain had objected outright to the notion of limiting opium use solely to “legitimate medical purposes.” As a result, wording such as “prohibition or...careful regulation” was added to the final Commission resolution. Another aspect of compromise lies in the notion that the Shanghai Commission was to recognize

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<sup>87</sup> Commission final resolution #'s 2,3,4,5 and 6. See Appendix (A)

<sup>88</sup> See pp. 83-6 of this thesis.

<sup>89</sup> Despite this, Lowes (1966: 155) contends that illegal opium smoking still exists in Asia, however it seems to be a “dying habit, only indulged in by older men” as the younger generations are either “discouraged by social opprobrium or prefer the greater thrills of morphine or heroin.

<sup>90</sup> See note 83 above.

“the wide variations between the conditions prevailing in different countries, but it would urge on the attention of the Governments concerned the desirability of a re-examination of their systems of regulation in the light of the experience of other countries dealing with the same problem.”<sup>91</sup> Lowes (1966: 155) argues that it was not until the signing of the Single Convention on Narcotics in 1961, that a general obligation was formally fulfilled to limit narcotics exclusively to medical or scientific practices. This ideal remains in effect to this day and can be directly traced to the final resolution at Shanghai.

Resolution number four perhaps represents the most important of the Shanghai Commission’s sought after obligations. However, it is not because of what it represented to narcotics control, but what it contributed to the principles of international law. The notion that international levels of control should exist at exporting points of origin, in which the intended importer might not wish to permit entry for, was revolutionary for its time. Although this is the only resolution of the “final five” that does not represent a compromise of ideals,<sup>92</sup> it is important because in 1912 the resolution was given the status of a treaty obligation and since 1925 has become apart of a general control system for narcotics, but one that has far reaching ramifications for other aspects of international relations (Ibid: 156). For example, Lowes (Ibid: 154) cites journal articles that link this

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<sup>91</sup> See Appendix (A), final resolution (3).

<sup>92</sup> This is despite Hamilton Wright’s melodramatic statements to the contrary in which he, on multiple occasions, told of the tremendous effort that the American delegates had to overcome to get it passed. In reality, this was an American resolution that was passed with only minimal word changes and no disagreement over its core principles. See Shanghai Report, *supra* at note 12, Vol. I, p.51; Lowes (1966: 144, 155-6); HWP, Record Group 43, Entry 45, Reprint of the Proceedings of American Society of International Law, 1909, Report of Dr. Hamilton Wright of Washington D.C., month and day not recorded in original.

principle to possible uses in the atomic energy field and other international trade agreements.

Final resolution number five, which represents a joint suggestion made by both the American and British delegations, is another revolutionary proposal stemming from the Shanghai Commission. It was the only resolution, apart from final resolution nine, that was not aimed at opium. As history unfolded, opium became less of a focal point for future international meetings that addressed the narcotics control issue. Thus, with its focus on morphine, this final resolution opened the door for post-Shanghai investigations and Conventions to move beyond opium and to begin to address other narcotics issues.<sup>93</sup> Originally, this idea to move beyond the opium question was espoused in the fifth resolution presented by the American delegation.<sup>94</sup> After the reading of the American proposal had taken place, it was noted by Wright that in drawing up this resolution his delegation “had no other country in mind but their own, [as] they had, perhaps the largest morphine problem to face of any country represented.”<sup>95</sup>

When, later in the Commission, Dr. Wright asked that the American version of the morphine resolution be formally adopted, the Chair drew the attention of the House to the fact that the British delegates had drafted a similar resolution.<sup>96</sup> In a move to perhaps both limit the direct influence of America over the final resolutions, as well as acknowledging, in-part, the often perceived

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<sup>93</sup> See Lowes (1966: 156-7) for examples of how this notion was proliferated to include not only investigations of morphine use, but of many other synthesized narcotics that began to be used as the years progressed post-Shanghai.

<sup>94</sup> Shanghai Report, *supra* at note 12, Vol. I, p. 47.

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*, p. 52.

dramatics of Wright and his proposals, which in this case alluded to America facing the gravest morphia-induced dangers of “any country represented,”<sup>97</sup> Sir Cecil Smith rose and made the following speech:

A father generally approves of his own children, and perhaps I may be pardoned for saying that though we quite follow the points referred to in the [American’s] resolution...we should prefer, and it would be more in order if I moved it as an amendment, the wording of our own resolution, with the words “to China” and “other” omitted. It would then read as follows:---

That the commission finds that the unrestricted manufacture, sale and distribution of morphine already constitute a grave danger [to China], and that the morphine habit is already known, and shows signs of spreading, among [other] peoples in the East and elsewhere...<sup>98</sup>

Wright accepted this British proposition. However, H.E. Monsieur Miyaoka, Chief Commissioner of the Japanese delegation, objected to the words “among people in the East and elsewhere” and thought they should be omitted from the resolution.<sup>99</sup> This was perhaps done to show the world, via the record of the Commission, that Japan did not, nor would they in the future, fall prey to the morphine vice that had seemingly taken hold of other countries. This was agreed to and the resolution as amended was adopted unanimously by the House when put to vote.<sup>100</sup>

The last of the “final five” enduring resolutions, commission final resolution number six, represented a final concession between the “Big Three” of the

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<sup>97</sup> Lowes (1966: 146) interprets this focus on morphine in a different fashion; one that distracted attention from the Indian-Chinese opium trade, delayed future meetings by insisting that countries gather specific data on morphine and cocaine use and put Germany, which was the main producer of morphine, in an embarrassing situation.

<sup>98</sup> Ibid, re-printed here as written in the Shanghai Report.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.



conference: Great Britain, the United States and China. At the close of the Commission's sixth session, dated February 12<sup>th</sup>, 1909, Dr. Hamilton Wright suggested the appointment of committees take place for dealing with specific portions of the various delegations' reports so that international summaries could be made.<sup>101</sup> One of his suggestions was that a committee be formed that would examine the "question of anti-opium remedies as dealt with in the different reports."<sup>102</sup> This, along with another suggestion that dealt with the "question of opium...from a medical point of view," was negated after some discussion took place.<sup>103</sup> However, this point was to be raised again by the Chinese delegation, who had the backing of the Americans, during the eighth session of the Commission with some slight wording modifications that sought to "broaden the meaning" and scope of the committee ideas originally put forth by Wright.<sup>104</sup> Mr. T'ang Kuo-an of the Chinese delegation put forth the following proposal to be considered:

That a Committee consisting of five Delegates be appointed to consider and report on the medical aspects of the opium question, including the best methods of curing the opium habit without recourse to the drug or any of its derivatives.

Hereafter, a discussion ensued as to the validity of this suggestion, as it seemed to many delegates to be merely a rehash of Dr. Wright's previous negated attempts at a similar proposal.

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<sup>101</sup> Ibid, p. 31.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid; the specifics of this discussion are not reported in the Shanghai Report, aside from the fact that a discussion had taken place.

<sup>104</sup> Ibid, p.36.

The Chinese delegates "begged leave to explain" that they "consider[ed]...this question [as] only second in importance to the suppression of opium in China."<sup>105</sup> Mr. T'ang then stated:

We think it would be futile for us to attempt to stop the smoking habit while we continue to use the drug in other ways such as eating it in the form of pills, etc. Therefore, if the Commission is going to justify its existence, and is bent on accomplishing results which will be at all satisfactory, it is necessary in our opinion that this matter should be thoroughly discussed...

I do not think it is the intention of the Government of [China], or of any other country represented here, that we should discuss matters connected with the cultivation of the poppy only. On the contrary, I understand that we are here to investigate the question in every form and phase; and this idea has also been expressed by every Anti-opium Society and by the people of all civilized countries. In bringing forward my resolution, therefore, I beg most earnestly to ask for the co-operation and support of this Commission.<sup>106</sup>

After Mr. T'ang had finished his speech, Dr. Charles Tenney of the American delegation rose and formally endorsed the Chinese idea, as he was "of opinion that the Commission would be justly blamed if the Delegates were to separate without having presented their views on this matter."<sup>107</sup> Thereafter, the French delegation suggested that a copy of the Chinese proposal be printed for the other delegates and that they be given a day or two to consider this motion.<sup>108</sup>

The ninth session of the Commission opened on February 19<sup>th</sup>, 1909, and immediately began with a second reading of the Chinese proposal to assign a committee to investigate anti-opium remedies.<sup>109</sup> After the reading, Sir Cecil

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<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid, p. 37.

Smith, in an attempt to once again save face for the British, rose to explain their position, as they had not been given ample time to do so previously:

...The action which was taken on behalf of the British Delegation in opposing the appointment of a Committee in the first instance (when proposed by Dr. Wright during the sixth session) was...not in the least directed against a practical enquiry on the important subject under discussion, but was based solely on the fact that he did not consider that the Commission included a sufficient number of men competent to deal with the question...no one in the Commission was more in sympathy with...Mr. T'ang's [ideas] than [me] and [my] colleagues.<sup>110</sup>

He went on to explain that aside from Dr. Wright and a member of the Japanese delegation, that there "were none amongst them fitted to deal with such matters as anti-opium remedies [and that]...it was not a question which could not be settled locally, but one that should be dealt with by the great scientific Institutions of the Western and Eastern worlds."<sup>111</sup> It was further suggested that if the committee suggestion put forth by Mr. T'ang were successful it would "hamper rather than promote any such investigation."<sup>112</sup> Continuing on, Sir Smith, then put forth the following amendment to the Chinese proposal to which he would ask be included among the formal resolutions which would be ultimately drawn up by the commission:

That, having regard to the constitution of the Commission, which has not among its Members a sufficient number to form a Committee for the investigation from the scientific point of view of anti-opium remedies and of the properties and effects of opium and its products, the Commission desires that each Delegation shall recommended these branches of the subject to its own

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<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

Government for such action that Government may think necessary.<sup>113</sup>

The Americans were quick to retort to this suggestion. According to the Shanghai Report:<sup>114</sup>

Dr. Hamilton Wright, after thanking the Right Hon. Chief Commissioner for Great Britain for the complimentary reference to himself, pointed out that there was on the Chinese Delegation also a medical expert, trained in the West, who, speaking from a scientific point of view, was quite competent to judge on the subject under discussion. There were, therefore, three physicians in the Commission quite capable of undertaking an investigation, though he took the Right. Hon. Chief Commissioner of the British Delegation's remarks in regard to himself with all modesty. He pointed out that, when Her late Britannic Majesty's Royal Commission (of 1893)<sup>115</sup> was appointed, the British Government had thought it sufficient to appoint only one medical expert to the Commission [and ] that the report of that expert had coloured to a great degree the final judgement of the Royal Commission [despite the fact that this] experts opinion had not proved satisfactory to the great majority of medical men who had taken it to examine in detail...

[Therefore] without calling into question the abilities of the medical expert on the Royal Commission...if one expert was enough for the Royal Commission, three should be sufficient for the International Commission.

Hereafter, the Chinese delegation once again restated the importance of assigning a committee to view the opium problem from a medical point of view. However, this time they were backed by the German delegation, which also cited the fact that medical reasoning had played such a strong role in the British endorsed Royal Commission of 1893 and that the international commission now in session would be able to make a more in-depth study as "the three physicians forming a part of this Commission have gained experience in the Far East and

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<sup>113</sup> Ibid.

<sup>114</sup> Ibid, pp. 37-8.

<sup>115</sup> Discussed below at pp. 106-8 of this thesis.

therefore [they] should give them an opportunity to state their opinion.”<sup>116</sup> Despite these attempts at moving this notion forward, the British amendment to the Chinese proposal was narrowly passed by a margin of seven votes in favour of the amendment and six votes against.<sup>117</sup>

The vote for the British amendment proved not to be the end of this discussion. During the Commission’s 11<sup>th</sup> session, the notion of partaking a medical based inquiry into the opium question again took centre stage as the British delegation sought to ratify their amendment into a final Commission resolution. The newly proposed British sponsored resolution that sought to “put into proper language the [amendment] which has already been adopted by [the] International Commission”<sup>118</sup> read as follows:

That as this Commission is not constituted in such a manner as to undertake the investigation from a scientific point of view of anti-opium remedies and of the properties and effects of opium and its products, and deems such investigation to be of the highest importance, the Commission desires that each delegation shall recommend this branch of the subject to its own Government for such actions as that Government may think necessary.<sup>119</sup>

This alternative resolution, that mirrored the British amendment proposed in the eighth session, was quickly supported by the Japanese delegation, despite the fact that they previously voted against it.<sup>120</sup>

Surprisingly the American delegation agreed with it as well, but insisted that another phrase than “scientific point of view” be used, as there was among

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<sup>116</sup> Ibid, p.38.

<sup>117</sup> Ibid, the countries that voted with the British were France, the Netherlands, Persia, Portugal, Russia and Siam.

<sup>118</sup> Ibid, p.59.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

them two eminent scientists on the Japanese delegation who would be able to carry out this examination here and now and that the American Delegates “still [thought] that the work of the Commission should...include scientific investigations” into the opium question. This comment from the Americans was quickly addressed by Sir Smith who pointed out, once again, that the “Commission is not constituted in such a manner to undertake the investigation of this important subject.”<sup>121</sup> He then proceeded to deflect attention away from Britain’s unwavering stance by claiming that the French Delegation had already stated that they would be unable to deal with the opium question from a scientific point of view at this time and this was because the Americans’ instructions to the international delegates did not advise anyone to gather this type of data for the Commission prior to its inception. Before these statements angered anyone, Sir Smith went on to explain that Britain was in the same boat as France:

We are in exactly the same position [as the French]. We have absolutely no instructions for dealing with the matter [from a scientific point of view]. We do not for one moment imply that there are no medical men on this Commission qualified to report on this phase of the question. What we say is that the Commission as a *Commission* is unable to deal with the question, and it is from that point of view that we have drawn up the resolution in the form in which it is now submitted.<sup>122</sup>

After Smith had left the floor, the German delegation attempted to put forward a revised version of the British resolution, which failed by a vote of 7-4 against, with the Americans refusing to vote. The Japanese delegates also expressed that even though they did indeed have two esteemed members of the scientific community among them, that they would be unable to carry out this type of

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid, p.60, italics in original.

investigation at this time, but noted an examination of this kind should be “considered as of the highest importance” in the near future.<sup>123</sup> After this, Dr. Wright suggested that word “undertake” should be substituted by the word “permit” in the British resolution and was then put to a second vote.<sup>124</sup> This time the results were unanimous, but only in the sense of 8 delegations voting for the British proposal and four delegations abstaining: the United States, Austria-Hungary, China and Germany.<sup>125</sup> Thus, the resolution was passed with slight modification as Commission final resolution number six.<sup>126</sup>

From here, the enduring effects of this final resolution have been felt in a general sense throughout many phases of not only international and national attempts at narcotics control, but in other internationalized issues as well. As was discussed in chapter three of this thesis, the tendency to internationalize a myriad of subjects also resulted in a “changing of the guard” within diplomatic circles (e.g. Taylor 1969: 339). Traditional, politically driven diplomats were suddenly being replaced by medical and scientific personal. The principle of scientific investigation implicit within final resolution number six, has not only brought doctors and scientists into the fold of narcotics control, but has continued to validate the scientific and medical viewpoints that are connected with various substance control schemes to this day. For example, Home Box Office (HBO) has recently aired a “groundbreaking new series” that addresses the issue of

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<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

<sup>126</sup> See Appendix (A).

drug dependency from an almost purely scientific and medical based point of view as a part of their ongoing "Addiction Project".<sup>127</sup>

Taken as a whole, the emergence and social work of pressure groups, as well as the resolutions passed at the culmination of the historic Shanghai Opium Commission of 1909, represent many facets of the pluralist conflict approach to law creation. This notion also seems to further validate certain aspects of The Lowes Hypothesis from an analytical perspective. What began as grassroots attempts at changing the minds of political elites in Great Britain, soon expanded on an enormous scale and was then transplanted to North America. The moral discourse associated with anti-opium groups, such as The Society, soon gained extra momentum as peoples within the emerging medical and pharmaceutical fields validated this moral discourse by providing a medical discourse of their own that was able to align itself with the anti-opium movement's ideals. Thus, the creation of a medical-moral discourse was formed into a rhetorical dialectic that was able to attain a higher degree of authority over the non-medical use of narcotics than was previously achieved by these groups on an individual level.

The effects of these movements would be felt years later when the historic meeting at Shanghai took place in 1909. At the outcome of this meeting, nine final resolutions were unanimously agreed to by various international delegations. Of these nine final resolutions, five have continued to affect both international and national policies not only aimed at narcotics control, but a host of other international endeavours as well. Of these "final five" resolutions passed

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<sup>127</sup> See <http://www.hbo.com>, documentary series entitled "Addiction: Why Can't They Just Stop", retrieved March 16<sup>th</sup>, 2007.



at Shanghai, four of them represented a process of deliberation, compromise and in some cases, a “watering-down”<sup>128</sup> of proposals that stemmed from Great Britain, The United States and China.

Although the pluralist conflict approach is quite useful in creating a solid overview of the genesis of international narcotics control, its weaknesses lie in its ability to only render a partial and general view of these historical events that are under examination. For example, although purely conjecture, would events have unfolded the same way if different personalities were at the helm of these movements? Another question that is important to ask is how were the leaders and initiators of the international narcotics control movement able to successfully penetrate the political sphere and project their own personal ideologies onto the international stage? There also remains other aspects of The Lowes Hypothesis that need to be investigated from this analytical point of view as well. To address these types of questions, as well as a further validating and supplementing of the analysis of The Lowes Hypothesis, a journey that takes this discussion further into the analytical level of abstraction shall now be undertaken.

#### **4.2 “They Must Operate Through Influencing Political Power”: The Personalities Emerge**

Although The Lowes Hypothesis maintains three distinct statements, which act as a basis for his explanations of the genesis of international narcotics control, Lowes (1966: 190-1) asserts that each was a necessary element for the formation of international policies aimed at not only narcotics, but also a myriad

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<sup>128</sup> Wright (1993: 145); see also p.73 of this thesis.

of other social issues. Despite being written as three distinct phases, the process behind the genesis of international narcotics control is a much more fluid process. When the data under review are analysed from an analytical level of abstraction, the merging of the second and third statements of The Lowes Hypothesis provides a more holistic view of the process behind the formation of formal controls aimed at non-medical narcotic use.

Another slight divergence from the work of Lowes (1966) is necessary at this point. Lowes (ibid: 159-165, 169-175, 190-1) believes that it was not until after the Shanghai Opium Commission of 1909 that his concept of “the personalities” emerged to lead and manipulate the narcotics control movement. I disagree with this notion. I would argue that “the personalities” emerged much sooner and played a critical role in the years that lead to the historic meeting at Shanghai. As will be discussed throughout the remainder of this chapter, not only is this alternate view of the emergence of narcotics control validated empirically, but also when the data are viewed through a theoretical lens, examples of Becker’s (1963) notion of the “moral crusader” or “entrepreneur” and aspects of the Kingdon (2003) agenda setting model materialize. Accordingly, a strict translation of The Lowes Hypothesis as three separate and distinct statements, with “personalities” only emerging post-Shanghai, seems to act as an inhibitor to this intellectual exercise and should therefore be avoided.

## **4.2.1 Creating Fertile Ground: The Work of Pressure Groups and Entrepreneurs on Political Forces Pre-Shanghai**

### **4.2.1.1 The British Experience**

As the Anti-Opium and Temperance societies, in conjunction with fledgling medical organizations, began to gain social momentum, the effects upon their home nations and the international stage became more apparent through the enactment of legislation aimed at nullifying the continued non-medical use of narcotics. Prior to the Americans' efforts to generate an international meeting focusing on the problem, Great Britain had already begun to take steps towards ending the India-Chinese opium trade. As a direct result of The Society's efforts to generate public concern over the perceived profiteering by The Crown, parliament had enacted the "ten-year agreement" with China in 1906 (Giffen et al. (1991), Lowes (1966), Musto (1999)).

As the title implies, this resolution provided for a gradual, ten percent decrease in the amount of poppy and raw opium cultivation, manufacture and distribution within India and China taking place over a ten-year period. The rationale behind this proposal rested on the notion that outright prohibition would cause unnecessary social and economic hardships for all parties involved. In hindsight, this notion would seem to prove true. The enactment of total prohibition, which came into effect with the notarization of the second Hague Convention in 1914, caused nation-wide riots within China as thousands of newly disenfranchised poppy farmers lost their livelihood.<sup>129</sup>

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<sup>129</sup> HWP, E48, Box 2, pages 21 & 22 of personal scrapbook #1, cut and pasted newspaper articles, news agency unknown, captured on microfilm by the author.

However, many decades before the ten-year agreement was established, the work of pressure group campaigns and moral entrepreneurs had already been felt in the form of Parliamentary opposition in England. William Gladstone is the first moral crusader who laid the groundwork for the anti-opium movement to take place. First elected to Parliament in 1832, Gladstone had played a role in England's abolition of the slave trade, which to him represented an unquestionable evil being committed by his own government. A few years later, in 1838, Gladstone's moralistic views were presented in his book *The State in its Relations to the Church*, which argued that the goal of the state should be to promote and defend the interests of the Church of England.<sup>130</sup> Accordingly, Gladstone was also one of the first and most vocal opponents of the Indian-China opium trade. In this regard, Gladstone stood "in dread of the judgements of God upon England for our national iniquity towards China" (Davenport-Hines, 2001: 53).

In 1840, after the start of the first "opium war" between China and Britain, Gladstone made a Parliamentary speech that was to be quoted and cited by the anti-opium movement for more than 50 years after:

A war more unjust in its origin, a war more calculated to cover this country with permanent disgrace, I do not know, and I have not read of. The Right Honourable gentleman opposite speaks of the British flag waving in glory at Canton. That flag is hoisted to protect an infamous contraband traffic, and if it were never hoisted except as it is now hoisted in China, we should recoil from its sight with horror, and should never again feel our hearts thrill...when it floats proudly and magnificently upon the breeze...Although the Chinese were undoubtedly guilty of much absurd phraseology, of no little ostentatious pride, and of some excess, justice, in my opinion is with them, and whilst they, the pagans, the semi-

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<sup>130</sup> See [http://en.wikipedia.org/wiki/William\\_Gladstone](http://en.wikipedia.org/wiki/William_Gladstone), retrieved March 16<sup>th</sup>, 2007.

civilised barbarians, have it on their side, we the enlightened and civilised Christians, are pursuing objects at variance both with justice and with religion.<sup>131</sup>

Although this speech acted as perhaps the first and most vocal formal outcry against the opium trade, Gladstone himself was undoubtedly under the influence of opium at the time, as he often took laudanum in his coffee before addressing the House of Commons (Davenport-Hines, 2001: 53). Thus, aside from the aspect of the moral crusader, as represented by Gladstone who viewed the English opium trade as an “evil which profoundly disturbed him” and drove him into action, it would appear that he saw his work as “good for others and not merely a crystallization of [his] own personal view” or apparent traits, such as using opium himself (Becker, 1963: 147; Goode, 1972: 185-6). Five years after Gladstone's speech, in 1845, the first anti-opium resolution was moved through Parliament. However, it was later withdrawn after Sir Robert Peel managed to convince its creator, Lord Ashley, that it would impede negotiations then in progress between Britain and China (Lowes, 1966: 61).

As history unfolded, voices of dissent over the Indian-Chinese opium trade became more frequent in the House of Commons. Despite this, those who did not support the opium trade made few, if any, real strides in accomplishing formal solutions. The situation changed quite dramatically though once The Society was created.

When The Society was originally formed, members of Parliament were not only involved, but also acted as its Presidents (Lowes, 1966: 63). A year after

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<sup>131</sup> Lowes (1966: 59), Davenport-Hines (2001: 53).

The Society was established in 1874, the first of many Parliamentary initiatives began to be introduced at an accelerated pace. In June 1875, a resolution came before the House of Commons that advocated a “gradual withdraw of the Government of India from the cultivation and manufacture of opium... [and that an] Imperial policy regulating the opium traffic between England and China should be carefully considered” (Ibid: 64). This trend continued for over the next decade, with at least one similar resolution being presented every couple of years (Ibid: 64-66). Unfortunately for The Society, these resolutions were never passed, albeit by only a slim margin of defeat in many cases, with its only real “victory” being the “Additional Article” of the Chefoo Convention of 1876. The “Additional Article” put a small degree of taxation power and regulatory measures over Indian opium imports back into the hands of the Chinese government, but took nine years from the end of the Convention to become ratified (Ibid: 51).

Nevertheless, The Society pressed forward, this time with a new strategy. In 1885, with the ratification of the “Additional Article” firmly in place, it was decided that instead of continuing these unsuccessful resolutions aimed at Parliament, The Society would instead direct its efforts towards the government of India, as it controlled the source of the opium trade (Ibid: 65).

In 1891, another British moral crusader, Sir Joseph Pease, President of The Society and M.P., finally achieved a major breakthrough in the House when a majority voted in support of his resolution that read:

...this House is of opinion that the system by which the Indian opium revenue is raised is morally indefensible, and would urge the Indian Government that it should cease to grant licences, for

the cultivation of the poppy and sale of opium in British India, except to supply the legitimate demand for medical purposes...<sup>132</sup>

Coinciding with the passing of this resolution in the House, the moral crusader William Gladstone was Prime Minister during this time and three of The Society's members were in his cabinet. Again, the basic tenets of Becker's (1963) prototype seem to be validated by this accomplishment. Sir Joseph Pease was the son of the first Quaker ever elected to Parliament and the Pease family had a long and distinguished history as moral activists. For example, his Father was also a founder of the Peace Society in 1807 and an abolitionist. In addition, the Pease family had produced six members of Parliament over the years.<sup>133</sup> Thus, as stated by Einstadter and Henry (1995: 210), the moral crusaders who are the most successful are the ones who "have the social power to have their version of morality imposed on the rest [of society]."

The attainment of a majority vote for the Pease resolution, reinvigorated The Society and it now turned its focus to organizing anti-opium sentiment outside of Parliament. According to Lowes (1966: 67) and Davenport-Hines (2001: 132) a "huge meeting was held...and preparations were made to deluge the House of Commons with petitions. In all, some 2,500 petitions were collected, containing about 205,000 signatures." The goal of this aspect of the movement was to appoint a Royal Commission to investigate ways in which to implement the Pease anti-opium resolution. A debate ensued over this subject and in June

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<sup>132</sup> Lowes (1966: 67) and Davenport-Hines (2001: 136)

<sup>133</sup> See [http://www.reference.com/browse/wiki/Pease\\_family\\_%28Darlington%29](http://www.reference.com/browse/wiki/Pease_family_%28Darlington%29), retrieved March 18<sup>th</sup>, 2007.

of 1893, the Gladstone government began the appointment of members to the Royal Commission On Opium.

Although the anti-opium forces had hoped that the Royal Commission would provide further impetus in abolishing the opium trade in the Far East, it was soon discovered that Gladstone had other ideas in mind. Notwithstanding his earlier vigour against opium as an M.P., the Gladstone of 1893 was older and more subdued in his approach. Acting now as Prime Minister, his tactics were far less extreme and instead of asking “how” the opium traffic should be suppressed, the commission was tasked with deciding if it should even be stopped at all (Lowes 1966: 68). In short, the Royal Commission was instructed to “study the probable financial consequences of prohibition, the possibility of reform short of complete prohibition, and the practices and attitudes of the Indian people with regard to opium” (Ibid). Despite the Gladstone government having members of The Society in key positions, there were still many members of the House who viewed aspects of the anti-opium campaigners as overly intense in their approach to the opium question. For example, The Secretary of State for India, The Earl of Kimberely, deplored the “anti-opium fanatics”, and postulated that the “prohibition and suppression of opium is simply impossible in China, and the right course is to levy a heavy duty on it, as we do on alcoholic liquors,” of which, he judged as being on par with opium (Davenport-Hines, 2001: 136). It has been stated, although some researchers disagree, that Kimberely stacked the commission with individuals who would maintain the status quo (Davenport-Hines, Ibid; Lowes 1966: 70).



Regardless of its composition, the Royal Commission carried out its painstaking work over the next two years by asking over 29,000 questions during the course of 723 interviews and returned to Parliament with a 2,500 page report (Lowes, 1966: 69; Davenport-Hines, 2001: 137; see also <http://www.ganeshapublishing.com/opium.htm>). The Royal Commission's findings were far from ideal for the anti-opium movement. In short, it was concluded that the monopoly system in Bengal was satisfactory, there was no great pressure to prohibit the growth of poppy in India and to do so would unduly impose upon their rights, that outright prohibition would cause financial ruin and unnecessary strain on both the British and Indian governments and that opium smoking in China was generally practiced in moderation and was comparable to the drinking of alcohol in the United Kingdom (Lowes, 1966: 70-1; Davenport-Hines, 2001: 137-47). Thus, according to Lowes (*ibid*; italics in original), the "general effect of the [Royal] Commission's Report was to endorse the *status quo* and to provide a parliamentary rationale for the Government of India and its revenue." This proved to be a serious blow to the anti-opium forces in Britain and it would take over ten-years to recover its momentum. Later, at Shanghai in 1909, the findings of the Royal Commission's report were used to legitimize the British notion of gradual suppression versus the outright prohibition of opium use.<sup>134</sup>

As the years passed, the effects of the Royal Commission's report began to fade. International events such as the success of the strict anti-opium policies of Japanese controlled Formosa, the experiences of employers of Chinese

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<sup>134</sup> Discussed previously at subsection 4.1.2 of this thesis.

labour in British territories who complained that smoking opium was seriously disrupting business, anti-opium legislation being passed or considered in other self-governing territories of the Crown, such as New Zealand, Australia and Canada. Additionally, there was continued criticism among various social and professional circles pertaining to prolonged exposure to opiates and cocaine and their affects at both home and abroad (Lowes, 1966: 74; Davenport-Hines, 2001: 149-154). Aside from this, Lowes (Ibid) contends that “without question...the greatest factor...that contributed to the British revival of political interest in the opium trade...was the publication of the [U.S. backed] Philippines Opium Committee’s Report,” which was conducted in 1903 and submitted to the U.S. congress in 1904.<sup>135</sup>

After several debates in the newly elected “Liberal” Parliament, the anti-opium forces in Britain gained another victory with the passage of the resolutions that formed the “ten-year agreement” of 1906. As discussed previously,<sup>136</sup> this agreement called for an annual and gradual suppression of the Indian-Chinese opium trade, with its outright abolition taking place after the tenth year. Besides acting as the culmination of decades worth of moral and political work for The Society, it also appears that the ten-year agreement was at the root of Britain’s continued reluctance to engage in an international meeting perpetuated by the

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<sup>135</sup> Discussed at pp. 118-120 of this thesis.

<sup>136</sup> At pp. 101-3 of this thesis.

U.S., which it saw as attempting to solve a problem for which an agreement had already been made (Lowes (1966), Taylor (1969) and Musto (1999)).<sup>137</sup>

However, despite Britain's efforts to answer the opium question in the Far East for itself, America still felt the need to pursue the matter on the international stage. This seemed appropriate, given the tendency to internationalize a myriad of social and economic issues, and the acquisition of the Philippine Islands provided both a "policy window" for "policy entrepreneurs" to push their pet-solutions through. The agreement also acted as a "focusing event" which gave added momentum to the lobbying efforts of The Society and the fledgling medical professionals within America (Kingdon (2003): 194; 122; 94-5).<sup>138</sup>

#### **4.2.1.2 The American Experience**

Within the American context, the successful penetration of the political sphere via the actions of pressure group campaigns manifested itself on several levels. Prior to the international meeting of 1909, a small number of minor treaties, congressional acts, state laws and city ordinances were passed that dealt with narcotics.

In 1833, the U.S. entered into treaty obligations with the Siamese government that forbade U.S. nationals from partaking in opium smoking or importation. The treaty also made provisions for the Siamese government to prosecute U.S. citizens for opium related crimes without hindrance or protection

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<sup>137</sup> See also *Shanghai Report* supra at note 12, Vol. I & II, which contains several instances of the British Delegation's mention of this agreement, as well as mention of the Crown's efforts to curtail the opium "problem" prior to America's interjection of itself into the equation.

<sup>138</sup> See also pp. 44-6; p.48 of this thesis.

from the United States. In 1846, the Treaty of Wangheia was signed between the U.S. and China that contained nearly identical agreements in relation to opium as the U.S. - Siamese treaty.

In 1875, in what would prove to be the first of many milestones in narcotics prohibition, the city of San Francisco passed the first anti-narcotics law in North America. Even though this was not a state sponsored declaration of criminality, such as the *Smoking Opium Exclusion Act* passed in Canada 33 years later, the ordinance was significant because it outlawed opium smoking dens and was enacted amidst high levels of racist attitudes aimed at the Chinese labour force in the city (Musto, 1999; Lowes, 1966; Davenport-Hines, 2001).

Amidst these immigration issues, America made a second treaty with China in 1880 that helped to re-establish a moral “high-ground” in relation to opium and other narcotics on the international stage. Surprisingly, it was the Chinese, not the Americas, who proposed a resolution that prohibited opium to be traded to U.S. citizens or be imported into America by Chinese nationals living there (Lowes, 1966: 87). However, it would not be until 1887 that the U.S. congress would enact legislation framing the penalties for violating the resolution, and it would appear that it was not until decades later, in 1918, that anyone was prosecuted for violating this agreement (Ibid).

At the national level, the lobbying efforts of fledging medical and pharmaceutical professions slowly began to gain momentum and resulted in several minor state laws during the last decade of the 19<sup>th</sup> and the early part of the 20<sup>th</sup> century. However, in general, these laws had little to no effect on

narcotics use. This was partially due to loopholes that still allowed patent medicine makers to continually lace their tonics with a certain percentage of various narcotics. Without any binding regulations at the federal level, each state was at the mercy of its neighbours to enact similar legislation. For example, without federal oversight, people from New York could easily cross over into New Jersey and purchase whatever substances they wanted and then simply return home (Musto, 1999).

This would gradually change however because of the social work of men like James H. Beal. Beal was lawyer-pharmacist, who had developed a model for a state-level law that would help to curb various non-medical uses of habit-forming substances (Ibid). When the American Pharmaceutical Association had met in Philadelphia to celebrate its fifteenth anniversary in 1887, a committee had established several resolutions that were passed by a majority of the APhA members. Two of these recommendations were that uniform laws should be established by the medical and pharmaceutical associations that would “protect citizens from habit-forming drugs” and that the APhA should refuse membership to traffickers in these substances (Ibid: 17). Beal stepped forward as a leader in this cause and in 1903, his model state law was praised by the association. Part of the Beal model rested in the states’ policing powers. The theory behind the Beal model was that the law should be “used to prevent the creation of drug habits,” and suggested law enforcement as an adjunct to curing those already engaging in non-medical use. This represented a step away from the Association’s traditional stance that doctors and pharmacists should hold the

ultimate power over prescribing or denying narcotics to users based on an individual-level assessment.

Due to advocates like Beal, members of other medical organizations, such as the National Association of Retail Druggists (NARD) and the National Wholesale Druggists Association (NWDA) were quick to adopt similar model laws, which formally extended the drug trades' support for the 1903 APhA model (Ibid: 21). This movement would culminate in the passage of the District of Columbia Pharmacy Act of 1906 that enveloped the notions present in Beal's 1903 model, as well as other notions adopted among the other pharmaceutical groups. As a general pharmacy law, the Act protected the actions of registered pharmacists from the activities of those without a license, or from the "quacks" selling door-to-door. Another victory in congress was achieved later that same year with the passage of the Pure Food and Drug Act of 1906. This required patented medicine makers to list all of their product's ingredients, as well as specific amounts of any narcotics they contained.

However, in the scheme of international narcotics control, these actions by various professional organizations merely helped to set the stage for what would ultimately become a phenomenon that would take the world in an entirely new direction in relation to non-medical narcotics use. Two American civilians, backed by the power of three different presidential administrations over time, were to find themselves at the helm of this movement. These two men embodied the very essence of the dialectic referred to as the medical-moral discourse: Bishop C.H. Brent, a man of the Cloth, and Dr. H. Wright, a medical practitioner and scientist.

Just as the medical-moral discourse had helped the anti-opium movement gain legitimacy in both the public and private spheres, these two men legitimized the American view of strict narcotics prohibition on the international stage through the very essence of their “moral and policy entrepreneurship” (Becker, 1963:145-7; Kingdon, 2003: 179-83, 204-5).

Among the missionaries who travelled to the Far East, the Right Reverend Charles Henry Brent,<sup>139</sup> is considered to have had the greatest influence in setting an international agenda to address the opium question (Davenport-Hines (2001), Giffen et al. (1991), Musto (1999), Taylor (1969)). Brent embodied nearly every aspect of the Becker (1963) prototype. Musto (1999: 11) describes Brent's view of narcotics:

Did narcotics have a value other than as a medicine? No: unlike alcohol they had no beverage or caloric value. Should such substances be permitted for casual use? No: there was no justification, since there was the possibility only of danger in narcotics for non-medical use. Therefore recreational use of narcotics should be prohibited, their traffic curtailed on a world scale, and a scourge eliminated from the earth. To compromise, to permit some (for instance the Chinese) to use narcotics would be inconsistent with morality, and therefore not permissible.

Brent, much to his chagrin, arrived in the Philippines in 1901 and in his words “solely because the Church bade me, against my taste and with a repulsion for work in the Latin country.”<sup>140</sup> In August of 1902, Brent was appointed the first Episcopal Bishop of the Philippines and member of the Philippine Commission who had responsibility, under the State Department, for

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<sup>139</sup> Musto (1999: 310n7) states that the standard biography on Brent is A.C. Zabriskie's *Bishop Brent: Crusader for Christian Unity* (Philadelphia: Westminster, 1948).

<sup>140</sup> BBP, bin 7, letter from C.H. Brent to Randall Davidson, Archbishop of Canterbury, dated December 21<sup>st</sup>, 1912. See also Davenport-Hines (2001: 156).

the management of the Islands (Musto, 1999: 25). It immediately became clear to Brent that the newly acquired islands were in desperate need of moral reform. It would seem that his distaste for the “Latin Country” soon vanished, as Brent tirelessly threw himself into morally reforming the Islands from the ground up.

Brent was pained by “the worthlessness of the...degenerate, criminal and immoral” Americans in the Philippines.<sup>141</sup> As, in his mind, the U.S. occupation brought with it “scoundrels that had not been allowed to run rampant...since the civilizing of the [American] West...the adventurer, the irresponsible weakling, the human bird of prey are found here in abundance.”<sup>142</sup> Aside from the “degenerate Americans” who had clamoured to islands, Brent was overly concerned with the vices of “the Orientals” who he viewed as having a weak constitution as an inherent trait. Brent felt that because of this innate fault in their character, it was only a matter of time before more of the native Filipinos would be “submerged in the most horrible vice of the Orient”; that vice being the Chinese habit of opium smoking (Davenport-Hines, 2001: 156).

The United States had acquired the Philippine Islands as a result of the Spanish-American War and with this new colony came a large population of Chinese opium users. Also, as a probable result of a devastating cholera epidemic in 1902, many of the native Filipinos had acquired the habit of opiate use. This opium use, especially smoking, provided the Philippine Commission a chance to reshape the policies of the newly acquired colony with a moral backing. In 1901, the U.S. Supreme court had decided that doctrines of states’

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<sup>141</sup> Ibid.

<sup>142</sup> Ibid



rights were inapplicable to the insular possessions (Musto, 1999: 26). Therefore, Congress and the Philippine Commission, which was appointed under the State Department to run the affairs of the islands, had the authority to take any action it saw fit in relation to the opium question. As Musto (Ibid) states, “ a tradition of government monopoly of opium sales [installed by the Spanish], supported by a sizable number of Chinese opium smokers and a growing number of natives smoking or eating opium, presented the federal government with an unprecedented problem and unprecedented latitude in the choice of a solution.”

The first solution proposed was to reinstate the opium monopoly, restrict sales to only Chinese inhabitants and use the revenue gained from these opium sales to educate the next generation of native Filipinos (Ibid). However, Brent and other missionaries opposed this action, as it involved the United States supporting an indefensible vice.

On July 6<sup>th</sup>, 1903, Brent wrote what was to be the first of two very influential letters in the international anti-narcotics movement. The letter was directed at the Commissioner of Public Instruction, the Honourable James Smith, who was a major proponent of the opium monopoly system and had the ear of the administration back home. Smith believed that it would be impossible to prohibit opium use outright, which was firmly entrenched in Filipino society. Smith insisted a system should be set up where the revenue gained from the opium monopoly system would then be redirected towards educating the next several generations of Filipinos by way of a large school fund. In this monumental letter, Brent first set up the five main arguments in favour of the monopoly system and

then attempted to nullify each one through use of his moral compass. The letter<sup>143</sup> reads, in part:

My Dear Judge,

I give you herewith the result of my study of the proposed Opium Bill. I know very little of the history of opium legislation...The views that I express are based on general principles without regard to expediency, because it seems to me the moral ground is indisputable in the matter...The question is first and foremost a moral one. The use of [opium] otherwise than medicinally is a vice...if the matter is a moral one there should be no more license allowed than in murder or stealing. We do not hesitate to forbid these crimes categorically and without reservation, although we know that neither murder nor dishonesty will cease in the land. Less stringent legislation would be nothing short of putting a premium on crime...

The opium traffic...cannot be ranked with the liquor trade, for, as every temperate man acknowledges, in this latter there is legitimate consumption as a beverage...Whereas there is no un-vicious use of opium or its immediate products as a food-stuff or beverage. The consumption of opium is not merely a personal weakness; it is a social vice, i.e. a crime. Those who are subject to it lead others into its toils by malice aforethought, for the sake of gain, because of the desire of vice to have fellowship. If license is allowed any section of the community to consume opium it will only be a matter of time before vast areas of untainted life are polluted...because a premium has but put upon vice.

Whenever an opium fiend is sent to prison he is deprived of his drug by the prison laws...at first there is great physical distress but it does not last and sooner or later the victim improves greatly in health. There may be in some cases death from the sudden cutting off of opium...but even if death did occur in a few cases it would not be an argument of any weight against a Bill that would prohibit. Every step in progress means the sacrifice of some...in the case in point, *no worthy elements of society would pay any penalty.*

...We ought to take the very highest ground and walk independently of the sad compromises which characterise the legislation of other nations<sup>144</sup>...I believe we have a fine opportunity

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<sup>143</sup> BBP, Bin 6, Letter from C.H. Brent to the Hon. James F. Smith, Commissioner of Education in the Philippine Islands, dated July 6<sup>th</sup>, 1903. Italics added by author.

<sup>144</sup> In reference to the revenue produced for India and Britain from the Indian-Chinese trade.

to create a new era in opium legislation in the East if we take it. Nor will it be by pursuing a revolutionary course, but by acting on the lines of the best state legislation at home... and I have come to the conviction which I have expressed from an independent study of the [opium] situation.

Yours very faithfully,  
C.H. Brent

Back in the continental United States, The Reverend Wilbur Crafts, a colleague of Brent's and leader of the International Reform Bureau, caught wind of Brent's letter to Smith and began issuing a series of letters to the White House asking the newly appointed President, Theodore Roosevelt, to veto the bill. Quite suddenly, a cable was received by the civil governor of the Philippines, William H. Taft, from the secretary of War, Elihu Root, who answered directly to the President that stated: "Hold opium monopoly bill. Further investigation. Many Protests" (Musto, 1999: 27). As more opposition began to mount, the bill was soon withdrawn. Later, in a letter written by Smith to Brent, Smith's attitude towards the monopoly had apparently changed quite suddenly. Although it could be argued that this was done to minimize political backlash from the administration, Smith credited Brent's letter to "opening avenues [of the opium question] not fully realized before by [himself] and others."<sup>145</sup>

Within weeks of Brent's letter to Smith, Civil Governor Taft appointed an investigative body, known as the Philippine Opium Committee, to examine how neighbouring regions of the Far East dealt with the opium question. Brent was nominated and quickly assigned a position on the committee with two other

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<sup>145</sup> BBP, Bin 6, Letter from the Hon. James F. Smith, Commissioner of Education of the Philippine Islands, to C.H. Brent, Dated July 27<sup>th</sup>, 1903. See also BBP, Bin 6, Letter from C.H. Brent to Bishop Hall, page 3, dated July 20, 1903.

individuals, a U.S. Army Major and a local physician.<sup>146</sup> In reply to a letter, which offered Brent "commission for his work," Brent replied: " I find myself in a position to offer my services free of any personal compensation...This I am glad to do as a citizen desirous of making a voluntary contribution toward the solution of one of the gravest moral problems [we face in] the commonwealth."<sup>147</sup>

The Philippine Opium Committee was instructed to travel through Japan, Formosa, Shanghai, Hong Kong, Saigon, Burma and Java gathering information on how opium was handled and the extent to which it was used. In the instructions given to Major Edward C. Carter, Chairman of the Committee, W.H. Taft expressed that the committee should be free of bias and the Philippine Commission "has not the slightest desire to influence or control the conclusions of [the] committee...All the Commission desires to know is the truth [and that] nothing said in the prior discussions by members of the Commission should affect your judgement."<sup>148</sup> The committee's report was submitted to Governor Taft on June 15, 1904 and the majority of the committee had reached the following conclusions:

For three years opium sales should become a government monopoly with only males over the age of 21 licensed to smoke. After gradually reducing individual rations, opium and opiates would be totally prohibited except for medical purposes. The report rejected control by high tariffs or licenses, local option, registration of dealers and immediate prohibition. Provisions should be made for hospital cures and instruction in the schools of the evils of opium, to discourage the young from forming the habit. Opium dens were to be closed and poppy cultivation prohibited.

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<sup>146</sup> BBP, Bin 6, Letter from A.W. Fergusson, Esq., on behalf of Civil Governor W. H. Taft to C.H. Brent, dated July 31st, 1903.

<sup>147</sup> BBP, Bin 6, Letter from C.H. Brent to A.W. Fergusson, Esq., dated August 6<sup>th</sup>, 1903.

<sup>148</sup> BBP, Bin 6, Letter from W. H. Taft, Civil Governor of the Philippine Islands, to Major E. C. Carter, U.S. Army and Chairman of the Opium Committee, Dated August 8<sup>th</sup>, 1903.

The report's authors considered it in accord with contemporary medical opinion: the craving for opium is irrepressible and a habitué gradually increases his intake until systematic intoxication leads to moral and physical degeneration. Although crimes committed under the influence of the drug were thought to be less violent than those stemming from alcohol, extreme craving caused by lack of opiates was connected with crime. Immediate prohibition, therefore, would not be worse or effective. The ultimate goal, however, should be total prohibition, as well as free treatment for habitués.

(Musto, 1999: 28, citing the *Philippine Opium Investigation*: 45-49)

The domestic reaction in America to opium use in the Philippines was not favourable to the committee's findings, to which Brent had been opposed to most of the suggestions and was *not* in the "majority" of the three person committee (Musto 1999: 28). Ergo, in March 1905, Congress ordered immediate opium prohibition for Filipinos except for medical purposes and in three years, the prohibition would apply to all non-Filipinos as well. In the meantime, the Philippine Commission could make what provisions it wished in regards to the control of the non-Filipino populations' opium intake.

Having seemingly resolved the opium question in the Philippines, Americans involved with the international anti-opium movement turned their attention to the Sino-Indian opium trade, with a particular interest in helping China. The members of the Philippine Commission had the enormous task of policing more than 3,000 islands and knew that even with the total prohibition of non-medical opiate use taking effect in 1908, there would be no way to control smugglers from importing the drug. Thus, in July 1906, Brent sent a series of letters to President Roosevelt urging an international meeting between the United States and the other worldly powers that had interests in the Far East. The first of

these letters was the now infamous letter of July 24<sup>th</sup>, 1906.<sup>149</sup> Brent argued that it was only through such a concerted effort that any hopes of shutting off the supply of opium to China could be achieved. This, in turn, would make the upcoming prohibition in the Philippines effective by nullifying opium at its production sources, namely India and China. Roosevelt agreed and set a plan in motion for the United States to host an international gathering in the Far East to address the opium question, which would ultimately take the form of the Shanghai Opium Commission of 1909.

From a policy creation standpoint, some of Brent's actions, in conjunction with the specific historical context in which they took place, reaffirm the Kingdon (2003) model of agenda setting. Kingdon's (Ibid: 68) notion of a "national mood", which is reflected most often in a society's media mediums, created a social foundation from which anti-opium opinions and expressions could flourish. From the 1860's until the early years of the 20<sup>th</sup> century, medical and other popular journals, magazines and newspapers went from hailing opiate and narcotic use, to abhorring it in a relatively short period of time. These pieces of media acted as social "indicators" (Kingdon, 2003: 90-115). As mentioned in chapter 2 of this thesis, indicators can take the form of professional research that suggests changes in a specific social issue which warrants political action. This was the case in relation to opium in America and these emerging indicators provided ample ammunition for the fledgling medical professionals, who sought legitimacy by trying to monopolize control over narcotic distribution for non-medical purposes. Additionally, these indicators created momentum for the anti-opium

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<sup>149</sup> See chapter 3 of this thesis and Appendix (B).

social movements. Members of the Temperance league, the Anti-opium League, the Social Gospel movement and the newly transplanted Society for the Suppression of the Opium Trade, were able to find common ground with the emerging medical professionals in promulgating the medical-moral discourse. Once legitimized in the private and professional sphere, this discourse formed the basis of public opinion about opium use.<sup>150</sup>

Once relegated to the public sphere, the medical-moral discourse was used to combat a wide range of social vice, one of those being non-medical opium use. When the historical data are reviewed, there can be no denying that the actions of interest groups during this time proved to be one of the most influential forces affecting governmental agenda. This notion is reaffirmed by The Lowes Hypothesis at the empirical level and Kingdon (2003: 46-53) at the analytical level.

With a social backcloth of anti-opium sentiment nearing a climatic state in the continental U.S., all that was needed was a small amount of extra momentum for the ideals and resolutions proposed by the influential interest groups to succeed. The acquisition of the Philippine Islands from Spain provided this.

Just as Kingdon (2003: 94-5, 21-30) found in his contemporary research aimed at issues in the health and transportation fields, the anti-opium movement needed “a little push” to get the attention of people in the administration, who are seen as critical elements in the formation of policy. The opium “problem”, as it came to be described as in the Philippines, provided an important “focusing

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<sup>150</sup> Kingdon (2003: 65) views “public opinion” as “neither insignificant...nor among the most prominent in total array of [agenda-setting] sources, but just about in the middle.”

event” that the anti-opium movement’s members could rally around. Specifically, it was the notion that the U.S. was contemplating taking a path similar to the “perfidious British”<sup>151</sup> by establishing a monopoly system of opium control. This notion of making revenue from a social vice outraged moral crusaders like Brent and the idea became reified as a powerful symbol to rally against.

Aside from Becker’s (1963) moral crusader prototype, Brent’s incentive to invest his time, energy and, as we have seen upon his appointment to the Philippine Opium Committee, some of his own resources and money, would also classify him as a “policy entrepreneur” (Kingdon, 2003: 122-4). The policy entrepreneur, much like the moral crusader, can take on many forms and they advance their “pet solutions” to a social problem for a variety of reasons or incentives. Brent’s advocacy takes the form of what Kingdon (Ibid: 123) cites as “purposive incentives.” A promoter of purposive advocacy engages in the policy community because their personal ideology beckons them to do so.

Although I doubt that Brent had any inclination that his letter to James Smith would cause such a swift reaction from the administration back on the mainland, I do believe that, in the spirit of Kingdon’s (2003) policy entrepreneurship, he did see the consideration of a Bill to introduce the monopoly system as a “policy window” that had opened, to which his “pet solution” of outright prohibition on moral grounds could be attached and pushed through. I also believe that he had his finger on the pulse of the anti-opium agitation on the domestic front and was aware of the public’s mood that was gradually becoming

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<sup>151</sup> As termed by Hamilton Wright: HWP, Record Group 43, Entry 37, Folder 2 of 2, Letter from H. Wright to C.H. Brent, Dated February 19<sup>th</sup>, 1909.



fearful of hedonistic narcotic use. Brent was successful in pushing his ideas onto the political stage, not only because he was savvy enough to recognize an opportunity when it presented itself, but because he was able to “couple” various “policy streams” when this “policy window” presented itself (Kingdon, 2003).

Within the “problem recognition stream”, several indicators had already established the opium “problem” (Kingdon, 2003: 90-113). Specifically these were the accumulation of knowledge related to the effects of over-prescribing and heavy, prolonged use of narcotics acting as indicators, in conjunction with the focusing event of the “new problems” faced by the Philippine Commission acting as a catalyst.

In the essence of Kingdon’s (2003: 116-143) “policy stream”, or “policy primeval soup”, there were really only two ideas “floating around” that were seriously being considered in relation to the opium question: careful regulation through the monopoly system, with revenue going back into social programs like education, or outright prohibition of all “illegitimate” use. Brent’s strict prohibitive views about non-medical narcotics use mirrored those found in the anti-opium movement and were able to overcome various “survivability tests” within “the soup” (Kingdon, 2003: 116-7). These survivability tests included the acceptability of the notion of prohibition by specialists or professionals; the ability to anticipate future constraints, such as the public attitudes towards narcotic use, which were becoming more favourable for prohibition, as fear of minority use of various substances gained momentum; and the ability of narcotics prohibition to “mutate”

or combine with other proposals that sought to put limits on other social vices, such as gambling, prostitution and drinking alcohol.

Flowing independently of these two streams is the notion of the “political stream” (Kingdon, 2003: 145-62). As stated in chapter two of this thesis, the political stream includes such things as perceived public mood, pressure group campaigns, election results and changes within the administration which can act as policy promoters or inhibitors depending on the situation or context. The first two elements, the perceived public mood and pressure group campaigns, have already been discussed at length throughout this thesis. The remaining two elements, as they relate to Brent and narcotics prohibition deserve some mention, as they were ultimately responsible for the success of his ideas.

Brent’s social and political work was done over the course of three different administrations, all of which agreed with the notions inherent in prohibition to some degree.<sup>152</sup> Brent’s most crucial work, in terms of global prohibition, took place during the presidency of Theodore Roosevelt.

Roosevelt was a brash, bold man and politician who was extremely active in foreign affairs. He was also a religious man and saw his role as a President to be a patriarchal one. This view was not only a driving force for his domestic policies, but was extended to the global level as well. When one examines his actions and proposals promulgated at the international level, there can be no doubt that “Teddy” envisioned the proper role of the United States in world affairs as being a grand “father figure”, whose role was to guide those nations and

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<sup>152</sup> The Presidential Administrations of William McKinley (1897-1901), Theodore Roosevelt (1901-1909) and William H. Taft (1909-1913).

governments that were still “in the dark” in relation to a multitude of political and social issues. The timing of Brent’s two most important letters could not have come at a better time and both reached the President himself through either direct or indirect means. In terms of getting your “pet policy proposals” to gain momentum through official government circles, there could have been no greater asset than having a President like Roosevelt behind them. Historical hindsight shows us that this did indeed give an enormous thrust to the proposals of the anti-opium and narcotics forces and their members. Thus, the political stream acted as a “key promoter of high agenda status being granted” to the notion of prohibiting non-medical narcotics use at the national and international level (Kingdon, 2003: 163).

With the policy streams all in alignment,<sup>153</sup> Brent, acting as a policy entrepreneur, was able to take advantage of an open policy window at an opportune time and create an “agenda package” centred on narcotic prohibition. This package not only appealed to the majority of people in the American government, but to other governments around the world that were also beginning to lean towards a more restrictive approach to the narcotic question.

Aside from the crucial work done by Bishop Brent in relation to the genesis of international narcotic control, our analysis would be incomplete without an examination of the efforts of another American, the “dashing and ebullient” Dr. Hamilton Wright (Musto, 1999: 31). As presented in subsection 4.1.2 of this chapter, Wright’s voice was one of the most prominent, controversial and

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<sup>153</sup> Or as Kingdon (2003: 179), citing the expressions of several policy makers that he interviewed, puts it, “several things came together at the same time...or...a cluster of factors got blended into the mix.”

melodramatic of the entire body of delegates at the Shanghai Commission.<sup>154</sup> Although sharing some of the tendencies of the moral crusader, Wright was much more a “wannabe” politician imprisoned in the body of a doctor. Accordingly, Kingdon’s (2003: 122-24, 179-83) notion of the policy entrepreneur is a better fit.

Compared to Brent, Wright appears to have been a more “worldly, impetuous figure” (Lowes, 1966: 98). Wright was born in Ohio and educated in Canada. After graduating from McGill University, Wright took a hospital appointment in Montreal. In 1895-6, he visited Japan and China to study tropical diseases where he gained some notoriety by discovering, albeit by complete accident, that beriberi was an infectious disease (Musto, 1999: 31). After his trip to Japan and Asia, he conducted further research in England and Europe, where he authored several popular medical articles. However, Wright was always more intrigued by the political side of medical work than by research (Ibid).

His love of politics would be furthered in 1899, when he married Elizabeth Washburn, who was from a wealthy and prominent political family. Many years later, upon Wright’s death at the age of 50, Mrs. Wright continued her husband’s work. She became the first woman to receive plenipotentiary powers as a diplomat, was appointed to the League of Nations Advisory Committee on the Traffic in Opium and other Dangerous Drugs and played a crucial role in the

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<sup>154</sup> The most prominent effects of Wright’s moral and policy entrepreneurship in relation to global narcotics prohibition seem to take place during and *after* the Shanghai commission of 1909. However, a detailed analysis of the post-Shanghai era is beyond the scope of this thesis, which is primarily concerned with the formative period of events that took place pre-Shanghai and during the proceedings of the commission itself. Although his post-Shanghai work will be discussed in brief within this remainder of this chapter and in chapter five, an obvious avenue for future research would be an extension of the thesis that discusses his actions to a greater degree of depth than is presented here.

passage of the Boggs Act of 1951, which mandated minimum mandatory sentences for first time narcotics offenders (Musto, 1999: 314 n34; Lowes, 1966: 98-9).

Wright's marriage to Washburn opened up many doors for him in the political arena and advanced his hopes for a political career (Musto, *Ibid*). Much like Brent, Wright was in a position of power to the extent that he could directly write to presidents and diplomats, or call on other prominent worldly figures, such as the Archbishop of Canterbury, or Canada's own Mackenzie King.<sup>155</sup> Taylor (1969: 55, italics added by author) contends: "to [Wright], *more than to any other single individual*, must go the greatest share of the credit for the success of American efforts in the antiopium drive in the first two decades of the 20th century, for he built the groundwork of policy and practice upon which the international and domestic actions of the United States were based throughout the [formative] period [of narcotics control]." Taylor (*Ibid*) defends this, in part, by referring to the fact that Wright was nominated and appointed outright to the Shanghai Commission, whereas Brent was chosen only after Judge Thomas Burke of Seattle declined nomination for unknown reasons.<sup>156</sup>

Wright began his involvement with the global movement to control narcotics from what he would recall as "casual good luck" (*Ibid*). Musto (*Ibid*) cites an undated memo left in the Hamilton Wright papers held in Washington D.C. that reads:

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<sup>155</sup> As is evident in his collection of papers and correspondence held in Washington D.C. See HWP in the reference section of this thesis as well as Lowes (1966), Taylor (1969) and Musto (1999).

<sup>156</sup> See also Musto (1999: 30)

My first intimation that there was to be an American Opium Commission came from [*Chicago Tribune* correspondent Cal] O'Laughlin. I met him on Scott Circle on the morning of May 1<sup>st</sup> [1908]. We passed the time of day and he then asked of me in his usual direct way if I would like to be a member of an opium commission about to be appointed by President Roosevelt. I inquired about it, could not get much information as O'L did not have much. But I saw at a glance that it was bound to a large and extensive bit of work and I said that certainly I would like to be a member. O'L said that he thought that Roosevelt wanted me to serve and that I could see [presidential secretary] Loeb about it. I did so shortly thereafter at the White House offices.

Wright had been recommended to the President because of his previous international work on tropical diseases (Taylor, 1969: 54). Thus, Wright was elevated from the level of a "policy groupie" to a fledgling "policy entrepreneur" almost overnight (Kingdon, 2003: 122-24, 179-183).

Wright was quick to devour the information on opium contained in the State Department records and the Library of Congress in order to prepare for his appointment. Upon hearing that Brent, who had also been appointed to the newly formed Opium Commission, was possibly heading to Washington and the White House, Wright sent the President a memorandum that espoused his personal opinions on the general opium question and how it should be handled on the international level. According to Musto (1999: 32): "this direct communication to the President reflected Wright's view on his role in government: a subordinate in the State Department because of technicalities, he was in reality independent of formalities—a distinguished scientist trying to accomplish quickly and efficiently an important political assignment." These actions did not sit well with Elihu Root, who had become Secretary of State under Roosevelt, and he was quick to admonish Wright for "not knowing his proper place" as a civilian working under

the State Department. Wright was quick to counter Root's comments with a letter to the third assistant of the Secretary of State, in which he ostensibly offered an apology, but was quick to rationalize this transgression by adding that the letter to the president was "a private one, on which [he] did not expect [the President] to take any action" and that Wright had written to him merely 'in the event that the [opium] subject should be taken up [with Brent], [the President] might be able to discuss [Wright's ideas] with the Bishop."<sup>157</sup> The historical record indicates that the tension between the emerging policy entrepreneur and the established bureaucrat would continue in a similar manner for the next several years, as Wright continued to try to overstep his civilian boundaries that were constantly being enforced by Root. Looking back on history, one could call the constant bickering between Wright and Root that unfolded over the years as almost comical.

In order to prepare for the upcoming Shanghai Commission, Wright launched himself into an exhaustive study of the domestic narcotics situation. According to Wright<sup>158</sup>:

the Police Departments, the City and State Boards of Health, the States' Boards of Pharmacy, The State Agricultural Departments, the Universities, State and privately endowed, the Medical Inspectors of Orientals, State Medical Associations, the Wardens of State Prisons and Reformatories, Opium Brokers and Importers, Morphine Manufactures, Retail Pharmacists, about 700 leading Physicians and Surgeons...have been canvassed by letter or have been seen by me personally with the idea of finding out how this country stands in regard to opium."

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<sup>157</sup> HWP, Record Group 43, Entry 48, Box 2, Letter from H. Wright to Huntington Wilson, 3<sup>rd</sup> assistant to the Secretary of State, dated September 11<sup>th</sup>, 1908.

<sup>158</sup> HWP, Record Group 43, Entry 48, Box 2, Letter from H. Wright to C.H. Brent dated August 22, 1908.

This zeal shown by Wright was indicative of his approach to all of his anti-opium work. As time passed and the delegates had begun to arrive in Shanghai for the International Commission, Wright had cabled Washington after it was realized that America still did not have any federal statutes against opium. In order to avoid appearing hypocritical and to come before the international community with “clean hands”,<sup>159</sup> Wright quickly drafted a Bill against opium smoking just days before the Commission was to commence on February 1<sup>st</sup>, 1909. Periodically, over the next two weeks, Wright would write in his personal journal about its progress<sup>160</sup>:

January 31<sup>st</sup>...Gott sei dank, we had a cable today, the better the day the better the deed, saying the Antiopium bill had passed the Senate, that the House Committee had reported it favourably and that the House would pass it in a few days. That is the best bit of work of my lifetime. All is well and goose honks high.

February 5<sup>th</sup>...Have cabled the [State] Department several times as to progress of the Bill I left with Root to exclude smoking and all other opium from the U.S. except for medical purposes. Absolutely necessary my view that it should pass before American report laid before Commission...Much relieved to get a cable from [Assistant Secretary of State Robert] Bacon today saying that Bill had passed. Cabled almost in full it would seem. Laid the American Report before the Commission and was able to wind up with the statement that we had started on a new road in opium legislation. Great effect. Clementi-Smith and other of the British congratulated me on the clarity of my statement.<sup>161</sup>

The Opium Exclusion Act of 1909<sup>162</sup> took effect on February 9<sup>th</sup> and, as would unfold in later years, began the trend of forcing opium smokers into the more

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<sup>159</sup> HWP, Record Group 43, Entry 45, Reprint of the Proceedings of American Society of International Law, 1909, Report of Dr. Hamilton Wright of Washington D.C., month and day not recorded in original.

<sup>160</sup> HWP, Record Group 43, Entry 47, Box 2, Personal Insight of H. Wright on the International Opium Commission of Shanghai, January 23<sup>rd</sup> to February 27<sup>th</sup>, 1909.

<sup>161</sup> See also Shanghai Report, *supra* at note 12, Vol. I, pp. 19-20.

<sup>162</sup> Also referred to as The *Smoking* Opium Exclusion Act of 1909.



destructive and habitual acts of morphine and heroin use (Davenport-Hines, 2001: 165). After the Shanghai Commission had dissolved, Wright, aided by Brent, immediately began to clamour for an international conference or convention so that the resolutions at Shanghai could be translated into binding agreements to which all signatories would have to abide. Despite the frequent obstacles that his brash and melodramatic mannerisms created for the American delegation at Shanghai, he was successful in his pursuits. At the close of 1911, the first of two International Opium Conferences took place at The Hague, which did indeed result in binding resolutions set to curb all non-medical opium, morphine and cocaine use on a global scale. The ratification of the Articles of the Hague Conventions were directly responsible for the passage of the Harrison Narcotics act of 1914, which was to become perhaps the greatest milestone in U.S. domestic narcotics control policy.

Wright had indeed come into his own after his original appointment to the Shanghai Commission, as he was nothing short of the embodiment of a policy entrepreneur. To follow Kingdon's (2003: 179-81) definitions of this prototype, Wright was willing to invest an enormous amount of time, energy, reputation and money to promote his position. Unlike Brent, Wright's form of advocacy stemmed from "material incentive" in that "direct, personal, concrete gain [was] at stake" by promoting his own personal political aspirations and interests (Ibid: 123).

Kingdon (Ibid: 180-181) describes three essential qualities that a successful policy entrepreneur possesses: the person has some claim to a hearing, the person is known for his political connections or negotiating skill and

the most important skill one must possess is persistence. Wright personified all of these qualities through his anti-opium work.

Wright had the “ability to claim a hearing” in that out of the scores of people who attempted to be “heard” by members of the upper echelon of the government, Wright’s voice was actually listened to. He had been given “expertise” in the opium matter by his appointment to the International Opium Commission, by his previously hailed work as both a medical practitioner and scientist and from his extensive, albeit exaggerated, domestic narcotic research prior to Shanghai. He was also given the ability to speak for others and from an “authoritative decision-making position”, by virtue of his position on the American delegation in Shanghai (Ibid: 180). As is recorded in the Shanghai Report, Wright assumed the leadership role for the American delegation and presented nearly all of the American proposals, amendments and resolutions.

Although some British delegates and diplomats would disagree, within American and Chinese political circles, many statesmen saw Wright as possessing strong negotiating skills. This became apparent in the aftermath of the Shanghai Commission, as Wright was able to successfully bring together many different nations to once again discuss the opium issue on the international stage. His strong political connections were discussed previously and there can be no denying that his marriage into a prominent political family only furthered his own political ambitions.

There can also be no denying that Wright possessed “persistence”, which is described as the most essential characteristic a policy entrepreneur can exhibit

(Kingdon, Ibid: 181). In his “policy groupie” years, Wright was a tenacious doctor and scientist, who had gained notoriety and respect in this field, partially due to the many popular articles and studies he produced. Also, if the sheer volume of correspondence that he engaged in from the years of 1908 to 1916 that pertains to the opium issue were examined, one would be hard pressed to refer to him as anything but persistent. Even in 1916, one year before his untimely death, Wright was still diving headlong into all sorts of issues. On September 9<sup>th</sup>, 1916, Wright wrote to ex-President Roosevelt “begging him to include him in the division that Roosevelt was talking of raising for service in Mexico. Wright said that he had ‘served in three crack Canadian regiments and had been decorated’ and was ‘crazy to get into this Mexican business’ and added that Bryan, the Secretary of State, had ‘chucked him out of the opium business because he was the last of Roosevelt’s men” (Lowes, 1966: 99).

When brought together as American delegates to Shanghai, Brent’s level of maturity, the authority of his position as Archbishop of the Philippines and his unyielding moral entrepreneurism, coupled with Wright’s energy, enthusiasm and tireless political work and domestic research on the opium issue, created a formidable force in the global narcotics control arena. Indeed, even today when one mentions the history of narcotics control at either the national or international level, both of their names inevitably come up for discussion. More than any other individuals who were involved with the global narcotics question during the 19<sup>th</sup> and early 20<sup>th</sup> centuries, these two men exemplify the theoretical notions put forth by Becker (1963) and Kingdon (2003). Because of their work and other

significant historical developments that have been discussed throughout this thesis, America was able to take the lead in the global effort to stamp out non-medical narcotics use. This allowed the United States to re-frame international policy on the basis of a strict, prohibitive model of control, rather than one that emphasized incremental government regulation.

### **4.3 The Theoretical “Trialectic” Summarized**

As has been discussed throughout this chapter, three distinct perspectives have provided a level of analysis separate from those contained in the exemplar texts of Lowes (1966), Musto (1999) and Taylor (1969). Through an analytical “triangulation” of perspectives, a theoretical “trialectic” was formed. This trialectic aids in the generation of knowledge at a second level of abstraction not found within the exemplar texts. The formation of the trialectic also helps to curtail the inherent limitations of the three approaches used to scrutinize the historical and academic data pertaining to the genesis of international narcotics control. This minimization of limitations is accomplished through a reflexive intellectual pattern of ebb and flow among the theories represented within the data. Thus, the shortcomings of the first perspective are engaged by the tenets of the second model that are in turn incorporated and expanded upon by the notions contained within the third viewpoint, which is then brought back into context by the first concept. The process comes back full-circle, upon itself, to once again generate further knowledge and scrutiny of the data.

The pluralist conflict approach represents the first step in this process. This model of law creation represents a meta-level theoretical orientation, as it

relates to the formation of global control schemes aimed at non-medical narcotic use. At the macro level of analysis, the pluralist approach is supported by way of pressure group campaigns that took place within Great Britain and America. Groups that participated in the anti-narcotics movement were but one faction among many that were competing within a social problem economy, or “social problem game”, during the 19<sup>th</sup> and early 20<sup>th</sup> century (Loseke, 1999: 19). This epoch was termed “the Progressive Era” in the United States and was characterized by social concern over a myriad of issues, such as the environment, economic security, government scandals and business corruption, to name a few. Within each facet of social concern, there were several groups vying within the public and private spheres for the right to gain “ownership” to the perceived problem so that their specific solutions to the issue could be considered as the “best way” to approach the various social dilemmas. In relation to the anti-narcotic movement, success was achieved by the actions of groups like The Society, which used various political and grassroots campaign strategies to mobilize resources and instil their sense of “right and wrong” into a majority of the population in both Great Britain and the United States.

At the micro level of analysis, the pluralist conflict approach helps to explain the outcome of the historic International Opium Commission, held at Shanghai in 1909. Over the course of several weeks, resolutions concerning the non-medical use of opium and morphine, as well as issues of international policy towards China, were put forward by various nations in an effort to define and solve the narcotic “problem” in accordance with each country’s worldview on the

issue. When the nine final resolutions that were accepted by the 13 nations present at the commission are deconstructed, a process of compromise between competing worldviews becomes apparent within the most enduring proposals. This process characterizes aspects found in the theoretical definitions of the pluralist conflict approach, as explained by Akers (2000), Wright (1993), Vold (1958) and Quinney (1970).

Although the pluralist conflict approach provides a general overview of some of the basic dynamics involved in the genesis of global narcotics control, it is limited in scope. As a necessary element in the Lowes Hypothesis, individual action must also provide a catalyst that helps to not only manipulate and carry the anti-narcotics movement forward, but extends the degree of influence over political powers that cannot be achieved through social movement agency alone. When the historical data are analysed at the analytical level of abstraction, the Lowes Hypothesis notion of individual action becomes reified in accordance with the work of Becker (1963).

The influence of individuals who embody Becker's (1963) prototype of the "rule creator and enforcer", otherwise known as the "moral crusader" or "entrepreneur", is evident throughout this formative period of narcotics control. Beginning with the social and political work of individuals in Great Britain, who provided leadership and political legitimacy to pressure group campaigns, such as The Society, these moral crusaders were eventually able to succeed in changing attitudes and government policy towards China and narcotics use. The act of stepping forward and personifying anti-narcotic sentiments helped achieve

a level of success for these personalities. When the social movement's ideals were transplanted to the United States, individuals began to step forward and carry the flag of anti-narcotic sentiment. The influence and moralistic social work of Americans like Charles H. Brent, and to a lesser degree Dr. Hamilton Wright, characterize Becker's prototype to a tee. Indeed, had Becker lived and created his model in the early part of the 20<sup>th</sup> century, it is quite probable that he would have been writing about Charles H. Brent and not Harry J. Anslinger.

The entrepreneurship of specific individuals in Britain and people like Brent and Wright in the United States succeeded in penetrating the political sphere. Their voices emblemized the philosophies and ideologies of the pressure group campaigns, which according to the Lowes Hypothesis, is the most vital element to the formation of global narcotics controls. However, despite the insight that is gained by analysing the historical data using the pluralist conflict approach, which is enhanced by examining the work of individuals within the conflict process using Becker's (1963) prototype, there still appear to be grey areas within our understanding.

It is not enough to say that groups or individuals were successful in their attempts at framing public policy within their definitions of "right and wrong". The fact that they were successful initiates a need to understand how they were able to do so; an understanding at a deeper level of inquiry than is offered within the established empirical accounts of global anti-narcotics efforts. Ultimately, the genesis of international narcotics control was a political process that resulted in the resolutions created at Shanghai in 1909, which were then translated into

binding international agreements in the years that directly followed. Therefore, an analytical model of policy creation is needed in order to reach a more holistic understanding of this formative period from a theoretical viewpoint.

Kingdon's (2003) agenda-setting policy model helps to illuminate "blind spots" that the previous two perspectives under review are not able to overcome. Specifically, his model aids in our understanding of the political process behind the formation of anti-narcotic policy, as well as helping to explain the roles that pressure groups, entrepreneurs, politicians and historical events play within this policy progression. Essentially, this model is able to address the question of how anti-narcotic sentiment was successfully translated into international agreements, given that a myriad of other social issues could have been deemed as "more important" from a global policy-problem standpoint. The model also helps to explain how moral entrepreneurs, such as Brent and Wright, were able to gain the attention of certain political elites, which added additional momentum from within government in achieving the success of their "pet proposals" to the narcotics question.

Brent, particularly, and Wright were able to transcend Becker's (1963) prototype and achieve the status of "policy entrepreneurs" who were then able to navigate through and manipulate specific aspects of Kingdon's (2003) notions of the "policy streams". This was achieved by persistence, the social status granted by their professional work and station, their social awareness in relation to anti-narcotics sentiment, the ability to take advantage of political opportunities and some circumstantial "good luck" that came in the form of historical events



like the acquisition of the Philippine Islands by the United States. Thus, a level of understanding as to the political process behind global narcotics prohibition is gleaned by way of Kingdon's (2003) model. However, at the core of the Kingdon (2003) model rests the notion that policy creation takes place in a system of competition amongst potential social issues that may, at one time or another, come to the attention of those in and around government. Kingdon (2003: 196) describes his model as an attempt to explain "why some subjects rise on governmental agendas while other subjects are neglected, and why people in and around government pay serious attention to some alternatives at the expense of others." Kingdon's (2003) approach alludes to a system where pluralist conflict among groups and individuals with various solutions to potential social problems exists as the form of government in Western societies, particularly in the United States. Ergo, the theoretical triangle that forms the "trialectic" is complete. By moving the focus back once again to the pluralist conflict approach, future research can generate knowledge at a separate and deeper level of understanding each time an analytical journey around the trialectic is undertaken in relation to the genesis of global narcotics control.

## **CHAPTER 5: CONCLUDING REMARKS**

This thesis has traced the historical roots of the “war on drugs” that is currently taking place on a global scale. In order to accomplish this daunting task, three different strategies were incorporated. The first was the establishment of a starting point of reference from which further scrutiny could take place. The Shanghai Opium Commission of 1909 is the true genesis of international narcotics control.

Prior research concerned with the global control of narcotics and other psychotropic substances has taken many forms. Some have argued that a proper starting point of inquiry is after the great turmoil that occurred during World War II. The second Great War brought about global changes, both social and economic. Western Europe was in shambles and a grand reconstruction was about to take place. This reconstruction did not just happen in the physical sense of rebuilding cities, but a global reshaping took place when America gained access to Old World possessions and the “colonial division of labor” was reversed (McMichael, 2000). Now, instead of being a major manufacturer and exporter of goods, the Western European conglomerate needed practically everything imported. Thus, America, with her factories still intact and armed with the provisions of the Marshall Plan, was thrust into the global economic and political realm like never before. This was also a time when a fledgling United

Nations was beginning to have more influence and resources at its disposal. This global reshaping is often seen as the proper starting point for any contemporary research concerned with the global “war on drugs” primarily because the world had changed socially, politically and economically at fundamental levels.

Others contend that the turbulent 1960s is the proper place to start an analysis concerned with international narcotics control. This is primarily due to a “shaking up” of the social order that occurred in North America and elsewhere, which was accompanied by a perceived escalation in recreational drug use among youths. In addition, and perhaps more relevant to this thesis, The Single Convention on Narcotics took place in New York City in 1961. This is seen as a major event in international drug control for several reasons. The Single Convention unified the Permanent Central Opium Board and the Drug Supervisory Body into a single entity known as the International Narcotics Control Board. Both the PCOB and the DSB had been responsible for many of the agreements, treaties and oversight of the narcotic control question at the global level for several decades. This unification provided for a more efficient way of dealing with the question at fundamental levels. The Single Convention also represented a significant simplification of the international narcotic control regime, as it eradicated nine previous agreements and replaced these with one general document that all of the states involved could accept (McAllister, 2000). Therefore, some researchers would argue that any events prior to The Single Convention should be relegated to nothing more than a historical backdrop for

contemporary research, as many previous treaties and agreements became altered or nullified.

Despite the arguments posed by these two previous approaches, none can deny that the first Hague International Opium Convention of 1911 was not only a critical milestone in global narcotics control, but was the prototype for every conference or convention that followed that dealt with the international drug question. The 1911 convention was ultimately responsible for the Harrison Narcotics Act of 1914 that was initiated at the federal level in the United States. The Harrison Act is often described as the quintessential piece of legislation passed during the formative period of narcotics control and was emulated by many other Western countries. The argument holds that this Act not only set the stage for federal prohibition for the next fifty-six years in the United States, but also created a criminal subclass because “addicts” now had no legal avenues to pursue their vice. There would not have been a Harrison Narcotics Act if it had not been for the ratification of the provisions originally formulated at the first Hague International Opium Convention. In the preamble to this historic meeting, it clearly states the importance of the precedence that was established at the Shanghai International Opium Commission of 1909. Therefore, without the successful assemblage of various nation-states at Shanghai by the U.S., historical events that were critical to the formation of international narcotics control would not have unfolded in the manner in which they did. Hence, the Shanghai Commission of 1909 is the proper starting point for any inquiry into the global origins of illicit drug control.

With the Shanghai International Opium Commission of 1909 forming the appropriate starting point of reference for my inquiry into the origins of the contemporary international “war on drugs”, my second strategy, an empirical test of the existing literature relevant to this event, was used. A preliminary batch of historical documents, collected by Professor Neil T. Boyd from various international archives, were examined and categorized. From this initial analysis, it was surmised that the documents pertaining to the Shanghai International Opium Commission were of particular importance as they established an official record of the historic proceedings of 1909. Through personal conversations with Boyd, and a comprehensive search of library catalogues and various journal databases, several secondary pieces of literature were discovered and examined. By using a scholarly chain of reference approach, I was able to trace the literatures’ sources back to their original authors or archival roots. It became apparent that the works of Lowes (1966), Taylor (1969) and, in particular, Musto (1999 (1973)), were referenced in nearly every secondary source to some degree. These three works were to become the primary exemplar texts used in my research for several reasons.

Further investigations revealed that these three works represent what are considered the first three comprehensive and published accounts pertaining to the genesis of international narcotics control. The texts also rely almost exclusively on historical data gathered from various national and international archives, as opposed to relying on secondary interpretations provided by other authors. However, out of these three seminal pieces of literature, Lowes (1966)

not only produced the first published account of these events, but was the only author to provide a direct, testable hypothesis regarding the origins of global narcotics control. Although Taylor (1969) and Musto (1999 (1973)) are cited far more often in other pieces of literature, their work seems to only provide implied hypotheses, which would have to be subjectively extracted from their writings. On the other hand, Lowes (1966: 190-1) clearly states what he feels are the three most important contributing factors that led to the internationalizing of the narcotics question. Thus, The Lowes Hypothesis created a foundation from which further scrutiny could take place at the empirical level.

The formation of my contributions to this area of research began with this empirical test of The Lowes Hypothesis. As was discussed in previous chapters of this thesis, the tenets of The Lowes Hypothesis are supported by the other two primary exemplars, as well as a direct examination of relevant historical records. Accordingly, the notions expressed by Lowes (ibid) seem to hold a significant degree of validity concerning the origins of international narcotics control. Unfortunately, from a scholarly point of view, there existed a need to enhance the rich, descriptive, empirical-based research contained in the three primary exemplars to another level of abstraction and/or analysis. None of the exemplars concern themselves with theoretical notions of law or policy creation. This provides for only one-dimensional explanations that stem from “how” and “why” type questions pertaining to the development of defining and controlling illicit drugs. Ergo, an opportunity presented itself that would allow me to scrutinize and “draw out” theoretical patterns that presented themselves in the ideas expressed

by The Lowes Hypothesis, as well as the historical data collected by Boyd and myself. By doing so, what I consider the core of my contributions to this area of inquiry were constructed and developed into what I term as the theoretical “trialectic”.

The trialectic was initially created by engaging The Lowes Hypothesis, primary historical documents and the empirical test conducted in chapter three of this thesis by way of a “grounded theory” approach (Strauss & Corbin, 1998). This analytical test, which forms the basis of the third strategy used to develop my research, led to the detection of three primary theoretical patterns inherent within the data; namely the pluralist conflict model of law creation, Becker’s (1963) moral crusader prototype and Kingdon’s (2003) agenda setting policy model. Once these primary theoretical patterns had been discovered and validated through further analysis, it became apparent that not only were they present within the data, but that the three perspectives actually seemed to supplement and advance each other through an analytical process of “give and take”. This “intellectual ebb and flow” forms the core of the trialectic, as the three perspectives are able to continually build upon themselves; the strengths of one perspective minimize the weaknesses found within one of the other perspectives, which, in turn, is then able to help advance the third perspective in much the same manner. Once this triangulation effect completes itself, the process seems to come again, full-circle, with each analytical journey around the “triangle” continuing to build upon itself by creating and refining the theoretical knowledge

gleaned from the data. Hence, a continuous “spiral effect” of knowledge creation is built and the theoretical “trialectic” was born.

## **5.1 Future Research Possibilities**

The establishment of the three primary strategies that were used to orient and develop my research provide both an empirical and analytical springboard which future research can be predicated from. One such avenue would be the continued scrutiny and development of the theoretical trialectic. Although the analytical notion of a dialectic, or a dialectical relationship between two concepts, has been explored in academic circles for decades, expanding this concept to include a multi-faceted, continuously escalating theoretical “triangulation” effect of knowledge creation seems to be explored to a much lesser degree. To the best of my knowledge, I may be one of the first researchers to label this approach the “trialectic”, or at the very least, one of the first to use this concept as a cornerstone to a graduate level thesis. With that being said, surely there are other academics with an interest in advancing this concept either through further use or through attempts at nullifying its application in future studies.

There also remains a need to validate my research concepts through replication. A grounded theory approach is only one method among many that could be used to extract theoretical or empirical-based concepts from either the existing literature or historical records. In essence, this thesis represents my initial journeys to the metaphorical “well of knowledge” as it pertains to the global drug question. Other researchers may, or may not, come to the same conclusions represented in the empirical or analytical tests of my data. Although



The Lowes Hypothesis is clearly defined in terms of its effect on the genesis of international narcotics control, other research could attempt to extract and further define notions at both the empirical and analytical levels that are implied within the work of Taylor (1969), Musto (1999), or other comprehensive studies, such as the work of Davenport-Hines (2001) or Giffen, et al. (1991). Accordingly, there exists a myriad of established social, political and criminological theoretical perspectives that could potentially be “tested” against the existing literature and/or archived historical data. While I would argue that the three perspectives that presented themselves in this study are the correct analytical orientations inherent within my data, it would be folly to think that my work represents the only possible outcome for future investigations concerned with developing this area of research. With this in mind, another avenue of pursuit for future research endeavours could concern itself with the refinement or advancement of the three specific theoretical perspectives used in this thesis. For example, according to Kingdon (2006), his model, to the best of his knowledge, has never been used to examine the origins of national or international drug policy. This includes research concerned with historical origins, or of recent developments in the drug-policy arena. Therefore, the need to further scrutinize the utility and capabilities of his model in relation to drug research is relatively uncharted academic territory.

Because of structural and procedural limitations imposed by Simon Fraser University, this current work concerns itself with the events that took place in and around the Shanghai International Opium Commission of 1909. To go beyond

this would have compromised its internal integrity, quality and adherence to University policy regarding thesis length and breadth of scope. As a result, an obvious opportunity exists to advance the research presented in this current work and apply the same type of empirical and analytical tests to the historical period of March 1909, until the outbreak of World War I in June 1914. It would prove interesting to examine whether or not the concepts offered in this thesis continue to present themselves in the data relevant to the formation and execution of the three Hague International Opium Conventions, where once again, familiar personalities, such as C.H. Brent, played a vital role in promoting the need to carry the Shanghai resolutions to the next level of arbitration on the international stage. It would also appear that the need to expand the descriptive accounts of these follow-up conventions to a second level of theoretical analysis is definitely lacking within the current literature.

## **5.2 Looking Forward by Looking Back**

As we near the end of the first decade of the 21<sup>st</sup> century, the ramifications of the social, political and cultural events that culminated in the first international attempt to control the manufacture, distribution and proper use of, now “illicit”, intoxicants continues to be felt. For example, “unofficial” international bodies continue to provide influence on the global illicit drug control question. Just as the Shanghai Commission of 1909 had to be content with only offering suggestions as to how to deal with the global use and distribution of narcotics, in today’s world, the “Group of Eight”, or “G-8”, has taken a leading role in “unofficially” defining and influencing governments and agencies around the world. The self-

described “club”<sup>163</sup>...established to address the most pressing global problems facing mankind,” meets annually at different spots around the world. Starting in 1997, this “club” began a concerted effort to “solve” the global drug “problem”. According to a summary of the 1997 meeting, one of the “most pressing global problems” were matters pertaining to illicit drugs.<sup>164</sup> In what I would describe as a politically correct and rather exhaustive manner, aimed at trying to condense the entire spectrum of the global substance-control issue and its solutions into a single paragraph that attempts to please all parties involved, the summary reads<sup>165</sup>:

We are determined to intensify our efforts to combat the production, trafficking and use of illicit drugs, which represent a global threat to the safety of our citizens, and the well-being of our societies and institutions. Reaffirming the common responsibility of all concerned States, we recognize that a successful strategy to combat illicit drugs requires effective action against both the supply and the demand for such drugs. We stress the importance of demand reduction. Together with strict enforcement of drug-related laws, programs aimed at treatment and rehabilitation, education and prevention are of major importance in our fight against drugs...[and that] our governments will work together to develop the agenda for the UN General Assembly Special Session on Drugs [UNGASS] in June 1998.

These notions were reaffirmed when five days later, on the 27<sup>th</sup> of June, U.S. president Bill Clinton signed into law *The Drug Free Communities Act of 1997*, a part of which was a declaration about achieving a drug-free America by

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<sup>163</sup> Emphasis added by author. I found the amount of what can be construed as “double-talk” on the official G8’s website rather amusing (<http://en.g8russia.ru/>, retrieved July 12, 2006). Here is an “unofficial group”, that claims to take a leading role in addressing the “most pressing global problems facing mankind,” that is able to “influence” the group’s respective home governments and refers to itself as a “club”. I can’t seem to shake the image of Mickey Mouse doing the work of what *should* be done by an “official”, or at the very least, a more accountable “club”. It is also interesting to note that this club was started as an “unofficial” global economic forum, but has since proliferated into the realms of social, political and security issues.

<sup>164</sup> <http://en.g8russia.ru/g8/history/denver1997/> , retrieved July 12, 2006.

<sup>165</sup> <http://en.g8russia.ru/g8/history/denver1997/> , retrieved July 12, 2006; summary point #42-3.

2007 (See Jones, 2001: 4). This concept was mirrored at the international level a year later when the UNGASS met and made a similar declaration to undertake the impossible and arduous task of achieving a drug-free *world* by 2008 (Ibid, emphasis added by author; see also p. 11, f6 of this thesis). It should also be noted that the idea to aggressively combat drug production at its source countries can be directly traced to the fourth resolution passed at Shanghai in 1909, which sought to forbid any country from exporting narcotics to other countries that prohibited its non-medical use.

In 1999, the substance-control issue was defined as having a direct link to terrorism, which has arguably become the G-8 club's most pressing matter, and is included within the same meeting resolution.<sup>166</sup> This union with terrorism would continue, and as would be expected, at the first club meeting of the post-9/11 era, the substance-control issue was relegated to a single sentence vowing to combat opium production in Afghanistan.<sup>167</sup> This trend would continue into the 2005 meeting in Perthshire, Scotland and beyond.<sup>168</sup> Through this contemporary grouping with terrorism, the "war on drugs" continues to be legitimized on the international level by this attachment to what is arguably not only the G-8 club's most pressing matter, but one that directly affects our day-to-day lives here in North America, as Canada spends tens-of-millions and the U.S. spends tens-of-billions-of-dollars annually to keep the "drug war" afloat.

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<sup>166</sup> <http://en.g8russia.ru/g8/history/koln1999/> , retrieved July 12, 2006; summary point 45

<sup>167</sup> <http://en.g8russia.ru/g8/history/kananaskis2002/3/>, retrieved July 12, 2006; unnumbered summary point, second to last from bottom of webpage. Let us also keep in mind that almost all of those directly involved in the 9/11 plot were from Saudi Arabia and not from Afghanistan *per se*.

<sup>168</sup> <http://en.g8russia.ru/g8/history/gleneagles2005/1/>, retrieved July 12, 2006; unnumbered summary point, see mention of "Afghanistan" near bottom of webpage.

Another reoccurring theme from our past is the continued resurgence of perceived “new” types of “drug scares”. At the turn of the 20<sup>th</sup> century, several of these “drug scares” in North America began to dominate public perceptions related to non-medical drug use and those who used them. A major precursor to the first citywide ordinance against opium smoking in North America, which took place in San Francisco in 1875, was the fear of the habits emanating from the “yellow menace” spreading to “innocent”, young Caucasian men and women. This fear of the “yellow man’s” habit continued to play a role in the media and in public sentiment for the better part of 60 years following this historic piece of legislation. Canada was not exempt from these fears, as, in 1908, the Canadian Parliament passed the first federal legislation in North America aimed at curtailing the practice of opium smoking. The 1908 *Opium Act* was championed by Mackenzie King in order “to get some good” out of the anti-Asiatic riot in Vancouver that took place the previous year. These fears continued to be perpetuated over a decade later when, in 1922, Judge Emily F. Murphy’s *Macleans Magazine* articles, which were written under the pseudonym “Janey Canuck”, were consolidated and published as a book titled “The Black Candle”. The *Black Candle* sold tens of thousands of copies and its exaggerated, and at times completely fictitious, accounts of the conditions in and around opium dens and those who frequented them, became a literary icon to various temperance and anti-opium societies the world over. These mostly unfounded fears of opium use, particularly opium smoking, were but one of the many social and cultural concerns over various popular vices of the time. Another “drug scare” during this

period revolved around the supposed widespread recreational use of cocaine-laced products by African-Americans in the southern United States.

Unfortunately, these types of collective behaviours did not end as North American society transformed and progressed into the later stages of the 20<sup>th</sup> century. Over the past three decades, particularly in the United States, there have been several “new” drug scares. The late 1970s brought with them a growing concern over the perceived widespread use of cocaine by those in mainstream society. The 1980s expanded upon these fears and social concern turned its attention toward the “new” menace of crack-cocaine use by young, urban African-Americans. As the 80s turned into the 1990s, social and political concerns once again framed a “new” enemy to our youth in the form of “extasy” and methamphetamines, also known as “crystal meth” or “crank”.

North American culture in the 21<sup>st</sup> century continues to wage “war” on so-called “new” patterns of drug use. Indeed, to this day, we are not immune to drug scares. The early part of the 21<sup>st</sup> century in the United States has brought with it a continued concern over methamphetamine use. Several states, including Montana and Idaho, have begun constructing “meth prisons” designed specifically to deal with those who are convicted of crimes that are linked to methamphetamine use. In Canada, the shooting of four RCMP officers by James Roszko in 2005, caused a dramatic flare-up of anti-marijuana campaigns and Parliamentary outcries to re-examine Canadian drug policy at all levels. Although this Canadian example was short lived, and thankfully did not result in any “pot prisons” being constructed, it does force us, as a society, to face a hard truth---if

past behaviour is the best indicator of future behaviour, then we must realize that until we, and our neighbours to the south, implement and develop a more tolerant national drug policy, one based in balancing education, objective academic research and civil rights, as opposed to one based on exaggerated statistics and a continued commitment to punish and imprison non-violent drug users, we will continuously keep looking to our future by living in our past. Thus, it becomes imperative that we understand and critically examine the historical roots that are responsible for our current dilemma of non-medical and illicit drug use at both the national and international levels.

## **APPENDICES**

### **Appendix A: The Nine Final Resolutions of the Shanghai Opium Commission of 1909:**

Be It Resolved:

- (1) That the International Opium Commission recognizes the unswerving sincerity of the Government of China in their efforts to eradicate the production and consumption of Opium throughout the Empire; the increasing body of public opinion among their own subjects by which these efforts are being supported; and the real, though unequal, progress already made in a task which is one of the greatest magnitude.
- (2) That in view of the action taken by the Government of China in suppressing the practice of Opium smoking, and by other Governments to the same end, the International Opium Commission recommends that each delegation concerned move its own Government to take measures for the gradual suppression of the practice of Opium smoking in its own territories and possessions, with due regard to the varying circumstances of each country concerned.
- (3) That the International Opium Commission finds that the use of Opium in any form otherwise than for medical purposes is held by almost every participating country to be matter for prohibition or for careful regulation; and that each country in the administration of its system of regulation purports to be aiming, as opportunity offers, at progressively increasing stringency. In recording these conclusions the International Opium Commission recognizes the wide variations between the conditions prevailing in the different countries, but it would urge on the attention of the Governments concerned the desirability of a re-examination of their systems of regulation in the light of the experience of other countries dealing with the same problem.



- (4) That the International Opium Commission finds that each Government represented has strict laws which are aimed directly or indirectly to prevent the smuggling of Opium, its alkaloids, derivatives and preparations into their respective territories; in the judgment of the International Opium Commission it is also the duty of all countries to adopt reasonable measures to prevent at ports of departure the Shipment of Opium, its alkaloids, derivatives and preparations, to any country which prohibits the entry of any Opium, its alkaloids, derivatives and preparations.
- (5) That the International Opium Commission finds that the unrestricted manufacture, sale and distribution of Morphine already constitute a grave danger, and that the Morphine habit shows signs of spreading: the International Opium Commission, therefore, desires to urge strongly on all Governments that it is highly important that drastic measures should be taken by each Government in its own territories and possessions to control the manufacture, sale and distribution of this drug, and also of such other derivatives of opium as may appear on scientific enquiry to be liable to similar abuse and productive of like ill effects.
- (6) That as the International Opium Commission is not constituted in such a manner as to permit the investigation from a scientific point of view of Anti-opium remedies and of the properties and effects of Opium and its products, but deems such investigation to be of the highest importance, the International Opium Commission desires that each delegation shall recommend this branch of the subject to its own Government for such action as that Government may think necessary.
- (7) That the International Opium Commission strongly urges all Governments possessing Concessions or Settlements in China, which have not yet taken effective action toward the closing of Opium divans in the said Concessions and Settlements, to take steps to that end, as soon as they may deem it possible, on the lines already adopted by several Governments.
- (8) That the International Opium Commission recommends strongly that each delegation move its Government to enter into negotiations with the Chinese Government with a view to effective and prompt measures being taken in the various foreign Concessions and Settlements in China for the prohibition of the trade and manufacture of such Anti-Opium remedies as contain Opium or its derivatives.
- (9) That the International Opium Commission recommends that each delegation move its Government to apply its pharmacy laws to its subjects in the Consular districts, Concessions and Settlements in China.<sup>169</sup>

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<sup>169</sup> Shanghai Report, *supra* at note 12, Vol. I, p.84

**Appendix B:  
Rev. C.H. Brent's letter to Theodore Roosevelt,  
Dated July 24<sup>th</sup>, 1906**

My Dear Mr. President

I am going to make bold to suggest that which I venture to think might be fruitful of great good if you can see your way to initiate the movement. It is this: recently, as of course you are aware, the question of England's share in the opium traffic has been re-opened in official circles in the Old Country. My experience on the Philippine Opium Investigating Committee leads me to believe that the problem is of sufficient merit to warrant an endeavour to secure international action. From the earliest days of our diplomatic relations with the East, the course of the United States of America has been so manifestly high in relation to the traffic in opium, that it seems to me almost our duty, now that we have the responsibility of actually handling the matter in our own possessions, to promote some movement that would gather in its embrace representatives from all countries where the traffic in and use of opium is a matter of moment.

Why could we not hope to have an investigation on the basis of science as well as of practical observation of actual conditions, in which England, France, Holland, China and Japan should take part with ourselves? The sole hope for the Chinese is in concerted action. As a side issue, but as a consideration that in my mind would enhance the value of the movement, it would tend to unify in some measure nations that are Oriental either by nature or through the possessions of dependencies in the Orient. Nothing tends to promote peace more than common aim.

I shall not enlarge on the matter, as I feel that your mind will grasp the situation at once, and will see all that I have in my mind, as well as considerations that have not occurred to me. I would add that I have partially prepared a paper on Opium Legislation in the East in which it is my purpose to incorporate the substance of this letter. As I am trying to work on this subject with accuracy and care, it may be some months before it sees the light, but it is destined for an American periodical.

With high esteem, I remain yours very faithfully

C.H. Brent, Bishop of the Philippine Islands<sup>170</sup>

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<sup>170</sup> *Supra* at note 50.

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