

BACK TO THE FUTURE-
THE IMPERIAL ECHOES
OF INTERNATIONAL
CANNABIS REGULATION



Dr Kojo Koram



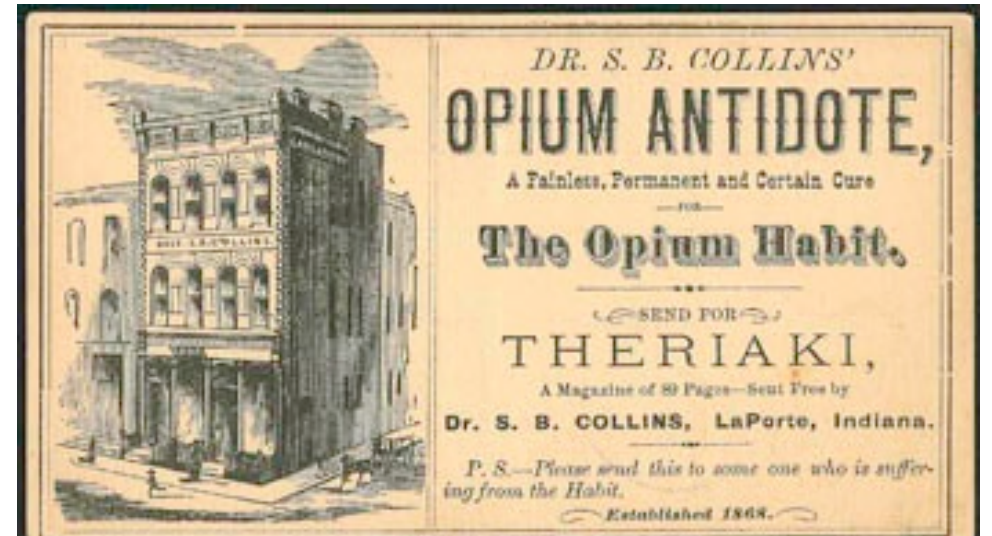
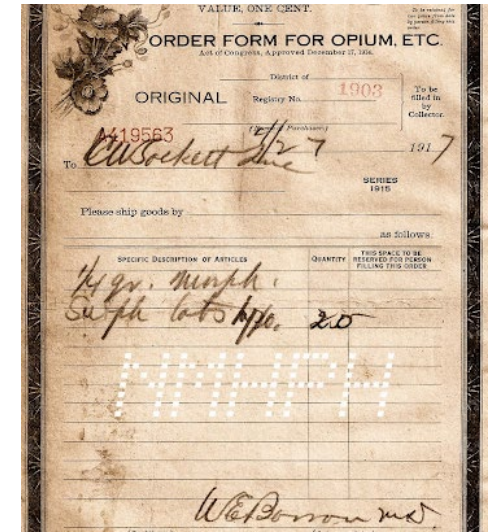
The Concept of Drugs

Roy Porter-

- If you'd talked about the 'drugs problem' two hundred years ago, no one would have known what you meant.

Jacques Derrida-

- The concept of drugs supposes an instituted and institutional definition: a history is required and a culture, conventions, evaluations, norms, an entire network of intertwined discourses





THE 18TH (ROYAL IRISH) REGIMENT OF FOOT.

At the Storming of the Fortress of Amoy.
August 26th 1841.

London. Published by William Spooner, 377 Strand

Imperial Trade in Drugs

John Stuart Mill, *On Liberty*

- ‘the prohibition of the importation of opium into China; the restriction of the sale of poison; all cases, in short, where the object of the interference is to make it impossible or difficult to obtain a particular commodity...are objectionable.’
- ‘Restrictions on trade, or on production for purposes of trade, are indeed restraints; and all restraint is an evil.’

The Indian Hemp Drugs Commission, 1893

- Dismissed the temperance movement’s claims that cannabis use produced crime and mental illness as ”greatly exaggerated”

The Royal Commission on Opium, 1895

- "no evidences of extensive moral or physical degradation" resulting from the use of opium

Colonial Corporate Drug Monopolies



Imperial drug smuggling trade of the nineteenth century provides the origin story for major multi-national companies:

- The P&O Shipping Company (P&O ferries)
- Jardine, Matheson & Co (Jardine Matheson Holdings Limited)
- The Hong Kong and Shanghai Banking Corporation (HSBC)

The East India Company made huge profits through control over the world's largest cannabis producing region.



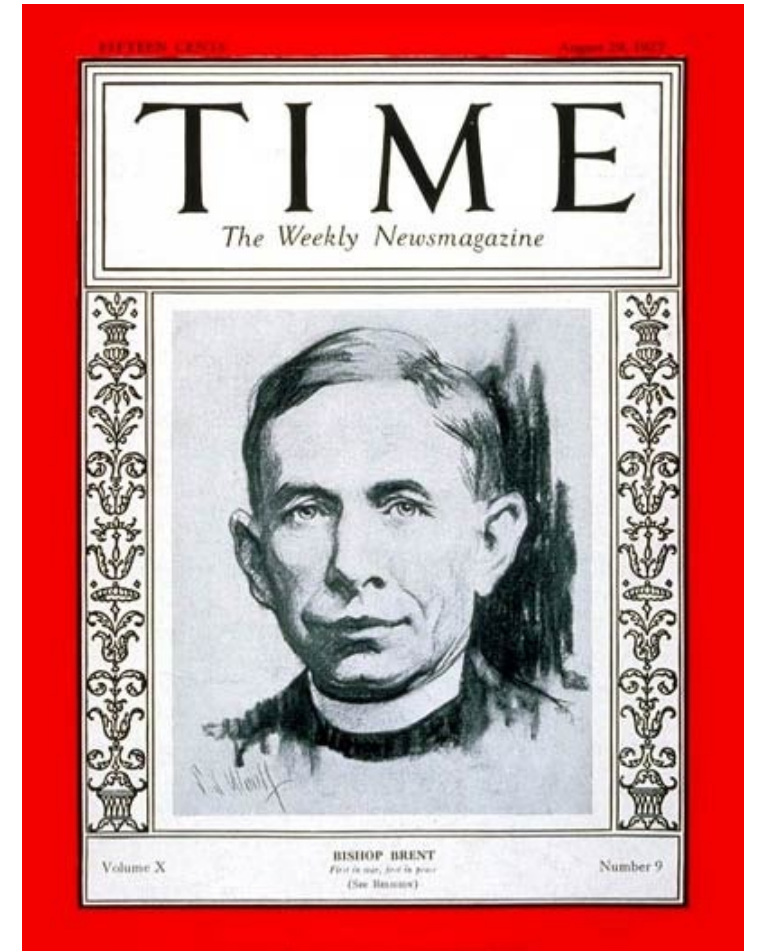
Missionaries and Prohibition

The first Episcopal Bishop of the Philippine Islands in 1901

Convinced Elihu Root that opium use was stealing souls of natives

In the run-up to the 1904 presidential election, pressured President Roosevelt to establish a committee to investigate the opium problem

Leads to 1909 meeting of the Shanghai Opium commission



The Racialisation of Drugs



Hamilton Wright, 'Report on the International Opium Commission to Congress' 1910

- 'It has been authoritatively stated that cocaine is often the direct incentive to the crime of rape by negroes of the South and other sections of the country.'

New York Times, 1914

- 'Addiction to such drugs morphine and cocaine was becoming a veritable curse to the colored face'

NEGRO COCAINE "FIENDS" ARE A NEW SOUTHERN MENACE

By Edward Hamilton Wright.

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Murder and Insanity Increasing Among Lower Class Blacks Because They Have Taken to "Sniffing" Since Deprived of Whisky by Prohibition.



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International law turns towards prohibition



- *1912 Hague International Opium Convention (A signatory requirement included in Treaty of Versailles)*
 - *International Opium Convention, 1925*
- *The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, 1931*
- *The 1936 Convention for the Suppression of the Illicit Traffic in Dangerous Drugs*





**SINGLE CONVENTION
on
NARCOTIC DRUGS, 1961,**

as amended by
the 1972 Protocol Amending the Single Convention
on Narcotic Drugs, 1961

UNITED NATIONS

Preamble

Narcotic drugs constitutes a serious **evil** for the individual and [...] social and economic danger to mankind.

Conscious of their duty to prevent and combat this **evil**,
[the parties agree upon]... co-ordinated and universal
action.

War On Drugs

Three United Nations treaties at present define the illegality of drugs in international law

- The Single Convention on Narcotic Drugs, 1961
- The Convention on Psychotropic Substances, 1971
- The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988

Richard Nixon first employed the idea of a 'War on Drugs' in 1971

Reagan - 'few things in my life have frightened me as much as the drug epidemic' + 'we've taken down the surrender flag and run up the battle flag [...] we're going to win the War on Drugs.'

George H.W. Bush- 'the War on Drugs will be hard-won, neighborhood by neighborhood, block by block, child by child.'

Bill Clinton- 'we will fight the war on illegal drugs across the globe'



Race and Incarceration

USA

- Black people comprise nearly 40% of those incarcerated in state or federal prison for drug law violations.

UK

- Black People 9 times more likely to be stopped and searched for drugs

Brazil

- 77% of homicide victims linked to War on Drugs are Afro-Brazilians



The Twenty-First Century Green Rush

There has been a wave of cannabis legalisation in the twenty first century:

US States:

- Colorado and Washington- 2012
 - Alaska and Oregon- 2014
- California, Nevada, Maine, and Massachusetts-2016
- Arizona, Montana, New Jersey, and South Dakota- 2020
 - New York- 2021

Nation States:

- Uruguay -2013
- Canada – 2016
- South Africa – 2018
- Germany, Netherlands, Czech Republic – 2023?





Corporate Cannabis

- According to Bloomberg, the global legal cannabis market is estimated to be worth around \$91.5 Billion by 2028
- Emergence of huge new multinational companies like Aurora Cannabis (market cap of over \$7billion) and Canopy Growth (market cap of over \$12 billion)
- Uber, Amazon, Google, Phillip Morris, Marlboro all diversifying into cannabis
- Alcohol, tobacco, and pharmaceuticals companies see cannabis as future



Legalisation and International Law



- Do the new legalisation reforms breach the UN treaties?
 - The INCB’s annual report for 2013 claimed that legalisation in Colorado and Washington “contravene[s] the provisions of the drug control conventions, which limit the use of cannabis to medical and scientific use only.”
 - Germany 2018 Cannabis Bill- “there is little doubt that a system such as the Cannabis Control Act, which allows cannabis to be sold in licensed outlets for adult recreational consumption is not compatible with the international prohibition regime at this stage”
 - Canada Senate 2018- cannabis regulation does entail “contravening certain obligations relating to cannabis under the three UN drug conventions”
- Article 2(9)— possible exemption?
- INCB is gradually adapting to legalisation.
 - March 2023 -INCB President Jagjit Pavadia: "The expanding cannabis industry is marketing cannabis-related products to appeal to young people and this is a major cause for concern as is the way the harms associated with using high-potency cannabis products are being played down."



The Future of International Cannabis regulation



- Does drug policy reform consist of transferring the governance from the UN's drug control treaties to the WTO legal framework?
 - Bilateral and regional free-trade agreements
 - Protectionism
 - Intellectual property
 - Fair Trade practices
- Drug Policy reform as a vehicle for reparative justice?
 - Social Equity
 - Preferential licensing

