**The Problematization of Illicit Drug Use and its Regulation
Into the 21st Century**

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ABSTRACT

Utilizing Foucault's 'problematization' as methodology, this thesis is an analysis of the last one hundred and fifty years of drug discourse and regulation. It questions why some drugs are considered so detrimental that their use requires penal sanction. In the first half of the twentieth century drug criminalization was brought about primarily by the burgeoning medical and pharmaceutical professions who problematized drugs as dangerous and addictive in order to gain power. In the later half of the twentieth century, drug control bureaucracies and politicians gained power by causally connecting drugs, social disorder, youth gangs and violent crime. This thesis argues that drug regulation is the result of various drug problematizations which have arisen through the interaction of dynamic moral, political and scientific circumstances, contingencies and anxieties. It highlights and questions the persistent fear that all illicit drug use causes addiction, a loss of self-control and the inability to self-govern.

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Chapter I:

INTRODUCTION

Like many contemporary criminologists, I find the continued criminalization of drugs both perplexing and disturbing. Perplexing because, in concrete pragmatic terms, history has shown us that criminalization does not reduce drug use to any significant degree; disturbing because, despite this, the use of criminal justice sanctions has resulted in revoking the most basic right to freedom of hundreds of thousands of North Americans. It is this paradox in contemporary drug regulation which motivates my research. Why do we regulate some drugs by deeming their use criminal? Contemporary drug discourse and practices are laden with the assumption that illicit drug use involves 'risk', but even in the year 2003, the degree and variability of that risk, both to the individual and society, remains indeterminate. This begs the question, where did we come by, and why do we maintain our assumptions that some drugs used in some ways are so detrimental that their use requires penal sanction? There was once a time in North America when drug use was not considered a problem and the use of all drugs were completely legal. A comprehensive understanding of contemporary drug regulation necessitates a look into our history to uncover the evolution of our negative assumptions about drugs. Only through an

understanding of our past, can we fully comprehend the complexities of thought and action that form our current philosophies and practices.

The focus of this thesis is on revealing the various contingencies and tensions which converged and interacted in the development and continuance of drug regulation over the last one hundred and fifty years. The utilization of Foucault's 'problematization' as methodology will aid in our search for understanding. His methodology emphasizes the emergence of problems, or 'problematizations' and their interaction with our ethics, our knowledge and our practices. His methods allow us to stand back and objectively question the historically singular negative view of 'drugs' that we now hold. The utilization of 'anxiety theory' will aid in locating the emergence of 'problematizations' by highlighting the various contexts and conditions which produce elevated states of social anxiety. Gusfield's attention to the 'symbolic' function of the temperance movement and Prohibition, and the import of promoting self-control and self governance, will also aid in the analysis of drug regulation.

Outline of the Thesis

In Chapter II, the method which will be used to unravel the complexity of our motives for drug regulation will be discussed. Foucault provides a means of analyzing history such that the intricacies of circumstances and thought and their interconnections are revealed. The search for a universal cause is discarded in favor of revealing contingencies, potentialities and interactions between multiple determining elements. Foucault describes how these manifold elements can form an 'historical singularity', in which knowledge, power and morality converge to create a

redefinition or a new way of experiencing some element of our social world, such as our current assumptions about the universal ‘risk’ caused by illegal drug use. In order to uncover the various elements and circumstances that contribute to the creation of an historical singularity, we must reveal the ‘history of thought’. Through an analysis of discursive and non-discursive practices, we can reveal when and how our thoughts about drug use changed. Foucault explains that the emergence of a ‘problematization’ is the moment when ‘thought’ intervenes and we come to see something as problematic, reflect on it, and attempt to produce solutions in response (1997c). Thus, Chapter II provides a comprehensive method that will be utilized in mapping out the history and complexity of how we have problematized ‘drugs’, and the practices that have developed to regulate them.

The history of drug regulation is divided into two waves, each with its own unique form of problematization. Many of our notions about drugs were carried forward from the first to the second wave, yet in many ways, our thought, our discourse and our drug practices changed. The first wave discussed in Chapter III, spans from the mid-nineteenth to the mid-twentieth century. It carries us along from the days when drug use was both common and unregulated, to the criminalization and demonization of all intoxicating substances for non-medical use, to an eventual decline in drug discourse and legislative activity. A myriad of factors converged around the turn of century to contribute to the frenzy of discourse and activity that resulted in the criminalization of all intoxicating substances during and after World War I. Alcohol became increasingly problematic throughout the nineteenth century as industrialism, immigration, racial tension and war disrupted established norms.

During the Civil War, the temperance movement gained strength and political voice in their efforts to promote self-control through abstinence, and morphine became known for its ability to cause addiction in the soldiers who were injected with it. Problematizations arose around the non-medicinal use of all intoxicating substances, and the first federal drug law restricted the sale of opium to pharmacists. Both Canada and the U.S. passed legislation which essentially medicalized opiates and its derivatives such as morphine and heroin. Social tensions mounted as immigration levels increased and industrialism restructured the landscape. World War I facilitated increased calls for the suppression of all recreational substance use. By the time the war ended, the non-medicinal use of every available intoxicating substance including alcohol, had been criminalized. While the post-war period brought about a reversal of alcohol Prohibition, the criminalization and fear of drugs continued as World War II ensued and marijuana smoking was introduced by Mexican immigrants. The problematization of drugs in this first wave brought about a reconstruction of 'drug' use and 'addiction' from morally reprehensible and pitiable, to criminal and contemptible. The period between World War II and the Vietnam War represents a calm in the storm of drug regulation and the transition from the first wave of drug problematization to the second.

Beginning in the 1950s, Chapter IV highlights the progression of the discourse and regulation of illicit drugs through to the present day. The second wave began with the reformulated concept of 'addiction' as a disease, it then bore witnesses to an explosion of recreational 'drug' use, proceeded to the advent of an all out War on Drugs, and more recently, toward measuring risk and minimizing harm. Just as

increased drug use and WWI were instrumental in assisting the proliferation of drug regulation in the first half of the twentieth century, the Vietnam War and increased drug use sparked the conditions necessary for a new era of drug problematization and regulation in the later half. In the 1960s and 1970s, the rising popularity of the recreational use of three very different drugs (LSD, marijuana, and heroin) tentatively broke down the consensus about drugs, their properties, their effects, and the approach needed for their regulation. But by the 1980s, a myriad of newer and harder drugs emerged, violent street crime rose, youth gangs became problematic, illicit drugs and 'drug dealers' became more publicly visible, and a relative conservative consensus on drug regulation re-emerged in the public and political spheres. The re-problematization of drugs in this second wave saw drugs, youth gangs and violent crime become linked together in the public and political mind. This new set of concerns promoted an increasing emphasis on *enforcing* all drug regulations locally, nationally and internationally, leading to the prosecution and incarceration of hundreds of thousands of North Americans. An increasing focus on 'risk' which developed during the War on Drugs, permitted illicit drug use to continue being problematized as a universal depravity, without discerning differences in the chemical composition or the physiological or social effects of the drugs. Suspicionless drug testing, which aims to identify these 'risky' drug using individuals, has invaded many aspects of our social sphere such as education, employment, and sports, and comprises the most comprehensive form of social and criminal justice surveillance ever devised. In the new millenium, we are only beginning to see the wane of interest in harsher drug control measures. The prohibitive economic costs of sustaining the

current regulatory scheme and its control measures have facilitated the emergence of harm reduction rhetoric, which attempts to include the cost of prohibitive policy in its calculations of harm. However, harm minimization may be little more than an ideological construct as long as we are unable, or unwilling, to objectively measure, differentiate and compare the risks that drugs and their users pose.

Chapter II:
NAVIGATING THE LABRYNTH OF FOUCAULT'S
'PROBLEMATIZATION'

This research is an exploration of drug regulation as a consistent feature of social life and law in the last one hundred and fifty years. It asks, why do we regulate drugs by deeming some medicinal and some criminal? What purpose is served by our present regulatory scheme? Foucault provides a methodological means by which we can restore the conditions that determined how 'drugs' have come to be what they are in modern society. Foucault's unique approach to historical inquiry will facilitate an analysis of the historical forms of truth and knowledge about drugs that shape our current conceptions and practices. For Foucault, an understanding of historical truths and their interaction with our drug practices requires us to locate the moment when drugs became 'problematized'. But utilizing 'problematization' as a methodology requires more than just locating the emergence of problems. Foucault's methodology is intricate and abstruse, and requires a comprehensive analysis before it may be utilized. Moreover, there is no comprehensive or consolidated 'guide' to Foucault's complex methodology. Rather it must be deduced through an investigation of Foucault's works and the work of others who have also utilized or investigated his methods. Thus, what follows is just such an investigation; an inquiry of 'problematization' that will provide the means by which the interrelations between our knowledge, our ethics, and our regulation of 'drugs' can be identified.

‘Problematization’ as Methodology

In order for the current assumptions behind drug regulation to be revealed, we must look beyond the present and into the ‘history of the present’. Historical resources will be utilized “to reflect upon the contingency, singularity, interconnections, and potentialities of the diverse trajectories of those elements which compose present social arrangements and experience.” (Dean 1994: 21) In this context, to question why we regulate drugs, is not akin to a search for causality. Foucault cautions us that the customary search for causality deceptively requires us to search for “deep, unitary, pyramidal and necessary” principles (Foucault 1997c: 56). But such a search is blinded to the interconnections, circumstances, singularities and prospects that comprise the present. Foucault proposes instead, a “*genealogy*, that is, something that attempts to restore the conditions for the appearance of a singularity born out of multiple determining elements of which it is not the product, but rather the effect.” (1997c: 57)

In the *Use of Pleasure*, Foucault defines ‘sexuality’ as just such a singularity. But what constitutes sexuality as a historically singular experience? Foucault is not writing a history of sexual behaviours or practices, nor analyzing scientific, religious, or philosophical ideas that represent these behaviours. Rather, he is detaching himself from the practical and theoretical familiarity with which the word ‘sexuality’ has come to be associated. The use of the word ‘sexuality’ was established in connection with the power of knowledge, normativity and cultural subjectivity (1985: 3-4). According to Foucault, what constitutes ‘sexuality’, or in the present case ‘drugs’, as

an historically singular experience is the formation of sciences that refer to it, systems of practice that regulate it, and the need for individuals to recognize themselves as subjects of it (1985: 4).

Who among us does not recognize himself or herself as either a ‘drug user’ or abstainer? In theory and practice, the word ‘drugs’ has come to represent far more than the complex of chemicals of which they are constituted. Phrases such as “just say no to drugs” and “the war on drugs”, epitomize the complexity and simplicity of the various connotations that the word ‘drugs’ conjures up. In its simplest form, the word ‘drugs’, as used in the above phrases, delineates between ‘illicit drugs’ used for non-medical or what I will term ‘recreational’ purposes, and medicinal or prescription drugs. The current War on Drugs is not being fought against Tylenol or alcohol, and we are not expected to ‘just say no’ to our heart medication. But illegality is only the simplest of associations conjured by the term ‘drugs’. Images and notions of ‘drugs’ and their ‘users’ are also associated with disobedience, erratic behaviour, chronic unemployment, economic incapacitation, violence, youth gangs, the underworld, crime, sexual promiscuity, poor health, psychological dysfunction and addiction. An entire field of ‘addiction’ treatment has sprung up around ‘drugs’. So too have a myriad of mechanisms and practices to regulate both ‘drugs’ and their users. Such is the case with risk assessments, widespread ‘drug’ testing, and the more recent proliferation of ‘drug’ courts.

It would seem therefore, that ‘drugs’ can be considered an ‘historical singularity’ in the Foucauldian sense. Diverse fields of ‘drug’ knowledge have been developed, ‘drug’ rules and norms are advocated in a myriad of institutions (i. e.,

religious, judicial, educational, medical), and finally, there have been changes in the way individuals are led to assign meaning and value to their conduct, feelings and sensations in regards to 'drugs' and their use (Foucault 1985: 3-4). Foucault emphasizes that "what is very important is not that such an analyses bring a whole group of derived phenomena back to a cause, but rather that they are capable of making a singular positivity intelligible precisely in terms of that which makes it singular." (1997c: 57)

However, in order for 'drugs', as an historical singularity, to become intelligible, Foucault suggests that it is necessary to examine the 'history of thought' that surrounds them. The proper task of a history of thought is to "define the conditions in which human beings "problematize" what they are, what they do, and the world in which they live." (1985: 10) 'Thought', in this context, is not that which gives conduct its meaning, but rather, a detached contemplation of conduct that questions its meaning, conditions and purpose. "Thought is freedom in relation to what one does, the motion by which one detaches oneself from it, establishes it as an object, and reflects on it as a problem." (Foucault 1997a: 117) In order for this reflection on our behaviour to enter into our field of thought we must first come to see the behaviour or domain of acts as problematic. In fact, the one element that Foucault deems capable of describing the history of thought is the "element of problems or, more exactly, problematizations." (Foucault 1997a: 117)

The obstacles, difficulties or uncertainties that arise can exist for a long time before 'thought' intervenes with an original or specific response. This response may take many, sometimes contradictory forms that are not necessarily the direct result of

these difficulties, but which are defined by a situation or context (Foucault 1997a: 117-118). It is “this transformation of a group of obstacles and difficulties into problems to which the diverse solutions will attempt to produce a response, this is what constitutes the point of problematization and the specific work of thought.” (Foucault 1997a: 118)

In *The History of Sexuality*. Foucault indicates that it was among bourgeois or aristocratic families “that the sexuality of children and adolescents was first problematized, and feminine sexuality medicalized.” (Foucault 1980: 120) In this context, an overly simplistic definition of problematization can be extrapolated as the moment at which something becomes a problem. As Foucault would later suggest, we must bring to light “Why a problem and why such a kind of problem, why a certain way of problematizing appears at a given point in time.” (1997b: 165) In order to locate the moment when a problematization appears we must uncover the moment when things become uncertain and people realize that a new way of doing things, or new rules of behaviour are needed (Foucault 1997b: 166). Most often, things become problematized when they cause anxiety. It is frequently the relief of anxiety that motivates both individuals and societies to develop new methods and rules. Thus, “anxiety theory” (Hunt 1999) becomes a powerful means by which we can locate and understand the problematization of drugs. Hunt argues that ‘anxieties’ provide heuristic points of entry for historical enquiry (1999: 522). ‘Anxiety theory’ will aid in discerning the emergence of drug problematization by identifying “the way in which a set of otherwise unconnected issues converge such that it is only in their

combination and interaction that they stimulate a level of social reaction that the individual concerns alone would not have generated.” (Hunt 1999: 517)

However, while ‘anxiety theory’ is crucial to the understanding of how things become problematized, utilizing problematization as a methodology requires more than just the identification of anxieties. Foucault imparted a more detailed definition of problematization in an interview published in the *Magazine littéraire* in 1984, “Problématisation ne veut pas dire représentation d’un objet préexistant, ni non plus création par le discours d’un objet qui n’existe pas. C’est l’ensemble des pratiques discursives ou non discursives qui fait entrer quelque chose dans le jeu du vrai et du faux et le constitue comme objet pour la pensée.” (Foucault 1984: 18) In other words, problematization is not a creation through discourse, or a representation, of a preexisting object, but rather, the totality of discursive and non-discursive practices that brings something into the play of truth and falsehood and sets it up as an object for the mind. These “discursive and non-discursive practices” can refer to a myriad of administrative institutions, architectural arrangements, regulations, or scientific, philosophical, or moral propositions (Castel 1994: 238).

In “Polemics, Politics, and Problematizations”, Foucault suggests that we examine how scientific, political and ethical processes have intermingled in the creation of a scientific domain, a political structure, and a moral practice (Foucault 1997a: 116). In each of his three studies of madness, sexuality, and delinquency, Foucault emphasized a particular aspect of these three components, which he considered “necessary for constituting a field of experience” (1997a: 116-117). He approached the problematization of madness via the ‘games of truth’ arising from

social and medical practices, the problematization of crime and criminal behaviour via the ‘games of truth’ and their interaction with punitive practices, and the problematization of ‘sexuality’ via the way in which the ‘games of truth’ interacted with the relationship of self to self and the forming of oneself as a subject (Foucault 1985: 6, 12). But how do we define ‘games of truth’?

Ransom suggests that disciplinary power has distributed human populations in a cellular manner, thereby, subjecting them to transformative techniques that train and transform useless multitudes of bodies from a swarming mass into an organized grid. In the course of training large numbers of individuals to perform various activities, people are ranked around a norm of performance and a sense of ‘normal’ emerges (Ransom 1997: 46-48). Once individuals are ranked relative to the “mean-norm,” they are judged in light of this mean or natural set of capacities, and in their ability to advance or propensity to fall behind this norm of performance. These criteria persuade individuals to accept an expanded conception of ‘truth’ about themselves (Ransom 1997: 52). In other words, the disciplines superimpose a good-bad distinction on what was first only a mean distribution of individuals. “The “truth” of the individual at first identified objectively on an arbitrarily established scale of performance turns into a *valuation* of the individual.” (Ransom 1997: 52) But although this establishes the truth of the human being as an object of a certain kind, it goes without saying that this valuation of the natural human being is only natural in relation to the tasks set by the disciplines. “In other words, what counts as natural and thus normal depends on the kinds of things the sciences decide to measure.” (Ransom 1997: 48) Individuals and the ‘truths’ about them are created by power (Ransom

1997: 48). Thus, my task will involve uncovering the ‘truth’ about ‘drugs’ and ‘drug users’ that has come about through social and medical practices and their interactions with both punitive practices and the forming of oneself as a subject.

However, problematization is not only located in the realm of ‘thought’, but also in the development of a domain of acts and practices that pose a problem for politics. But this is not to suggest that the analysis be a political one. Foucault points out that he has “never tried to analyze anything whatsoever from the point of view of politics, but always to ask politics what it had to say about the problems with which it was faced.” (Foucault 1997a: 114-115) It is rather, a question of thinking about the relations of the experiences of power, truth, and self to politics (1997a: 114). Moreover, while Foucault cites power, truth and the subject as sites of investigation for the emergence of problematizations, he also suggests that they form the basis of critique. “the core of critique is basically made of the bundle of relationships that are tied to one another, or one to the two others, power, truth and the subject.” (Foucault 1997c: 32) Critique should ensure that the ‘politics of truth’ come to light, thereby desubjugating the subject by illuminating the context of that ‘truth’. This is accomplished by a procedure which “runs through the cycle of positivity by proceeding from the fact of acceptance to the system of acceptability analyzed through the knowledge-power interplay.” (1997c: 32,52) Thus, that which constitutes the acceptability of our ‘drug’ system must be described through the interplay of power and knowledge and the ‘truths’ they create about ‘drugs’ and ‘drug users’.

As previously mentioned, however, “problematization” as a research strategy is fraught with difficulty. In “Problematization as a Mode of Reading History”, Castel

provides one of the most comprehensive explorations and critiques of problematization as a methodology. One of his concerns is that of “presentism”. Castel is concerned that we may be focusing on an issue or problem that principally holds true only for our time (Castel 1994: 239). However, Foucault’s methods are united by the insight that history is above all a practice undertaken in a particular present and for particular reasons linked to that present (Dean 1994: 14). The Question Foucault starts off with is “what are we and what are we today?” It is a ‘history of the present’, and therefore must start off from present day actuality (Foucault 1997b: 158). But regardless of the specificity of Foucault’s approach, history, which makes reference to “events, irruptions, discourses, and social practices within a particular time-space, is in fact an activity that is irrevocably linked to its current uses.” (Dean 1994: 14)

Castel is also concerned about how we should locate and isolate the instant at which a problem arises. Given that a problematization emerges at a given moment, Castel asks, “How can this appearance be dated?” (Castel 1994: 239) Foucault suggest that we search for instances of discursive production, of the production of power and of the propagation of knowledge (Foucault 1980: 12). Foucault explicates the way in which these three elements are utilized, and form the basis of the “problematization” of the *History of Sexuality*. He argues that “the essential aim will not be to determine whether these discursive productions and these effects of power lead one to formulate the truth about sex, or on the contrary falsehoods designed to conceal that truth, but rather to bring out the “will to knowledge” that serves as both their support and their instrument.” (Foucault 1980: 11- 12) As previously noted, this

“will to knowledge” can be historically located at the point where obstacles and difficulties are transformed into problems, become the focus of concern, and attempts are made to generate solutions, reforms or regulations in response (Foucault 1997a: 118).

Another of Castel’s concerns is how one chooses the significant elements of history. But given that a problematization is the totality of practices that bring something into the play of truth and falsehood, we need only uncover those practices. As previously noted, these “discursive and non-discursive practices” can refer to administrative institutions, architectural arrangements, regulations, laws, or scientific, philosophical, or moral propositions (Castel 1994: 238). All of these historical elements which exemplify the emergence of discursive production, of the production of power, or the propagation of knowledge can be considered ‘significant elements of history’. We must examine those scientific, political and ethical processes that have intermingled in the creation of a scientific domain, a political structure and a moral practice (Foucault 1997a: 116). Foucault suggests, “It is a matter of making things more fragile through this historical analysis, or rather of showing both why and how things were able to establish themselves as such, and showing at the same time that they were established through a precise history.” (1997b: 161) Thus, the significant elements of the ‘history of thought’ in regards to ‘drugs’, are those points where the ‘truth’ about ‘drugs’ and ‘drug users’ have emerged through social, legal and medical practices and their interactions with both punitive practices and the forming of oneself as a subject.

Castel also voices a concern that ‘problematization’ carries the risk of inappropriately rereading historical materials that are not utilized by historians. However, even Castel concedes that approaching history from the standpoint of social categories such as instability, vulnerability, protection, exclusion and insertion, illuminates the way in which contemporary practices function, “showing that they continue to be structured by the effects of their heritage.” (1994: 244, 251) However, he is still concerned enough, and rightfully so, to ask “by what right may one give a different reading of historical material (including what is written by historians) if one has not examined the sources oneself, when one knows “no more” (and generally less) about a given period than the historian?” (Castel 1994: 239-240) This concern is answered by Dean, who reminds us that “historical sociology” is marked out here not only by sociology and history, but also by social philosophy and political thought, by cultural and intellectual history as much as the history of ‘economics, societies and civilizations’ (Dean 1994: 1). Foucault undertook a history of truth via a series of successive displacements in the history of ideas, thought, and science. These displacements are an analysis of the regularities of the formation of discourse, the intertwining of that discourse in power relations, and the connection of such practices to the self (Dean 1994: 2). This type of analysis necessarily must lead one to a different reading of historical material. The ground that Foucault covers with his methodological problematizations is not intended to change historical facts, but rather, to question why they are facts at all. Moreover, “problematization does not lead to pure chaos, contingency, or irrationality, but new ways of ordering, of ‘serialising’, of tabulating and cross-referencing, of constructing problems and

hypotheses, and of correcting, modifying and even abandoning them in a rigorous manner.” (Dean 1994: 216) Uncovering the history of thought necessitates a look at the conditions of representations, knowledge, and ideas. For Foucault, thought is an historical fact, a positivity having its own specific reality and singularity, its own weight and density its own irreducibility (Dean 1994: 214). Foucault’s work is an effective historical study precisely because “it is able to exercise a perpetual vigilance and skepticism toward the claims of various philosophies to prescribe the meaning of history.” (Dean 1994: 4)

What is there to gain by using such an approach? What purpose does ‘problematization’ serve? Foucault puts it most eloquently, stating that the purpose of such studies is “to learn to what extent the effort to think one’s own history can free thought from what it silently thinks, and so enable it to think differently.” (Foucault 1985: 9) Problematization can be regarded as a valuable tool precisely because it is “a movement of critical analysis in which one tries to see how the different solutions to a problem have been constructed; but also how these different solutions result from a specific form of problematization. And it then appears that any new solution which might be added to the others would arise from current problematization” (Foucault 1997a: 119). Foucault’s work is aimed at making it possible to stand in a different relationship to the objects he describes, opening the door to a new way of experiencing the present. “If it is possible for subjects of these disciplines to reverse and revalue the psychic states pursued by them, it is also possible to generate new styles of existence.” (Ransom 1997: 57, 184)

Foucault points out the pitfalls of suprahistorical or global theories that use history to assure us of our own identity and the necessity of the present. Instead, he uses problematizations and the history of thought to define new levels of analysis capable of grasping the singularity of events and processes, and their transhistorical nature (Dean, 1994: 18). Foucault is not attempting to develop a science or discipline, but rather, to induce change in our individual and collective experience by exploring “how it is possible to think in a certain way”, thereby changing our thoughts about that which we take for granted or consider obvious (Dean 1994: 2, 215-216). Problematization allows us to explore the interconnections between the history of practices and the history of concepts, establishing “an analysis of the trajectory of the historical forms of truth and knowledge without origin or end.” (Dean 1994: 4)

Yet, despite the plethora of innovative methodological tools that can be extracted from Foucault’s work, “problematization” as a research strategy is fraught with difficulty. Not the least of which, is the fragmented and unsystematized manner in which Foucault imparted the mechanics of his methodology. “Indeed, to speak of following ‘Foucault’s methods’ is as paradoxical as speaking of ascending stairs or cascading waterfalls in the graphic work of M. C. Escher.” (Dean 1994: 2) Nevertheless, the methodological gems that Foucault has imparted, however sporadically, constitute a means by which we can undertake a critical and effective historical analysis of “forms of rationality, ethics, and government, and their interrelations.” (Dean 1994: 6)

Conclusion

I have illuminated Foucault's insistence that we not look for a universal theory that posits causality, looking instead to the 'history of the present' and making use of 'genealogy' to uncover the birth of 'historical singularities'. These singularities, such as 'drugs', can be defined by the constitution of sciences that refer to them, practices that regulate them and individual subjectivity that is defined by them. It is through an examination of the 'history of thought' that we can uncover how humans 'problematize' their actions, perceptions, and the world. 'Problematization', in essence, is the moment when difficulties or 'anxieties' transpose into 'problems' which are given 'thought' in order to produce a response or change of some kind. Foucault specifically emphasizes that we look for the birth of scientific, political, and ethical practices as well as the power they exert, the 'games of truth' they generate through normalization, and the forms of ethical subjectivity they engender. However, caution is warranted. Foucault's methodology is fragmented, unsystematized and raises questions around 'presentism' and erroneous uses, and misuses of history. Nevertheless, it serves to move us outside of our complacent acceptance of our modes of thought and practice and propels us to re-evaluate the 'obvious'.

Due to the theoretical nature of this research and the complexity of 'drugs' and their regulation, discerning where to draw geographical and temporal limits has been both necessary and difficult. It is safe to assume that drugs, primarily derived from a myriad of plants, have been present in all places at all times throughout history. Whether in the form of herbal remedies, medicines, recreational or spiritual aids, drugs have always been an integral part of human existence. Therefore, an

exacting and exhaustive search which attempts to locate the precise geographical and historical moment when ‘drugs’ were *first* problematized is beyond the scope of this research. As informative and essential as such an analysis may be, it would necessitate a zeal and dedication that would rival Foucault’s most comprehensive works. For this reason, I have chosen to focus my analysis on North America, with emphasis on the historical period in which ‘drugs’ were first *legally* problematized. This is not to say that this analysis will be a political one, nor that it will narrowly focus on only the legal aspects of ‘drugs’ and their control. Rather, it will investigate the various moralities and knowledges about ‘drugs’, and the complex manner in which politics and law have responded to them. These restrictions, although partially stemming from an ethnocentric interest in domestic affairs, are more importantly, necessary limits which serve to constrain this research within practicable confines. Every effort will be made not to confound the varying aspects of Canadian and American ‘drug’ problematization. However, due to the geographical proximity and relative cultural similarities of these two countries, in many instances there are overwhelming correspondence between the evolution and progression of their moral, scientific and political discourse and practices. Thus, it is often easier to speak of North America in the general sense. Nevertheless, careful attention will be paid to emphasize those instances where dissimilarities arise and the discussion becomes focused particularly on either Canada or the United States.

Also, in the name of limiting the scope of this research, I have chosen not to emphasize the gendered nature of ‘drugs’ and their regulation. Suffice it to say that gender issues are an integral component of social life, and therefore, our philosophies

and responses to 'drugs'. So much so in fact, that a thorough investigation of the interplay between gender and 'drugs' would require a substantial research endeavor in its own right.¹ Therefore, I have intentionally avoided dealing with the interplay between gender and 'drugs' in fear that any cursory investigation might open a virtual can of 'gender issue' worms which can not be addressed within the scope of this work.

¹ See Roth, Paula. (1991) *Alcohol and Drugs are Women's Issues, Volume One: A Review of the Issues*, Metuchen: Women's Action Alliance and The Scarecrow Press, Inc.

Chapter III:
THE HISTORY OF THE PRESENT: THE FIRST WAVE OF DRUG
‘PROBLEMATIZATION’

The first wave of drug problematization occurred in the one hundred years between the mid-nineteenth and mid-twentieth centuries. One hundred years, which witnessed the birth and death of a powerful social movement, and the problematization and re-conceptualization of ‘drugs’ and ‘addiction’ as historical singularities with their own constellation of sciences, practices and subjectivities. The first substantial changes in our perceptions of ‘drug’ use arose from social tensions surrounding industrialism, immigration and war; the same social tensions which gave rise to the temperance movement and the promotion of the ideals of abstinence, sobriety and self-control. Near the turn of the twentieth century, medical science improved, and knowledge of the causes and prevention of disease facilitated increased medical authority over the curative and ‘addictive’ possibilities and uses of ‘drugs’. Negative stereotypes of ‘drugs’ and ‘addicts’ initially arose through the medical establishments efforts to discredit the Patent medicine manufacturers and curtail Patent medicine use. World War I increased social tensions and politicians and bureaucrats utilized negative stereotypes of ‘addiction’ to promote, justify, and effect a myriad of regulations aimed at prohibiting the use of all substances for the purpose

of intoxication. Through this combination of ethical, medical and political problematizations, ‘drugs’ and ‘addiction’ gained their historical singularity. The end of the first wave of ‘drug’ problematization in the 1940s, is marked by a relative calm in the storm of regulation, demonization, criminalization, discourse, and anxiety surrounding ‘drugs.’ This chapter brings to light those elements and contingencies which constituted the birth and acceptability of the regulatory ‘drug’ system which developed prior to the 1950s. It is only through a comprehensive understanding of the factors which contributed to the initial regulatory control of ‘drugs’ that we can fully comprehend our current philosophies and ‘drug’ practices.

The Dawn of Drug ‘Problematization’

In colonial America, alcohol was considered a principal form of liquid nourishment and a staple of the daily diet (Blocker 1989: 3). Medical practice was in its infancy in North America at the beginning of the nineteenth century, and many of the causes of disease and illness were unknown. This fostered a consistent reliance on opiates and alcohol as a symptomatic relief agent for most illnesses (Blocker 1989: 8, Musto 1973:13). Insofar as there were “no specific remedies to treat diseases, symptomatic relief was the only alternative.” (Blackwell 1988: 230) However, alcohol and opiate use became increasingly problematic toward the end of the nineteenth century.

Gusfield argues that in the nineteenth century, industrialism and immigration were increasing transient populations and the “old norms of moderation” that governed the consumption of alcohol were becoming less effective (1963: 39,

Blocker 1989: 8-14). As industrialization and mass immigration began to change the social landscape, “drinking and abstinence became symbols of social status” (Gusfield 1963: 4). The use, or non-use, of alcohol had the ability to indicate which culture the individual was committed to, and the social groups he took as his models of imitation and behavioral reference (Gusfield 1963: 4). In contrast to the new and varied moralities and customs of the immigrant populations, middle-class American Protestants of the nineteenth century adhered to a culture in which “self-control, industriousness, and impulse renunciation were both praised and made necessary” (Gusfield 1963: 4). Foucault tells us that problematization occurs at the moment when a given develops into a question (Foucault 1997a: 118). Analyzing Gusfield’s investigation of the temperance movement in this light, we can see how he argues that the processes of immigration and industrialization in the nineteenth century were the catalysts which threw the norm of moderation into question. The intemperate use of alcohol became a problem to which diverse solutions attempted to respond (1963). Abstinence came to be seen as the only feasible means by which self-control could be maintained. “Given human frailty in the face of temptation, the clear line between moderation and intemperance represented by total abstinence from ardent spirits became indispensable in achieving self-control.” (Blocker 1989: 16) The consumption of any amount of alcohol was problematic because it could overwhelm and ‘addict’ the user. Yet, for most of the nineteenth century ‘drug’ use remained common and unproblematic (Abel 1980, Musto 1973). Thus, the problematization of alcohol and addiction came to fruition well before ‘drug’ use was seen as problematic. However, it is my belief that the underlying fear which motivated the

problematization of alcohol and addiction was the same fear which motivated the eventual problematization of 'drugs'. Namely, the fear of the loss of self-control which was deemed necessary for social cohesion and functioning.

Initial stirrings of the temperance movement can be dated to the early nineteenth century, but the Civil War served as an important catalyst for the temperance movement, during which it took on a national form, recognized its political objectives, and gained political allies in the campaign to prohibit alcohol use (McGrew 2002: 3-4). The Civil War also served to facilitate widespread, indiscriminate use of morphine as a painkiller and highlighted the power of morphine and opiates to cause addiction (Abel 1980: 189). The recognition of the ability of opiates to cause addiction increased fear about their use. Yet, as previously noted, medical science was still in its infancy, and opiates were the only medical means available to relieve the symptoms of injury and illness (Blocker 1989: 8, Musto 1973:13). Thus, a dichotomy was created in the social perceptions of 'drug' use and addiction to 'drugs'. Medicinal drug use, and addiction to medicinal drugs, remained socially acceptable. Medicinal addiction was interpreted as tragic, but not reprehensible (Abel 1980: 189). However, recreational opiate use began garnering condemnation along with alcohol use. Insofar as recreational opiate use became capable of measuring one's commitment to sobriety and the social good, it also came to function as a symbol of social status. Gusfield explains that the "decline in inhibition and reserve and the relaxation of moral censoriousness through artificial, uncontrolled means [was] anathema to a viewpoint in which man must prove himself through his own efforts." (Gusfield 1963: 31) The problematization of opiate

addiction catapulted non-medicinal or ‘recreational’ drug use into the same morally deleterious category as alcohol use. Both were seen as violations of “the theme of self-control that lay at the core of middle-class identity in the nineteenth century.” (Blocker 1989: xii) Both had the ability to signify the social status of their users. Moreover, the fact that recreational opiate use was predominantly a habit indulged in by Chinese immigrants also helped to define the divergent social status of ‘recreational’ drug users. By the end of the Civil War, the American railway construction boom which had employed thousands of Chinese immigrants came to an end. Subsequent labour unrest generated a proliferation of anti-Chinese sentiment which was directed at opium dens - a visible symbol of both the Chinese presence and anti-Protestant, non-temperate values (Abel 1980: 190-191). Opiate smoking was a habit which sat poorly with temperance doctrine because like alcohol, it was considered antagonistic to moral development and functioning.

In 1869, the Pharmacy Act restricted the sale of opium to registered pharmacists. Harding suggests that the Pharmacy Act was the turning point in the American social conceptualization of ‘addiction’. He argues that the act changed addiction from a “bad habit” attributable to the physiological properties of the drug, to a moral pathology of “an irresponsible individual wilfully adopting a course of self destruction” (1998: 4-5). My first issue with this assertion is that the negative perception of ‘addiction’ arose in connection with alcohol and the rise of the temperance movement, and thereby preceded and shaped the Pharmacy Act rather than being re-conceptualized by it (Gusfield 1963). “From the ethical precepts of Temperance adherents the use of alcohol in all forms and all degrees was a moral

problem. The drinker or the drunkard was neither sick nor foolish. He was sinful.” (Gusfield 1963: 30) The negative perceptions Harding describes were directed toward ‘recreational’ drug and alcohol use, not ‘addiction’ *per se*. Furthermore, the medical necessity of opiate use meant that those who became addicted in this manner remained unscathed by moral censure. Medicinal opiates were considered a necessary part of everyday life (Abel 1980: 189). Temperance reformers objected, not to addiction, but to the use of any addictive substance for the express purpose of intoxication. Sobriety was the cornerstone of the temperance ethic “because it ensures the cardinal quality of self-command.” (Gusfield 1963: 32) Indeed, even The Society for the Suppression of Opiate Trade was not concerned about medicinal addiction, but rather objected to the trade based on “the belief that opium, when consumed for non-medical purposes – i.e. gratuitously and not for a specific ailment – was evil” (Harding 1998: 5). The relative public apathy about medicinal addiction facilitated an increase in medicinal use of opiates toward the end of the century. Physicians dispensed the drug freely, and unregulated patent medicines containing opium became more potent and more widely used (Musto 1973: 3). Thus it was the dichotomy between the medical and ‘recreational’ use of drugs that was recognized with the 1869 Pharmacy Act. Nothing in the Pharmacy Act prohibited opiate use or possession, and although medicinal opiate addiction was beginning to be problematized, ‘addiction’ *per se* was not yet considered a moral pathology as Harding suggests.

In order to understand the changes that took place, Foucault suggests that we perform two correlative operations: “bring out the acceptability of a system and follow the breaking points which indicate its emergence.” (Foucault 1997c: 54) What constituted the acceptability of the medical and medicinal use of opiates was a medical system which lacked many preventative and curative measures, thereby necessitating the use of drugs for symptomatic relief from injury and illness (Blocker 1989, Musto 1973, Blackwell 1988). What constituted the acceptability of the drive toward abstinence from recreational substance use was the need for social order that had been disrupted by industrialism, immigration, racism and war. The Civil War served as a breaking point in the problematization of recreational intoxication. The war added social tension and urgency to the persistent efforts of temperance adherents to promote abstinence. It created racial tension through economic issues and labour conflict, and an increasing problematization of addiction. Temperance reformers increasingly embraced the use of coercive measures that promoted the utilization of law in order to affirm their social and cultural dominance (Gusfield 1963: 6-9).

Utilizing Anglin’s *Cocaine: A Selection of Annotated Papers from 1880 to 1984* it is possible to analyze the evolution of discourse concerning the health effects of various drugs (Anglin 1985). The papers, primarily from scientific journals such as the Journal of the American Medical Association, were chosen for their reference to cocaine use (Anglin 1985). The annotations are non-evaluative and summarized without comment or editing to maintain the original opinions of the authors. My analysis reveals that by the 1880s, the primary theme of these articles was the promotion of medical cocaine use to alleviate alcohol and medical opiate addiction.

Physiological dependence was seen as a health problem, and new drugs were used in an attempt to alleviate dependence. Many of these articles negatively portray 'addicts'. They describe a concern about the progressive moral degeneration of drug 'addicts' from "selfish, malicious and irresponsible" behavior, to mania, paranoia, delusions, violence and homicidal tendencies (Anglin 1985: 118-119). It is highly noteworthy that this negative moral portrayal of 'addicts' which emerged in these scientific journals near the turn of the century was based on the medical analysis of *medicinal* addictions. In fact, in one study the majority of 'addicted' subjects were doctors (Anglin 1985: 119). Within the medical community, the drugs themselves were coming to be seen as capable of causing moral degeneracy and "homicidal tendencies" because of their 'addictive' capacity. This was the first sign of a scientific redefinition, or problematization of 'addiction' as troublesome in and of itself, regardless of the social status of the user. But these concerns remained, for a time, within the purview of the medical community. It was estimated that nearly one million Americans were addicted to morphine and opium near the turn of the century, and an individual who had become addicted through medicinal use "would have been astounded if anyone intimated that because of his addiction he was a degenerate, a deviate, or a criminal." (Abel 1980: 189) The end of the nineteenth century brought with it a new dichotomy between medicinal and recreational drug and alcohol use.

In Canada, the end of railway construction brought about labor disputes and anti-Chinese sentiment on the west coast in 1907, which led to a Vancouver labor protest that developed into a full scale riot causing substantial property damage in the

Chinese and Japanese districts of the city (Mosher 1999:6). In 1907, Deputy Minister of Labor, MacKenzie King, was dispatched to investigate claims for property damage. Anti-Chinese sentiment, and American and International pressure contributed to King's "Report on the Need for the Suppression of the Opium Traffic in Canada" which recommended opium prohibition. One month later, the Opium Act of 1908 was passed into law (Mosher 1999: 6, Comack 1985: 82). Prison sentences could be imposed only for manufacture or importation for non-medicinal purposes (Mosher 1999: 7). The prohibition of non-medical opiates was aided by vocal reformers who began to redefine their moral impact. "They came to perceive opiates as a menace that destroyed Christian inhibitions, thus exposing man's natural tendency to depravity." (Green 1988: 88) Like their American counterparts, Canadians had formalized their disapproval of 'recreational' drug use, but accidental addiction to medicinal opiates remained both possible and morally blameless.

By the turn of the twentieth century, opiate addiction was on the rise and increasing concern about accidental addiction was becoming ever more evident throughout North America (Parascandola 1995: 160). The rise of the use of patent medicine and 'nostrums' became very problematic since many contained potentially dangerous and addictive substances, yet consumers were unaware of the danger because their ingredients were kept secret (Murray 1988: 74). Through the patent medicine trade, opiates became "especially insidious, as they defied even enlightened people's attempts to protect themselves and robbed them of the judgement which was their main tool as effective citizens." (Acker 1995: 118) Pharmacists and the medical profession were concerned about accidental illness and addiction caused by the trade

in patent medicines and “fought to distinguish themselves from the patent medicine men” who undercut their authority (Murray 1988: 75-76). In an effort to transform medicine into “a powerful and self-regulating profession” doctors attempted to increase their control over the distribution of drugs as well (Acker 1995: 114). Medical education improved, and the American Medical association (AMA) reorganized and began lobbying for changes. What was unfolding was a “substantial institutional reorganization” of the medical profession after the 1900s (Acker 1995: 115). Popular scientific journals became the vehicle for a vigorous campaign against patent medicines that began in 1905 throughout North America (Murray 1988: 79-80). “The popular and rapidly growing trade in patent medicines was a threat to the neophyte professions of pharmacy and medicine.” (Murray 1988: 83) Pharmacists and doctors worked independently in their effort to discredit patent medicine use. Repeated editorials in their respective professional journals defined the problem for their members (Murray 1988: 83). “Patent medicine men were called “quacks” and their wares described as “nostrum evils.” (Murray 1988: 80) Where the regulation of drugs was concerned, “Organized medicine was developing a new scientific identity to form the basis not only of knowledge but of social authority and of ethics.” (Acker 1995: 118)

In order to reduce the number of accidental addictions, the American Pure Food and Drug Act of 1906 stipulated that medicines containing more than a specified amount of opium, morphine, cocaine, heroin, alcohol or cannabis were required to list their ingredients (Abel 1980: 193). The Canadian Proprietary or Patent Medicine Act of 1908 regulated the labeling of patent medicines, as well as restricted

the amount of alcohol that could be used, and banned the use of cocaine altogether (Green 1988: 92). Public attention to the problem grew, and the Parliamentary debates that led to the 1911 Opium and Drug Act were overwhelmingly characterized by moral condemnation toward all 'drug addicts' (Green 1988: 94 Mosher 1999: 9). The Act successfully criminalized the possession, and thereby the consumption of opium, cocaine and morphine without a doctors prescription (Mosher 1999: 9). These new drug laws recognized a growing concern about the "looming menace of drug abuse" through patent medicines, and a dawning realization that middle-classes were "in danger of decadence through overindulgence in drugs." (Abel 1980: 191-192) These laws were a victory for the medical establishment which was in the process of establishing its claims to 'truth' and knowledge of 'addiction' over that of the Patent medicine industry. Equally important for doctors was their claim to 'truth' over individual knowledge of diseases and their cures. The new bacterial models of disease displaced personal statements of healing in favor of medical ones (Acker 1995: 120). The individual was displaced from the center of medical and healing practices. Not only should the individual not believe "the false claims of quacks and nostrum manufacturers, but one should also recognize their inability to diagnose, interpret, and treat their own illness." (Acker 1995: 120) Foucault argues that "we are subjected to truth in the sense in which it is truth that makes the laws" (Foucault 1980b: 94). In the case of medicinal opiate use, it was the scientific 'truth' about its dangerousness and 'addictive' properties, as promoted by doctors and pharmacists, which constituted the acceptability of the regulatory scheme.

In summary, the inadequacies of medical knowledge and practice in the early part of the nineteenth century were conducive to the widespread use of alcohol and opiates as symptomatic relief agents. Industrialization and immigration produced changes which disrupted the social order and created anxiety. American Protestant's and Canadian Christians rose up against alcohol and non-medicinal opiate use; habits considered "antagonistic to the development or functioning of the moral character" (Gusfield 1963: 32). Recreational intoxication was associated with immigrants, degenerates and the lower classes, and laws emerged to regulate the sale of non-medicinal alcohol and opiates. By the turn of the twentieth century, the rise in the consumption of patent medicines and the emergence of the medical and pharmaceutical sciences fostered the conditions necessary for the problematization of all drug use not sanctioned by the medical profession.

Alcohol and 'Drugs': An Expanding Divide

The first decade of the twentieth century saw increased calls for the total suppression of all unfavorable activities (Gusfield 1963: 5, Woodiwiss 1998: 13). Immediately prior to World War I, when the Anti Saloon League launched their national Prohibition campaign, 9 states already had alcohol prohibition laws, 31 states had local option laws, and more than 50 % of American residents were already subject to alcohol regulation (Blocker 1989: 113, McGrew 2002: 12). But, where alcohol was once the enemy of the home, during World War I, it became the enemy of the working man and the war effort. "Literature depicted brewers and licensed retailers as treacherously stabbing American soldiers in the back." (McGrew 2002:

11) It was argued that the manufacture of alcohol was a waste of grain and manpower that was unjustified during wartime. Moreover, it was contended that alcohol consumption was detrimental to worker efficiency (McGrew 2002: 11). “The prohibitionist argument portrayed social conflict and disorder as products of personal and social vices, removable by a stiff dose of state-enforced morality.” (Blocker 1989: 117) World War I, like the Civil War before it, stands out as an important catalyst for creating a socially tense climate in which the use of drugs and alcohol and could be socially constructed as problematic. In the period between 1914 and 1924, during and immediately after the war, sweeping legislative changes occurred in both Canada and the United States that essentially criminalized every intoxicating substance available for non-medicinal use.

Before World War I came to an end, Congress would approve Prohibition, being ratified in all but 3 states by 1918. On October 28, 1919, the National Prohibition Act was enacted (McGrew 2002: 12-13). In Canada, Prohibition also swept through the provinces during World War I. Alcohol Prohibition was enacted provincially throughout Canada from 1915 until 1917, with all but Quebec joining the Prohibition effort (National Archives of Canada 2003: 1). On April Fools Day of 1918, federal prohibition began in Canada, as an Order in Council under the Wartime Measures Act (National Archives of Canada 2003: 1).

Drugs also continued to elicit attention during WWI, with the U.S. passage of the Harrison Act in December 1914. Yet, despite the dawning problematization of addiction, ‘drugs’ could still be legally obtained with a medical prescription in order to prevent withdrawal symptoms. The Harrison act “was never meant to stand in the

way of any addict who wanted to continue using drugs.” (Abel 1980: 196) Many doctors continued to prescribe opiates to prevent withdrawal symptoms, despite mounting pressure from within the medical profession to distance itself from ‘addicts’ (Acker 1995: 121). As a result of the Harrison Act, the Narcotics Division of the International Revenue Bureau was created to keep records and collect ‘drug’ tax revenues. Looking for ways to justify its existence, augment its record-keeping duties and increase funding, the Narcotics Division undertook a wide-scale media campaign denouncing the evils of ‘drugs’ and ‘addiction’ and began an intensive campaign to prevent doctors from treating ‘drug’ users (Abel 1980: 196, Woodiwiss 1998: 16). It became common to read “newspaper headlines and stories in popular magazines about drug evil and drug fiends.” (Parascandola 1995: 160) The judicial reinterpretation of the terms of the Harrison Act has been attributed to the efforts made by the Narcotics Division. Two successive court rulings in 1919 expanded the power of the Harrison Act by requiring doctors to keep records of all prescriptions, and by ruling it unlawful to dispense narcotics for the sole purpose of allaying narcotic withdrawal (Abel 1980: 196). More than three thousand doctors served penitentiary sentences for illegally prescribing ‘drugs’ between 1914 and 1938 (Woodiwiss 1998: 16).

Notably, this flurry of criminalization occurred at a time when criminal justice was punitive and harsh. The North American prison system, which developed in the early 1800’s, was premised on deterrence through extensive use of silence, brutal corporal punishments and solitary confinement (Goff 1999: 69). The classical criminological thinking of the day posited criminal behaviour “as a product of the

free choice of the individual, who first assesses the potential benefits of committing the crime against its potential costs.” (Vold 2002: 9) Once drug use was criminalized, these rationalistic assumptions about criminal behaviour were attached, not only to ‘drugs’ and their use, but ‘addiction’ as well. Addiction could no longer be seen as *accidental*, it became ‘addiction’ - a morally reprehensible, criminal choice. “Contrary to what might be expected, it was changes in the criminal law that brought about this transformation of public attitudes, and not the converse proposition.” (Green 1979: 43) With no legal means of obtaining either ‘drugs’ or alcohol, users and addicts were forced to either abstain or do business with the burgeoning criminal underworld. “The process of legislative revision had created a moral redefinition of drug use” (Mosher 1999: 13). The addict had no choice about physiological dependence on a substance, but the rational choice lay in breaking the law to sustain that dependence. Suddenly ‘addiction’ not only became illegal, but also moved from a purely moral indiscretion to a moral pestilence, a habit of the weak and criminal (Abel 1980: 196). Once ‘drugs’ were legislatively redefined, writers began to characterize ‘addicts’ as “liars who had lost all moral sense” (Acker 1995: 123, 126) Moreover, with criminalization, the price for these illegal ‘drugs’ skyrocketed and addicts were forced to steal to support their cravings. “The legal creation of false scarcity was socially responsible for the self-fulfilling assertion – the...addict as lowly predator.” (Boyd 1884: 130) Furthermore, while existing ‘addicts’ were cut off from their supply, the new atmosphere of responsibility and professionalism within the medical field was such that the only way for someone to become *newly* addicted was to make a conscious criminal choice to use a known ‘addictive’ substance for

‘recreational’ purposes. ‘Addiction,’ which had previously been problematized, was now re-conceptualized. While earlier calls for ‘drug’ prohibition indicated a public concern about ‘recreational’ intoxication, the rise of medical professionalism and World War I created an atmosphere favorable to the total restriction of all ‘addictive’ substances in both Canada and the United States. Due to the new laws, many individuals were forced to recognize themselves as ‘addicts’, a new subjectivity that implied criminality.

However, in order for this argument to pass muster, we must question why the subjectivity about alcohol use did not change despite its criminalization. The widespread use of alcohol, both before and during prohibition offers the most convincing explanation. Many people drank, even during prohibition, yet relatively few could be considered alcoholics. Opiates and their derivatives, on the other hand, had proven particularly easy to become physically reliant on, and far more difficult to withdraw from than alcohol. Furthermore, the campaign undertaken by the Narcotics Bureau following the Harrison Act had popularized the term ‘drugs’ to connote a negative association with narcotics and ‘addiction’. “By the 1920s, some American Pharmacists had become concerned enough about the growing negative connotation of the word drug to urge that steps should be taken to correct the problem.” (Parascandola 1995: 160) By 1922 American pharmacists and druggists appealed to more than 500 newspapers nation-wide, “enlisting their support in an effort to curb the misuse of the word drug in connection with stories involving the illegal use of narcotics.” (Parascandola 1995: 163) Their campaign was unsuccessful and short lived, and their appeals to the media subsided within a few years (Parascandola 1995:

165). Yet, it serves to highlight the expanding perceptual divide between ‘drugs’ and alcohol. In essence, there was far more societal consensus about the ‘evils’ of ‘drug’ use and dependence than there was about alcohol use. By 1919, Canadian Prohibition of alcohol was essentially ended when the Wartime Measures Act was replaced with the more lenient Canada Temperance Act (National Archives of Canada 2003: 1). In the U.S. intolerance for alcohol Prohibition was also mounting. Between 1923 and 1932, liquor offences doubled and American doctors were earning millions of dollars each year from the prescription of whiskey, raking in an estimated \$40 million in 1928 alone (McGrew 2002: 13-14). Thus, with the post-war depression and the decline of an atmosphere conducive to temperance ideology, ‘drugs’ gained their unique status as particularly ‘addictive’ and the only substances worthy of continued prohibition. The focus of antipathy toward ‘recreational’ intoxication was shifting toward ‘drug’ use alone.

In keeping with this shift, many American states adopted anti-marijuana laws. Throughout the 1920’s and 30’s, when support for alcohol Prohibition was steadily declining, all manner of crime and atrocities were being attributed to the use of marijuana. Yet, despite the initial stirring of medical evidence suggesting that marijuana was neither addictive nor harmful, American novelists, the media, the police and the Narcotics Division sensationalized and exaggerated crimes supposedly committed by those under its influence (Abel 1980: 203, 209, 226). However, up until the 1920’s, marijuana was a relatively unknown substance in Canada, and there was no support for American or international calls to ban it (Abel 1980: 232). It was not until Mrs. Emily F. Murphy, the first woman judge in the British empire, was asked

to write about the 'drug' problem for *Maclean's* magazine, that Canada was introduced to American marijuana rhetoric (Abel 1980: 232-233, Mosher 1999: 10). Writing under the name of "Janey Canuck", Murphy gained popular attention with the publication of a series of articles and a book called *The Black Candle*. In keeping with the 'drug' rhetoric of the day, Murphy posited that marijuana caused everything from insanity to violent murderous rages (Mosher 1999: 11). Spurred by Murphy, Canada introduced a proliferation of drug law amendments in the early 1920's. Most notably, marijuana was added to the list of prohibited substances in 1923, along with sweeping police powers to search any premises for 'drugs' without a warrant, and arrest *all* occupants for possession if 'drugs' were found (Mosher 1999: 9-10). The overriding fear of 'drugs' and 'addiction' that formed the basis of Canadian marijuana criminalization is evident in the fact that marijuana was a relatively unknown substance in Canada at the time of its criminalization. The Canadian House of Commons Debate showed that many members had no idea what marijuana was, yet "no opposition members were willing to object to placing the substance in the legislation, given the prevailing sentiments toward illegal drugs in general at the time." (Mosher 1999: 21). "By 1929, the drug user's image had been changed from that of a morally weak, but otherwise benign, individual to that of a fiendish criminal, obsessed with the need to addict others and motivated by lust and greed." (Green 1988: 100)

While fear of 'drugs' and 'addiction' had become entrenched, the post-war depression and the need for jobs and tax revenues facilitated calls for an end to alcohol Prohibition in the United States. In 1933, the 21st Amendment, which

repealed prohibition, was ratified by 37 of 39 states (McGrew 2002: 1, 13, Gusfield 1963: 127). The end of Prohibition brought about a rapid decrease in the popularity of the temperance ideology as issues of status were subordinated to economic concerns (Gusfield 1963: 127). But it also produced a new and specific divide between 'alcohol' and 'drugs.' Whereas alcohol use was once on equal legal and moral footing with 'drug' use, alcohol could no longer be convincingly problematized in light of the massive disruptions caused by Prohibition. Moreover, 'drug' use had come to be seen as more problematic, because of the greater risk of physiological addiction and its negative portrayal by moral reformers, physicians, the police enforcement bureaucracy and the media. A New York Times headline in 1924 read, "One Million Americans Victims of Drug Habit: Alarming Increase of Addicts Called Menace More Dangerous Than War" (Parascandola 1995: 159). This continuing fear of 'drugs' was still evident in the 1930s, when labor conflicts and the economic depression spurred racism against Mexican immigrants accused of spreading the marijuana habit throughout the country (Abel 1980: 200-201). In 1931 it became economically beneficial to repatriate unemployed Mexican laborers, and thousands of Mexicans were shipped home. Resistance was met with harassment, arrests and criminal charges, predominantly for violations of state marijuana laws. Violent protests were attributed to the effects of marijuana which lent further credence to fears about 'drug' use (Abel, 1980: 213).

In 1931, the Federal Bureau of Narcotics was created in place of the Narcotics Division of the International Revenue Bureau, and prohibitionist Harry Anslinger was appointed its first commissioner (Abel 1980: 237). The Bureau, like its predecessor,

used hard-line tactics, endorsing strict enforcement and harsh penalties for ‘drug’ violations in an effort to eradicate ‘addiction.’ By 1933 Anslinger and the Bureau undertook a massive publicity campaign, and were furnishing community groups, organizations and particularly, the media, with sensationalistic stories of alleged atrocities committed by marijuana users (Abel 1980: 239-240). Abel suggests that Anslinger’s approach to marijuana was spurred by the economic depression which led to a \$200,000 Bureau of Narcotics budget cut. In order to justify the Bureau’s existence and bolster support and funding, Anslinger needed to create a terrifying new American ‘drug’ menace, one that he and the Bureau were best suited to resolve (1980: 240). In 1937, The Marihuana Tax Act became law. Media stories and magazine articles comprised the majority of evidence presented to congress in support of a marijuana ban, most of which were based on information formerly provided by Anslinger himself. Moreover, the Bureau of Narcotics’ main medical witness was none other than Anslinger (Abel 1980: 244).

The popular and therapeutic uses of hemp preparations were not categorically prohibited by the provisions of the Marihuana Tax Act of 1937. Yet, unlike the Harrison Act of 1914, which did not aim to curb the possession of opium and morphine, the Marijuana Tax Act was implicitly aimed at controlling marijuana possession. The Act levied a token tax of approximately one dollar on all buyers, sellers, importers, growers, physicians, veterinarians, and any other persons who dealt with marijuana commercially, prescribed it professionally, or possessed it (Solomon 2003: 1). The apparent purpose of the Marihuana Tax Act becomes clear when the penalty provisions for evading the tax are examined. Possession of marijuana without

the appropriate tax stamp (which was troublesome to obtain) would lead to five years' imprisonment and/or a \$2,000 fine (Solomon 2003: 1). By the time this round-about criminalization of marijuana use took place in America, its possession had already been illegal in many States for as many as 20 years, and in Canada for 14 years.

Anslinger and the Narcotics Bureau can receive a fair amount of credit for initiating, or perhaps instigating, the implementation of the 1937 Marihuana Tax Act. In *Moral Panics*, Goode and Ben-Yehuda suggest that the Federal Bureau of Narcotics, led by Harry Anslinger, created a moral panic surrounding marijuana. "The Bureau created a crisis where no basis for it existed" (Goode & Ben-Yehuda 1994: 18). They propose that "the dominant public attitude toward marijuana use was apathy and indifference" (1994: 17, 19-20). However, as previously noted, by the time the Marihuana Tax Act was enforced, marijuana use had already been criminalized throughout most of North America for more than a decade. The literature on narcotics legislation tends to suffer from "instrumentalist Marxist approaches to law" that overstate the influence of "moral entrepreneurs" such as Harry Anslinger (Mosher 1999: 4, Bonnie 1974: 51). To suggest that only one person or one factor was the impetus for any moral regulation is overly simplistic and deterministic. As previously established, a myriad of social, political, and moral factors contributed to the criminalization of 'drug' use. By the time Anslinger's campaign against marijuana got underway, all that was needed to add marijuana to the list of stigmatized substances was to label it a 'drug'. The "panic" that surrounded marijuana can be attributed more significantly to an already present and persistent fear of 'drugs' and 'addiction' than to the single handed efforts made by Harry

Anslinger and the Narcotics Bureau. Rather, “the bureaucracy was a catalyst, translating domestic pressures, external influences, and its own interests into legislation.” (Green 1988: 97) Public acceptance of the dope-fiend mythology was so complete that a vocal opposition to the new laws was absent (Green 1988: 100).

One final objection to the moral panic tradition in relation to marijuana is that it is premised on the assumption that the threat which initiates the panic is unfounded. Hunt advises that “caution should be exercised about the popular concept of ‘moral panics’ since the term tends to imply that the anxiety involved is an over-reaction and thus unjustified.” (Hunt 1999: 514) Goode and Ben-Yehuda describe moral panics as episodes of collective action, where “people have become intensely concerned about a particular issue or perceived threat – which, as measured by concrete indicators, turns out not to be especially damaging.” (Goode & Ben-Yehuda 1994: 4) But the perception of ‘drugs’ and ‘addiction’ as “damaging” was established long before marijuana was problematized. And, indeed, fear of ‘addiction’ was justified, in part because of its physiological symptoms, but also due to the moral and criminal stigma which had come to be associated with ‘drugs’ and ‘addiction.’ Since very little scientific or medical evidence existed chronicling the physiological effects of marijuana, and it was a relatively unknown drug in North America, it was rational to assume that marijuana was every bit as damaging and ‘addictive’ as opium and morphine. While Anslinger and Murphy were instrumental at promoting the fight against marijuana and encouraging legislative revision, the fear surrounding ‘drugs’ and ‘addiction’ was previously and firmly established.

Unlike the previous wars, WWII and the bombing of Pearl Harbor in 1942 diverted attention away from a dwindling prohibitionist idealism and toward an era of calm in the history of 'drug' regulation. The 1940s saw virtually no North American 'drug' legislation of any kind. In part perhaps, because there were virtually no intoxicating substances left to regulate. Perhaps also, because the post-WWII period was not followed by the severe economic depression that had characterized the end of WWI in the 1930s. It has also been suggested that World War II disrupted established 'drug' trade routes and illicit drugs became scarce in the 1940s (Blackwell 1988: 234).

Medical science became increasingly vocal and influential in defining 'drugs' and 'addiction.' In 1944, the first American scientific study on marijuana was conducted by the New York Academy of Medicine, which led to the LaGuardia Report. The report contradicted the media and many of the Bureau of Narcotics' official conclusions about marijuana (Abel 1980: 248-249). Alcoholics Anonymous was also established in the early 1940s, and in 1944, supporters of the organization formed the National Committee for Education on Alcoholism (NCEA) which promoted the view of alcoholism as a treatable disease (Blocker 1989: 141, 148). "The first federal legislative recognition of the disease concept came in a 1947 law providing for the establishment of alcoholism treatment clinics" (Blocker 1989: 151). Not only was the categorization of all 'drugs' as dangerous beginning to be questioned, but the conception of 'addiction' was changing as well. These changes represent the end of the first wave of 'drug' problematization.

‘Drugs’ and ‘Addiction’, Re-conceptualized and Historically Singular.

Using Foucault’s notion of ‘genealogy’, we have uncovered the conditions which brought about the appearance of ‘drugs’ as a “singularity born out of multiple determining elements of which it is not the product, but the effect.” (1997c: 57) In the first wave of drug problematization which spanned more than 100 years, the dominant temperance ethic was one which valued sobriety and self-control and condoned, not only alcohol, but all non-medicinal intoxication, including Chinese opiate, and Mexican marijuana smoking. The assertion of the supremacy of scientific, medical and pharmaceutical knowledge around the turn of the twentieth century was instrumental in the promotion and form of the regulatory scheme. Politics responded with prohibitory laws, and the development of a ‘drug’ bureaucracy, which in turn, created new ethical subjectivities. The utilization of Foucauldian methodology has proffered the means by which we have analyzed how scientific, political and ethical processes intermingled in such a way that ‘drugs’ have become symbolically entwined with ‘addiction’ as defined by the medical establishment, ‘crime’ as defined by politics and law enforcement bureaucracies, and notions of moral and social degeneracy as defined by society in general.

Industrialism and immigration created the social changes and stresses necessary for the rise of the temperance movement and the problematization of intoxicating substances as used by non-Protestant ‘immoral others’. The Civil War, labour conflict, anti-Chinese sentiment and the increasing acceptance of temperance ideals, contributed to the entrenchment of both anti-drug and anti-alcohol sentiment and the emergence of new regulatory rules and apparatuses. It was through the

emergence of Patent medicines, that ‘addiction’ to medicinal drugs was first problematized. Just after the turn of the century, the problematization of ‘addiction’ was formalized in new laws aimed at preventing accidental dependence. Improvements in medical science and fear of ‘addiction’ facilitated the emergence of the medical profession as a social authority in matters of health and ‘drug’ use. Tension surrounding World War I, and the depression that followed it, facilitated sweeping legislative changes that criminalized all alcohol and ‘drug’ use not sanctioned by medical necessity and authority. However, there was far less consensus about the evils of alcohol than there were about the evils of ‘drugs’. Widespread use of alcohol and the prohibitive economic cost of the continued enforcement of Prohibition in the post-war depression contributed to its demise and created a new dichotomy between alcohol and ‘drugs’. The anti-drug campaigns which surrounded the passage of the Harrison Act, and the criminalization of marijuana, contributed to the development of negative stereotypes about ‘drugs’ and ‘addiction’, as well as their historically singularity. By the 1940s, with an exhaustive ‘drug’ regulatory scheme firmly in place, the flurry of ‘drug’ regulation subsided. Politics took a back seat as science became increasingly influential, not only at categorizing drugs, but in redefining addiction as well.

It is apparent that social changes produced social disorder and aggravated an already present moral turpitude and fear of ‘recreational’ intoxication during this first wave of drug problematization. However, arguments suggesting that ‘drug’ regulation was a result of unwarranted fear or a “moral panic” (Goode et al 1994) are unconvincing. What becomes clear is the dominant ideology and the central theme of

the temperance movement – enforced self-control. According to temperance advocates, *any substance* with the capacity to influence behaviour required regulation (Blocker 1989, Bonnie 1974, Gusfield 1963, Harding 1998, Woodiwiss 1998). Our concerns about self-efficacy, as well as the ‘truths’ about ‘drugs’ and ‘addiction’ that developed in the first half of the century, continue to inform our ‘drug’ policies and practices to the present day. But ‘drugs’ and the ways in which we conceive and problematize them are multifaceted and constantly evolving. The next wave of ‘drug’ problematization, discussed in Chapter IV, will reveal how our conceptions and practices surrounding ‘drugs’ have shifted and transformed between 1950 and the present day.

Chapter IV:
THE SECOND WAVE: LIBERALIZATION, THE WAR ON DRUGS, AND
HARM REDUCTION

The second wave of ‘drug’ problematization began in the 1950s, reached its peak in the 1980s with the War on Drugs, and continues into the twenty-first century. Liberal attitudes toward ‘drug’ use emerged with the youth culture of the 1960s. The Vietnam War increased social tension, and ‘drug’ use became symbolic of a youth culture that rejected the prevailing value system. By the 1970s, the discourse on ‘drugs’ had increased exponentially in every sphere. Personal experiences and medical science brought about distinctions between ‘hard’ and ‘soft’ illicit drugs which resulted in continuous debate over the legitimacy of ‘drug’ regulation. Political rhetoric and practice became conflicted, and in some instances, contradictory policies and practices emerged simultaneously. But by the 1980s an influx of new ‘hard drugs’ and conservative politics contributed to the re-problematization of ‘drugs’ and ‘drug dealers’. The rise of youth gangs, violent crime and visible street ‘dealing’ were seen as intimately interconnected by both politicians and society at large. Harsher ‘drug’ regulations, enhanced surveillance and strict law enforcement increased the number of ‘drug’ users who were forced to endure penal sanction. The underlying objective of promoting social cohesion through enforced individual self-control has

persisted throughout the history of ‘drugs’. Medical science was influential in developing mechanisms by which ‘drug’ users could be identified and ‘treated’. Yet even those propositions and mechanisms which were initially formulated to provide an alternative to the harsh law enforcement regime have been appropriated by regulatory apparatuses and transformed to serve prohibitive ends. As we enter the new millenium, ‘harm reduction’ rhetoric abounds, but it has yet to significantly alter the trajectory of drug regulation in North America.

A New Era of Liberalism and Confusion

Despite the initial stirrings of scientific evidence in favor of marijuana use and the apparent lull in prohibitionist activity that characterized the 1940s, America’s passage of the Boggs Act in 1951 allowed for much stiffer penalties for ‘drug’ crimes (Abel 1980: 252). In the 1950s urban physicians began to encounter a new generation of heroin addicts. The age of the average ‘drug’ user had dropped considerably. Heroin addiction had progressed from a disease of middle-aged individuals accidentally addicted in the course of therapy, to a ‘recreational’ habit of the young (Lart 1998: 58-59). Fear of recreational heroin use facilitated the inclusion of Marijuana in the Boggs Act “because of the belief that marihuana was a “stepping stone” to heroin use.” (Abel 1980: 252, Satel 199: 6) Anslinger was quick to take up the ‘stepping stone’ theory, and testified to its validity at the Daniel Committee hearings which led to the inclusion of stiffer penalties for marijuana in the 1956 Narcotic Control Act (Abel 1980: 252-253).

What was different about the 1950s, however, was a break in the prohibitive consensus toward ‘drugs’ that developed and facilitated the explosion of ‘drug’ laws in the first half of the century. Liberal academics took up the challenge of the broad critique of American narcotics policies. “Above all else, the liberal position was an exculpatory one, eschewing notions of blameworthiness and guilt that are central to the criminalization of drug use.” (Bayer 1993: 3) Originating from the development and popularity of Alcoholics Anonymous, an organization whose membership had ballooned to 100,000 by 1951, the emerging view of ‘addiction’ as a disease infused the ‘drug’ debate (Blocker 1989: 141). In academia, deterministic theories of behaviour emerged and arguments for the psychopathological nature of heroin use gained popularity. Sociologists provided liberals with the concept of the ‘drug addict’ as a victim of “blocked opportunity” which justified many liberal social policies (Bayer 1993: 3). Foucault asserts that “we cannot exercise power except through the production of truth.” (Foucault 1980b: 93) In the second half of the twentieth century, new ‘truths’ about the nature of ‘addiction’ increased the power of mental health professionals to influence ‘drug’ regulation. Bayer points out:

“The influence of mental health professionals – psychiatrists, psychologists, and social workers – on liberalism’s perception of drug use cannot be overstated. Not only did they offer to explain discordant behavior in terms that avoided notions of personal guilt, but they also promised a technology of rehabilitation untainted by the brutality of punishment. Thus, the disease concept of addiction provided liberals with a perfect mechanism for achieving the very

corrective ends that law enforcement approaches had failed to attain.” (Bayer 1993: 4)

Once addiction was defined as an expression of an underlying psychological disease, punitive incarceration seemed inappropriate and liberals could propose a range of treatment alternatives (Bayer 1993: 4). However, Bayer’s account portrays psychological and sociological knowledge as unified, and ignores the discordant elements of their views and their wills to power. The prescriptive methods devised in the ‘treatment’ of ‘drug’ users as victims of ‘disease’ arose primarily from *psychological* discourse and practice. The psychological construction of the ‘addict’ as a victim of ‘disease’ lessened the social perception of culpability. However, the treatment regime of ‘Twelve-Step’ programs that emanated from Alcoholics Anonymous continued to emphasize individual ‘self-control’ as the core requirement to maintain abstinence, and thus responsibility for ‘addiction’ remained on the ‘drug’ user (Hunt 1999: 219). Sociologists on the other hand, were emphasizing the impersonal structural factors that contribute to ‘addiction’, and placed the locus of responsibility for preventing or eliminating ‘addiction’ on social and structural institutions (Muncie et al. 1998: xviii). Sociologists, by focusing on the social structure rather than the individual, did not offer the regulatory apparatus any practical means to deal with the ‘addicts’ they were already faced with. So, while sociologists were avoiding notions of personal guilt, psychologists maintained notions of individual accountability for ‘addiction’ and thereby provided a mechanism through which psychologists could embed themselves within the criminal justice processes of

controlling 'drug' users. In this sense, psychologists were the ones which produced the 'truths' that could be most easily incorporated into the existing regulatory 'drug' scheme, thereby increasing their power by supplementing rather than diminishing or threatening the existing prohibitive ideological and structural constraints on 'drug' users.

In the 1960s there was an explosion of attitudes favorable to the use of 'recreational drugs' of all kinds. This spread of casual 'drug' use from a small core of marginal social groups into the overall youth culture was unexpected and outside the experience of criminal justice institutions attempting to deal with it (Musto & Korsmeyer 2002: xv). The sudden escalation in recreational 'drug' use accompanied by the announcement of Commissioner Anslinger's retirement from the Federal Bureau of Narcotics in 1962, opened the way for reconsideration of 'drug' policy (Musto & Korsmeyer 2002: 7). Over the next few years an intense debate developed between traditionalists who advocated punitive enforcement measures, and innovators who favored a new emphasis on public health measures (Musto & Korsmeyer 2002: 6). "The atmosphere was one in which fear and suspicion of drugs and drug users seemed mixed in equal measures with doubts about the real dangers of some of these new substances." (Musto & Korsmeyer 2002: 36) The debate between prohibitionists and liberal reformers centered mainly on three substances: LSD, marijuana, and heroin.

LSD

In the 1950s, LSD (or diethylamide of d-lysergic acid) became a sensation in the scientific world and encouraged an unusual amount of laboratory and clinical research worldwide when it was discovered that “infinitesimally small quantities could profoundly alter mental functioning of otherwise healthy volunteers” (Grof 1994: 3). Researchers around the globe began recommending LSD as an adjunct to psychotherapy, one which could deepen and intensify the therapeutic process (Grof 1994: 3). Open advocacy of LSD by credible scientific and academic interests fueled the rising popularity of ‘recreational’ LSD use by youths (Musto & Korsmeyer 2002: 20). Throughout the 1950’s, research on LSD’s negative potential was also being conducted by the secret police and armed forces of many countries, including the U.S and Canada. Some of the areas that were explored in this context were brainwashing, eliciting of confessions, and nonviolent warfare (Grof 1994: 4). A combination of admonitions and praise about the effects of LSD in the 1950s provoked a massive publicity campaign in the 1960s that aroused nation wide curiosity about the drug (Brecher 1972: 1). Many government statements confused marijuana with LSD, and they were constantly (and mistakenly) bracketed together as hallucinogens. This led people to conclude either, that their effects were similar, or that the LSD warnings lacked credibility, thereby unwittingly encouraging the use of LSD (Brecher 1972: 5). In 1962, the U.S. Congress passed new FDA drug safety regulations that restricted research and designated LSD an experimental drug, and the CIA withdrew its support for above-ground LSD research studies. In 1965, the Drug Abuse Control Amendment further restricted LSD research (Lee 1986: 2-3).

Heroin

In the 1960s “Heroin addiction...seemed an ever increasing threat to public order and public health.” (Musto & Korsmeyer 2002: 3) In 1965 “the United States experienced an influx of heroin from the Golden Triangle of Burma, Laos, and Thailand, fueling an epidemic that peaked in most American cities between 1969 and 1972.” (Satel 1999: 10) By the late 1960s there were an estimated 200,000 American heroin addicts and rates of crime and deaths from overdose increased (Satel 1999: 9, 14). Deaths related to narcotics in New York City doubled in 1967 (Musto & Korsmeyer 2003: 3). “Heroin addiction among servicemen in Vietnam compounded national anxiety about the drug problem, raising the specter of a country inundated with returning soldiers hooked on narcotics.” (Satel 1999: 14) ‘Drug’ users, particularly heroin users, provided a convenient explanation for the rising crime rates of the 1960s. After the relative tranquility of the 1950s, homicide, and property crime began to rise. It was argued that ‘drug’ users, “stole such huge amounts of money and property to pay for their habits that this alone could account for the crime wave.” (Musto & Korsmeyer 2002: xvi)

Marijuana

Prior to the 1960’s, the use of marijuana was primarily confined to minority groups. In fact, there were only 25 convictions for cannabis offences in Canada prior to 1950 (Mosher 1999: 21). But marijuana gained popularity throughout the 1960’s, and by 1969 it was reported that approximately 70 percent of white, middle-class

college students had used cannabis at least once (Abel 1980: 255). Marijuana smoking was no longer the habit of immoral Mexican immigrants. The youth of respectable parents and upstanding citizens began using marijuana. "Increased marijuana use by middle-class youth had begun to appear in the early 1960s, grew dramatically in 1966, and seemed to explode in 1967." (Musto & Korsmeyer 2002: 3) Marijuana's leap from minority groups into the mainstream culture was in part, facilitated by the music world. Many rock icons such as the Beatles and the Rolling Stones openly supported marijuana use, making reference to it in their music. In 1966, Bob Dylan's influential lyrics "Everybody must get stoned" set the credo for the young generation (Sherman et al. 1999: 91). The Vietnam War also introduced millions of young Americans to marijuana, with an estimated 75 percent of the soldiers stationed there smoking the readily available weed (Sherman et al. 1999: 93-94). What had developed was "a drug-using politicized counterculture centered on youthful rebellion that chose cannabis and LSD as the symbols and sacraments of a new faith in personal actualization and rejection of established norms of behavior." (Musto & Korsmeyer 2002: xvi) An arrest for marijuana possession, and the subsequent conviction of Rolling Stone Keith Richard in 1967 raised an outcry in England, with many commentators agreeing that the penalty of 1 year incarceration and a \$1,000 fine was too harsh. His conviction was eventually overturned, but it gained public attention and strengthened the decriminalization and legalization movements throughout Britain and North America (Sherman et al. 1999: 94). "Between about 1965 and 1973, drug experimentation occurred on a massive scale in the United States, and by the mid-1970s these patterns were spreading beyond the

youth counterculture and to upper-and middle-class circles and thus to quite mainstream white society.” (Jenkins 1999: 38)

The increasing popularity of recreational marijuana use created a gap between those who used it without becoming maniacs, and law enforcement interests that believed it had vicious effects. “Youth especially, grew doubtful that drug warnings had any credibility.” (Musto 1973: 236) Himmelstein suggests that the 1960’s mark a “second phase” of the history of marijuana because “ There was no longer any agreement on the dangers of the drug or the legitimacy of criminal sanctions against it.” (1983: 4) Prohibitionists argued that marijuana use was hazardous and a “stepping stone” to heroin use. Yet the extreme depictions of marijuana users that had been repeated since the 1920s were quickly losing credence (Musto & Korsmeyer 2002: 24). “The soaring use of marijuana on college campuses and the ever-present danger that a son or daughter might wind up in prison brought pressure to bear on the nation’s lawmakers’ to reevaluate the marijuana laws.” (Abel 1980: 255) Between 1962 and 1970, several Panels and Commissions on Drug Abuse criticized harsh penalties for marijuana users and rejected the link between marijuana use and criminal behaviour (Abel 1980: 255-256). In 1964, tetrahydrocannabinol or THC was finally discovered as the active psychoactive substance in marijuana (Abel 1980: 261). The classification of marijuana as a narcotic was challenged and Anslinger’s favored “stepping stone” theory was scientifically refuted. “Congress demanded an end to ignorance.” (Abel 1980: 256) Confusion ensued as federal and state interests collided. Although the 1966 amendment to federal law made marijuana violators eligible for parole, and the 1970 Comprehensive Drug Abuse Prevention and Control

Act reduced federal penalties (Himmelstein 1983: 103), between 1965 and 1970 state marijuana arrests increased 1,000 percent (Musto & Korsmeyer 2002: 25).

In January of 1969 when Nixon took office, there was a growing public consensus that existing marijuana laws were too harsh, and dissonance between this emerging public opinion and the governments response was growing (Musto & Korsmeyer 2002: 40). The Nixon constituency, with its more conservative elements, directly implicated 'drugs' in the rise of crime and civil disobedience that had arisen surrounding the Vietnam War. Vigilant action against 'drugs' would be seen as government action against crime and disorder (Musto & Korsmeyer 2002: 41, 60). Special care was taken to draw national attention to narcotics control measures, touting them as a model for solving the crime problem in general (Musto & Korsmeyer 2002: 48). And national attention was made far easier in the 1960s due to the spread of television. Mass media became a central feature of modern life in the 1960s, with 90 percent of American homes owning a television set by 1963, a more than 80 percent increase from just a decade before (Garland 2001: 85).

The official 'War on Drugs' began on July 14, 1969, just one month before marijuana and LSD were widely and openly used by a quarter of a million youth at the renowned 'Woodstock' music festival (Musto & Korsmeyer 2002: 66). In the fall of 1969 the discourse on 'drugs' escalated as reports of drug-related deaths appeared in the media, a massive antiwar protest took place at which marijuana was openly consumed, and a Governors' Conference hosted by President Nixon discussed 'drug abuse' as the main topic (Musto & Korsmeyer 2002: 67). In the 1970's, media and public attention to 'drugs' heightened, and "moral absolutes and unquestionable

prohibitions lost their force and credibility” (Garland 2001: 88). The music world continued to facilitate a growing acceptance of marijuana and LSD, with Bob Dylan, the Grateful Dead, and the Beatles singing about recreational ‘drug’ use (Lee 1986: 3). Political and moral ideology became entangled as “Rejection of the [Vietnam] war became rejection of the entire value system...using drugs was a perfect in-your-face statement of a rebellious young person’s politics and philosophy of life.” (Musto & Korsmeyer 2002: xvii) As ‘drug’ use spread, drug control itself became problematic. Political conflict over ‘drug’ control emerged, and the study of deviance shifted from behavioral questions to a labeling perspective that questioned the power and consequences of official definitions and reactions to deviance (Himmelstein 1983: 9). Studies on the effects of new and dangerous ‘hard drugs’ filled the medical journals, yet there was also speculation about the utility of using law enforcement rather than medical means to deal with ‘drugs’ and ‘addiction’ (Anglin 1985: 87, 88, 175).

In 1970, citing international treaty obligations, the U.S. Comprehensive Drug Abuse Prevention and Control Act invested the attorney general with authority over the reclassification of ‘drugs’ while substantially lowering federal penalties, and allowing probation for first-time marijuana offenders (Abel 1980: 254-255). Yet, even though harsh penalty provisions for marijuana offences were clearly abating, efforts to decriminalize marijuana were rejected outright by Nixon, including recommendations made by the National Commission on Marihuana and Drug Abuse (Musto & Korsmeyer 2002: 115). In September 1972, the Nixon administration denounced ‘drug dealers’ as “slave traders...trafficking in death.” (Woodiwiss 1998: 27) During a press conference in New York City, Nixon underlined his faith in law

enforcement efforts against ‘drug users’ which he described as “public enemy Number One” (Musto & Korsmeyer 2002: 113). During his Presidency, between 1969 and 1972, Nixon ordered an unparalleled expansion of international ‘drug’ control efforts, and authorized the expenditure of approximately \$200 million per year to expedite them (Alexander 1990: 12, Bullington 1998: 109). Reference to increasing recreational ‘drug’ use proliferated in the scientific and medical journals throughout the 1970s, and debate about the negative effects of certain ‘drugs’ abounded (Anglin 1985).

However, the War on Drugs waned in the wake of the Nixon administration, and “scientific opinion, in concert with this widespread unwillingness to condemn all drug use out of hand, supported a more nuanced interpretation of the varying effects and consequences of consumption of various psychoactive substances.” (Musto & Korsmeyer 2002: 141) The explosion of ‘recreational drug use’ in the 1960s introduced Americans to three very different drugs - marijuana, LSD and heroin - which created a cacophony of opinion and policy which lacked any consistent, clear and objective goals. Nixon’s initial War on Drugs promoted a causal link between ‘drugs’ and ‘crime’ and increasingly problematized ‘drug dealers’ as particularly insidious. However, by the time President Ford took office, medical science had become increasingly important in defining ‘addictive’ versus ‘non-addictive’, and safe versus dangerous or ‘hard drugs’ (Anglin 1985). Heroin was coming to be associated with misery, disease and crime; but marijuana (and some believed, LSD) could be used in moderation much the same way as alcohol and therefore should not be allowed to absorb a major share of criminal justice resources (Musto & Korsmeyer

2002: 141). Virtually every state had reduced marijuana possession from a felony to a misdemeanor by 1974 (Himmelstien 1983: 104).

The most important statement on 'drug' policy during the Ford administration was, *The White Paper on Drug Abuse: A Report to the President from the Domestic Council Drug Abuse Task Force*. It represents a pivotal shift in the history of federal 'drug' policy because it is the first public presidential document on 'drugs' to have moved away from the goal of complete eradication in an attempt to accommodate increasing social tolerance of 'drug' use. The report also recognized that different 'drugs' have different effects, and that the dangers posed to 'drug' users were variable (Musto & Korsmeyer 2002: xx, 165). Medical knowledge of the physiological and psychological effects of various 'drugs' was increasing (Anglin 1985) and influencing the academic and political debates. While marijuana was being decriminalized, recognition of the especially insidious effects of heroin use, and the threat of heroin-addicted Vietnam soldiers returning home from the war, encouraged the U.S. government to make a major commitment to the medical management of addiction (Bayer 1993: 19). Federal treatment resources expanded rapidly during the Ford administration, from 300 community 'drug' treatment programs in operation in 1973 to more than 3000 by 1977 (Satel 1999: 15).

LSD, heroin and marijuana each presented science, morality and politics with differing problematizations, questions and practices. By the 1970s, the only unified feature that was characteristic of all the political, moral and scientific 'drug' discourses and practices was strife and inconsistency. The plurality of 'drugs', the multiplicity of institutions which had become embroiled in regulating 'drug' users,

and the plurality of conflicting moralities which motivated social and structural changes from within these institutions makes identifying Foucault's "connections between mechanism of coercion and contents of knowledge" a difficult task (Foucault 1997c: 49-50). But Gusfield reminds us that issues like temperance, or in this case 'drug' regulation, "may seem to generate "irrational" emotions or excessive zeal if we fail to recognize them as symbolic rather than instrumental, pragmatic issues." (Gusfield 1963: 11) By attending to the symbolic nature of 'drug' discourses and practices it is easier to make sense of the various political, moral and scientific connections between knowledge and power. The explosion of 'drug' use in the 1960s symbolized changing social and moral attitudes toward 'drugs' but also toward government in an era of war and social turmoil. Public knowledge was increasingly informed by personal knowledge of 'drugs' and personal experiences with them. Politics and enforcement bureaucracies were well served by maintaining a unified symbolic state disapproval of 'drugs' and their use. History had proven the utility of this approach to 'drugs'. Politicians and law enforcement drew attention away from the breakdown of social consensus about 'drugs' by appealing to fear of crime and social disorder and by connecting this fear to 'drug' use and 'drug dealers'. Scientific knowledges and mechanisms became increasingly diverse in their philosophies and approaches to 'drugs'. Sociologists and criminologists became focused on discrediting and deconstructing the symbolic universalism of the concepts of 'drugs' and criminals that many government institutions were promoting (Muncie et al. 1998: xix). Psychiatric and medical knowledge became increasingly instrumental at scientifically categorizing and individualizing 'drugs' and our perceptions of them.

However, the proliferation and acceptance of psychological ‘treatment’ for ‘addicts’ helped maintain the symbolically universal notion of ‘drugs’ and ‘addiction’. Psychologists benefited by this symbolism because the more substances and behaviours that could be labeled ‘addictive’, the greater the range and scope of psychology and psychological ‘treatments’.

Nixon’s brief War on Drugs, although not the focus of the 1970s, was instrumental at introducing prohibitive ‘drug’ enforcement policy and mechanisms, both at home and abroad, and at perpetuating negative stereotypes of ‘drug dealers’ and emphasizing connections between ‘drug’ use and crime. The Ford and Carter administrations infused the debate by rejecting a purely prohibitionist idealism, but were unable to significantly change ‘drug’ policy and practices to reflect their more liberal philosophy. They did, however, make the distinction between ‘soft’ and ‘hard drugs’ and introduced notions of ‘risk’ and ‘harm reduction’ in the development of ‘drug’ policy. What resulted from the turmoil of the 1960s and 1970s was a breakdown of consensus and fear about recreational ‘drug’ use. While some ‘drugs,’ like heroin, maintained their connection to criminal behaviour and their ability to produce fear, others like marijuana served to shift the fear of ‘drugs’ to a fear about ‘hard drugs’. The two decades between 1960 and 1980 represents an era of change, turmoil, and confusion in our social practices and beliefs, scientific thought, and political action surrounding ‘drugs’. Yet through all of this, the symbolic ability of the concept of ‘drugs’ or ‘drug addicts’ to engender an all encompassing fear of criminality and ‘addiction’ is the same symbolism that pharmacists protested against in the 1920s.

'Drugs' Re-Problematized

In 1976, Jimmy Carter, who was known for his open mindedness on the marijuana issue, was elected, “but over the next four years, the social and political climate gradually shifted as support for marijuana decriminalization evaporated” (Musto & Korsmeyer 2002: 240). In the late 1970s several new recreational ‘hard drugs’ gained popularity. Methamphetamine and PCP gained notoriety during this time, while Amphetamines, Quaaludes and cocaine became integral to the drug-saturated disco scene (Jenkins 1999: 54). A concern about increasing recreational use of ‘hard drugs’ was emerging in the medical journals, and many doctors linked ‘addiction’ to ‘hard drugs’ and criminal or psychotic behaviour (Anglin 1985). Between 1978 and 1980 the public became increasingly intolerant of all ‘drugs.’ A “counter rebellion was brewing among parents who did not want their children growing up in a society that could apply the word “recreational” to any drugs.” (Musto & Korsmeyer 2002: xxi)

In the late 1970s, a decline of manufacturing jobs and the expansion of the technological and service industries left many unskilled rural workers unemployed. “New jobs were created, but they were in the suburbs, leaving unqualified minorities in the inner cities.” (Howell & Decker 1999: 3) These changes particularly effected inner-city black males, many of whom saw ‘drug dealing’ as a lucrative alternative to unemployment (Howell & Decker 1999: 3). “Drug markets provided “work” for displaced workers.” (Howell & Decker 1999: 3) In the 1980s, youth gangs flourished, ‘hard drugs’ and street dealing gained popularity, and violent crime rose. In the public mind, they were intimately intertwined. “The popular image of youth gangs ties them

directly to drugs and violent crime.” (Howell & Decker 1999: 1) In the medical community ‘hard drugs’, particularly cocaine, increasingly became associated with psychopathology and violent behaviour (Anglin 1985: 60, 102, 149). Gusfield argues that “Any item of consumption can assume properties as an indication of the social position of its consumers.” (Gusfield 1963: 24) Through the fears generated by the increase in ‘hard drugs’, all ‘drug’ users and ‘drug dealers’ were increasingly viewed as social outcasts. Prohibiting the increase in ‘hard drug’ use justified the maintenance of marijuana prohibitions, because it was feared that a breakdown in political and legal consensus about the dangers of *some* ‘drugs’ would be equated with a breakdown of moral consensus about *all* ‘drugs’. For many parents, efforts to decriminalize marijuana were perceived as detrimental to the social symbolic functions of ‘drug’ law that aimed to prevent ‘addiction’.

In 1982, President Reagan’s commitment to federal ‘anti-drug’ programs brought about a return to conservative policy initiatives that cost taxpayers approximately \$1 billion dollars in 1982 alone (Bullington 1998: 109). “Reagan would return to a policy reminiscent of Nixon’s adamant rejection of liberalized drug measures and, unlike Nixon, would enjoy the political advantage of a steady decline in drug toleration among the public.” (Musto & Korsmeyer 2002: 241) Youth were encouraged, through government media campaigns, to “just say no” to ‘drugs’. Reagan’s efforts provided support for the increasingly negative public conception of ‘drugs’ and ‘dealers’ at the expense of emerging liberal notions about ‘drugs’ and ‘addicts’ in order to enhance “the prestige and self-esteem of the victors and degrades the culture of the losers.” (Gusfield 1963: 5) The losers in this case being liberal

academics and reformers looking for a more scientifically informed 'drug' policy. Liberal intellectuals lost the capacity to inform both social and criminal justice policy agendas (Bayer 1993: 14).

On the international front, foreign leaders were exhorted to adopt American drug policy initiatives and conservative attitudes toward 'drugs'. American economic support for foreign crop substitution consumed millions of dollars, "and foreign-aid cutoffs and vetos on international bank loans became vehicles for controlling drug policy in foreign countries." (Alexander 1990: 12) On the American home front, 'drug' control policies were based on a "zero tolerance" ideology, thereby allowing even casual 'drug' users to be held accountable for the "drug crisis." (Belenko 1993: 165) Throughout the U. S., a plethora of federal and State 'drug' laws were enacted; many permitting extreme punishments for 'drug' users (Bullington 1998: 110-112). American "state and local drug arrests increased 105% during the 1980-1989 period", with 69% of arrests for marijuana, and more than 75% of those arrested for simple possession (Bullington 1998: 113-114). The War on Drugs during the Reagan years translated into a newly broadened effort to 'control' all levels of use, and a rapid expansion of the 'drug' offender population through ever more restrictive policy (Belenko 1993: 166).

By 1985, some twenty-two million Americans reported having used cocaine at least once, and the emergence of Ecstasy became the "focal point for broader concerns over synthetics and designer drugs." (Jenkins 1999: 55, 89) More importantly however, by 1985, crack cocaine was generating a robust political and media discourse. It "emerged in the midst of an evolving concern about violent crime,

with a conservative Federal government emphasizing a law enforcement approach to social problems, and a growing disenchantment with street drug markets.” (Belenko 1993: 6-7) Scientific studies, discourse and debate about the relationship between ‘drug dealers’, gangs and violence proliferated (Howell & Decker 1999: 5-6). There had already been a growing public concern about the rise of blatant street ‘drug’ traffic in many American communities for two or three years prior to crack’s emergence. However, the introduction of crack cocaine aggravated calls for more police action to eliminate street dealing and rising crime, particularly in impoverished inner-city neighbourhoods (Belenko 1993: 11, Jenkins 1999: 97). The increase in youth gang violence and the rise of the crack epidemic were linked together by the public, “often with implications of cause and effect.” (Howell & Decker 1999: 1) By late 1986 approximately 1000 articles about crack had appeared in print media alone, and the emergence of crack use was labeled the “most fearsome problem in the long American encounter with illegal chemicals.” (Belenko 1993: 25, Jenkins 1999: 95)

In 1986, the presidential election campaign saw politicians trying to surpass one another with concern about, and solutions to, the ‘drug’ problem (Belenko 1993: 6). Anti-drug rhetoric was raised to a new level, and resulted in the Anti-Drug Abuse Act of 1988, which provided a federal death penalty for ‘drug-related’ murders in *every* state (Belenko 1993: 15-16). Many states also enacted local crack laws in the late 1980s, some so punitive (particularly in comparison to penalties for cocaine) that they were struck down as unconstitutional (Belenko 1993: 17-18). “In retrospect, the synthetics scares of the early eighties look like a first draft for the real drug war” (Jenkins 1999: 95). Rising social and scientific concern about ‘hard drugs’, ‘drug

dealers', youth gangs and violent street crime was becoming congruent with political attitudes and encouraged the legislative changes.

In 1989, in his first major televised presidential speech to the United States, George Bush affirmed his commitment to continue the War on Drugs (Alexander 1990: 4). During the 1980s, a total of more than \$20 billion would be spent by the federal government alone (Bullington 1998: 109). The most significant feature of the debate over decriminalization in the late 1980s was the emerging concern about the costs generated by the War on Drugs. The debate shifted from issues of social cohesion to social costs. Cost-benefit analysis and notions of risk infused the debate (Bayer 1993: 17). In an attempt to reduce the cost of the extreme prohibitionist policy of the day, the first North American 'drug' court appeared in Miami Florida in 1989 (Satel 1999: 22). A concern with the social and economic costs of the War on Drugs arose in medical journals as well (Anglin 1985:178).

In the 1980s, Canada also fought the War on Drugs. With initiative coming from the United States, law enforcement comprised Canada's primary solution to 'drugs' (Alexander 1990: xii-xiii, Fischer 1997: 47). Although Prime Minister Trudeau recommended that marijuana be removed from the Criminal Code in 1980, his successor Prime Minister Brian Mulroney was an avid anti-'drug' advocate (Mosher 1999: 33). Canadians are subject to drug laws that allow for cruel and unusual punishment in the prosecution of 'drug' offenders (Alexander 1990: 34). Legislation that came into effect in 1989 expanded previously extensive police powers of search and seizure by allowing police to seize the assets of suspects, even if they have not been charged or convicted (Alexander 1990: 38). Also in keeping with

conservative American anti-drug efforts, there was a Canadian deluge of arrests and convictions for simple 'drug' possession in the 1980s. In 1987, 67 percent of all 'drug' offences were for simple possession, with almost 93 percent of all 'drug' convictions for marijuana (Alexander 1990: 46). Some Canadian government institutions made pronouncements of a principal redirection toward an emphasis on harm reduction in 1987, but those ideological pronouncements have not yet resulted in any significant 'drug' policy changes (Fischer 1997: 49).

For both Canada and the United States, the 1980s were remarkable in several ways. Foremost, for the emergence of a plethora of new 'drugs,' many of which were synthetics that could be manufactured and distributed with relative ease. Others, like crack cocaine became a very visible symbol of social disorder, youth gangs and urban crime. Public and scientific concern about 'drug' use increased significantly. Attendant with this was a return to conservative 'drug' politics that emphasized a law enforcement approach, inflated the cost and scope of criminal justice institutions enormously (particularly in the U.S.), and in doing so, changed the focus of 'drug' policy rhetoric toward cost-benefit analysis and a harm reduction philosophy. Most notable however, was the way in which 'drugs' had been effectively re-problematized in connection with youth gangs and increased violent crime. Foucault tells us that "the work of a history of thought would be to rediscover at the root of these diverse solutions the general form of problematization that made them possible" (1997a: 118). Whereas 'drugs' had originally been problematized primarily in relation their 'addictive' properties, in the 1980s they became ever more socially symbolic of a style of life; a life connected with gangs, violence and a willingness to break the law.

Unlike the Chinese immigrants who were stigmatized for their recreational opiate use near the turn of the nineteenth century, the new ‘drug’ users and ‘dealers’ of the 1980s had consciously *chosen* to take ‘addictive hard drugs’ and to be criminals. It was no longer the uncontrollable effects of the ‘drugs’ that were feared so much as the rampant increase in the willingness of many individuals, and particularly youth, to commit to a criminal lifestyle.

This willingness of ‘drug addicts’ and ‘dealers’ to break the law justified the utilization of increasingly restrictive surveillance measures. By far, the most invasive and all encompassing ‘drug’ surveillance technique, which gained popularity and saw widespread utilization in both Canada and America in the 1980s, was ‘drug’ testing. ‘Drug’ testing has gained general acceptance as a “cure-all” for the ‘drug’ problem. It has become a valuable tool in maintaining the appearance of “accountability and social control” of ‘drug’ users, a theme that permeated the entire ‘drug’ strategy in the 1980s (Belenko 1993: 169). But more than maintaining an appearance, ‘drug’ testing is a mechanism that coerces by means of observation. It is an apparatus which induces the effects of power by making the ‘drug’ user visible (Foucault 1977: 170-171). ‘Drug’ testing is a means of coercion which makes those on whom they are used clearly visible. In many cases, ‘drug’ testing has become a prerequisite to employment, education, housing, sports, as well as social and welfare assistance (Satel 1999:32-37). Most critical, however, is the rapidly growing number of ‘drug’ users that are sent to prison for testing positive on ‘drugs’ tests while on parole or probation. Held out as a deterrent to ‘drug’ use, for all intents and purposes, ‘drug’ testing has primarily served to significantly increase the prison population (Currie

1993: 16). In California alone, “nearly 19,000 people were sent back to prison for drug offenses in 1988 – a number almost equal to the state’s *entire* prison population ten years earlier.” (Currie 1993: 16) When utilized by disciplinary apparatuses such as schools, hospitals and prisons, ‘drug’ testing comprises the most comprehensive and invasive form of surveillance imaginable. Surveillance, has become “one of the great instruments of power at the end of the classical age.” (Foucault 1977: 184) The internal functions and state of the body can be exposed to legal and medical scrutiny, regardless of any objective individual condition or behaviour which may justify such scrutiny. ‘Drug’ testing is a prime example of the way in which the drive to determine ‘risk’ has superseded our right to personal autonomy. More than five million Americans had been urine tested for ‘drugs’ by 1987 (Satel 1999: 37). Foucault suggests that “the analysis [of power] should not concern itself with power at the level of conscious intention or decision...it is a case of studying power at the point, where its intention, if it has one, is completely invested in its real and effective practices.” (Foucault 1980b: 97) The real and effective practice of ‘drug testing’ serves to identify and exclude an entire class of individuals from participation in social life. ‘Drug’ users are perceived as “unable or unwilling to enterprise on their lives or manage their own risk, incapable of exercising responsible self-government” (Rose 2000: 331). This perception of ‘drug’ users is what justifies the use of such invasive surveillance.

In the 1990s, despite the rise in ‘harm reduction’ rhetoric in Canada, the Mulroney administration tabled bill C-85, a modernized version of the Narcotics Control Act containing no ‘harm-reduction’ measures. Without substantial revision, it

provided the basis for subsequent bills, and eventually, the Controlled Drugs and Substances Act of 1996 (Fischer 1997: 50-63). The struggle for genuine 'harm reduction' principles as the basis for a new Canadian 'drug' law had been lost (Fischer 1997: 64). Marijuana smokers continued to take the brunt of Canada's conservative, punitive 'drug' policy, with a 42 percent increase in arrests for simple possession of cannabis between 1991 and 1996 (Mosher 1999: 34).

The picture remained even bleaker in the United States with the advent of the Uniform Controlled Substances Act of 1990. With the intent of promoting 'drug' law uniformity, this act resulted in changes that led to more than 450 new 'drug' laws (Flowers 1990: 199). From the first stirrings of conservative anti-drug rhetoric that emerged with the explosion of recreational 'drug' use in the 1960s, to the all out War on Drugs that persisted into the early 1990s, the American adult 'drug' arrest rate saw an "increase of more than 1500%!" (Bullington 1998: 112) Despite a rising recognition and clamor about the negative consequences and costs of this punitive 'drug' enforcement approach, in 1995, the Clinton administration committed an additional \$15 billion to the War on Drugs (Bullington 1998: 109). Foucault argues that "It is only if we grasp these techniques of power and demonstrate the economic advantages or political utility that derives from them in a given context for specific reasons, that we can understand how these mechanisms come to be effectively incorporated into the social world." (Foucault 1980b: 101) In the 1980s, the War on Drugs provided both economic and political rewards to whomever could offer solutions to the social problems purportedly arising from 'drug' use (Jenkins 1999:

100). Enforcement agencies were particularly likely to reap continued benefits by sustaining the War on Drugs.

“By definition, agencies whose primary mission is the control or suppression of illegal drugs have a vested interest in portraying those substances as threatening and ubiquitous...No drug-enforcement agency is ever likely to present Congress with a statement asserting that the illegal drug menace is under control or largely defeated, as this would invite either a dismantling of the agency or a large reduction of its resources.” (Jenkins 1999: 185)

The political and economic utility of the War on Drugs lay in the possibility of endless budgetary increases, and increased political popularity by maintaining the appearance of being ‘tough on crime’.

The clamor about the economic and social costs of the War on Drugs that arose in the late 1980s did not lead to a reduction in the number of people arrested, or to any substantial changes in the law or enforcement techniques. What it did lead to is the creation of ‘drug’ courts. These courts, as evident by their primary proliferation in California, are an attempt to offset mandatory ‘drug’ sentences and reduce the cost of incarcerating large numbers of ‘drug’ offenders. In the second half of the 1990s a profusion of ‘drug’ courts burst onto the American scene. By 1998 the United States was home to almost 300 ‘drug’ courts which had processed an estimated 90,000 ‘drug’ criminals (Satel 1999: 22). ‘Drug’ courts are touted as more humane because offenders can avoid incarceration. Yet no matter how well intentioned ‘drug’ courts

may be, they primarily amount to a cost-cutting device. 'Drug' users are still criminalized and stigmatized.

Moreover, through 'drug' courts, 'drug' treatment has increasingly come to serve conservative, punitive ends. 'Drug' users can be subject to 'treatment' for long periods against their will (Alexander 1990: 73). Consequently, a debate has arisen in the 'drug' discourse about the utility and effectiveness of 'coerced' treatment. Judges have been given the power to commit 'drug' users to non-consensual 'drug' treatment based on the premise that addiction "interferes with the ability to ensure one's own welfare, respect the safety of others, and discharge responsibilities as a parent, spouse, worker, neighbor, or citizen." (Satel 1999:47). Calls for 'harm reduction' measures have also encouraged anti-'drug' advocates to include alcohol statistics in 'substance abuse' reports. By overemphasizing the harms caused by this new category of 'drugs' (which covertly includes alcohol), the escalation of the use of surveillance (drug testing) and coercion (forced treatment) against 'drug' users has been bolstered. Garland suggests that "the rehabilitative possibilities of criminal justice measures are routinely subordinated to other penal goals, particularly retribution, incapacitation, and the management of risk." (Garland 2001: 8) In other words, regardless of the philosophy that animates 'drug' regulation, penal goals and practices remain conservative and prohibitive. Despite the emergence of a 'harm reduction' ideology, the absolutist principles that formed the basis of 'drug' prohibition in the early part of the century were alive and well in the later part as well (Jenkins 1999: 195). Many of the mechanisms, technologies and practices of 'drug' regulators that flourished at the end of the twentieth century, such as 'drug' courts,

coercive 'drug' treatment and 'drug' testing, while sometimes infused with 'harm reduction' philosophy, continued to function to promote a conservative prohibitionist morality.

Compared to the United States, Canada's 'drug' enforcement efforts and expenditures seem relatively innocuous. In 2002 the annual cost of drug enforcement in Canada was approximately \$850 million (Nolan & Kenny 2002: 25-26). Nevertheless, even in 2002, Canadian police were reporting over 90,000 'drug' crimes annually, with more than 50% of these incidents involving the simple possession of marijuana (Nolan & Kenny 2002: 26). Some members of government, such as Health and Welfare Canada and the Senate Special Committee on Illegal Drugs, advocate 'harm reduction' measures, and have recognized that prohibition of specific 'drugs' is not based on any realistic assessments of the risk, rather they obscure "the effects of the drugs most responsible for public health problems, alcohol, nicotine, caffeine, and prescription medications." (Beauchesne 1997: 33, Nolan & Kenny 2002: 47) However, even though the Senate report advocates a harm reduction strategy for drug policy, it recognizes that "harm reduction is the subject of much controversy and criticism because it is based on the premise that use of drugs is a social reality." (Nolan & Kenny 2002: 27) In other words, the Senate report recognizes that a totally 'drug' abstinent society is an ideological construct which will never manifest itself regardless of the degree of economic resources, prohibitionist policy and rhetoric the 'drug' issue is infused with. This recognition has arisen through the problematization of criminal justice in relation to 'drugs' and the overwhelming expansion of 'drug' regulation in the last quarter century. The

acceptance of ‘drug’ use as a social reality constitutes a new mode ‘thought’ about criminal justice, and its relation to ‘drugs’. However, this new mode of thought, and the harm reduction rhetoric it has fostered, while infusing the debate, has not resulted in any considerable utilitarian policy changes.

Enforcing Self-Control

Gusfield argues that “As we have changed from a commercial society to an industrial one, we have developed a new set of values in which self-control, impulse renunciation, discipline, and sobriety are no longer hallowed virtues.” (Gusfield 1963: 8) Admittedly, our drinking patterns and our social constructions of alcohol use have changed. “The contemporary American is less likely than his nineteenth-century ancestor to be either a total abstainer or a hard drinker. Moderation is his drinking watchword.” (Gusfield 1963: 9) However, in order for an individual to remain in the realm of socially acceptable drinking practices, the exercise of moderation continues to necessitate self-control and impulse renunciation. As previously noted, coercive ‘drug’ treatment, ‘drug’ testing and ‘drug’ courts continue to be based on the premise that addiction “impairs participation in a free society” by interfering with the ability to fulfill parental, familial, social, and employment obligations (Satel 1999: 44, 47). The ideology of the early 1900s that was premised on a “specific vision of man’s character” has not changed as Gusfield suggests ‘Drugs’ have continued to be regulated precisely because socially and politically, North Americans are *still* concerned with “self-mastery, industry, and moral consistency.” (Gusfield 1963: 31)

The explosion of recreational ‘drug’ use in the 1960s and 1970s did indeed fly in the face of the prohibitive beliefs and restrictions of the previous era. But what resulted was not an entirely new set of middle-class values, but rather mass confusion and conflicting ideologies in the 1970s and a re-problematization of ‘hard drugs’ and ‘drug dealers’ in the 1980s. The second wave of ‘drug’ problematization was fueled by tensions and social disorder that arose with the Vietnam War, and the emergence of a youth culture bearing attitudes favorable to recreational ‘drug’ use. Personal experiences with ‘drugs’ conflicted with the political anti-drug rhetoric about them. The proliferation of three very different ‘drugs’, LSD, marijuana and heroin, led to a myriad of conflicted policy and practice. The fear of ‘hard drugs’, particularly heroin because of its ‘addictive’ capacity, permitted Nixon to initiate the tentative beginnings of what would become an all out War on Drugs by the 1980s. The proliferation of new substances whose effects were varied and relatively unknown in the mid-eighties also played a significant role as synthetics made production and distribution of new designer ‘drugs’ easier, yet harder to regulate. ‘Drugs’ that were perceived as more ‘addictive’ and both personally and socially destructive, such as crack cocaine, also emerged. In many neighborhoods crack houses, street dealing and the rise of youth gangs made the link between ‘crime’ and ‘drugs’ become visible and tangible. Particularly in the American psyche, youth gangs and violence became inextricably intertwined with ‘drugs’ and ‘drug dealers’. The various social and political discourses of the 1980s effected a re-problematization of ‘drugs’ and ‘drug dealers’ despite the tentative emergence of harm reduction rhetoric. Mental health professionals benefited from the expansion of psychological ‘treatments’ for ‘drug’

users while sociological ‘drug’ solutions became less influential. However, the War on Drugs turned out to be more of a war on marijuana. Fear of ‘drug dealers’ and ‘hard drugs’ manifested itself in the widespread prosecution of the ‘soft drug’ users that had generated the least amount of fear. The dawning realization of the social and economic effects and costs of the War on Drugs have changed the direction of ‘drug’ rhetoric to a philosophy of ‘harm reduction’ and a focus on ‘risk’ and cost-benefit analysis. The criminal justice system itself has been problematized in relation to ‘drugs’. However, none of these events have substantially changed the direction of ‘drug’ policy and regulation away from the use of widespread surveillance, enforcement, coercive treatments or harsh punishments. We persist in our efforts to induce and regulate self-control.

Conclusion:

ASSUMPTIONS, 'PROBLEMATIZATIONS' AND SOLUTIONS

Although alcohol prohibition is not my concern, Gusfield's analysis of the temperance movement is integral in emphasizing how industrialization and immigration disrupted drinking practices and the norms that regulated intoxication. Alcohol was problematized as addictive and evil. Diverse solutions were adopted in response, particularly, the rise of the temperance movement and the promotion of self-control through abstinence. This theme of self control is also at the heart of 'drug' problematization. The Civil War highlighted the addictive properties of opiates, but their necessity for symptomatic relief of illness and injury allowed medicinal and medical opiate use to remain unproblematized. Chinese opium smoking, on the other hand, was viewed as a recreational habit with no medical justification. Both Canada and The U.S. restricted opiates to medical and medicinal use before the turn of the twentieth century, thus 'recreational' drug use had been problematized and regulated. Medicinal drug use remained unproblematized until the widespread use of patent medicines ignited concerns by the neophyte medical and pharmaceutical professions. Accidental 'addiction' was the focus of concern. World War I created the social disruption and tension necessary for medical and prohibitionist arguments and solutions to win widespread acceptance. The non-

medical use of every available intoxicating, addictive substance was criminalized during and immediately after World War I. Once criminalized, 'drug' use and 'addiction' took on a whole new meaning and gained their historical singularity. 'Drug addicts' were cut off from their supply and had only two choices: withdrawal or criminality. 'Addicts' who chose criminality were seen as weak willed and morally bankrupt. But *new* 'drug' users were particularly blameworthy and insidious because they consciously chose to risk criminality and 'addiction' *after* the risks were known and criminal sanctions in place. Within a decade of criminalization, the word 'drugs' became symbolic of negative stereotypes about recreational, illegal narcotic 'drug' use and 'addiction'. The end of alcohol Prohibition facilitated an increasing divide between conceptions of alcohol and 'drug' users and their relation to 'addiction'. As alcohol Prohibition lost favor and was repealed, racial tensions and the increase of marijuana smoking by Mexican immigrants during the post-war depression further stigmatized 'drug' use and users.

The 1940s and 1950s lacked many of the contingencies which fostered the problematization and regulation of 'drugs'. The flurry of 'drug' discourse and regulation, at both the beginning and the end of the twentieth century were marked by increases in 'drug' use, and war followed by economic recession. I hesitate to say that war causes increased 'drug' use, that would require research of a different sort. Rather, just that the combination of the stresses of war and increased drug use stimulates problematizations and prohibitions. Hunt recognizes, that "we can afford to have some confidence when we encounter the presence of groupings or configurations of anxieties that manifest themselves in more or less concerted

preoccupations with specific social problems.” (Hunt 1999: 522) Such is the case with the combination of anxieties about increased drug use, ‘addiction’ and war. ‘Anxiety theory’ has aided in our understanding of ‘drug’ regulation by emphasizing the elevated states of social anxiety which elicited varying degrees of social and political responses to ‘drugs’ and ‘addiction’ at various times. Thus, ‘drugs’ are not regulated simply because they may pose a danger to their users, but because our anxieties about them are fluctuating and dynamic, susceptible to intrusion and inclusion with other social anxieties, and social and historical changes. The elevated social disorder and stress surrounding the wars, as well as the economic recessions which followed them, stand out as principal means by which concerns about increases (either real or perceived) in ‘addiction’ and recreational intoxication could come to be expressed and acted upon. War and economic recession as a constituent in the emergence or escalation of ‘drug’ rhetoric and policy also helps to explain why Canada has generally been far more lenient toward alcohol and ‘drug’ users. Relative to America, Canada has had minimal involvement with these wars.

In the 1960s and 1970s, recreational ‘drug’ use soared, and the Vietnam War increased social tensions and dissonance, setting the stage for the second wave of ‘drug’ discourse and rhetoric and the eventual re-problematization of ‘drugs’. Many social, scientific and political constituents began making distinctions between the dangers and the effects of the most popular recreational drugs, LSD, marijuana and heroin. What resulted was confused and conflicted ideologies, policies and practices. ‘Drugs’ became divided into ‘hard’ and ‘soft’ categories. The increase in recreational use of ‘hard drugs’ increased fears about ‘addiction’. When a whole new breed of

'hard' recreational 'drugs' gained popularity in the 1980s, prohibitionist attitudes and policies gained renewed popularity. Political discourse and practices increasingly stigmatized and penalized 'drug' users and 'dealers'. Psychological explanations and 'treatments' of 'addiction' fostered a continued focus on the personal accountability of 'drug' users and 'addicts'. The symbolic import of the maintenance of 'drug' prohibition is based on our fears of 'addiction' and the loss of self-control. Gusfield's attention to the 'symbolic function' of law has also been useful in interpreting the initial and continued criminalization of 'drugs'. The condemnation and criminalization of 'drug' users, particularly 'hard drug' users, both historically and presently, is based on their willingness to forego "the continuous and systematic triumph of Reason over Desire in the desideratum of character." (Gusfield 1963: 31) Our fears about the loss of self-control and productivity, particularly in relation to our children, are so deeply ingrained in the 'drug' issue that at times they seem inseparable. Our 'drug' practices symbolically reflect these fears (Gusfield 1963, Alexander 1990). These fears are evident in our regulatory mechanisms, such as the development and use of 'risk' assessments. Rather than classifying 'drugs' and their users based on some objective scale of harm, risk assessments have universally classified all 'drugs' and 'drug' users as a 'risk'.

Particularly since the War on Drugs in the 1980s, many social, scientific, and to a lesser extent, political interests have voiced concern about the lack of political or legal discrimination between various 'drugs' and their effects, giving rise to a discourse and debate about harm reduction. However, efforts to reduce harm seem meaningless if we are unwilling to distinguish between the various risks 'drugs' pose,

and devise a method for making comparisons between 'drug' use and other social risks. North American policy maintains its 'singular' perception of the 'risk' posed by 'drug' use, not only in order to regulate and criminalize all 'drug' users, but to actively seek them out through intrusive surveillance mechanisms which have invaded every aspect of our social sphere. This type of surveillance is not qualified by reference to either individual behavior or social harm, but rather by the fear of this unqualified 'risk'. Moreover, the all encompassing perception of the risks posed by 'drug' use "obscures the effects of the drugs most responsible for public health problems, alcohol, nicotine, caffeine, and prescription medications." (Beauchesne 1997: 33)

Foucault's methodology has proved exceedingly useful at highlighting the various ways in which we have problematized 'drugs', 'drug' users, and 'addiction' over the last one hundred and fifty years. Through the utilization of Foucault's methodology, we have unearthed how drug criminalization arose from the medical problematization of patent medicines and 'addiction' in the first half of the twentieth century, resulting in a unified conception - an historically singular perception - of 'drugs', as particularly 'addictive' illegal narcotics, capable of destroying self-control and of inducing immoral and criminal behaviour. In the later half of the twentieth century, the use of Foucault's methodology made it possible to uncover how 'drugs' were re-problematized in connection with increases in 'hard drug' use, youth gangs and violent street crime. The re-problematization of 'drug' use and 'addiction' contributed to the proliferation of harsher regulations and a rapid increase in enforcement, as well as increased use of regulatory mechanisms devised by the

sciences, such as 'risk' assessments, drug testing and drug treatment. Foucault's methods have made it possible to see how 'drugs' have been problematized in various ways, at various times, by various forces. Foucault argues that the different solutions that arise in response to any problem are shaped by the ways in which we 'problematize' the issue in the first place. Thus, it is my hope that this thesis encourages a reconsideration of why 'drugs' have been problematized as universally 'addictive', antagonistic to self-governance and social functioning, and capable of causing criminality. Until these assumptions are more thoroughly scrutinized, solutions such as 'harm reduction' will continue to be subordinated to prohibitive means and ends.

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