

INTERNATIONAL COOPERATION IN NARCOTICS CONTROL : THE EVOLUTION

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Between the Shanghai Convention held at Palace Hotel from 1st to 26th February, 1989 and the Asian Regional Symposium held at Kunlun Hotel of Beijing from 5th to 11th October, 1989 in which this writer happened to be a delegate, runs a thread of continuity. The Shanghai Convention of 1989 had a history of incalculable misery behind it. By the end of 19th century China witnessed a rampant effect of opium when nearly 20 to 25 million Chinese i.e. one third of the adult male population became opium addicts. The decree of 1729, issued by Emperor Young Ching, forbidding opium smoking was an expression of utter disgust. India, unfortunately, first by the Portuguese and later by the English through East-India Company was a party to this Chinese misery.

In 1729 nearly 200 chests (one chest : 64 kg) was imported in China which increased to 1000 in 1767, 10,000 by 1830 and 40,000 by 1838. The economic, political and social health of China sustained incalculable damage. Appropriately enough, High commissioner Lin, an appointee of the Imperial Court to curb the menace of opium smoking, addressed Queen Victoria in 1840 questioning the justification for introducing this poisonous drug causing serious harm of the Chinese natives. The diplomatic efforts, however, broke down and later Queen Victoria declared war against the Chinese Emperor defeating all efforts to control the drug abuse. The ignoble Treaty of Nanking (August 29, 1842) resulted in Hongkong becoming the commercial centre of opium trade from India and Iran not only for China but also for Japan, Canada, England and France. The opium trade from India to China jumped from 52925 chests in 1850 to 76863 chests in 1855. The second opium war (1856-1858) resulted in the Treaty of Tientsin legalising the opium trade on the payment of customs duty. The Chefoo Convention (1876) further regulated the trade but the opium import in China increased to 96839 chests by 1880. Not only China was made to accept the imported opium in such a huge quantity, it was also made to cultivate poppy and it became the biggest opium producing country by 1905 producing 23500000 kg. The imported opium from India and Iran (3 million kg. an year) and native poppy made China a country of opium takers. The 'bamboo pipe' became a household utensil and among all classes of people – men and women, high and low, the young and the old alike.

The British Government with all its tall claims to human and liberal traditions did not wake up to this menace till a group of public spirited men organised Anti-Opium League through its organ, the Friends of China, to challenge the state. The USA which had annexed Phillipines recently, found majority of Chinese-Americans to be opium addicts. President Theodore Roosevelt who was urged by Charles Brent, the American Episcopal Bishop in Phillipines, decided to convene an international Convention which resulted in the Shanghai Convention of 1898 attended by 13 countries.

Viewed historically, beginning with the Shanghai Convention, 11 conventions and agreements were adopted through the League of Nations and United Nations to forge a United International Front to control the production and the regulation of trade in narcotics drug and psychotropic substances. The international scenario has been undergoing dynamic changes, from China becoming a forced victim to a willing partner in the business of drug abuse, from India becoming a major supplier to China to a major transit country, the European countries from being callous agents of trade to becoming the major consumers of the same drugs. It has

taken a full circle when after a gap of nearly 30 years, China once again threatened by this scourge is becoming a transit point and a marginal consumer of drugs and it has decided to join the international bodies of the UN and the Interpol.

The 13 countries who had assembled at Shanghai driven by the regional interest in the far East, set up an Opium Commission, but they were conscious of the wider ramifications of the problem of narcotics. It was the next regular attempt towards international, multilateral cooperation. The first international convention at the Hague in 1912 enunciated policies relating to the production and distribution of raw opium under the law, gradual suppression of opium smoking besides limiting the manufacture, sale and use of narcotic drugs, such as morphine, opiates and cocaine for medicinal purposes. The control of this trade remained the basis of international narcotics control.

The League of Nations being the first international organisation with some pervasive competence, also attempted to organise efforts in the control of narcotic drugs. An Advisory Committee was set up on the traffic of opium and dangerous drugs to assist the League. In 1925, the International Opium Convention was signed at Geneva which established a statistical system of control over narcotic drugs based on opium and coca leaf. A permanent Central Board was created to control the production, manufacture, trade and distribution of the narcotic drugs. The second Geneva Convention of 1931 attempted to limit the manufacture and distribution of drugs through regulating the governments to furnish the annual estimates of their needs for medical and scientific purposes. A Drug Advisory Body was created to examine the requirements which was given power to embargo imports of the excess drugs. The third, 1936 Geneva Convention for the suppression of illicit traffic in dangerous drugs, for the first time coordinated international cooperation in the penal laws, to prevent the escape of the offenders and to facilitate the extradition of drug offenders.

After 1946, the Advisory Committee of the League on Opium and Dangerous Drugs was replaced by U.N. Commission on Narcotics Drugs created by the Economic and Social Council of the U.N. It was, however, in 1969 that the International Narcotics Control Board (INCB) was created following the enforcement of Single Convention on Narcotics Drugs in 1961 which replaced the permanent Board and the Drug Advisory Committee. Synthetic drugs were sought to be controlled for the first time through the Commission on Narcotics Drugs in their first Session in 1946, following which the Paris Protocol of 1948 was signed, which authorised the W.H.O. to control any new natural or synthetic drugs likely to produce addiction or addiction producing drugs.

A protocol to limit and regulate Poppy Cultivation and use was signed in 1953 which was adopted in 1960. This introduced the licences to cultivate poppy through an agency and only 7 countries including India, Iran, Turkey, Bulgaria, Greece, USSR and Yugoslavia were authorised to produce opium for export. The permanent Central Opium Board created by the protocol for supervision and enforcement was also empowered to take remedial measures and controls like embargo.

It was found difficult to manage a large number of international treaties and conventions and through the U.N. it was decided to codify, simplify and unify the international drug control which resulted in the Single Convention on Narcotics Drug of 1961. With this, all the eight treaties except 1936 Convention including Article 9 of this Convention relating to extradition ceased to exist. It also incorporated the 1953 Opium Protocol and brought the harvesting of cannabis resin and coca-leaves within its ambit. The Convention made provisions for the

medical treatment and rehabilitation of the addicts but endorsed complete prohibition of opium smoking, eating, coca-leaves chewing, hashish smoking and the use of cannabis plant for non-medicinal purposes following the transitional period.

About the time the international awareness was growing in respect of the abuse of the narcotics drugs, there surfaced the new psychotropic substances which called for appropriate national and international control. In 1971, the Convention on Psychotropic Substances was adopted and in 1972 Single Convention was amended through a Protocol. These two major conventions provided varying degrees of controls on the 'drugs' and 'substances' listed in the schedules, according to the dependence producing properties, therapeutic value and the abuse risk

_____The International Narcotics Control Bureau (INCB) became the nodal agency for the international controls and cooperation. It is meant to administer the legal movement of narcotics drugs and psychotropic substances to limit their production, manufacture, trade and use for medical and scientific purposes. Secondly, to create international cooperation to fulfil the legitimate demands and for maintaining proper balance between supply and demand; and third; to prevent illegal cultivation, production, manufacture, trade and use of drugs. The Board is supposed to ensure adequate supply and to also control leakage from the licit sources. Through estimates, System and comparison of estimates, it finds out the excess production and trade. The Reporting Requirements is also an effective instrument for such control. Through its annual reports, namely, "(1) Estimated world requirements of narcotics drugs, (2) Statistics of narcotics drugs, (3) Comparative statements of estimates and statistics of narcotics drugs, and (4) Statistics of psychotropic substances," the Board keeps the member countries informed. The Commission on Narcotics Drugs works in close cooperation with the specialised agencies like Interpol and customers Cooperation Council. The INCB acts more by way of assistance than reprimand of the member countries.

The INCB in its policies does not intend to cause offence to the sensitivities of the member countries and it prefers to work on facts with ideas and suggestions.

It is a quasi-judicial body composed of 134 members elected by the Economic and Social Council, each one representing in his personal capacity and not the governments. The idea behind such representation is to lend impartiality and objectivity to the members. It is debatable whether dissociating member countries from such decisions is a wise and effective strategy. The Board functions on the basis of total dependence on the treaties expressed by the member States and total independence in the implementation of the treaties towards each State and individuals.

Growing international traffic in the Psychotropic Substances particularly in amphetamines has been a cause of concern. In a number of cases, illicit import or the import without the import certificates or import based on false import certificates have been detected.

The INCB has very close interaction with Economic and Social Council and its Commission on Narcotics Drugs and W.H.O. At the level of Secretariat, Division on Narcotics Drugs and United Nations Fund for Drug Abuse Control (UNFDAC) as well as ICPOs and CCC act in close coordination.

Great significance is being attached to the recent Conference held at Vienna in which a comprehensive and innovative international Convention against illicit drug trafficking has been

adopted. This Convention supplements the previous two Conventions against the recent upsurge in illicit drug trafficking and the associated criminal activities which have threatened the legitimate economics, stability, security and sovereignty of the nations. The 108 participating governments adopted new measures relating to tracing seizure and confiscation of assets derived from illicit trafficking and for the extradition of drug offenders etc. The role of UNFDAC will cover all types of anti-drug efforts, including prevention, treatment, social re-integration as well as control of production in trafficking. It also proposes to educate the youth, help in crops substitution projects through rural development schemes and effective international and national legal controls.

The latest Convention took note of the demand and trafficking in drugs as a serious threat to the health and welfare of the human beings, adversely affecting the economic, cultural and political foundations of our society. It finds increasing inroads being made in the social groups and it expresses special concern for children becoming drug addicts, for organised criminal activities which threaten to undermine the legitimate economies and stability, security and sovereignty of States. The transnational criminal organisations have been formed to penetrate, contaminate and curb the structures of government, legitimate commercial and financial business and asset at all levels.

For once in such terms, the resolution for international cooperation and coordinated action, besides the need for comprehensive international strategy against illicit trafficking in all types of abuses has been appreciated. Confiscation and forfeiture of wealth and property derived from the drugs. "Controlled delivery" i.e. the technique of allowing illicit or suspected consignments of narcotics drugs and psychotropic substances, or substances substituted for them to pass through the territory of one of more country, within the knowledge and under the supervision of competent authorities, with a view to identify persons involved in the commission of such offences, has been incorporated in Article 3 of the Convention. Besides reiterating the previous offences relating to production, manufacture etc. of the drugs and substances and creating stringent offences in respect of money –laundering, the Convention also provides for liability to sanctions in case grave offences are committed. In matters of extradition under Article 6(3), it provides that in case there is no Extradition Treaty between the countries, this Convention may be treated as the legal basis for extradition in respect of any offence to which this Article applies. The member countries have been exhorted to simplify the evidentiary requirements and provide for custody during extradition proceedings. Mutual legal assistance and its various details and provision for urgent action through diplomats and ICPO channels and seek collection of evidence, have all been provided for.

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