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FROM FREE TRADE TO PROHIBITION: A CRITICAL HISTORY OF THE MODERN ASIAN OPIUM TRADE

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INTRODUCTION

America's current war on drugs represents a misuse of its power and a misperception of the global narcotics trade. In 1999, the White House issued the *National Drug Control Strategy*, announcing a multi-year program "to reduce illegal drug use and availability 50 percent," and thereby achieve "the lowest recorded drug-use rate in American history."[1] Despite emphasizing domestic initiatives and promising balanced programs to reduce supply and demand, the *Strategy* rests ultimately upon eradicating the international supply of illicit drugs.[2]

To achieve this sudden reduction in drug availability, the *Strategy* aims to "reduce" trafficker success in the U.S.,[3] "reduce" foreign drug cultivation,[4] "reduce" the drug flow in transit zones,[5] and "reduce" drug shipments from source countries like Burma and Colombia.[6] Read closely, however, this is a strategy that requires not

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1. U.S. OFFICE OF NAT'L DRUG CONTROL POLICY, THE NATIONAL DRUG CONTROL STRATEGY, 1999 2 (1998) ("The *Strategy* focuses on prevention, treatment, research, law enforcement, protection of our borders, and international cooperation."), *available at* http://www.whitehousedrugpolicy.gov/policy/99ndcs/contents.html [hereinafter NATIONAL STRATEGY].

2. *Id.* at 43 ("Eliminating the cultivation of illicit coca and opium is the best approach to combating cocaine and heroin availability in the United States.").

3. *Id.* at 72 ("Drug traffickers are adaptable, reacting to interdiction successes by shifting routes and changing modes of transportation. Large international criminal organizations have extensive access to sophisticated technology and resources to support their illegal operations. The United States must surpass traffickers' flexibility, quickly deploying resources to changing high-threat areas.").

4. *Id.* at 79 ("Widely dispersed growing areas, multiple trafficking organizations, and diversified routes and concealment methods make supply reduction difficult.").

5. *Id.* at 73 ("Stopping drugs in the transit zone involves more than intercepting drug shipments at sea or in the air. It also entails denying traffickers safe haven in countries within the transit zone and preventing their ability to corrupt institutions or use financial systems to launder profits.").

6. *Id.* at 79 ("The United States will continue supporting U.N. drug-control programs in Burma and encourage other countries to press the Burmese government to

just supply-reduction, but the prohibition of global narcotics production.[7]

To understand the flaws in this prohibition strategy, we first need to shift focus from the domestic to the international arena; then, move beyond the usual four or ten-year timeframe and place the drug war in a 200-year perspective; and, above all, explore the likely impact of such repression upon global narcotics traffic. The government's strategy assumes inelasticities within the global drug trade and thus anticipates a simple, direct connection between repression and results. In the open world that has followed the Cold War, however, the key variables of supply and demand have become surprisingly elastic. In this new world order, repression may actually stimulate global opium production and contribute to a rapid increase in U.S. heroin supply.

If history is any guide, Asia's opium production may soon increase to levels that will defeat the war on drugs now being waged by the United States and the United Nations. Whatever suppression strategy they adopt, present trends in opiate production and consumption indicate that world supply is likely to expand into the foreseeable future, compromising the prohibition that both organizations have pursued for the past quarter-century.

Opium production is soaring in Southeast Asia, Central Asia, and Latin America.[8] According to U.S. State Department statistics, global opium production nearly doubled in the past decade—from 2242 tons in 1987 to 4285 tons in 1996.[9] If we use the larger and more reliable U.N. figures for Afghanistan, then world production rose even more sharply to 4355 tons in 1996 and 5778 tons in 1999.[10] In a major study released in 1997, the U.N. reported that global drug traffic in heroin, cocaine, marijuana, and amphet-

take effective anti-drug action. In Colombia, the United States will provide additional support to . . . opium poppy eradication campaign[s].").

7. *Id.* (noting that the U.S. will work to increase international levels of cooperation with the United Nations Drug Control Programme ("UNDCP") in order to achieve the lofty goal of "eradicat[ing] illicit opium poppy cultivation in ten years").

8. BUREAU FOR INT'L NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1997 24-25 (1998), http://www.state.gov/www/global/narcotics_law/1997_narc_report/policy.html [hereinafter 1997 REPORT].

9. *Id.*

10. UNITED NATIONS OFFICE FOR DRUG CONTROL & CRIME PREVENTION, GLOBAL ILLICIT DRUG TRENDS 2000, at 34 (2000) (charting global illicit cultivation of opium poppy and production of opium for years 1987-1999) [hereinafter, GLOBAL ILLICIT DRUG TRENDS 2000]. In 1999, Afghanistan alone accounted for production of 4565 tons of opium. *Id.*

amines is a $400 billion industry, involving fifty-one million users and 8% of world trade, accounting for more than even textiles.[11]

Driven by growing supplies of cheap, pure heroin, drug use is rising in the established markets of Western Europe and the United States, and spreading rapidly into the newer markets of China, India, Russia, and Eastern Europe.[12] Over the past thirty years, for example, the estimated number of heroin users in the United States has increased more than ten-fold, from 68,000[13] to some 810,000 chronic users today.[14] More recently, British Columbia needed just a decade to achieve the same rate of increase, as evidenced by its ten-fold rise in heroin overdose deaths during the 1990s.[15] If current circumstances persist, there is nothing to restrain world opium supply from continuing its present pattern of doubling every decade: 1200 tons in 1971, 2600 tons in 1987, 4800 tons in 1997, 10,000 tons in 2007, and a daunting 40,000 tons by 2027.[16] To put it simply, can we really expect that the availability of heroin in the U.S. will, as the White House promises, drop by 50% by 2007, if the world's supply doubles by that same date?

The reasons for this dismal outlook are largely historical. Looking back over the last three centuries of the modern opium trade, we can discern two major Western policy regimes towards narcot-

11. Christopher S. Wren, *U.N. Report Says Tens of Millions Use Illicit Drugs*, N.Y. TIMES, June 26, 1997, at A12 ("According to the report, the cultivation of opium poppies has expanded to cover more than 691,000 acres, mostly in Asia, with more than 300 tons of heroin believed to be produced annually.").

12. GLOBAL ILLICIT DRUG TRENDS 2000, *supra* note 10, at 178 (stating that developing countries and countries in transition are the states most notably affected by rising rates of opium consumption); United Nation Drug Control Programme, *Key Statistics: Illicit Drug Production, Trafficking, and Consumption* (1998) (discussing UNDCP estimates for drug cultivation and consumption for years 1990-1997), http://www.odccp.org/adhoc/gass/info2.htm.

13. EDWARD JAY EPSTEIN, AGENCY OF FEAR: OPIATES AND POLITICAL POWER IN AMERICA 173-77 (1977) (stating how the number of heroin addicts in America increased from 68,000 in 1969 to a remarkable 559,000 in 1971).

14. NATIONAL STRATEGY, *supra* note 1, at 30 (noting that heroin usage among 8th, 10th, and 12th graders has increased during the 1990s).

15. Sam Howe Verhovek, *Conference Seeks Ways to Reduce Heroin Deaths*, N.Y. TIMES, Jan. 16, 2000, at A16 (stating that British Columbia suffered 407 overdose deaths in 1999).

16. GLOBAL ILLICIT DRUG TRENDS 2000, *supra* note 10, at 34; U.S. CABINET COMM. ON INT'L NARCOTICS CONTROL, WORLD OPIUM SURVEY 1972 7, 11, A11-15 (1972) [hereinafter WORLD OPIUM SURVEY]. This report estimated world illicit production for 1971 at 990-1210 tons but omitted Iran, which was then growing opium legally for distribution to registered users. *Id.* Since Iran's opium has moved between illicit and licit categories in various reports over the past half century, Iran's "licit" 156 tons have been added to the minimum "illicit" total, allowing the higher estimate of 1200 tons.

ics. In the eighteenth and nineteenth centuries, the great powers were aggressive in their promotion of a "free trade" in opium.[17] This legal commerce produced a steady increase in world opium production, reaching an historic high of 41,000 tons in 1906.[18] During the nineteenth century, this commerce established opium as a commodity and enmeshed Asian poppy farmers and urban addicts in a global economy. In the twentieth century, by contrast, the world powers ignored opium's character as a commodity and moved resolutely to prohibit all narcotics use. After World War I, a global prohibition campaign led by the United States and the League of Nations produced a sharp decline in the legal opium trade.[19] In response to this market opportunity, however, new criminal syndicates soon emerged in Europe and Asia, managing a global traffic in this now illicit commodity.[20]

This succession of policy regimes, from free trade to prohibition, created a vast illicit commerce that may well survive any attempt at suppression—short of near-perfect coercion. In sum, the collision of these policies has unleashed uncontrolled, little-understood market forces and produced a sustained, sometimes explosive growth in world opium supply.

At its peak in the "long" nineteenth century, imperial trade transformed opium into a major commodity—embedding its production into the tribal economies of highland Asia and its con-

17. OM PRAKASH, THE DUTCH EAST INDIA COMPANY AND THE ECONOMY OF BENGAL, 1630-1720, at 153 (1985) (describing how the Dutch East India Company faced challenges to its opium monopoly by Asian and European competitors, including Indians, Armenians, Indonesians, Malays, Chinese, Danes, Portuguese, and English); DAVID EDWARD OWEN, BRITISH OPIUM POLICY IN CHINA AND INDIA 18 (1968) ("Although the use of opium had existed in the Far East from remote times, it was left to the European to organize the industry on a large scale.").

18. HAMILTON WRIGHT, REPORT ON THE INT'L OPIUM COMM'N AND ON THE OPIUM PROBLEM AS SEEN WITHIN THE UNITED STATES AND ITS POSSESSIONS, S. DOC. NO. 61-377 (1910) [hereinafter REP. ON INT'L OPIUM COMM'N]; *see also* Erik Grant Luna, *Our Vietnam: The Prohibition Apocalypse*, 46 DEPAUL L. REV. 483, 499-504 (1997) (discussing the implications of the First Opium Commission and the impact of Dr. Hamilton Wright on opium prohibition).

19. *See* ARNOLD H. TAYLOR, AMERICAN DIPLOMACY AND THE NARCOTICS TRAFFIC, 1900-1939 146-70 (1969) (discussing the tenuous but sometimes fruitful relationship shared by the United States and the League of Nations).

20. *Id.* at 280 ("By 1934 the operation of the Geneva and Narcotic Limitation Conventions had virtually ended excess manufacture in the principal European manufacturing countries, but it had driven such activities to previously non-manufacturing countries in southern Europe where the raw products were produced. . . . As a result, the Far East, because of unstable political conditions, became the main center for illicit activities.").

sumption into the urban cultures of Asia and the West.[21] At this high-tide of empire, European powers deployed market and military coercion, both to promote and prohibit opium—promoting free trade and mass consumption, but prohibiting cultivation in regions that weakened their monopolies. When the major powers launched a complete prohibition in the early twentieth century, they were, in effect, trying to eradicate a commodity with deep economic roots that gave it an exceptional resilience. Failing to understand the character of this commodity, the international community sought its suppression with a range of inappropriate, and ultimately ineffective, policies. Those measures included arresting consumers, pursuing dealers, and harassing growers.

All these measures derive from a law-enforcement model that assumes inelasticities within the illicit drug industry and thus presumes a perfect coercion, an axiomatic correlation between repression and results. When states have proven capable of such perfect coercion, in either colonial Asia or communist China, determined multilateral or unilateral suppression has had a decisive, dramatic impact upon both the production and consumption of illicit drugs.

In the latter decades of the twentieth century, however, a waning of these coercive capacities—colonial, national, and, finally, communist—opened Asia, for the first time in nearly two centuries, to unbridled economic and social forces. At this historical juncture in the last quarter of the twentieth century, the U.S. and U.N. intensified their suppression operations, focusing on opium's growers, traders, and smugglers. This collision of policy regimes would produce unintended outcomes, transforming localized suppression into global stimulus by raising prices and encouraging cultivation. Moreover, the transition beyond the last of these coercive political orders, communism, allowed a recrudescence of primordial political forces—religion, ethnicity, and regionalism—that further stimulated Asia's opium production.

In our new world order without blocs or empires, repression may prove counterproductive—not simply failing to suppress, but actually stimulating the global opium traffic. Repression requires in-

21. CHARLES ISSAWI, THE ECONOMIC HISTORY OF IRAN, 1800-1914, at 238-41 (1972) (stating that it took until after the Second World War for opium to lose the importance it had enjoyed in Iranian agriculture and trade); TERRY M. PARSSINEN, SECRET PASSIONS, SECRET REMEDIES: NARCOTIC DRUGS IN BRITISH SOCIETY, 1820-1930, at 32-33 (1983) (discussing opium's popularity for medicinal purposes in Great Britain).

elasticity. That is, when force is applied within a closed universe, the targeted criminal behavior or illicit commodity is squeezed and then crushed in a vice-grip of coercion. These dynamics work when, for example, local police attack drug distribution within the spatial confines of an urban neighborhood, arresting dealers, seizing drugs, and patrolling prime locations.

When the same model is applied to the international heroin trade, however, the effort often fails because there are no limits to either supply or demand. Both are, in effect, elastic. As the vice-jaws of coercion tighten, supply and demand slip sideways into a spatial infinity. Because opium can be grown anywhere in temperate or highland Asia, crop suppression simply shifts cultivation to a new locale within the vastness of the Eurasian landmass. Furthermore, because physiology makes all humanity potential addicts, repression merely forces traffickers to seek new markets in other neighborhoods, nations, or continents. With such elastic constraints, the baton of repression becomes instead a prod pushing consumption and production into ever-widening spheres and compounding the global drug problem.

Predicting the shape of the future from the confusion of the present remains an uncertain enterprise. With the end of the Cold War, it seems possible that a peculiar complex of historical factors may continue to drive an explosive increase in Asia's opium production. During the Cold War, much of Asia's prime opium land, markets, and smuggling routes were closed to market forces under communist rule in China and the Soviet Union. With the collapse of the Iron Curtain, market opportunity and post-socialist poverty have combined in ways that are creating vast new sources of supply and demand for Asia's illicit opium.

Above all, the current marriage of a prohibition policy and an increasingly imperfect source-country suppression is playing a central role in raising global poppy production. Thrown together by the forces of history, ethnic warlords, highland peasants, and criminal syndicates are driving a rapid expansion in Asia's opium harvest that may defeat any attempt at supply-side reduction to the world's heroin problem. Indeed, these forces are making heroin, for the first time in its century-long history, something of a world drug whose production, distribution, and consumption are rapidly reaching every quarter of the globe. In such an international environment, there is no reason that world opium supply cannot reach, or even surpass, its historic 1906 high of 41,000 tons by 2027.

This dismal view runs counter to the current drug control strategies of both the United States and the United Nations. With his appointment of General Barry McCaffrey as his "Drug Czar" after the 1996 elections, U.S. President William Clinton renewed his commitment to the war on drugs.[22] Similarly, in November 1997, the new head of the U.N. Drug Control Programme, Dr. Pino Arlacchi,[23] announced a ten-year program to eliminate all opium and coca cultivation, starting in Afghanistan. The underlying logic of these suppression strategies, bilateral and multilateral, remains supply reduction.[24] Significant increases in the world's opium supply will, quite clearly, subvert these attempts at a supply-side solution to the global drug problem.

If these programs do in fact fail, the reason may lie in heroin's little understood character as a commodity. Over the past 200 years, opium has emerged as a major global commodity, similar to other stimulants such as coffee and tea.[25] By the time the United Nations prohibited non-medicinal opiate use in 1961, the trade in legal stimulants—coffee, tea, and tobacco—ranked in the world's top twenty commodities with petroleum, wheat, and cotton.[26] If we had sufficient statistical evidence, opium may well have ranked

22. *E.g.*, Editorial, *American Drug Aid Goes South*, N.Y. TIMES, Nov. 25, 1996, at A14 (discussing how American money sent to Colombia for the purposes of "combating cocaine and promoting democracy and human rights" has occasionally been used to fund counterinsurgency activities); *see also* Diana Jean Schemo and Tim Golden, *Bogota Aid: To Fight Drugs or Rebels?*, N.Y. TIMES, Jun. 2, 1998, at A1 (alleging that "more United States training and equipment are going to shore up basic deficiencies in the tactics, mobility and firepower of the Colombian military, rather than for operations directed at the drug trade").

23. Dr. Arlacchi's approach to drug control is not surprising considering his background as an opponent of organized crime in his native Italy. As an advisor to the Ministry of the Interior, Dr. Arlacchi established the Direzione Investigativa Antimafia ("DIA"), a law enforcement agency commissioned with combating organized crime. BIOGRAPHY OF PINO ARLACCHI, *at* http://www.undcp.org/biography_executive_director.html.

24. Christopher S. Wren, *At Drug Summit, Clinton Asks Nations to Set Aside Blame*, N.Y. TIMES, June 9, 1998, at A6 (stating that President Clinton, at a U.N.-sponsored drug summit, called for both drug-producing and consuming countries to cooperate in fighting illicit drugs). The speakers at the U.N. summit also reaffirmed their reluctance to legalization as a possible solution. "There will always be those who are ready to throw in the towel," stated Secretary General Kofi Annan, "[b]ut we must never give in to the human toll drugs are taking on our societies." *Id.*

British Deputy Prime Minister, John Prescott, advocated demand reduction as a more effective way to combat the drug trade. "It is no use stopping opium cultivation in one place just to see more grown elsewhere. We gain nothing by closing one trafficking route to see another opened." *Id.*

25. J.W.F. ROWE, PRIMARY COMMODITIES IN INTERNATIONAL TRADE 5 (1965).

26. *Id.*

just as high in 1906, when global drug supply reached its historic peak. In short, by the time prohibition started, opium had already achieved the economic scale, social ramifications, and political support needed to resist repression.

Commodities, however, are not mere trade goods. They are the building blocks of modern material life. Their production is essential to third-world survival, and their consumption is integral to first-world lifestyles. Through his long and distinguished career, the American anthropologist Sidney W. Mintz has taught that the modern commerce in commodities involves much more than mere exchange.[27] In his last book, *Sweetness and Power*, he argued that: "The first sweetened cup of hot tea to be drunk by an English worker was a significant historical event because it prefigured the transformation of an entire society, a total remaking of its economic and social basis."[28] To this insight, one might add that from the late eighteenth century onward, sugar, tea, and opium have become integral parts of expanding world trade, woven into the fabric of modern life.

Thus, this relentless increase in opium supply may well, in the near future, raise questions about the underlying rationality of the reigning prohibition orthodoxy. Through a comparative history of Asia's opium trade in two regions—the continent's Southeast and Southwest—one can see whether the shape of the future can indeed be found in the past.

HISTORICAL TRENDS

Surveying the history of opium in Asia over the last millennium, one can discern distinct phases shaped by both scale and quality of its commerce. By the eighth century A.D., opium had spread from the eastern Mediterranean to China, creating an Asian "opium zone" that extended for over 5000 miles across the continent's southern rim, from Turkey to China. Even today, more than a millennium later, more than 93% of the world's illicit opium is pro-

27. *E.g.*, SIDNEY W. MINTZ, TASTING FOOD, TASTING FREEDOM: EXCURSIONS INTO EATING, CULTURE, AND THE PAST (1996) (discussing how luxury foods such as alcohol, chocolate, and sugar came to be consumed by not only the wealthy but also the general public). Mr. Mintz is an economic anthropologist at Johns Hopkins University, concentrating in peasant society, food, and life history in the Caribbean and Latin America.

28. SIDNEY W. MINTZ, SWEETNESS AND POWER: THE PLACE OF SUGAR IN MODERN HISTORY 214 (1985).

duced in a similar zone that spans from Turkey to Thailand.[29] Then, in the sixteenth century, India's Mughal empire developed a modest commerce in opium as a recreational drug.[30] With the expansion of European empires in Asia, colonial opium trading encouraged a rapid expansion of production in this opium zone from the late seventeenth to the early twentieth century.[31] Starting in the late nineteenth century, moreover, mass opium consumption grew rapidly in the West, amplified by the popularization of heroin after 1898.[32]

During the inter-war period from 1925 to 1941, however, a global prohibition movement, led by the United States and the League of Nations, produced a significant decrease in legal opiates production in both Asia and Europe.[33] Although this campaign effected a sharp decline in legal opium consumption, criminal syndicates soon emerged to take control, in both China and the West, of a now-illicit drug traffic. Then, starting in the early 1950s, Asia's opium production recovered steadily. Driven by rising demand and the changing geopolitics of the Cold War, Asian opium production soon soared to 3700 tons by 1990.[34] Most recently, in the aftermath of the Cold War, Asia's harvest has continued to grow, raising global opium supply to 5700 tons in 1999 and fueling a global proliferation of heroin consumption.[35]

FREE TRADE IN OPIUM

Within this larger context, there seems to be two critical phases in opium's modern history—an expanding free trade in drugs from the late eighteenth to the early twentieth century and, since the 1920s, an aggressive attempt at prohibition. Since this juxtaposition of policy regimes seems the source of the current growth in

29. OWEN, *supra* note 17, at 1-17 (providing a historical introduction to global opium trade); BUREAU FOR INT'L NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1998 22-23 (1999) [hereinafter 1998 REPORT].

30. OWEN, *supra* note 17, at 2-5.

31. *Id.* at 6-17; TAYLOR, *supra* note 19, at 1-19 (discussing problems with opium in the United States during the nineteenth century).

32. *Id.*; PETER D. LOWES, THE GENESIS OF INTERNATIONAL NARCOTICS CONTROL 91 (1966) ("But smoking opium as a major social problem in the U.S.A., though it spread across the country, had a limited duration. It had early been associated with undesirables on the fringe of society . . . .").

33. TAYLOR, *supra* note 19, at 124-32, 146-50.

34. GLOBAL ILLICIT DRUG TRENDS, *supra* note 10, at 34 (setting the combined total for Asian opium production at 3698 tons).

35. *Id.*

both production and consumption, each phase requires a closer study.

When European trading companies reached Asia in the sixteenth century, opium was just emerging as a significant commodity within intra-Asian trade. During this century, residents of Persia and India began eating and drinking opium mixtures as a recreational euphoric. Indeed, under the reign of Akbar (1556-1605), the great Mughal state of north India relied upon opium land as a significant source of revenue.[36] Although cultivation covered the whole Mughal empire, it was concentrated in two main areas—upriver from Calcutta along the Ganges Valley for Bengal opium and upcountry from Bombay in the west for Malwa opium.[37]

The rise of Europe's mercantile empires from the seventeenth century slowly transformed Asia's opium trade, amplifying its scale and changing its dominant use from medicinal to recreational, adding a new dimension to the drug, whose use had been, for several millenia, largely medicinal.[38] Because opium combined the inelastic demand of a basic foodstuff, such as rice, with the low weight and high mark-up of a luxury item, such as cloves or pepper, it was the epoch's ideal trade good, bringing empires extraordinary profits. In the 1640s, the Dutch East India Company ("VOC") entered the India-China opium trade, stimulating both supply and demand.[39]

As Dutch colonials negotiated monopoly rights for Java's populous districts, their company's opium imports from India rose dramatically from 617 kilograms in 1660 to 72,280 only twenty-five years later.[40] Buying opium cheap in India and selling high in Java provided the VOC a 400% profit on its shipments in 1679.[41] By the end of the century, the Dutch dominated the India-China opium trade and profited accordingly.[42] No longer a lightweight luxury or

36. OWEN, *supra* note 17, at 5-6.

37. *Id.*

38. *Id.* at 51 ("[T]he drug had been known in China for centuries, but its adaptation to Chinese taste had been a comparatively recent development.").

39. PRAKASH, *supra* note 17, at 145-57.

40. *Id.* at 145.

41. *Id.* at 145-51.

42. *Id.*; *see also* Jan van Ours, *The Price Elasticity of Hard Drugs: The Case of Opium in the Dutch East Indies, 1923-1938*, 103 J. OF POL. ECON. 261-79 (1995) (discussing price elasticity of opium in the Dutch Indies).

medicine, the opium trade was starting to achieve the scale that would, over the next two centuries, make it a major commodity.[43]

Opium's emergence as a commodity gained momentum in the late eighteenth century. Under the doctrine of mercantilism, the more successful European colonial ventures in Asia involved commercialization of drugs in some form—whether caffeine, nicotine, or opiates. Starting in the late eighteenth century, European trade transformed these drugs from luxury goods into commodities of mass consumption, making them integral to the economies and lifestyles of both Asian and Atlantic nations. The Dutch controlled Java's coffee exports, the Spanish established their tobacco monopoly in the Philippines, and the British monopolized the Bengal opium trade. Within the monopolistic practice of mercantilism, the British East India Company imposed central controls over Bengal's opium—raising Indian exports to China from thirteen tons in 1729 to 2558 tons in 1839.[44] Compounding the trade's profitability, China prohibited the drug from 1729 to 1858, thus conceding European merchants a de-facto monopoly.[45]

In 1773, the modern era in Asia's opium trade began when Warren Hastings,[46] the Governor-General of Bengal, established a colonial monopoly that made the drug India's leading export.[47] Over the next 130 years, Britain actively promoted opium exports to China, defying Chinese drug laws and fighting two wars to open

43. J.F. Richards, *The Indian Empire and Peasant Production of Opium in the Nineteenth Century*, 15 MOD. ASIAN STUD. 59-62 (1981).

44. MICHAEL GREENBERG, BRITISH TRADE AND THE OPENING OF CHINA, 1800-42, at 221 (1951); OWEN, *supra* note 17, at 51-52, 113-45; JOSHUA ROWNTREE, THE IMPERIAL DRUG TRADE 284-86 (1905).

45. OWEN, *supra* note 17, at 16 ("The unique feature of this early edict [prohibiting opium] was that all parties to the transaction were to be punished severely save only the buyer, who himself had prepared his doom. Keepers of opium shops, like 'propagators of depraved doctrines,' were to be strangled after a short imprisonment, while assistants might expect a hundred blows with the bamboo and banishment a thousand miles from their homes.").

46. MARTIN BOOTH, OPIUM, A HISTORY 111-12 (1998). Governor Hastings faced a difficult decision regarding the opium trade. On the one hand, the Governor reacted negatively to the reduced efficiency of his native labor force, which had become habitual users of opiates. *Id.* at 111. On the other hand, prohibiting the opium trade entirely would have drastically severed a major source of revenue. *Id.* The Governor's solution to grant an opium monopoly is best explained by his statement: "Opium is not a necessity of life but a pernicious article of luxury, which ought not to be permitted except for purposes of foreign commerce only, and which the wisdom of the Government should carefully restrain from internal consumption." *Id.* at 111-12.

47. OWEN, *supra* note 17, at 23-25 (noting that the Bengal council unanimously adopted a resolution granting opium monopoly to Bengal government).

the empire's opium market for its merchants.[48] Under new procedures introduced in 1797, the East India Company, and the colonial state that succeeded it, controlled opium from cultivation through processing to export.[49] Bengal's opium country stretched for 500 miles across the Ganges River Valley, with over a million registered farmers growing poppy plants exclusively for the company.[50]

For its first quarter-century, this system assured prosperity for British India and a stable opium supply for China. Opium remained a staple of colonial finances, providing from 6-15% of British India's tax revenues during the nineteenth century.[51] More importantly, these opium exports were an essential component of an India-China-Britain "triangular trade" central to London's commercial empire. Trade figures for the 1820s, for example, show that the triangular exchange was large and well-balanced—£22 million worth of Indian opium and cotton to China; £20 million in Chinese tea to Britain; and, £24 million in British textiles and machinery back to India.[52] In managing this trade, the East India Company prized stability above profit, and for over twenty years held India's opium exports at 4000 chests (with 140 pounds of opium each)—just enough to finance its purchase of China's tea crop.[53]

The system's success was the cause of its downfall. Profits attracted competitors, and the Company's refusal to raise Bengal's opium exports beyond the quota of 4000 chests per annum left a vast unmet demand for drugs in China.[54] As demand drove the

48. BOOTH, *supra* note 46, at 133-37, 144-46. The First Opium War lasted from 1839-1842, culminating in the Treaty of Nanking, which opened up China to trade and ceded Hong Kong to the British. *Id.* at 134-35. Not much was solved in the conflict, prompting one author to note, "[O]pium was not only the cause of the first Anglo-Chinese conflict but also the winner." *Id.* at 137. The Second Opium War, far bloodier than its predecessor, began in 1856 and lasted until 1860. *Id.*

49. *Id.* at 112-16.

50. SIR JOHN STRACHEY, INDIA: ITS ADMINISTRATION AND PROGRESS 133-42 (1903).

51. OWEN, *supra* note 17, at vii; *see also* J.F. Richards, *The Indian Empire and Peasant Production of Opium in the Nineteenth Century*, 15 MOD. ASIAN STUD. 59, 61-66 (1981) (arguing that the opium monopoly in British India was a successful system, whose policies suggest techniques for modern markets).

52. Tan Chung, *The Britain-China-India Trade Triangle 1771-1840*, *in* ESSAYS IN MODERN INDIAN ECONOMIC HISTORY 114-30 (Sabyasachi Bhattacharya ed., 1987); Richards, *supra* note 51, at 67-69.

53. Chung, *supra* note 52, at 118-120; OWEN, *supra* note 17, at 131 n.57 ("To say that London paid for its tea with opium is more than a pleasant generalization. In 1836-1837, for example, teas to the value of 20,225,065 dollars were shipped out, while 19,746,759 dollars' worth of opium was imported.").

54. Tan Chung, *supra* note 52, at 119-30.

price per chest upward from Rs.115 in 1799 to Rs.2,428 just fifteen years later, the East India Company's monopoly on Bengal opium faced strong competition from Turkey and west India.[55]

Britain's most daring rivals were the Americans.[56] Barred from bidding at the Calcutta auctions, Yankee traders loaded their first cargoes of Turkish opium at Smyrna in 1805 and sailed them around the tip of Africa to China.[57] Within a decade, opium comprised 30% of all U.S. cargoes reaching China.[58] Although the Americans increased their shipments from 102 chests in 1805 to 1428 twenty-five years later, their largest cargoes were still just a quarter of the 5672 chests the British brought from Bengal.[59] Determined to defend their monopoly, the Company's directors decided to promote unlimited production in Bengal, thereby producing opium at prices which made competition unprofitable. Within the decade, fifteen new opium districts opened, doubling cultivation to 176,000 acres.[60]

After the East India Company lost its charter in 1834, the informal regulation of the China opium trade collapsed, allowing American and British merchant captains to take control and launch a fleet of new opium clippers.[61] Among the ninety-five clippers in the fleet, Calcutta's Cowasjee family owned six, the Americans of Russell & Co. had eight, and the British giants, Dent and Jardine, operated twenty-seven.[62] India's export boom flooded the China coast with illicit opium, rending the fragile political fabric that had veiled the smuggling trade for decades. As the Company's grip weakened, China's imports increased ten-fold—from 270 tons in

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55. *Id.*

56. BOOTH, *supra* note 46, at 113. After a prohibitive imperial edict in 1799, the transport of Opium to China required surreptitious means to avoid detection. *Id.* The transport vessels often were "disguised, flew flags of convenience, were armed, and carried a detachment of soldiers." *Id.*

57. Charles C. Stelle, *American Trade in Opium to China in the Nineteenth Century*, 9 PAC. HIST. REV. 425, 427-42 (1940).

58. *Id.*

59. GREENBERG, *supra* note 44, at 221.

60. OWEN, *supra* note 17, at 105-08; Richards, *supra* note 51, at 65.

61. *Id.* at 115 ("The clippers, owned by firms, individuals, or *ad hoc* partnerships, were small vessels, constructed for speed and destined to carry cargoes of little bulk but large value. Their swift keeps set records, unapproached by the unwieldy East Indiamen, for the passage to China."). For additional background on these ships, see BASIL LUBBOCK, THE CHINA CLIPPERS (1914), which attempts to preserve the histories of these vessels.

62. EDOUARD STACKPOLE, CAPTAIN PRESCOTT AND THE OPIUM SMUGGLERS 34-43 (1954); OWEN, *supra* note 17, at 115-116, 183-93; LUBBOCK, *supra* note 61, at 382-84.

1820 to 2555 tons twenty years later.[63] Opium addiction spread rapidly, reaching some three million Chinese addicts by the 1830s and provoking some angst among the British clergy.[64]

After Britain won the Second Opium War and forced China to legalize the drug in 1858, opium became a major global commodity, produced and traded on the scale of stimulants such as coffee and tea. In the war's aftermath, China legalized opium; smugglers became registered importers; plodding steamships displaced fast clippers; and, state monopolies replaced private traders.[65] As addiction spread throughout China, imports of Indian opium rose as well. After peaking in 1880, Indian imports declined slowly for the rest of the century as cheaper, China-grown opium began to supplant the high-grade Bengal brands.[66] To reduce the drain of European imports, China encouraged local cultivation, which spread rapidly in the country's southwest regions of Szechwan and Yunnan.[67] In 1881, the British consul at Yichang estimated the total opium production in the southwest at 13,525 tons, a figure that at first seemed incredible.[68] Twenty-five years later, however, official statistics showed that Szechwan and Yunnan were in fact producing 19,100 tons, equivalent to 54% of China's total harvest.[69] At peak production in 1906, China harvested 35,000 tons of opium and imported 4000 more to supply 13.5 million addicts, or 27% of its adult males—a level of mass addiction never equaled by any other nation.[70] At 35,000 tons, China's annual opium harvest was similar in size to Japan's tea trade (31,000 tons), Brazil's cocoa crop (39,000 tons), or Colombia's coffee production (55,000 tons).[71] Elsewhere along the Asian zone, opium, much of it destined for markets in

63. GREENBERG, *supra* note 44, at 221; *see also* OWEN, *supra* note 17, at 113-45.

64. A. S. THELWALL, THE INIQUITIES OF THE OPIUM TRADE WITH CHINA: BEING A DEVELOPMENT OF THE MAIN CAUSES WHICH EXCLUDE THE MERCHANTS OF GREAT BRITAIN FROM THE ADVANTAGES OF AN UNRESTRICTED COMMERCIAL INTERCOURSE WITH THAT VAST EMPIRE 13 (Wm. H. Allen and Co. 1839) ("When the [opium] habit is once formed it grows till it becomes inveterate; discontinuance is more and more difficult, until at length the sudden deprivation of the accustomed indulgence produces certain death.").

65. OWEN, *supra* note 17, at 214-41 (discussing both the process leading up to legalization and its aftermath).

66. *See* ROWNTREE, *supra* note 44, at 284-85.

67. BOOTH, *supra* note 46, at 147 (stating that poppy cultivation had existed, despite the prohibition edict in 1799, especially in the southwestern provinces).

68. OWEN, *supra* note 17, at 266-67 ("To put it conservatively, by 1885 China was probably producing twice as much opium as she was importing.").

69. REP. ON INT'L OPIUM COMM'N, *supra* note 18.

70. *Id.*

71. *Id.*

China and Southeast Asia, became Iran's leading export by 1890 and provided farmers three times the income they could earn from staple food crops.[72] By the time Britain formally abandoned its advocacy of the drug trade in 1907, opium had become a global commodity.

The Southeast Asian opium trade was another creation of European colonialism. During the nineteenth century, licensed opium dens became a unique Southeast Asian institution, sustaining mass addiction and generating revenues. In 1905-06, for example, opium sales provided 16% of all taxes for the Netherlands Indies, 20% for Siam, and 53% for British Malaya.[73] In 1930, Southeast Asia had 6441 government opium dens serving 272 tons of opium to 542,100 registered smokers.[74] Opium use, legal and illicit, was found throughout the region, but its spread was uneven. There were no legal dens in the Philippines after the United States banned opium in 1906-08.[75] By contrast, French Indochina had 3500 licensed "opium divans," or one for every 1500 adult males, and was home to 125,200 opium smokers, or 23% of the region's addicts.[76] Southeast Asia's only independent state, the Kingdom of Siam, earned 14% of its tax revenues by selling eighty-four tons of opium through 972 licensed dens to 164,300 opium smokers, the largest addict population in Southeast Asia.[77] In no other region of the world did so many governments promote mass drug abuse with such unanimity of means and moral certitude.

Southeast Asian states promoted opium consumption; however, they used their coercive powers to suppress both cultivation and smuggling. To maximize revenue, the region's monopolies imported low-cost Indian opium and then marked it up several fold for sale to consumers—creating an instant illicit demand for smuggled drugs. Because local cultivation would mask contraband, mainland states adjacent to China tried to suppress tribal cultivation and intercept smugglers' caravans. In this attempt to seal their borders with China, French and Thai officials found themselves at

72. ISSAWI, *supra* note 21, at 239; Lucien Rey, *Persia in Perspective*, I/19 NEW LEFT REVIEW 44-46 (March-April 1963); BUREAU OF FOREIGN AND DOMESTIC COMMERCE, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1915 713 (1916).

73. REP. ON INT'L OPIUM COMM'N, *supra* note 18.

74. *Annual Reports of Governments on the Traffic in Opium and Other Dangerous Drugs for the Year 1935*, League of Nations Doc. XI 5, at 72-75 (1937) [hereinafter *Annual Reports, 1935*].

75. *Id.*

76. *Id.*

77. *Id.*

war with the hardy Muslim traders of the southwestern province Yunnan. With their strings of highland horses and formidable paramilitary skills, the Muslims became the logistic link between the poppy fields of southern China and the illicit opium dens of urban Southeast Asia.[78]

After 1900, Siam and French Indochina found that this overland smuggling trade was taking a major share of their legal opium markets. In 1928, for example, French officials formed "a special surveillance corps covering a wide area" along the China-Vietnam border and attacked seventeen armed caravans with 15.5 tons of opium, equivalent to 22% of government sales.[79] Similarly, on Java, the Dutch opium monopoly, a model of colonial efficiency, promoted a rigorous suppression of sea borne opium smuggling.[80]

Despite the spread of mass opium consumption, Southeast Asia remained a minor producer in the decades before World War II. Even at its peak in the 1920s, Southeast Asia's sixty tons of opium was dwarfed by the 6380 tons produced across the border in China.[81] In 1936, for example, the Shan States of Burma harvested only eight tons of raw opium,[82] while Laos and northern Vietnam together produced 7.5 tons in 1940.[83] Reflecting the coercive capacities of the region's colonial states, Southeast Asia did not develop widespread poppy cultivation until the late 1950s, more than eighty years after China.

As Mintz posited, opium's growth as a commodity penetrated far more deeply than trade statistics and tax revenues, changing diet

78. Andrew D.W. Forbes, *The Yunnanese ('Ho') Muslims of North Thailand, in* THE MUSLIMS OF THAILAND: VOLUME I HISTORICAL AND CULTURAL STUDIES 91-95 (1988); Andrew D.W. Forbes, *The 'Cin-Ho' (Yunnanese Chinese) Caravan Trade with North Thailand During the late Nineteenth and Early Twentieth Centuries*, 21 J. ASIAN HIST. 1-47 (1987); Moshe Yegar, *The Panthay (Chinese Muslims) of Burma and Yunnan*, 7 J. SE. ASIAN STUD. 80-82 (1966).

79. *Advisory Committee on Traffic in Opium and Other Dangerous Drugs, Summary of Annual Reports*, League of Nations Vol. XI, at 5, 29-30 (1930) [hereinafter *Summary of Annual Reports*].

80. JAMES R. RUSH, OPIUM TO JAVA 65-82 (1990).

81. *Summary of Annual Reports, supra* note 79, at 29-30; *Advisory Committee on Traffic in Opium, Application of Part II of the Opium Convention with Special Reference to the European Possessions and Countries in the Far East*, League of Nations Vol. XI-XII (1923) [hereinafter *Application of Part II*].

82. *Advisory Committee on the Traffic in Opium and Other Dangerous Drugs, Annual Reports on the Traffic in Opium and Other Dangerous Drugs for the Year 1939*, League of Nations, at 42 (1940).

83. *See* ASSOCIATION CULTURELLE POUR LE SALUT DE VIET-NAM, TEMOINAGES ET DOCUMENTS FRANÇAIS RELATIFS A LA COLONISATION FRANÇAISE AU VIET-NAM 115 (1945) (quoting Circular no. 875-SAE, July 22, 1942, from Resident Superior of Tonkin Desalle, to the residents of Laokay, Sonla, and Yenbay).

and culture.[84] In the late eighteenth and early nineteenth centuries, southeastern China suffered an acute caloric crisis and opium's quality as an appetite suppressant may have made its mass consumption viable, or even economically rational, in times of extreme hardship. Similarly, the spread of mass addiction in the Western industrial nations in the late nineteenth century was part of a new diet based on a global trade in proteins and stimulants.

After a century of constant dietary habits, English consumption of sugar jumped four-fold from 1850 to 1900, while consumption of tea increased three-fold.[85] Similarly, in the United States between 1865 and 1902, coffee consumption increased nearly three-fold, while sugar consumption jumped four-fold.[86] The simple eighteenth-century diet of milled grains had given way to one spiced with large quantities of protein (eggs and beef), glucose (sugar), and stimulants (coffee and tea). If such an energized diet could be used to stimulate the body during a long working day, then narcotics could be used to relax it in the short hours of rest.

Paralleling the growth of sugar and coffee, American consumption of opium rose over four-fold from the 1840s to the 1890s, and the number of addicts reached approximately 250,000 by 1900.[87] In the United Kingdom, sales of patent medicines, most of them opium-based, increased almost seven-fold between 1850 and 1905.[88] Significantly, the average consumption of opium per 1000 people increased from 1.3 pounds in 1827 to over ten pounds a half-century later.[89]

PROHIBITION REGIME

The global campaign for drug prohibition began in the 1870s as the Protestant churches of England[90] and America launched a

84. *See generally* MINTZ, *supra* note 28.

85. E.J. HOBSBAWM, INDUSTRY AND EMPIRE: THE MAKING OF MODERN ENGLISH SOCIETY 15, 55-56, 119, 311 (1968) (discussing both the social and economic theories behind the increased purchasing power of the English during the nineteenth century).

86. DEP'T OF COMMERCE & LABOR, STATISTICAL ABSTRACT OF THE UNITED STATES 1910 536-37, 540 (1911).

87. DAVID T. COURTWRIGHT, DARK PARADISE: OPIATE ADDICTION IN AMERICA BEFORE 1940 9-28 (1982); DAVID MUSTO, THE AMERICAN DISEASE: ORIGINS OF NARCOTIC CONTROL 5 (1973).

88. TERRY M. PARSSINEN, SECRET PASSIONS, SECRET REMEDIES: NARCOTIC DRUGS IN BRITISH SOCIETY, 1820-1930, at 32-33 (1983).

89. VIRGINIA BERRIDGE & GRIFFITH EDWARDS, OPIUM AND THE PEOPLE: OPIATE USE IN NINETEENTH-CENTURY ENGLAND 21-35, 274 (1987).

90. *Id.* at 176-77. The Anglo-Oriental Society for the Suppression of the Opium Trade was founded in 1874 by a group of Quakers, some of whom were ex-missionaries. Initially a local Birmingham organization, it quickly gained a national focus, and

moral crusade against the opium trade.[91] For the first time in the modern era, the anti-opium movement, in alliance with the larger temperance crusade, won national laws that applied the full force of modern policing and penology to limit the individual's control over the body. Through a parallel diplomacy from 1909 to 1931, Western nations adopted restrictions on recreational drug use and produced a major decline in legal opium production.[92] The U.S. Congress passed the Harrison Narcotics Act in 1914,[93] and the League of Nations adopted restrictions on the recreational use of heroin and opium in 1931.[94] These laws and treaties comprise, in sum, something of a social revolution in the relation between law and individual liberty.

The early anti-opium movement was a loose alliance among British Protestants, China missionaries, and Chinese Imperial officials. With a generous endowment from a British Quaker, the Anglo-Oriental Society for the Suppression of the Opium Trade formed in 1874 and soon attracted the patronage of a Catholic cardinal and the Archbishop of Canterbury.[95] For thirty years, moral crusaders fought a relentless campaign that culminated in 1906 when the British Parliament passed a motion to end India's opium trade. As Indian opium shipments declined, China pursued a rigorous anti-opium campaign that eliminated smoking in Beijing and reduced cultivation in provinces such as Szechwan. After the revolution in 1911 against the Manchu dynasty, however, the Republican government proved corrupt and opium suppression faltered.[96]

While Britain engaged in bilateral negotiations with China, the United States sought a parallel solution through global drug diplomacy. After occupying the Philippines in 1898, the United States discovered that it had inherited a state opium monopoly similar to

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by 1876, had moved its offices to King Street, Westminster, near both the India Office and Houses of Parliament. *Id.*

91. COURTWRIGHT, *supra* note 87, at 78-79. Initial enactment of laws in the U.S. was on a local level, and largely confined to those areas in the West, and later in the Northeast, where Chinese immigrants lived and where whites began to experiment with use of opium. *Id. See also* BOOTH, *supra* note 46, at 194-95.

92. BOOTH, *supra* note 46, at 180-84 (stating that the net effect of new international agreements was to reduce overall world supply of opium from 42,000 tons in 1906 to 8000 tons in 1934).

93. Harrison Narcotics Act, ch. 1, 38 Stat. 785 (1914).

94. BOOTH, *supra* note 47, at 180-84, 198.

95. *See* OWEN, *supra* note 17, at 261-63. The Society was well-funded and quickly created an official organ, the "Friend of China." *Id.*

96. BOOTH, *supra* note 46, at 156-59 ("Sun Yat-sen, the mastermind behind the revolution and the acknowledged father of modern, post-imperial China, raised money for his cause by taxing all the opium dens in Canton.").

those elsewhere in Southeast Asia. In 1902, for example, Manila had 190 dens retailing a total of 130 tons of opium.[97] In 1903, the colonial regime appointed the Episcopal missionary Bishop Charles Brent to an investigative Opium Commission that recommended prohibition.[98] Although opium smuggled from China met the illicit demand, drug abuse in the Philippine Islands soon declined to levels far below other Southeast Asian colonies.[99]

Whatever its actual impact might have been, the Philippine ban won fame for Bishop Brent and launched America's attempt at global drug diplomacy. Aware that opium smuggled from China was sabotaging the Philippine prohibition, the Bishop wrote President Theodore Roosevelt, persuading him to convene an international conference to assist the Philippine struggle against the drug trade. With Bishop Brent as the chair, delegations from thirteen countries—including Britain, France, Persia, Siam, and China—met at Shanghai for a month in 1909.[100] As the conference convened, the U.S. delegate Hamilton Wright, a physician and moral crusader, successfully lobbied the U.S. Congress for passage of the Smoking Opium Exclusion Act,[101] which banned all imports of non-medicinal opium.[102] In unanimous, non-binding resolutions, the Shanghai Commission defended the colonial interest by advising "the gradual suppression . . . of opium," the drug its members *did* sell; and urging "drastic measures" against the "grave danger" of morphine, the drug its members *did not* sell.[103] Thus, the Commission left a mingled legacy; defending Asia's colonial opium trade while simultaneously launching a global anti-narcotics diplomacy. To prepare for the next conference, delegate Wright, using spurious claims of rising U.S. drug abuse, worked, unsuccessfully,

97. *See* REP. ON INT'L OPIUM COMM'N, *supra* note 18, at 21-26.

98. *See* MUSTO, *supra* note 45, at 25-28. Charles Henry Brent was appointed the first Episcopal bishop of the Philippines in 1902, travelling there with the returning colonial governor, William Howard Taft. Brent began as a general missionary bishop, working to develop schools and hospitals for the poor. It was through this work that he encountered the opium problem in the Philippines. *Id.*

99. *See* REP. ON THE INT'L OPIUM COMM'N, *supra* note 18.

100. MUSTO, *supra* note 45, at 28-37; PETER D. LOWES, THE GENESIS OF INTERNATIONAL NARCOTICS CONTROL 102-11 (1966). The Chinese, nominally the host nation of the conference, were initially wary of the aims of the delegations. Eventually, the Chinese came to view the conference as a benefit, expressing appreciation at being treated as equals.

101. Smoking Opium Exclusion Act, 21 U.S.C. §§ 176-185 (1909) (repealed 1970).

102. COURTWRIGHT, *supra* note 87, at 29-30, 82 (stating that then Secretary of State Elihu Root drafted the bill to give Wright and the U.S. delegation the sheen of moral leadership at the Shanghai Conference).

103. *See* REP. ON INT'L OPIUM COMM'N, *supra* note 18.

with allies in the U.S. Congress for passage of the Foster Anti-narcotic Bill[104] that would have required registration of all narcotics sales.[105]

Two years later, the United States convened a second round of global drug diplomacy, the International Conference on Opium at the Hague. With the support of President William Taft, who knew Brent from colonial service in Manila, the Bishop again chaired the Conference and maintained its moral momentum against the colonial interest.[106] Moving beyond the mere recommendations of Shanghai, these sessions drafted The Hague Opium Convention of 1912 that required each signatory nation to pass its own domestic drug legislation. As a party to these proceedings, the Congress enacted the Harrison Narcotics Act in 1914—a modestly progressive compromise that required a doctor's prescription to purchase narcotics.[107] The Internal Revenue Bureau adopted a strict interpretation and pressed indictments against so-called "dope doctors" and addicts for conspiracy to violate the Act, winning a Supreme Court decision in 1919.[108]

Before the Hague Convention could take effect, World War I intervened, delaying further drug diplomacy until the League of Nations convened the Geneva Conference of 1925. Under the Geneva Narcotics Convention and its later protocols, drug controls moved away from voluntary national laws to mandatory interna-

104. *Id.* The complete text of the Foster Bill is appended to the REPORT. For a more complete discussion of the Foster Bill, see COURTWRIGHT, *supra* note 88, at 103-04.

105. COURTWRIGHT, *supra* note 87, at 28-29 ("By training a physician and a scientist, Wright was by instinct a politician and not above bending facts to achieve legislative ends.").

106. MUSTO, *supra* note 87, at 50 (stating that Bishop Brent "symbolized . . . American moral stewardship").

107. COURTWRIGHT, *supra* note 87, at 105-06 ("In many respects the Harrison Act was a classic piece of progressive legislation: reform effort (restrict the sale of narcotics) met business self-interest (rationalize the narcotic market) to produce a compromise measure. Large pharmaceutical firms were perfectly willing to see small-time, unregistered peddlers prosecuted; enlightened and professionalized pharmacists agreed to restrict sale to those possessing a prescription . . . ."); *see also* TAYLOR, *supra* note 19, at 120, 129-31 (discussing the legislative history behind enactment of the Harrison Narcotics Act).

108. COURTWRIGHT, *supra* note 87, at 106-07 (discussing Webb v. United States, 249 U.S. 96 (1919)). Dope doctors were licensed physicians who, for a fee, granted prescriptions to addicts. *Id.* at 107. "During a single month one New York doctor 'wrote scrip' for 68,282 grains of heroin, 54,097 grains of morphine, and 30,280 grains of cocaine." *Id.*

tional controls over the production and sale of drugs.[109] Restrained by the colonial lobby, this diplomacy produced international treaties that gradually restricted the right of governments to trade in narcotics. Although none of Southeast Asia's states abolished their monopolies, all made gestures that reduced the region's opium sales by 65% in the fifteen years after World War I. The Netherlands Indies, for example, cut the colony's consumption by 88%, from 127 to fifteen tons of opium.[110] Multilateral controls thus reversed the century-long climb in drug abuse—reducing world opium production from 41,600 tons in 1907 to an estimated 16,000 tons in 1934; and licit heroin production from 20,000 pounds in 1926 to only 2200 in 1931.[111]

Nonetheless, the high profits inherent in the opiates traffic remained and sustained criminal syndicates, which now acted as an invisible market response limiting state control over the drug trade.[112] In their trafficking, criminal syndicates would increasingly ignore the odorous, bulky opium and concentrate on a comparatively new derivative, heroin. First manufactured commercially in 1898, heroin had attributes—high value for weight, compact, odorless, and highly addictive—that would make it an ideal criminal commodity.

From the outset of drug prohibition in the 1920s, each act of suppression produced an equal and opposite criminal reaction. In the decade following the League's opium ban in 1925, Shanghai emerged as a major center for illicit heroin, supplying a substantial,

109. Vladamir Kusevic, *Drug Abuse Control and International Treaties*, 7 J. DRUG ISSUES 35, 36 (1977) (discussing the difficulty in enforcing the various drug control regimes against signatories); BERTIL A. RENBORG, INTERNATIONAL DRUG CONTROL: A STUDY OF INTERNATIONAL ADMINISTRATION BY AND THROUGH THE LEAGUE OF NATIONS 20-26 (1944).

110. APPLICATION OF PART II, *supra* note 81, at 4; ANNUAL REPORTS FOR 1935, *supra* note 74, at 70-71.

111. *See* REP. ON THE INT'L OPIUM COMM'N, *supra* note 18; ANNUAL REPORTS FOR 1935, *supra* note 74, at 46-47 (reporting world production at 7653 tons for 1934, with 6378 of that total coming from China). That same year, the U.S. Treasury Department attaché in China reported an illicit traffic of 28,000 tons. Letter from M.R. Nicholson, U.S. Treasury Attaché, Shanghai, to Commissioner of Customs, Annex 2 2-7 (July 12, 1934) (on file at Pennsylvania State University, Historical Collections and Labor Archives, Harry Anslinger Papers) [hereinafter Nicholson Letter]. I am indebted to Alan Block for calling my attention to the Nicholson reports. The adjusted world figure of 16,000 tons cited above is a rough compromise between these two figures for China's production.

112. Alan A. Block, *European Drug Traffic and Traffickers Between the Wars: The Policy of Suppression and its Consequences*, 23 J. SOCIAL HIST. 322-23 (1989) (discussing the "Black List" used by the League of Nations to track criminal syndicates involved in heroin trafficking).

but unquantifiable, share of the U.S. market.[113] In 1931, the League of Nations imposed restrictions on the manufacture of heroin in Europe, and just three years later the U.S. Treasury attaché in Shanghai noted a "sudden shift of the traffic in narcotics from Europe to the Orient."[114] Similarly, in Southeast Asia, the League's efforts reduced legal opium sales, but could not eradicate the mass demand cultivated by three centuries of colonial rule. As soon as governments slashed imports or closed opium dens, traffickers emerged to service the unmet demand. With 50% of the region's smokers and 70% of its dens, Bangkok and Saigon were Southeast Asia's premier opium markets, offering high profits which drew the caravans southward from the opium hills of Yunnan and Burma.[115]

Cold War Expansion

The half-century of global warfare that began with World War II and continued into the Cold War transformed the character of the global opium trade. In an age when warfare gave the major powers unequaled coercive capacities, a modern prohibition regime finally eradicated the remnants of legal opium trading. But the Cold War was also marked by a geopolitics that encouraged alliances with criminal syndicates at the interstices of global confrontation. This contradictory policy of simultaneously prohibiting and protecting the global opium traffic shaped the heroin trade during the Cold War.

During World War II, restrictions on shipping and strict port security produced a marked hiatus in global opium trafficking. With only limited supplies of low-grade heroin from Mexico, the U.S. addict population plummeted in just four years to an historic low of some 20,000 by the end of the war.[116]

In the succeeding forty years of the Cold War, the interaction of prohibition and protection seemed to define the global drug trade. Above all, the communist victory in China soon eliminated the world's largest producer and consumer of opium.[117] Although the Asian opium zone contracted geographically, geopolitics, com-

113. Taylor, *supra* note 19, at 283.

114. Nicholson Letter, *supra* note 111, at 18-26.

115. *Annual Reports for 1935, supra* note 74, at 72-75.

116. Booth, *supra* note 46, at 203 (stating that the addict population dropped from 200,000 to 20,000 due to the war-time disruption in supply).

117. *Id.* at 305 (stating that when the Communists took over, Mao Zedong's policies ceased opium production and addiction for nearly forty years).

bined with illicit market forces, stimulated a steady increase in production within the remaining area, which now stretched from Turkey to Thailand. Led by the United Nations and United States, the global prohibition regime reached about the globe, finally forcing Southeast Asian states to abolish their legal opium monopolies.[118]

After the legal opium trade was fully banned by 1961, the U.S. and U.N. then turned to eradication of illegal poppy cultivation and the pursuit of criminal traffickers. Simultaneously, however, covert agencies found urban criminals and upland warlords useful allies in the prosecution of the Cold War, providing de facto political protection for drug dealers in key source regions.[119] Since Asia's opium zone coincided with a major frontier of anti-communist containment, the continent's southern rim became a covert battleground, periodically erupting in bloody, protracted warfare. In the first decades after World War II, Asia's opium zone functioned within localized trading spheres in the continent's southeast and southwest. Over time, however, covert warfare operations and rising global opium demand drew these disparate regions into the international drug traffic and integrated this southern rim into a coherent drug production zone.[120]

In Southeast Asia, the region's opium trade experienced a fundamental transformation that produced the present-day Golden Triangle. After a century of state opium sales, mainland Southeast Asia, under U.N. pressure, finally abolished its legal monopolies between 1950 and 1961. Simultaneously, the region's intelligence agencies allowed state-sponsored para-military groups to control the now-illicit traffic. Seeking a second front against communist China in the Korean War, President Harry Truman ordered the Central Intelligence Agency ("CIA") to mobilize some 12,000 of the Nationalist Chinese remnants camped just inside Burma for a clandestine invasion of southwestern China.[121] After their incursions were repulsed in 1951-52, the Nationalist troops occupied

118. *Id.* at 188-89.

119. ALFRED W. MCCOY, THE POLITICS OF HEROIN: CIA COMPLICITY IN THE GLOBAL DRUG TRADE (1991) (discussing an intricate web in which the CIA granted protection to drug traffickers as part of a larger scheme against communism). "The CIA went to great lengths to ban [McCoy's] book, claiming it was a threat to national security whilst it was really an embarrassing expose of America's obsession with and mismanagement of the Communist threat, and the ineffectuality of Cold War strategies." BOOTH, *supra* note 46, at 257-58.

120. BOOTH, *supra* note 46, at 256-59.

121. *Id.* at 259.

Burma's northeast for another decade, turning to opium to finance their operations.[122] By forcing local hill tribes to produce the drug, these Chinese troops (called Kuo Min Tang, or "KMT") presided over a massive increase of poppy cultivation on the Shan Plateau—from some eighteen tons in 1958 to an estimated 400 to 600 tons in 1970.[123] Nonetheless, the region's opium traffic was still self-contained until 1970, producing opium for urban smokers in cities such as Bangkok, Saigon, and Hong Kong. Then, in 1969-70, a cluster of heroin refineries opened in the Golden Triangle, first supplying U.S. soldiers fighting in South Vietnam and later exporting to markets in America and Europe.

In Southwest Asia, the region's opium traffic followed a similar pattern and most production was absorbed in regional markets, leaving only limited amounts for export to the West. Despite an imperfect ban on consumption between 1955 and 1969, Iran's cities remained the world's largest consumer of opium and absorbed most surplus production from neighboring nations—Turkey, Pakistan, and Afghanistan.[124] Though the Turkish Marketing Organization was a legal pharmaceutical producer, Anatolian farmers diverted surplus production to illicit markets in Iran and France, thereby supplying the morphine base for some 80% of America's illicit heroin demand.

In these transitional decades to the full prohibition regime, Asia's opium production was low, markets were largely regional, and heroin production was, until 1970, insignificant. In the 1970s, however, President Richard Nixon's drug war would produce a radical transformation in Asia's drug trade, inadvertently integrating it more fully into the international traffic.

BILATERAL SUPPRESSION

In 1972, U.S. drug suppression entered the global arena when President Richard Nixon declared "war on drugs"—the first in a succession of American drug wars that have continued to the present. In the first battle of his drug war, Nixon attacked Turkish opium production, then the second-highest in Southwest Asia. Here he won total victory, eradicating nearly all of Turkey's opium

122. *Id.*

123. CHAO TZANG YAWNGHWE, THE SHAN OF BURMA: MEMOIRS OF A SHAN EXILE 57 (1987); WORLD OPIUM SURVEY, *supra* note 16, at 10-11.

124. DIRECTORATE OF INTELLIGENCE, U.S. CENTRAL INTELLIGENCE AGENCY, INTELLIGENCE MEMORANDUM: NARCOTICS IN IRAN, NO. 13 1-2 (1972).

cultivation and closing Marseille's heroin laboratories.[125] In the next battle, the Nixon White House shifted its attack to Southeast Asia, focusing on Bangkok's exports. By the mid-1970s, the street price of heroin in New York had tripled and purity dropped by half—both strong indicators of a serious shortage.[126] Nixon was victor in the first of America's four drug wars.[127]

In his success, Nixon defined the character of subsequent drug wars by applying the full coercive resources of the U.S. government to eradicate production in source regions for the American market. After heavy diplomatic and military pressure on allies to join his assault on cultivation and refining, Nixon then dispatched U.S. narcotics agents to track down traffickers who had survived this broad-brush suppression. In sum, Nixon's drug war provided an impressive, and unparalleled, demonstration of the coercive capacities of the world's paramount power.

But the invisible dynamics of the drug market soon turned victory into defeat. Instead of reducing global supply, Turkish eradication stimulated both opium production and heroin consumption. Why this unexpected outcome? Though Turkey was the source for some 80% of U.S. heroin supply, it produced only 7% of the raw poppy in Asia's opium zone.[128] With demand constant and Turkey's supply eradicated, the illicit world price rose, stimulating opium production elsewhere along the continent's vast southern rim, particularly in Southeast Asia. From this predictable, but unrecognized market logic, every short-term victory, every successful eradication or crop substitution, would become a market stimulus that brought another defeat for America's drug wars.

Predictably, Nixon's victory in Turkey unleashed market forces that would ultimately expand both production and consumption of illicit narcotics. Responding to the stimulus of Turkish eradication, the Chinese syndicates of Southeast Asia began exporting their

125. BOOTH, *supra* note 46, at 250-51 (stating that Nixon's use of political and economic pressure on Turkey eliminated the opium source for the Marseille laboratories, thus dealing a devastating blow to the infamous "French Connection"). For more information regarding Nixon's drug policy, see Michael Massing's, THE FIX (1998).

126. STAFF OF HOUSE OF REPRESENTATIVES COMM. ON INT'L RELATIONS, 94TH CONG., REPORT ON THE EFFECTIVENESS OF TURKISH OPIUM CONTROL 1-7, 38-71 (Comm. Print 1975); John T. Cusack, *Turkey Lifts the Poppy Ban*, DRUG ENFORCEMENT, Fall 1974, at 3-7 [hereinafter Cusack, *Turkey Lifts Ban*].

127. *See, e.g.*, John T. Cusack, *A Review of the International Drug Traffic*, DRUG ENFORCEMENT, Spring 1976, at 34-35 (stating that heroin seizures in 1975 totaled 470 kilograms, 55% over the amount seized in 1974 and 115% over the amount seized in 1973) [hereinafter Cusack, *Review of Drug Traffic*].

128. WORLD OPIUM SURVEY, *supra* note 16, at 10-11.

surplus heroin to America. Rising from insignificant levels in the late 1960s, Southeast Asian heroin captured 29% of New York's street supply by 1972.[129] In Chicago, Southeast Asia's share jumped from 6% of all samples seized in 1972 to 48% in 1973.[130] By 1973, Southeast Asia's share of the U.S. heroin market had more than doubled to 30%.[131] Concerned about rising seizures of Southeast Asian heroin, the Nixon administration dispatched a fire-break team of thirty Drug Enforcement Administration ("DEA") agents to Bangkok in 1973-74 to cut the flow. Armed with a financial war chest of $12 million in narcotics assistance funds, the Bangkok DEA began making substantial seizures of U.S.-bound heroin—creating a de-facto customs barrier that discouraged exports to America.[132] By the end of 1975, Southeast Asia's share of the U.S. market had dropped back down to only 8%, leaving a demand that was partially met by rising Mexican production.[133]

Since the DEA had not eradicated opium cultivation in Burma nor closed the heroin refineries in Thailand, its seizures simply erected a de-facto customs barrier that deflected exports from the United States to other markets. Blocked from entry into America, Southeast Asian syndicates began exporting to Europe and Australia—continents that had been virtually heroin-free for decades.[134] Total European seizures of Southeast Asian No. 3 heroin jumped from twenty-two pounds in 1972 to 873 in 1978.[135] In West Germany, deaths from heroin overdoses increased from nine in 1969 to 623 a decade later.[136] By 1976, European seizures of 1177 pounds of heroin, almost all from Southeast Asia, were higher than the

129. U.S. DRUG ENFORCEMENT ADMIN., HEROIN SOURCE IDENTIFICATION FOR U.S. HEROIN MARKET (1972, 1973, 1974, 1975) [hereinafter DEA REPORT].

130. *Id.*

131. STAFF OF HOUSE OF REPRESENTATIVES COMM. ON INT'L RELATIONS, 94TH CONG., PROPOSAL TO CONTROL OPIUM FROM THE GOLDEN TRIANGLE AND TERMINATE THE SHAN OPIUM TRADE 91 (Comm. Print 1975).

132. STAFF OF HOUSE OF REPRESENTATIVES COMM. ON INT'L RELATIONS, THE NARCOTICS SITUATION IN SOUTHEAST ASIA: THE ASIAN CONNECTION, H.R. DOC. NO. 94-096, at 38-40 (1975).

133. DEA REPORT, *supra* note 126.

134. Laura M. Wicinski, *Europe Awash with Heroin*, DRUG ENFORCEMENT Summer 1981, at 14-15 (stating that much of the increased heroin traffic in Europe during the late 1970s flowed from Southwest Asia).

135. John T. Cusack, *Review of Drug Traffic*, *supra* note 124, at 34-35; *Heroin Seized in Europe During 1978*, DRUG ENFORCEMENT, February 1979, at 20-21; Michael A. Antonelli, *In Europe: An Incursion of Asian Heroin*, DRUG ENFORCEMENT, Winter 1975, at 32.

136. Wicinski, *supra* note 131, at 16.

U.S. total—indicating that Europe's drug problem had, in only five years, begun to rival America's.[137] Similarly, in Australia narcotics arrests in the state of New South Wales increased five-fold from 173 in 1972 to 909 five years later; while over-dose deaths were up three-fold from fourteen in 1974 to forty-nine in 1976.[138]

Inside the United States, the illicit drug market responded to the decline in imported narcotics by substituting domestic synthetics. As Asian heroin imports dropped in the mid 1970s, organized crime syndicates saw the opportunity and illicit amphetamine laboratories soon dotted the northeastern United States, with a significant cluster that made Philadelphia the "speed capital of the world."[139]

Despite some initial success, America's drug war thus had produced a paradoxical strengthening of the global narcotics traffic. By the late 1970s, the simplex of the Turkey-Marseilles-New York heroin pipeline had been replaced by a complex of international smuggling routes that tied the disparate zones of First World consumption to Third World narcotics production. With production and consumption now dispersed about the globe, the international traffic was far more resistant to suppression than ever before.

Operating on a law-enforcement model of localized vice suppression, the United States had applied the coercive apparatus of arrest, seizure, and eradication without considering the complex market dynamics of the illicit opium trade. With global demand constant, a sudden supply reduction in one sector simply raised illicit prices and stimulated increased cultivation elsewhere across the vastness of the Asian opium zone. In essence, the four U.S. drug wars of the past quarter-century extended a local law enforcement model into the international arena in ways that would contribute to an increase in world opium supply from 1000 tons in 1970 to 3700 tons in 1989.

Although Nixon's drug war thus stimulated the global market, its impact on U.S. domestic demand was more ambiguous. In the late

137. Mathea Falco, *Asian Narcotics: The Impact on Europe*, DRUG ENFORCEMENT, February 1979, at 2, 3 (stating that the amount of heroin seized in Europe was "particularly significant" when one considered that the number of addicts in the U.S. is nearly double that in Europe).

138. STAFF OF JOINT COMM. UPON DRUGS, N.S.W. PARLIAMENT, PROGRESS REPORT, at 125, 28, 129-33 (1978).

139. Philip Jenkins, *Narcotics Trafficking and the American Mafia: The Myth of Internal Prohibition*, 3 CRIME, LAW & SOCIAL CHANGE 312, 312-16 (1992); *Illicit Methamphetamine Laboratories in the Pennsylvania/New Jersey/Delaware Area: Hearing Before the House of Representatives Select Comm. on Narcotics Abuse and Control*, 96th Cong. 2-3 (1980) (statement of Rep. Lawrence Coughlin).

1970s, every indicator pointed to a marked decline in U.S. heroin supply. The estimated number of heroin addicts plummeted. Heroin purity declined markedly in New York City, reaching a low of 3%.[140]

Why the decline? We cannot answer with any certainty. Perhaps Nixon's drug war may have actually succeeded in disrupting the flow of drugs into the United States. Mexico soon captured nearly 90% of the remaining U.S. heroin market, but its erratic shipments of crude No. 3 heroin somehow failed to satisfy American demand for the pure No. 4 powder no longer available from Europe or Southeast Asia. Looking at these changes, we could conclude that Nixon's drug war had actually worked. Examining other evidence, however, we could attribute this decline to President Jimmy Carter's foreign policy, particularly his ban on major CIA covert operations from 1976 to 1978 that may have removed the protection that drug lords seem to require. Similarly, the Carter administration's abandonment of the drug war might have stilled the stimulus of prohibition. Given the complexities of the global drug trade, we cannot decide this issue with absolute certainty. Nonetheless, a survey of the global traffic indicates that prohibition and protection were, on balance, significant factors—in both the decline of heroin supply in the 1970s and its increase during the 1980s.

Opium Harvests of the 1980s

Whatever the cause of the opiates decline in the 1970s, an imperfect coercion and the legacy of covert protections led to an increase in the U.S. and European heroin problem in the next decade. In this twilight of the Cold War, highland drug lords became independent entrepreneurs powerful enough to shape the direction of Western drug markets, sending vast new supplies of Asian heroin into Europe and America.

During the 1980s, a changing mix of prohibition and protection allowed an unprecedented increase in opium cultivation. After the U.S. withdrawal from the Southeast Asian mainland in 1975, warlords, notably the National Chinese (KMT) militia and Lao military, who had depended upon foreign patrons faded; and drug lords with deeper local roots emerged. Though covert operations in Burma had ended, their legacy persisted through former assets active in the traffic and the chaos in the country's northeast border-

140. *See* Cusack, *Turkey Lifts Ban*, *supra* note 123, at 3-7.

lands. While Thai protection for drug syndicates gradually diminished, Burma allied openly with ethnic warlords in ways that allowed a sustained growth in opium production. By the mid-1980s, a rising ethnic warlord, General Khun Sa, had seized control of the Burma borderlands from the KMT militia. After imposing his leadership over the factionalized Shan ethnic rebels, Khun Sa used the strategic borderlands and his centralized command to encourage a 500% increase in Burma's opium production—from 550 tons in 1981 to 2430 in 1989.[141] Not surprisingly, between 1984 and 1990, Southeast Asia's share of New York City's heroin supply jumped from 5% to 80%.[142] In 1989-1990, this flood of Southeast Asian heroin lowered the wholesale price of "China white" in New York City from $100,000 a kilogram to only $60,000, undercutting the cocaine market and creating a new clientele for the drug. Crack addicts seeking an easier withdrawal reportedly were using heroin in large quantities, as were those mixing the two drugs for a more prolonged euphoria.[143] After reporting that heroin-related arrests by New York City's narcotics police jumped from 1% to 19% of their total arrests, John Polemba, state commissioner of criminal justice services, commented that "the use of heroin is becoming more prevalent, especially as crack users get into heroin to help them come down."[144]

This extraordinary growth in Burma's harvest was, in some measure, a market response to the success of the U.N. opium eradication program in neighboring Thailand. After Nixon declared his drug war in 1972, the United States pursued major anti-narcotics

141. 1997 REPORT, *supra* note 8, at 23; BUREAU OF INT'L NARCOTICS MATTERS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1989, at 271-79, 286 (1990); BUREAU OF INT'L NARCOTICS MATTERS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1983, at 101 (1984) [hereinafter 1983 REPORT].

142. *See* Steven Erlanger, *Southeast Asia is Now No. 1 Source of U.S. Heroin*, N.Y. TIMES, Feb. 11, 1990, at 26.

143. Charles B. Rangel, *The Killer Drug We Ignore*, N.Y. TIMES, Aug. 14, 1990, at 21 (stating that cocaine addicts often use heroin to counteract the debilitating effects of cocaine burnout). Charles B. Rangel, Democratic Congressman from New York, also argues that law enforcement and the media have been preoccupied with the "menace of cocaine and crack" and have not devoted enough attention to rising heroin use. *Id.* Another explanation offered for heroin's increased popularity is that higher levels of purity allow the drug to be smoked much easier. *Id.* "Today's purer heroin is attracting users who previously avoided the drug because of the fear of needles and AIDS." *Id.*

144. Associated Press, *Rise in Drug Arrests is Reported in New York*, N.Y. TIMES, Nov. 12, 1989, at 46 (stating that heroin-related arrests in New York City increased from 1% to 19% of arrests, compared with the same quarter of 1988).

programs in both Thailand and Burma. But there was a difference. While the DEA worked closely with Thai police in Bangkok and on the border, Washington had to buy its way into Burma.[145] Between 1974 and 1978, Rangoon accepted eighteen helicopters under the U.S. narcotics assistance program and cooperated with Thai police in sweeps against smugglers along their common border.[146]

In the mid 1980s, moreover, the DEA worked with the Burmese to defoliate some 60,000 acres of Shan State forest with the lethal 2,4-D chemical.[147] Despite these displays of cooperation, Rangoon diverted U.S. resources to counter-insurgency efforts and protected favored drug lords like Khun Sa and Lo Hsing-han.[148] By the time the U.S. suspended its aid program in 1988 to protest the massacre of pro-democracy demonstrators in Rangoon, everyone in the U.S. mission, except the DEA, regarded it as an expendable failure.[149]

By contrast, Thailand, in close cooperation with the U.S. and U.N., attacked the foundations of the traffic, forcing a steady decline in illicit opium output, from 145 tons in 1970 to only twenty-four tons in 1992—virtually eliminating poppy cultivation in most tribal villages.[150] By the late 1980s, Thailand had become a net heroin consumer and, from a U.S. perspective, was winning the drug war.[151] Within the inexorable logic of the global traffic, a battle won somewhere along the Asian opium zone is soon lost elsewhere. In this case, victory in Thailand meant defeat in Burma.

During the 1980s, the steady eradication of illicit drugs in Thailand drove the traffic across the border, contributing to the dra-

145. MARTIN SMITH, BURMA: INSURGENCY AND THE POLITICS OF ETHNICITY 314 (1991); Bertil Lintner, *Triangular Ties*, FAR EASTERN ECON. REV., March 28, 1991, at 22-23.

146. BURMA: A COUNTRY STUDY 228 (Frederica M. Bunge ed., 1983).

147. SMITH, *supra* note 142, at 314.

148. For a more detailed discussion of drug lords such as Khun Sa, see Alfred W. McCoy, *Requiem for a Drug Lord: State and Commodity in the Career of Khun Sa*, *in* STATES AND ILLEGAL PRACTICES 129-67 (Josiah McC. Heyman ed., 1999).

149. Lintner, *supra* note 142, at 23. In the late-1980s, the U.S. financed an opium defoliation program costing $18 million a year. *Id.* Critics of the program argued that instead of stemming drug production, defoliation prompted increased poppy cultivation to offset potential losses. *Id.*

150. 1997 REPORT, *supra* note 8, at 23.

151. Yuli Ismartono, *Thailand: From Narcotics Exporter to Opium and Heroin Importer*, INTER PRESS SERV., Feb. 25, 1993, *available at* 1993 WL 2533373 (discussing the success of government-sponsored crop-substitution and rural development programs in reducing drug production).

matic, five-fold increase in Burma's harvest.[152] As smoking opium disappeared from northern Thai villages, local addicts began injecting Burmese heroin, sharing needles in ways that led to a virulent AIDS epidemic in the late 1980s.[153] In the first nine months of 1988, the HIV rate among intravenous drug users in Bangkok increased from less than 1% to 37%; and by 1990 an estimated 500,000 Thais were infected.[154]

A somewhat different array of global forces drove an equally explosive increase in Southwest Asia's heroin output during the 1980s. Reporting from Tehran in 1974, U.S. Ambassador Richard Helms, the former CIA director, had insisted, accurately enough, that there was little heroin production in this region—only a localized opium trade.[155] As a network of heroin laboratories opened along the Afghan-Pakistan border in 1979-80, Pakistan's opium production soared to 800 tons, far above its 1971 harvest of some ninety tons.[156] Just across the border in neighboring Afghanistan, opium production also rose sharply. By 1980-81, Pakistan-Afghan heroin dominated the European market and supplied 60% of U.S. illicit demand.[157] Inside Pakistan itself the results were even more striking. Rising from zero heroin addicts in 1979, Pakistan, according to official figures, had 5000 addicts in 1980 and 1,200,000 in 1985.[158]

Why was Pakistan able to capture the world's heroin market so quickly? After the Soviet Union invaded Afghanistan in 1979, the

152. 1997 REPORT, *supra* note 8, at 23 (showing that Burma's opium production totaled 2280 tons in 1992).

153. Marjorie A. Muecke, *The AIDS Prevention Dilemma in Thailand*, 4 ASIAN & PACIFIC POPULATION FORUM 1, 2-27 (1990); *see also Alarming AIDS Forecast in New WHO Report*, AIDS WKLY, June 20, 1994 *available at* 1994 WL 2564367 [hereinafter *AIDS Forecast*]. In this 1994 report, the World Health Organization projected as many as two to four million cases of HIV and up to 650,000 cases of AIDS in Thailand at the end of the century. *Id.*

154. ANNOP VISUDHIMARK, JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS DRUGS AND AIDS IN THAILAND: SAME POLICIES, DIFFERENT LAWS, 1997 (noting that 37% of all Thai intravenous drug users were infected with HIV in 1989), *at* http://www.ihra.net/paris/proceedings/visudhi.html; *AIDS Forecast*, *supra* note 150 (noting existence of 500,000 cases of HIV infection in Thailand).

155. Letter from Richard Helms, Ambassador, to Dep't of State, (Mar. 4, 1974) (on file with author).

156. PAKISTAN: A COUNTRY STUDY 140 (Peter R. Blood ed., 1994).

157. Falco, *supra* note 134, at 2-3; WORLD OPIUM SURVEY, *supra* note 16, A-7, A-14, A-17; 1983 REPORT, *supra* note 138, at 4; William French Smith, *Drug Traffic Today: Challenge and Response*, DRUG ENFORCEMENT, Summer 1982, at 2-3.

158. PAKISTAN NARCOTICS CONTROL BD., NATIONAL SURVEY ON DRUG ABUSE IN PAKISTAN iii, ix, 23, 308 (1986), pp. iii, ix, 23, 308; *see also* Zahid Hussain, *Narcopower: Pakistan's Parallel Government?*, NEWSLINE, December 1989, at 17.

White House assigned the CIA to mount a major operation to support the Afghan resistance. Working through Pakistan's Inter-Service Intelligence ("ISI"), the CIA began supplying covert arms and finance to Afghan forces, notably the Hebz-i-Islami party under Gulbuddin Hekmatyar.[159] As they gained control over liberated zones inside Afghanistan, the Islamic guerrillas pressed supporters to grow opium as a revolutionary tax and processed it into heroin across the border in Pakistan's North West Frontier Province. During this decade of war, Afghanistan's opium production tripled from 250 tons in 1982 to 750 tons in 1988.[160] Under ISI protection, Pakistani traffickers and Afghan resistance leaders opened hundreds of clandestine labs along the Pakistan-Afghanistan border to process the raw opium into heroin.[161]

OPIUM PROLIFERATION IN THE 1990S

For forty years, the Cold War imposed an artificial, bipolar division over the globe that led rival superpowers to defend the territorial integrity of their respective clients. With the end of this global conflict, there has been a recrudescence of the primordial politics of religion, regionalism, race, and ethnicity that may weaken the capacities of key states within Asia's opium zone. Driven by these and other forces, heroin recovered its historic preeminence as a leading illicit narcotic and became, in the 1990s, something of a "world drug." Expansion of opium cultivation in Burma, Central Asia, and the Americas fueled a sudden proliferation of heroin abuse around the globe—a phenomenon that allows us to speak, without hyperbole, of the globalization of heroin.

With the end of the Cold War, the drug trade entered a new era with a distinct dynamic. The collapse of the Iron Curtain destroyed the global template that had shaped the world's opiates traffic for

159. Digital Nat'l Security Archive, *Afghanistan: The Making of U.S. Policy (1973-1990)* (discussing U.S. involvement in supplying covert supplies to the Afghan rebels), *at* http://38.202.78.21/afessayx.htm.

160. Alfred W. McCoy, *Opium History, 1979-1994* (noting 1982 opium production at 300 metric tons), *available at* http://www.a1b2c3.com/drugs/opi012.htm (last visited Oct. 28, 2000); *see also* AFGHANISTAN POLITICS (noting 1988 opium production as 750 metric tons), *at* http://www.afghan-politics.org/reference/drugs/opium_production_in_afghanistan.htm.

161. 1997 REPORT, *supra* note 8, at 23; James Rupert and Steve Coll, *U.S. Declines to Probe Afghan Drug Trade; Rebels, Pakistani Officers Implicated*, WASHINGTON POST, May 13, 1990, at A1 ("The U.S. government has for several years received, but declined to investigate, reports of heroin trafficking by some Afghan guerrillas and Pakistani military officers with whom it cooperates in the war against Soviet influence in Afghanistan . . . .").

forty years—allowing a rapid expansion of opium cultivation in former Soviet Central Asia, creating new criminal syndicates, and opening trafficking routes that now cross China, Russia, and Eastern Europe. Complicating any attempt at crop reduction, the world's leading heroin producers, Burma and Afghanistan, became outlaw states—diplomatically isolated, detached from the world economy, and economically dependent upon the illicit opium trade.

During the 1990s, the Rangoon military regime forged alliances with leading drug lords, stabilizing the traffic but stigmatizing the state. Through a mix of military pressure on rebel drug lords and economic support for their rivals, Rangoon's military regime created an effective synergy between its increased borderland controls and expanding heroin traffic. After 1990, Burma, needing hard currency to buy arms for these operations, changed its tax and exchange regulations in ways that channeled illicit income from gems and drugs into the legitimate sector.[162] In a review of trade figures for 1995-96, the *Centre Français du Commerce Extérieur* in Paris noted $400 million in unexplained inflows and $200 million in defense imports that were possibly financed by an estimated $700 million earned from heroin exports.[163] Rangoon's strategy proved effective, particularly against General Khun Sa, the country's preeminent opium warlord, long protected by patrons in the Thai and Burmese military. During the late 1980s, Khun Sa had expanded heroin exports to the United States—raising street-level purity in key U.S. markets nearly ten-fold, from 7% to 63%; ending intravenous injection; and changing the demographics of American opiates use.[164] In the early 1990s, however, Khun Sa's embrace of the Shan secessionist revolt threatened Rangoon with the loss of a

162. Bertil Lintner, *Smack in the Face*, FAR EASTERN ECON. R., November 5, 1992, at 24. The Burmese government announced "a four-month tax amnesty that allowed individuals to declare and pay a 25 percent profits tax on assets they could not show were obtained legally." *Id.* The U.S. government expressed concern that these actions facilitated the laundering of drug money. *Id.*

163. Bertil Lintner, *Safe at Home*, FAR EASTERN ECON. R., August 14, 1997, at 18-19.

164. U.S. GENERAL ACCOUNTING OFFICE, DRUG CONTROL 2-7 (1996); NAT'L NARCOTICS INTELLIGENCE CONSUMERS COMM. 1995, DEP'T OF JUSTICE, THE SUPPLY OF ILLICIT DRUGS TO THE UNITED STATES (1996); *see also* Erlanger, *supra* note 139 (discussing the rising influence of Southeast Asian opium); Matthew Purdy, *New Inmates Reflect Surge in Use of Cheap but Potent Heroin*, N.Y. TIMES, Dec. 3, 1995, at 49 (stating that "surge in heroin use is partly attributable to the powerful strains of heroin now available that allow users to get high by sniffing the drug and avoid the dangers of injection").

major region and forced the army to launch a massive, sustained offensive to regain control of these key borderlands.

After Khun Sa's surrender in 1996, surviving warlords accepted an alliance with the Rangoon junta as the price of survival. Under the Rangoon regime, Burma remained, until 1998, the world's largest opium producer, with production steady around 2500 tons per annum.[165] As knowledge of the junta's alliances with drug lords spread, U.S. Secretary of State Madeline Albright denounced Burma's military regime in 1997 as drug traffickers and thugs.[166] Burma had, in the eyes of the West, become an outlaw state.

The U.S.-Soviet disengagement from Afghanistan after 1992 and the break-up of the Soviet Union led to equally dramatic major changes in Southwest Asia's opium traffic. The superpower withdrawal from Afghanistan in 1990-1992 unleashed forces that produced a sudden spread of opium farming. The return of some three million Afghan refugees to a war-ravaged land created a need for an annual cash crop, making opium an ideal solution to this daunting social problem. In 1972, well before the war, a U.S. cabinet committee had reported that Afghan farmers made $300-$360 per hectare from opium, twice the average of $175 for fruit: "There is no substitute crop—except for hashish—that can . . . provide anywhere near an equal income."[167] As the country plunged into civil war after 1992, Afghanistan did not have a recognized government to negotiate either foreign aid or trade agreements, so its farmers fell back on an established crop with ready markets and an informal *laissez-passer* at every customs barrier. Indeed, in late 1991 the United Nations Drug Control Programme had reported that the Afghan guerrillas, anticipating a cut in CIA support, were already planting a greatly expanded opium crop as an alternative source of finance. In mid-1992, a correspondent for the *Observatoire Géopolitique des Drogues* quoted one Afghan farmer saying: "I fought in the Jihad for ten years. In 1991, I returned to my village to farm. I planted 5% of my land with this filth (opium). This year, my family has returned from Pakistan to join me, and so I had to plant 25% this year." In February 2000, unemployment in

165. 1997 REPORT, *supra* note 8, at 23, 266 (citing production of 2500 tons of opium per year).

166. Steven Erlanger, *Asians are Cool to Albright on Cambodians and Burmese*, N.Y. TIMES, July 28 1997, at A3 (noting Malaysian Prime Minister's criticism of American involvement in Asian affairs).

167. WORLD OPIUM SURVEY, *supra* note 16, at A-18.

the war-ravaged capital Kabul was about 70%, arguably the world's highest.[168]

These social pressures led to a sustained increase in Afghanistan's opium harvest. A confidential U.N. report published in Pakistan claimed that Afghanistan's 1991 opium crop was already 2000 tons, while privately, U.N. anti-drug officials predicted a 1992 harvest of some 4000 tons—large enough to double the world's illicit supply.[169] Although unseasonable rainfall during harvest destroyed much of that crop, later U.N. field surveys inside Afghanistan reported a 1994 production of 3300 tons.[170] Summing up these trends in its 1997 opium survey, the U.N. cited "eighteen years of war"; "extensive damage to the nation's physical and administrative infrastructure"; and "a breakdown in the rule of law." In such a lawless, isolated nation, opium has significant advantages over conventional crops—notably, in the words of the U.N., "credit access, storeability, increasing value over time, permanent marketability, and easy transportability."[171]

Further research found that opium farming spread spontaneously through the sorts of market forces that had shaped the Asian opium zone throughout the twentieth century. U.N. researchers reported that the Afghan opium trade was "not highly structured but a relatively free market," and that cultivation thus spread through "the interdependent nature of labour markets and commercial trade between districts, combined with cross district ethnic

168. Barry Bearak, *An Afghan Mosaic of Misery: Hunger, War, and Repression*, N.Y. TIMES, February 25, 2000, at 1 ("Afghans in the countryside are thought to be better off; they can live off the land. In Kabul, there is nothing to reap from the dead factories or the shuttered stores."). *See also Afghanistan: Opium and Refugees*, GEOPOLITICAL DRUG DISPATCH, August 1992, at 1.

169. BUREAU OF INT'L NARCOTICS MATTERS, DEP'T OF STATE, INTERNATIONAL NARCOTICS STRATEGY REPORT, 22 (1991). For reports of Afghanistan's projected 1992 opium crop, see, *Afghanistan: Aiming to be the Leading Opium Producer*, GEOPOLITICAL DRUG DISPATCH, January 1992, at 1, 3.

170. *Afghanistan: Aiming to be the Leading Opium Producer*, *supra* note 166, at 1, 3; *Afghanistan: All Records Shattered*, GEOPOLITICAL DRUG DISPATCH, August 1994, at 5.

171. UNITED NATIONS INT'L DRUG CONTROL PROGRAMME, AFGHANISTAN: OPIUM POPPY SURVEY 1997 i, 11 (1997). *See also* BUREAU FOR INT'L NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1999 (2000) ("Cultivators have lived through twenty-two years of civil war and generally view opium as their only means for survival in a hostile and uncertain environment. Institutional framework, or capacity, and resources to deal with problems at national, provincial and local levels as well as across different sectors simply do not exist in Afghanistan."), http://www.state.gov/www/global/narcotics_law/1999_narc_report/swasi99.html [hereinafter 1999 REPORT].

and family links."[172] Typically, a young male laborer, pressed by high prices and low income, becomes an itinerant harvester in older opium districts. Then, having learned how to cultivate the crop, he returns to his native village to plant opium on the family lands. At the next harvest, neighbors follow suit after witnessing the yield. Then come traders to offer credit and cash for subsequent harvests.[173]

Despite differences in their crop estimates, both the U.N. and the U.S. agree that rival factions in the Afghan civil war have turned to opium and heroin to finance the fighting. According to U.S. State Department figures, Afghan opium production was 570 tons in 1991, the year U.S. support for the anti-Soviet resistance ended.[174] Then, during the subsequent civil war between 1993 and 1999, the Department estimated that Afghanistan's harvest grew more rapidly from 685 to 1670 tons.[175] The U.N.'s annual village-based surveys, started in 1994, showed an even sharper rise from 2248 tons in 1996 to 4565 tons in 1999—the latter figure equivalent to 75% of world illicit production.[176] In 1999, the U.N.'s International Narcotics Control Board ("INCB") reported that poppy "has continued to spread" to new areas under the control of the Taliban regime which rules 96.4% of the country's opium districts.[177] The U.S. State Department's 1999 report expressed strong pessimism about the country's drug control efforts, claiming that the Taliban collect a 10% tax on the opium harvest, "benefit directly from the whole opium business," and are "in active collu-

172. UNITED NATIONS DRUG CONTROL PROGRAMME, AFGHANISTAN: STRATEGIC STUDY #1: AN ANALYSIS OF THE PROCESS OF EXPANSION OF OPIUM POPPY CULTIVATION TO NEW DISTRICTS IN AFGHANISTAN 3, 8-14 (1998) [hereinafter *Afghanistan: Strategic Study*]; *see also* BOOTH, *supra* note 46, at 252 ("[E]ven had they decided to act, the Afghan administration would have been powerless. It lacked law enforcement resources, the poppy-growing areas were geographically remote and inaccessible, the peasants had no other livelihood, the tribesmen were liable to armed rebellion if they were interfered with and corruption was endemic.").

173. AFGHANISTAN: STRATEGIC STUDY, *supra* note 169, at 8-14.

174. 1998 REPORT, *supra* note 29, at 23.

175. 1999 REPORT, *supra* note 168 ("According to USG data, as a conservative estimate 1670 metric tons . . . of opium were produced from approximately 51,500 hectares . . . of poppy. In 1999, poppy cultivation on an additional 10,000 hectares . . . led to a 23 percent increase in opium.").

176. GLOBAL ILLICIT TRENDS 2000, *supra* note 10, at 34 (stating that world illicit production for 1999 was 5778 metric tons).

177. 1999 STRATEGY, *supra* note 168 ("Despite UNDCP . . . assistance, efforts at crop eradication, drug supply reduction, counter narcotics law enforcement, and demand reduction have completely failed. In fact, those factions, especially the Taliban, who control 97 percent of the territory where poppy is grown, promote poppy cultivation to finance their war machine.").

sion with smugglers and criminal elements to manufacture and export heroin."[178] By its de facto legalization of the opium traffic, Afghanistan, along with Burma, had become an outlaw state.

Both opium cultivation and heroin refining have spread rapidly beyond Afghanistan into former Soviet Central Asia. In its 1999 report, the U.N. expressed concern "about the rapid spread of illicit opium cultivation and the traffic in and abuse of drugs, especially heroin, in countries in central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan) and the Caucasus (Armenia, Azerbaijan, and Georgia)."[179] Moreover, the U.N. warned that "in view of the overall rise of criminal activities in Central Asia and the Caucasus, drug abuse and illicit drug trafficking, if left unchecked, would have devastating consequences for societies in those subregions."[180] Similarly, the U.S. State Department claimed that "morphine and heroin pour across Afghanistan's difficult-to-police borders with Pakistan, Iran, and the Central Asian Republics of Tajikistan, Turkmenistan, and Uzbekistan . . . destabilizing the entire region."[181] If these trends firm over time, Central Asia may become a vast opium reservoir at the roof of the world, producing limitless quantities of low-cost heroin for new generations of users in Russia, Asia, Europe, and America.

In 1997, the new head of the U.N. Drug Control Programme, Dr. Pino Arlacchi, launched a program for total eradication of opium in Afghanistan, then the world's second largest producer, with modest plans for crop substitution and construction of a single textile factory.[182] Although Kabul's Anti-Narcotics Department finally announced a poppy eradication program for three districts of Kandahar Province in May 1999, observers felt that the 325 hectares actually destroyed were an insignificant loss in a region with 5602 hectares under cultivation. Indeed, preliminary U.N. surveys reported a 30% increase in the country's total area planted in 1999,

178. *Id.* ("Those in positions of authority have made proclamations against poppy production but otherwise evidenced no political will to fight narcotics.").

179. UNITED NATIONS INT'L NARCOTICS CONTROL BD., REPORT OF THE INTERNATIONAL NARCOTICS CONTROL BOARD FOR 1999, at 49 (1999).

180. *Id.*

181. 1999 REPORT, *supra* note 168.

182. Raymond Bonner, *Top U.N. Drug Aide Hopes to Rid Globe of Poppy and Coca Crops*, N.Y. TIMES, Nov. 14, 1997, at A4 (describing the U.N.'s ten-year strategy to eliminate dependency on poppy cultivation beginning with a plan to renovate a former mill that would employ hundreds in a poppy growing area).

later yielding a record harvest of 4600 tons that made Afghanistan the world's leading opium producer.[183]

During the Cold War, the Iron Curtain had served as a massive anti-narcotics barrier, preventing drug production inside the communist bloc and diverting smuggling around its frontiers. Following its collapse, the decade of the 1990s brought dramatic changes to these borderlands. With the opening of southern China for trade with Southeast Asia, Burmese drug shipments bound for Hong Kong are trucked directly across the China's southern provinces—leaving a trail of drug gangs and heroin addicts in their wake.[184] As the Soviet empire broke apart and new nations formed at its margins, drug syndicates and smuggling proliferated from Central Asia to Eastern Europe, knitting a cat's cradle of trafficking routes. From the Balkans through Turkey and the Caucasus across the Caspian Sea to Afghanistan, an elaborate smuggling trade grew, with guns, cash, and drug-precursor chemicals traveling east; morphine and heroin moving west.

In this 3000-mile journey by truck, camel, air, and sea, narcotics sweep westward with surprising speed across a dozen boundaries, almost immune to interdiction or interference. Yet wherever this invisible commerce touches ground for processing, packaging, or exchange, the illicit enterprise quickly ramifies—encouraging drug production, official corruption, mass addiction, and HIV infection. Through the alchemy of capitalism, wherever this commodity comes to rest, mafias form, ethnic separatists arm, and a culture of criminality crystallizes. By April 2000, only eighteen months after trafficking reached into central Russia from Afghanistan, the city of Irkutsk, long free of both drugs and HIV, had registered 8500 heroin addicts and 5000 new HIV cases—with officials fearing that actual numbers for both could be ten times that high.[185] Across

183. *Afghanistan: Deceptive 'Destruction' of Laboratories*, GEOPOLITICAL DRUG DISPATCH, April 1999, at 5-6; *Tajikistan-Kirghizistan: Heroin Contributes to Social Collapse*, GEOPOLITICAL DRUG DISPATCH, June 1999, at 6; *Afghanistan: Money Talks to the Taliban*, GEOPOLITICAL DRUG DISPATCH, September 1999, at 7-8.

184. Patrick E. Tyler, *China Battles a Spreading Scourge of Illicit Drugs*, N.Y. TIMES, Nov. 15, 1995, at A1 (noting that from 1989 to 1995, more than four tons of heroin were seized each year); Patrick E. Tyler, *Heroin Influx Ignites a Growing AIDS Epidemic in China*, N.Y. TIMES, Nov. 28, 1995, at A3 ("The heroin plague has undermined the health and stability of thousands of peasant villages.").

185. Michael Wines, *Heroin Carries AIDS to a Region in Siberia*, N.Y. TIMES, April 24, 2000, at A1 ("In the entire Irkutsk region, a Siberian expanse big enough to accommodate France and England in one gulp, health officials had recorded fewer than 200 HIV infections since record keeping began in 1991.... Today a region that hardly heard of AIDS a year ago has recorded 5,000 cases of HIV infection" and "the true figures could be as much as 10 times as great, officials say.").

Russia, in the first half of 1999 heroin use increased 4.5 times over 1998.[186]

Across these enormous distances with poor communications, ad hoc alliances within and among ethnic diasporas provide critical, criminal linkages—Kosovars scattered from Geneva to Macedonia; Turks from Berlin to Kazakhstan; Armenians from Moscow to Lebanon; Azerbaijanis from Sumgait to Kyrgyzstan; and Chechens from Baku to Kazakhstan. In the cities that serve as trading posts in this traffic—Osh, Tashkent, Samarkand, Baku, Tbilissi, Skopje, Pristina, and Tirana—extraordinary profits from drugs and guns have produced mafia gangs, criminal diasporas, tribal warlords, and rebel armies. In the grand hotels of the Caucasus and the Balkans, mafias and narco-nationalists have become a distinctive presence—muscular men with designer suits, high-powered weapons, and stolen Mercedes sedans. Already attenuated by post-socialist economic miasma and the strains of new nationhood, state control and civil society are weakening before the power of these new narco-mafias with their superior firepower, wealth, and political influence.

Within this vast swath of the Eurasian landmass—500 miles north-to-south and 3000 miles east-to-west—an ever-changing web of smuggling routes traces recurring patterns within four distinct sectors. As morphine and heroin shipments leave Afghanistan's state-sanctioned laboratories, they move west through Iran or north across Tajikistan to Osh and Bishkek in Kyrgyzstan—crossing a maze of indefensible, illogical borders, the legacy of a Stalinist strategy for blocking ethnic secession. Many of the drugs heading north into Tajikistan pass through Afghanistan's Kunduz Province, where the Pathan fundamentalist faction Hebz-i-Islami under Gulbuddin Hekmatyar operated a complex of heroin laboratories in the late 1990s.[187] From the Osh drug market, ruled by the Kyrgyz warlord Bekmanat Osmonov in the mid 1990s, or lesser trade centers at Dushanbe and Bishkek, drug shipments then turn westward by air to Moscow and overland directly across Turkmenistan or circuitously through Kazakhstan.

Once across the Caspian Sea, these diffuse westerly routes fuse as they enter the Caucasus with its volatile mix of contested boundaries, ethnic insurgency, local mafias, and criminal clans. In this rugged isthmus between the Caspian and Black seas, a volatile ar-

186. Patrick E. Tyler, *Russian Vigilantes Fight Drug Dealers*, N.Y. TIMES, Mar. 4, 2000, at A4.

187. Digital Nat'l Security Archive, *supra* note 156.

ray of armed groups process morphine and smuggle heroin with near impunity—the Kurdistan Workers Party ("PKK") who manufacture heroin in Azerbaijan; local Azerbaijani mafia clans in Baku, Sumgait, and Nakhichevan; Armenian syndicates allied with the nationalist Dachnak party; the Azeri Grey Wolves; Ossetian and Abkhazian separatists in Georgia; and Chechen nationalists.

From the Caucasus, drug shipments, now largely heroin, move around and across the Black Sea into the Balkans where rival ethnic militias use drug profits to purchase arms and pay troops. From Skopje, Pristina, and Tirana, a Kosovar criminal diaspora smuggles heroin across the Adriatic Sea and into Western Europe, where Albanian exiles have, since the early 1990s, used drug profits to ship Czech and Swiss arm purchases back to Kosovo for separatist guerrillas. Within Serbia and its satellites, the notorious "Arkan" (Zeljko Raznatovic), one of several narco-nationalists backed by Belgrade state security, used drugs, contraband, and counterfeiting to finance his "Scorpion" gang that terrorized Kosovo and murdered rival Kosovar drug dealers in the mid 1990s.[188]

Despite the end to the Cold War and its superpower rivalries, many of the local and regional conditions that created Burmese and Afghan drug lords remain. With the collapse of the Iron Curtain, there has been an eruption of ethnic insurgency along southern frontiers of the former Soviet Union. As states fragment across the vastness of the Eurasian landmass, regional rebels, armed with drug money and fighting for power, have begun producing opium and heroin in unprecedented quantities. Just as Yunnan and Szechwan provinces once produced 19,000 tons of opium in 1900, so Afghanistan, Tajikistan, and Uzbekistan are capable, individually or severally, of comparable harvests today.[189] Assuming that production in Southeast Asia continues, there is nothing to check the current trend of world opium supply doubling every decade—from 5300 tons in 1996 to 10,000 tons in 2007, and 20,000 tons

188. Although Central Asia and the Caucasus region were generally ignored by Western media, the *Observatoire Géopolitique des Drogues* in Paris documented these changes carefully throughout the 1990s. *Tadjickistan-Kirgizstan: Heroin Contributes to Social Collapse*, GEOPOLITICAL DRUG DISPATCH, June 1999, at 6; *Turkmenistan: A New Pipeline for Afghan Drug*, GEOPOLITICAL DRUG DISPATCH, Feb. 1999, at 5-6; *Tadjikistan: The Fundamentalists' Opium*, GEOPOLITICAL DRUG DISPATCH, July 1998, at 1, 3; *Uzbekistan: Stalin's Legacy*, GEOPOLITICAL DRUG DISPATCH, May 1997, at 1, 3-4; *Turkey: Routes Shift Still Further East*, GEOPOLITICAL DRUG DISPATCH, Nov. 1996, at 1, 3-4; *Azerbaijan: Mafia Groups Settle Scores in Government*, GEOPOLITICAL DRUG DISPATCH, June 1995, at 1, 3; *Yugoslavia: Balkan Route Fuels War*, GEOPOLITICAL DRUG DISPATCH, Nov. 1991, at 1, 3.

189. GLOBAL ILLICIT DRUG TRENDS 2000, *supra* note 10, at 34.

in 2017.[190] In a few years, we may look back on the Cold War—with its Asian drug lords, Colombian cartels, and five million American narcotics addicts—as halcyon days when we had the situation under some semblance of control.

CONCLUSION

Is this past prologue? Is this history in any sense predictive? Historians always prefer to sit back, wait for the dust of time to settle, and then assess a distant past with magisterial certainty. Sharing my discipline's preferences, I have ventured into prediction with reservations, and now offer some rather tentative policy prescriptions from this history of Asia's opium trade.

Over the past two centuries, perfect coercion has proven effective, but imperfect coercion has unleashed a whirlwind of unpredictable consequences. With their near-perfect coercion, European colonial empires were able to promote cultivation where needed (India) and suppress it where not (Southeast Asia), fostering a commodity trade that was, by the late nineteenth century, integrated into the global economy.

In the twentieth century, a global drug prohibition campaign has produced more ambiguous results. In the last half of the century, the most dramatic development was China's use of unchecked coercion, within a closed society, to effect a total eradication of all opium production and use after 1949. Judging by this decisive result, perfect coercion can effect a dramatic reduction in drug trafficking. However, China's experience is historically unique and might not be relevant to the more open political systems that have emerged since 1989. Indeed, during the 1990s, China itself experienced a sudden surge in drug trafficking as it lessened social controls to encourage development.

Outside the socialist bloc, the League of Nations and, later, the United Nations have attempted a prohibition on legal opium sales, producing a sharp but short-term decline in both drug production and consumption. From the start of drug prohibition in the 1920s, criminal syndicates emerged to link highland growers and urban addicts, creating a global drug traffic. A half-century later, Nixon's drug war repeated this result. Through a forceful application of bilateral coercion, his campaign crippled the Mediterranean opium traffic, uprooting poppy fields in Turkey and closing criminal heroin laboratories in Marseilles. Over the longer term, however, this

190. *Id.*

exercise in imperfect coercion unleashed unpredictable market forces within the Asian opium zone, ultimately stimulating an increase in global opium supply.

Market response to imperfect coercion is complex and unpredictable. Since the 1920s, syndicate response to suppression has been quick, supple, sophisticated, and often capable of compromising even the best attempts at coercive intervention. Similarly, even the most effective opium suppression efforts, bilateral and multilateral, have complex, unforeseen consequences. Over the past quarter-century, it has become evident that suppression efforts, particularly bilateral initiatives, can stimulate opiates production.

As seen in Turkey during the 1970s and Thailand in the 1980s, both bilateral and multilateral suppression can effect dramatic short-term reductions in drug supply that will, in succeeding crop years, lead to an increase in total global production. The success of the U.N. program in reducing Thai opium cultivation during the 1980s may well have contributed to the simultaneous increase in Burma's poppy harvest. Moreover, by raising the price of smoking opium to addicts in Thailand and thus encouraging heroin injection, the U.N. suppression program may have contributed to an epidemic of AIDS infection in Thailand through needle sharing. Apparently, heroin supplies, when denied entry into one market, as they were in Southeast Asia during the 1970s, will seek another, resulting in a proliferation of consumption and an overall increase in world drug demand. Should such bilateral operations, by some miracle, succeed in effecting a reduction in supply, then domestic dealers, repeating the U.S. experience with amphetamines of the late 1970s, could turn to the manufacture of synthetics.

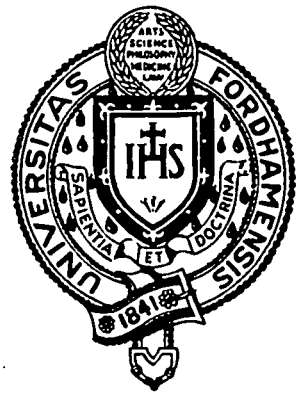
Any attempt at solving America's heroin problem by reducing global opium production through a war on drugs thus seems unrealistic. Successful bilateral eradication has, over the past quarter century, stimulated both drug production and consumption. Since America consumes a tiny share of world supply and pays the world's highest price for illicit drugs, the elimination of U.S. heroin supply would require that opium cultivation virtually disappear from the face of the globe. In 1985, for example, the United States consumed only six tons of opium out of a world production of 1465 tons—just 0.4% of the total.[191] In 1997, the White House esti-

191. BUREAU OF INT'L NARCOTICS MATTERS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT MARCH 1989 16 (1989); U.S. GEN. ACCOUNTING OFFICE, DRUG CONTROL U.S.-MEXICO OPIUM POPPY AND MARIJUANA AERIAL ERADICATION PROGRAM 16 (1988).

mated that the United States still consumed "only 3% of the world's [heroin] production."[192] If the illicit drug traffic operates like any other market, then America's drug warriors must eradicate some 97% or 99.6% of the world's opium before they finally get to those last few tons destined for the U.S. market.

As we have seen from past U.S. and U.N. drug control efforts, the illicit market often reacts in unforeseen ways, transforming repression into stimulus. Before launching crop eradication or criminal suppression, anti-narcotics agencies need to consider the full range of possible outcomes. Over the past century, each attempt at drug prohibition has produced an unexpected market reaction that has allowed the illicit traffic to adapt, survive, and, in recent years, even expand. After a century of such unintended consequences, it may be time to learn from the past and develop strategies for minimizing the negative impact of drug control efforts.

192. NATIONAL STRATEGY, *supra* note 1, at 51.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