

➤ Reflections On a Century of International Drug Control

William B. McAllister¹

The first widely-applicable international drug control strictures were negotiated 100 years ago. A functional bureaucratic and treaty structure has been in place for 80 years. The modern configuration of drug control conventions, international organisations, and oversight bodies attained its current shape 40 years ago. Based on my research, publications, and experience in government, this article identifies the key factors that have contributed to the creation and implementation of the international control system over the last century and offers some observations about the prospects for altering that regime.

INDIVIDUAL CONTRIBUTIONS MATTER

Given its long history it is easy to assume that the ‘system’ operates on a fixed trajectory, regardless of who is at the helm. Bureaucrats and politicians come and go, but the ‘machine’ appears to grind on with little alteration, leading many to conclude that opportunities for change or reform are extremely limited. The historical record, however, suggests otherwise. Individual contributions – both positive and negative – matter more than we often appreciate.

The negotiations of 1923-1925 defined the role of the Permanent Central Opium Board (the predecessor of today’s International Narcotics Control Board); modified the operations of the Opium Advisory Committee (predecessor to today’s United Nations Commission on Narcotic Drugs); and, crucially, determined how those bodies would be supported by the League of Nations secretariat (the bureaucratic structure providing the day-to-day labor that makes the international control regime a working operation). During those talks, government officials worked diligently to circumvent the power of one person. Dame Rachel Crowdy, highly accomplished, independent, and outspoken, served as head of the Opium and Social Questions section, and was the ranking woman in the League of Nations administrative hierarchy. National representatives did not want her to acquire too much power because they feared she might attempt to impose overly-strict interpretations of the emerging drug control regime’s rules. The framers therefore weakened the Board’s prerogatives and concocted a dual-track bureaucratic structure, creating jurisdictional lacunae and administrative rivalries that plagued the operational functionality of the control system for six decades.

¹ This paper is drawn from this author’s dissertation and later book on this topic: William B. McAllister, ‘A Limited Enterprise: The History of International Efforts to Control Drugs in the Twentieth Century’ (PhD Dissertation, University of Virginia, 1996); William B. McAllister, *Drug Diplomacy in the Twentieth Century: An International History* (Routledge, 2000). The views expressed in this essay are the author’s and do not necessarily reflect those of the US government, the US Department of State, or the current administration.

A careful reading of the record also reveals unsung heroes. For over a quarter of a century, Helen Howell Moorhead, an individual who possessed no official standing within the global drug control apparatus, played a key role in negotiations. She provided social lubrication, acted as a go-between among governmental representatives, floated policy options, and served as a backchannel communications conduit. After her death in 1950, dialogue deteriorated and opposing camps polarised, leading to unpredictable negotiations, unstable coalitions, and unsupportable treaty outcomes over the ensuing decade.

Individual ambition has also had a profound impact on the operation and direction of the system. As Moorhead declined, Leon Steinig, an administrator within the UN drug control hierarchy, attempted to redefine and expand the reach of the drug control system, in large measure to enhance his own position in service of a greater mission he hoped to promote – the regulation of fissile material and nuclear weapons. His manoeuvres, which ultimately failed, caused deep dissension within the international drug control community, severely degraded the capacity to function of the international secretariat, and resulted in his dismissal. Moreover, in the aftermath of Steinig's removal, Charles Vaille, French representative to the United Nations Commission on Narcotic Drugs during the 1950s, took the reins long enough to force through a draconian drug control treaty that not only engendered considerable opposition, but also caused a reconsideration about the ultimate goals of the system, even among the control regime's supporters.

Even the most notable – some might say notorious – individual associated with the construction of the twentieth century drug control system, Harry Anslinger, merits nuanced consideration. As the longtime Commissioner of the US Federal Bureau of Narcotics, who also served as chief US representative at international meetings, Anslinger exerted a profound influence on the shape and operation of the global regime. Yet it is often underappreciated that his principal focus was frequently on how to protect his domestic position. Beset by near-constant threats of the reorganisation or elimination of his Bureau, Anslinger frequently used international proceedings as a way to shore up support at home.

Sometimes this meant championing a cause that he knew would not 'sell' in the international arena. At other times he used the 'demonstration effect' of refusing to cooperate (on occasion even walking out of meetings) to play to domestic audiences. Yet he also made sure his superiors knew about the Bureau's clandestine operations and cooperation with counterpart agencies in other countries, even when that activity included working with potential enemies, including Nazi Germany as late as 1941. Anslinger was also astute enough to amass the largest cache of licit drug supplies ever assembled in the late 1930s, and used this stockpile to cajole allies and neutrals during the war and to argue for the centrality of the Federal Bureau of Narcotics to the US national security apparatus that emerged in the late 1940s. Anslinger is often misidentified as a chief architect of the landmark 1961 Single Convention on Narcotic Drugs, when in fact he opposed the treaty and did all he could to prevent its coming into force. The ostensible reason he cited was that the treaty represented a retrograde movement, diminishing drug control when compared to the provisions of the 1953 Opium Protocol. Anslinger's chief concern, however, focused on language in the Single Convention that might be interpreted as weakening his longstanding argument (which was never really accurate) that *only* the continued existence of the Federal Bureau of Narcotics could fulfill the United States' international treaty obligations. The configuration of the system, including what may strike observers as its nonsensical or counterproductive aspects, is better comprehended if one understands that certain features can be traced back to personal logics.

Although one could argue that all those examples represent a long passed 'heroic age', when individuals could have a greater impact because the international regulatory rules and the global control bureaucracy was not as developed as today, I suspect we will discover that people still matter a great deal. To some extent it may be true that sphere of operations for policy entrepreneurs is somewhat more circumscribed. Nevertheless, as we approach the time when historians can access the negotiation records of the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, (which, along with the 1961 Single Convention (as amended in 1972) and

the 1971 Convention on Psychotropic Substances, serve as the three pillars of the current global drug control regime, I think it likely that they will find that the impetus for, and configuration of, that agreement will owe much to a few people who possessed both the vision and the position to advocate their preferences.

Moreover, the most important occurrence in this field (and something that I certainly did not predict) has been the promulgation of the WHO Framework Convention on Tobacco Control. Utilising non-governmental, intergovernmental, and supra-governmental channels to build support since the 1970s, this agreement came into force less than two years after its opening for signature in 2003. It represents a viable alternative to the 'traditional' treaty creation model that focuses on states as the initiators of new agreements. The Framework Convention appears to have been created by generating grassroots support for major alterations in local, national, and international drug policy (or in this instance, a lack of policy) that has challenged entrenched interests with a surprising degree of success. Studying the historical development of this approach will no doubt illuminate the contributions of individuals who were once considered marginal players in the halls of power.

INSTITUTIONAL LEGACIES PERSIST

Once an international bureaucracy is created, such as the predecessor organisations that are now known as the United Nations Office on Drugs and Crime or the United Nations Commission on Narcotic Drugs, they do not simply act as neutral conduits through which information passes. As has been noted many time before, 'where one stands depends on where one sits.' Secretariats and offices have interests, prefer certain positions or initiatives over others, and exercise significant latitude in determining how to interpret and carry out their instructions. They can act as allies of reformers, or as impediments to change.

The configuration of structures also matters. The International Narcotics Control Board (INCB), for example, acts essentially as a reactive body. It is only after states submit estimates of need and statistics of usage that the Board can determine whether there

is a risk that leakage into illicit traffic has occurred. However, at a few junctures in the history of the Board's predecessors (the Permanent Central Opium Board and the Permanent Central Narcotics Board) there was serious talk about giving the Board the much greater power to approve (or deny) imports and exports of medicinal drugs *in advance*. One can imagine how differently the international drug control regime would operate if the Board possessed the capacity to regulate supply in the licit marketplace, in essence controlling the global production and distribution of important medicines.

Bureaucracies are also hard to kill. They have built-in constituencies and budgets, and the capacity to generate political support if an existential threat materialises. Also, obviously, bureaucracies tend to do what they are created to do and not something else. Therefore, one of the reasons that those wishing to reform or liberalise drug policy often find themselves frustrated is because there are relatively few assets devoted to prevention, intervention, and treatment. In the era when these organisations were created, the overwhelming emphasis was on supply control, and hence the extant agencies are designed and staffed to accomplish that purpose. Bureaucracies can be redirected, or 'repurposed,' but doing so is often difficult because existing organs are likely to adopt new terminology without changing the fundamental focus of their mission, or because existing organisations may simply add a branch to deal with a previously unmandated function without altering their overall focus. Taken together, those extant structures exert a major influence on the trajectory of events, and it is important to consider how that power was formulated.

THE SYSTEM AS A SOCIAL CONSTRUCT

Foundational documents such as treaties and national-level promulgations that create drug control agencies are social constructs, not necessarily the rational result of judicious consideration of all relevant factors to arrive at a rational result. Individual pique, rivalries, and alliances forged for other purposes have all played important roles in creating the instruments of international drug control. Drug negotiators have been known to engage in devious parliamentary

manoeuvres to gain advantage in the midst of negotiations. Final agreements reflect power disparities and favour those participants who possess the political capital to impose their preferences. Simply reading an international protocol or a national agency's charter without understanding the historical circumstances that generated their configuration can lead to errant understandings about what an entity can do, or is designed to do.

For example, in the negotiations surrounding the 1971 Psychotropic Convention, the early versions of the draft treaty contained very different provisions than those embodied in the final agreement. Profound disagreements existed between those who wanted to forge rules similar to those applied to the 'traditional' drugs of abuse (narcotics) while others preferred a much less stringent control regime. The Single Convention also went through two drafts, dramatically different from each other, before the final draft was put before the convention in 1961. Nothing is fixed permanently: the current state of the regulatory regime can always be changed, and is – in small ways – routinely. Larger changes in the overall set of rules that govern the system are less frequent, but you can be sure that such manoeuvring is always lurking quietly, and will surface if conditions appear propitious. Treaties are also subject to considerable interpretation. As soon as the ink was dry on the 1971 Psychotropic Convention, the United Nations secretariat launched a quiet, gradual, consensual, and effective campaign to expand the scope of the protocol. Only years later did some governmental agencies and other interested parties challenge longstanding regulatory practices that are not, strictly speaking, incorporated in the treaty.

The 1961 Single Convention proved so problematic to implement that the United Nations Commission on Narcotic Drugs approved production of a Commentary that would explain and interpret its provisions. The first effort, however, proved so unsatisfactory that an entirely different second Commentary had to be prepared, which is the version that can be found on library bookshelves today. Over time most of these details are lost to observers, even those whose daily work revolves around the drug question, yet understanding the circumstances and relationships

that forged the system is important to assessing how one might go about amending it. When faced with the standard reason for maintaining status quo operations – we've always done it this way – it can be quite powerful to point out that while there may have been good reasons at one time for such practices, changed conditions warrant new approaches.

BUREAUCRATIC POLITICS AND THE ABSENCE OF DEMAND ISSUES

The international drug control regime, and to a considerable extent the national-level bodies charged with drug-related policy, are not necessarily primarily focused on helping current drug abusers or preventing new cases of drug dependence. It is actually quite remarkable, when one examines carefully the discourses that surround the formation and implementation of the system over the past century, how often drug diplomats talked about everything but the phenomenon of drug abuse. During the 1920s, medical officials associated with the League of Nations Health Committee (the predecessor of today's World Health Organization) made the perfectly sensible suggestion that formulating some sort of generally-agreed definition of drug abuse would be a good idea. Nobody objected in principle, but very quickly the political representatives that populated the League's Opium Advisory Committee (predecessor to today's United Nations Commission on Narcotic Drugs) and the pharmaceutical industry representatives who frequented the meetings, eschewed that question in favour of renderings of the problem that focused on raw tonnage of opiates being traded around the world. The definition of the concept 'drug' itself, was reduced to simply listing the drugs to be controlled in each treaty. It took many decades, really until the later 1960s, before authorities engaged in more sophisticated attempts to define basic concepts such as 'drug' and 'abuse.'

That lacuna did not occur because early drug-control officials were incompetent, but rather because the regulatory system quickly became dominated by those concerned with issues such as promoting the sales of what we now call the 'ethical' drug industry; eliminating manufacturers producing in illicit ways from

competing in the licit market; providing exceptions to maintain military stockpiles; promoting research and development; taking account of religious sensibilities; making allowances for 'backward' regions of the world that would have no medicinals whatsoever without recourse to drugs considered inappropriate in a western setting; and not interfering with imperial revenues in those colonies that maintained state-run opium monopolies. Although those interests changed somewhat over time, it was, again, only with the advent of the 1971 Psychotropic Convention that an international treaty specifically enjoined states to take measures to prevent drug abuse from occurring in the first instance.

Of course, the entire system is built around the concept of supply *control*, not, it should be emphasised, the oft-used 'prohibition'. No drugs are absolutely proscribed by the international treaties (although Schedule IV of the Single Convention enumerates a short list of substances that governments have the option to ban); the Schedules of Control take account of the fact that even highly regulated substances such as cocaine and LSD retain some medical utility or research value. What is often misunderstood about the international regime was that its early framers were interested in balance. They did not want to limit supplies of necessary medicinals to an extent that would drive up the price, especially since the rules were solidified just as the world slipped into the Great Depression, and pharmaceutical sales represented one of the few potential bright spots in the global economy.

A rudimentary elucidation of economics illuminates the key point: if the control system were so finely-regulated that the final order for licit medicines in any given year were filled by emptying the final vial off the last shelf of the only supplier with stock remaining, then the price would rise to unaffordable levels. Therefore, a conundrum is built into the system: the goal is to manufacture enough useful substances to supply medical need at a reasonable price, while preventing the excess capacity necessary to hold the price down from being diverted into illicit traffic. That part of the system has actually worked rather well. There is little diversion from licit channels into illicit traffic; many now campaign for fewer fetters to be placed on pain-management options for patients, but the cost of

the analgesics themselves is not a significant factor in the debate. In sum, it is precisely because the original design of the system was as devoted to cost-effective access as to limiting illicit supplies that demand-side issues were shunted to the background, in hopes of reducing the matter to a 'simple' police problem.

THE ROLE OF INSTITUTIONAL GATEKEEPERS

It follows, then, that much of the story of international drug control is about gatekeeping. Who decides what qualifies as a drug, and what level of control is appropriate for a given substance? How can those decisions be changed? Which actors in the system have entrenched interests in the status quo sufficient to block reform, and which have both the capacity and will to advocate revision? Whilst an understanding of the history of the construction of the system can provide answers to those questions, the main issue is to understand that such 'pressure points' exist. Those wishing to engender change would do well to carefully consider where to direct their efforts. In recent decades, the explosion of international non-governmental organisations, a general opening up of foreign affairs issues beyond what one might call the traditional 'foreign ministry portfolio,' and the ease with which the internet can be used to generate publicity for a cause, have all multiplied the points of entry would-be reformers might utilise.

For many issues that combine social, economic, medical, ethical, and other factors into a complicated matrix, reform has historically been engendered when change advocates seize the moral high ground. In the case of the drug question, it is important to account for conditions at the time the regime was created. The principal concerns were a rampant epidemic of drug abuse that appeared to contribute substantially to the collapsing Chinese Empire; the fear of 'contagion' (that drug abuse might spread to other countries and enter mainstream society); and the fact that several major colonial powers purveyed opiates to their poorest subjects by operating state-run monopolies that added revenue to imperial coffers. Given that rather unsightly scenario, reformers attacked the opium monopolies as immoral and counterproductive, positioned China as a victim deserving of help, and warned against the moral and practical perils of burgeoning drug abuse.

Many parties opposed reform, presenting arguments that remain familiar today: if we disengage from the trade some competitor (perhaps less scrupulous) will simply take over and reap the profits; people will always acquire illicit substances if they wish to have them, so better to keep the traffic above board in order to regulate it; curbing the trade will reduce tax revenues, requiring additional proceeds from other sources; free enterprise and market forces should be allowed to operate without undue fetters. Yet by 1912, the reformers' arguments had grasped the initiative away from those in favour of the status quo. A long rearguard action ensued, but in retrospect it is clear that the reform movement would eventually overthrow the old system, largely because of its superior rhetorical position in the public sphere. We are seeing much the same phenomenon today. As those who wish to institute new types of reform marshal their arguments, they highlight the damage that the 'drug war' does to the environment, note human rights abuses, emphasise the advantages of harm reduction strategies, and cite the importance of pain management and other considerations that the current system deprives. If the historical record is any indicator, that strategy is likely, over time, to alter or perhaps even overturn, the values that undergird the current regime.

CONCLUSION

What lessons can be drawn from this history? One observation is that, with rare exceptions, problems cannot be solved, but only managed. There is, however, a great difference between managing problems well and managing them poorly. In the realm of Great Power politics, that is the difference between peace and war. In the realm of drug policy, one can imagine rather better outcomes than those that currently maintain, if not necessarily perfect solutions. There will always be a dramatic tension between the poles of complete prohibition and totally unfettered access (neither of which exist in the real world anyway), causing gatekeepers to incline in one direction or the other. And even when one does resolve a significant international or national problem, it's human nature not to notice.

For example, in late 1972 American officials, after much negotiation, successfully concluded talks with the Cuban government that ended the longstanding issue of the hijacking of US airliners. By early 1973 the number of incidents dropped precipitously, and State Department officers were justifiably proud of their success. But the archival records indicate that they felt unappreciated, because nobody really noticed. When the problem went away, policymakers and the media moved on to the next hot-button issue. So, even in the best of circumstances (and this is not meant to be discouraging but simply realistic), one cannot necessarily expect a lot of credit for a job well done.

So how might one define success in the complicated world of drug policy? One option worth considering is to set realistic use and abuse targets and then adjust policy to maintain them. Imagine for example, that a particular country suffered a ten percent heroin addiction rate among its population. A goal could be set to reduce that figure to, say, five percent. Programmes could be implemented to achieve the target rate, and then to maintain the 'floor' percentage so that it did not rise. In addition, once the target rate was met, some funding would be shifted to deal with the inevitable problems created by the remaining addicts. Similar 'floor' percentages could be set for other drugs in the same manner. This scenario assumes that there is an irreducible minimum use/abuse rate for any given drug in any given society, eschewing the 'zero tolerance' standard, not necessarily because it is not laudable, but because it is unrealistic by all historical standards of human behaviour.

Various other criteria – for example harm reduction statistics, human rights standards, environmental improvements and crime prevention – could be factored in to the calculations. This approach strikes me as technically achievable. We have the capacity to measure key criteria with sufficient accuracy, especially with regard to medium-term and long-term trends, and to make judgments about progress toward a goal. This strategy also seems to me to be bureaucratically feasible. Government agencies that know what they are supposed to achieve, utilising measurable outcomes (the current buzzword on the other side of the Atlantic is 'metrics') can produce quite satisfactory results. This idea should even be politically feasible,

at least potentially, if sufficient groundwork were laid to persuade key constituencies to consider a major change in the goals and operation of the system. I cannot pretend that this suggestion is not without its own problems, but it strikes me as at least having the virtue of moving the issue off the infertile ground of absolutes, be they drug-free utopias or libertarian nirvanas.

In closing, again at the risk of stating the obvious, it should be remembered that Rome wasn't built in a day. It took a long time to construct the current international drug control regime, and alternative paths that would have produced something other than the current system were real possibilities at various junctures in the past. Nothing is fixed in place permanently, but nor is it likely that a major reconfiguration might be achieved in short order. Like many other issues that touch on multiples facets of the human experience, some combination of education, advocacy, and the biblical quality of 'longsuffering', are the elements most likely to effect change over time. ■