

A Critical Study on Drug Trafficking in India

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ABSTRACT

Drug abuse is an age old phenomenon traditionally viewed as a form of victimless crime as drug abusers often face stigmatization from the society and the legal structures which in turn impacts their welfare and health.. In India, Narcotic Drugs and Psychotropic Substances Act, (NDPS) 1985 criminalizes trafficking, storage and consumption of drugs making the drug abuser a victim to the drug and an offender against law. Like in case of any other offense, police are the first point of contact. After being booked under the NDPS Act, the victims (offenders) are produced in court and are released on bail or with minimum imprisonment. The increase in prison population of drug abusers, the recidivism rates of people being booked under NDPS cases and the case load of cases on the police indicates the failure of criminalizing a drug abuser as a solution to the issue of drug addiction. However recent neo-liberal criminologists are attempting to shift this view of drug abuse being a form of victimless crime by delving into the manifestations of neglect, death and killing associated with drug addiction to explain immediate, peripheral and secondary harm to not justify the shift. This paper intends to counter this by highlighting the disadvantages of criminalization of drug abusers and stresses on an alternative stand of viewing them as victims of drug abuse. It also intends to focus on rehabilitation of the victims of drug abuse as a way towards “demand reduction” of drugs with the help of the law enforcement agency i.e. the police as also envisioned by the NDPS act. The paper traverses the criminological theories from psychological to rational choice and supports the argument with an ongoing intervention model of the law enforcement agencies with community, victims and offenders.

KEY WORDS

Drug, Drug Trafficking, Psychotropic Substances, Narcotics, Addiction

INTRODUCTION

Drug abuse is a social evil. Narcotics and other dependence producing substances have been used in the world in one form or another since times immemorial. Likewise trading in these substances has been carried on over a considerable period of time. Narcotic came into across the board use in Western medicinal work on amid the last piece of the nineteenth century. They had in their unrefined structure, been known for the supposed advantageous impacts for quite a long time and had been widely utilized, both remedially and non-restoratively, for their quieting, inebriating and assumed healing properties.¹ However, presentation of these drugs in the blink of an eye prompted their maltreatment. Thinking back, we can remember that the someone who is addicted of the Chinese Government in 1800 AD disallowing import of opium as it comprised a risk to the wellbeing of the Chinese individuals brought about the notorious Opium War for the sake of right of unhindered commerce. European forces sorted out gigantic pirating of the substance into China which was opposed by the Chinese bringing about the Opium War. Similarly as any infection, utilization of drugs and drug dealing knows no bonds or confinements.²

CLASSIFICATION OF DRUGS

Drugs can be grouped based on their consequences for human framework or better on the psyche of an individual. The impacts can be sedation, incitement or fantasy. Be that as it may, when the drugs under sedation

¹Renberg, Bertil, *International Control of Narcotic Law and Contemporary Problems* 86 Vol.22, (I.K Publication New York 2nd edition 1957).

²Drug Law Enforcement Training Compendium, Vol.1, Narcotics Control Bureau, India.

are depicted in two separate classifications of Narcotics and depressants, it makes a reasonable image of the domain of drugs misuse. It is because of the reason that Narcotics have their own recorded significance, which makes them a classification separated from other comparable drugs to be managed as depressants. In this way, drugs can be ordered in four classifications, for example, Narcotics, depressants, stimulants and drugs. Drugs under classification psychedelic drug for the most part cause mental reliance, where different classes of drugs cause both sort of extreme reliance:

- **Narcotic**
 - (a) **Opium**
 - (b) **Heroin**
 - (c) **Morphine**
 - (d) **Synthetic Narcotics.**
- **Depressants Drugs**
- **Stimulants Drugs**
- **Methylphenidate**
- **Pemoline**
- **Cocaine**

DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988.

The expansive authoritative approach component in this issue is contained in three Central Acts, viz. Drugs and Cosmetics Act, 1940, The Narcotic Drugs and Psychotropic Substances Act, 1985, and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. The duty of drug misuse control, which is a focal capacity, is brought out through various Ministers, Departments and Organizations. These incorporate Ministry of Finance, Department of Revenue which is having the nodal co-appointment job as overseers of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act). The Narcotic Drugs and Psychotropic Substances Act, 1985 which became effective from the fourteenth November, 1985 made an express arrangement for comprising a focal expert to practice the forces and elements of the focal government under the Act. In exercise of the forces, the "Narcotic Control Bureau" was comprised with central station at Delhi with impact from the seventeenth March, 1986. The authority, subject to the supervision and control of the focal government, practices the forces and capacity of the focal government. ³

DRUGS ABUSE IN INDIA

India has long history of maltreatment drug like cannabis and opium. There are various references to the pleasurable utilization of cannabis in the writing of India, where utilization of the plant for its psychedelic properties, and in fact .still is, entrenched. The-most punctual reference to psychoactive impacts of cannabis shows up in the Atharva Veda said to have been composed around 2000 BC. In the mid 20'h century the British specialists reasoned that the utilization of cannabis in India was such a fundamental piece of the general population's life that it couldn't and ought not be precluded. No extra dimension studies on the degree of drug misuse have been done when freedom. In this manner, no hard information on the degree of drug misuse is accessible to discover the degree of drug misuse issue in India. Without an across the country overview, we need to depend upon test studies of the all inclusive community or sub-gatherings, so as to decide the degree of drug misuse issue.

³Drug Law Enforcement Training Compendium, Vol.1, Narcotics Control Bureau, India.

JUDICIAL APPROACH ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Section V of the NDPS Act manages the system to be received by the authorization experts with the end goal of this demonstration considering the reality combined with the gravity of the offense and thorough discipline. So as to guarantee that drugs are not planted, and in perspective on the inborn idea of offenses, the demonstration gives certain uncommon system in regard of passage, hunt, seizure and capture under the demonstration. The targets of these arrangements are to guarantee that people are just sought with great aim and furthermore so as to keep up veracity and genuineness of proof got from such pursuit: The researching office must pursue the technique as visualized by the Act conscientiously and the inability to do as such should be seen by the higher specialists truly welcoming activity against authority concerned.

HEMP DRUGS COMMISSION

Reacting to an inquiry posed in the place of hall in regards to the arrangement of a Commission to enquire into the generation and utilization of hemp-tranquilizes in India, Secretary of State for India communicated his eagerness to demand the Government of India to delegate a Commission to enquire into the development of the hemp plant in Bengal, the planning of drugs from it, the exchange those drugs, the impact of their utilization upon the social and good state of the general population, and the craving capacity of disallowing the development of the plant and the clearance of ganja and partnered drugs. As needs be, the Government of India selected a Hemp Drugs Commission in the year 1893.⁴ The Hemp Drug Commission expressed in their report that wild development of hemp plants was pervasive all through the Himalayas from Kashmir to the extraordinary east of Assam. It reaches out down the southern inclines of the mountains, and into the Punjab and Ganges fields to a restricted separation⁵

POWER OF THE MAGISTRATE TO ISSUE SEARCH WARRANTS

There are no express necessities in the Section for the Magistrate to record reasons of his said conviction. However, this capacity being a legal one, it essentially pursues as a result that there must be some material on the record from which it very well may be perceived that the Magistrate has connected his legal personality before issuing the court orders. The Hon'ble Supreme Court of India in the event that *V. S. Kuttan Pillai v. Ramakrishnan*⁶ saw that:

"Issuance of a court order is a genuine issue and it would be prudent not to discard an application for court order in a mechanical manner by a succinct request. Issue of court order being in the prudence of the Magistrate it is sensible to expect of the Magistrate to give reasons which influenced his tact for conceding his solicitation. A projection use of psyche by the scholarly Magistrate must be detectable in the request conceded the court order."

ADDICTION OF DRUGS AMONG PEOPLE.

Chronic drug use, additionally called substance use issue, is an illness that influences an individual's mind and conduct and prompts a failure to control the utilization of a legitimate or illicit medication or medicine. Substances, for example, liquor, weed and nicotine likewise are viewed as medications. When you're dependent, you may keep utilizing the medication regardless of the damage it causes.

⁴ Report of the Indian Hemp Commission 1893-94 Simla 1894

⁵ Report of the Indian Hemp Commission 1893-94.

⁶ AIR 1980 SC 185

Symptoms

- Illicit drug use indications or practices incorporate, among others:
- Feeling that you need to utilize the medication normally — day by day or even a few times each day
- Having serious inclinations for the medication that shut out some other considerations
- After some time, requiring a greater amount of the medication to get a similar impact
- Taking bigger measures of the medication over a more extended timeframe than you expected
- Verifying that you keep up a supply of the medication

Legal issues

Verifiably, substance use issue has been seen as a wrongdoing instead of an interminable malady. While a few medications like liquor, tobacco, and physician endorsed medications are viewed as licit (or lawful), numerous regularly abused medications are unlawful, or illicit to buy. In this way, screening populaces for substance use issue is joined by different legitimate ramifications and raises moral concerns. Government law secures data about people's substance abuse. The Confidentiality of Alcohol and Drug Abuse Patient Records guideline gives statutory expert to the secrecy of patient records. This urges individuals to look for treatment given they won't be oppressed in their future undertakings. State law may likewise give insurance of therapeutic and psychological well-being data. The dimension of insurance fluctuates by state.

Ethical Issues

Medication misuse is both an individual and an open issue, bringing up issues about individual rights and the limits of law, just as about national power and global control. Moral issues that emerge under these headings might be identified with certain wide moral positions. The ramifications of embracing utilitarian suspicions might be appeared differently in relation to putting together morals with respect to a hypothesis of individual rights, firmly identified with a hypothesis of human instinct. Neither one of the positions legitimizes a libertarian assumption against control, for, initial, an individual choice to uncover one's brain and character to the control of medications can't be morally advocated and, second, there are no moral reasons, nor any convincing contentions from social and political hypothesis, for decriminalizing non-therapeutic medication use.

Effect of Drugs

- Psychological Effects
- Physical Effects .
- Withdrawal Symptoms
- Dose Effects
- Dependency
- Hallucinations

CONCLUSION

As of late, India is confronting a noteworthy issue with the illegal utilization of drug, sedate dealing, devouring, etc. Thusly, the Narcotic Drugs and Psychotropic Substances Act, 1985 is sanctioned. This Act gives improved and stringent punishments to the offenses identifying with opiate drugs and psychotropic substances. Yet, these violations are always expanding among all classes of the general public. Hence, the sole point of this examination is that to discover the conventional answer on it.

Drug misuse is a social shrewdness. Narcotic and other reliance creating substances have been utilized on the planet in some structure since times prehistoric. In like manner exchanging these substances has been carried on over an extensive timeframe. Opiate drugs and psychotropic substances have been viewed as one of the most exceedingly awful foes of the people through hundreds of years and keep on being respected so in this logical and innovative age. Drug misuse and drug dealing as an overall marvel has turned into a pandemic which

influences the financial arrangement of State and ruins the framework and is additionally unsafe to the fate of humanity. The illicit dealing and maltreatment of these drugs is on the expansion at disturbing rate. On the off chance that the man's reliance on these substances isn't checked, it will deliver extraordinary debacle for the present and who and what is to come.

Drug misuse has turned into the most significant issue for individual as well as for the family and society. The illegal cash which is produced by drug dealing empowers the fear mongering. The fear monger gatherings used that cash in buying the weapons and to help the psychological militant exercises. It not just influences the financial arrangements of the State yet additionally obliterate the fate of the nation.

RECOMMENDATIONS

1. It is fundamental that the arrangements in the NDPS Act recommending sentences requires a crisp look based on condemning technique. A tolerant sentence does not constantly address the issues of equity.
2. To build up uncommon courts in each state immediately, the state is under a protected command to guarantee fast preliminary. Subsequently, compulsory arrangements ought to be fused for the making of proper number of uncommon courts in each condition of the nation immediately.
3. To set up a Drug Court to deal with cases including less genuine drug utilizing guilty parties through a supervision of treatment program. The dependence treatment ought to be required so drug fiend and alcoholics will be given a chance of treatment with no dread of capture and it ought to be set up in each tahsil level.
4. To set up an administrative medical clinic joined with extraordinary court and the habit treatment ought to be required so the drug addicts and heavy drinkers will be given a chance of treatment with no dread of capture.
5. To change the arrangement of examination, it ought to be led and finished by one researching officer just as satisfactory supply of units, fast disbursal and preparing are basic for successful utilization of packs.

