

CHILDREN UNDER THE INFLUENCE OF NARCOTIC DRUGS WITH SPECIAL REFERENCE TO NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, ACT, 1985: A REVIEW ON DRUG ADDICTION AND ABUSE IN INDIA

Prof. (Dr.) S.P.S Shekhawat^a, Shivina Rathore^b

^aHead and Dean, Faculty of Law, Jagannath University, Jaipur, 302022, Rajasthan, India

^bResearch Scholar, Faculty of Law, Jagannath University, Jaipur, 302022, Rajasthan, India

drspsshekhawat@gmail.com, shivina_j@hotmail.com

ABSTRACT: Transportation of illegal substances proves to be a major issue for vulnerable sections especially juveniles belonging to the urban as well as rural areas, working children, neglected, abandoned, runaway, trafficked and children belonging to different cultural and political fields. Substance Use Disorders is increasing among youth. The truth is, that there is no adequate effective mechanism for regulation of illegal substances and its use among youth.

This paper deals with factors related to juvenile drug users, problems of drug abuse, social as well as the legal implications, reasons for their addiction, drug dealing, involvement in dangerous drug trades, juvenile homes and treatment and further, who are identified as addicts along with recognising the pattern of drug dependence. The paper also highlights detailed analysis of preferences, family backgrounds, several social, environment related and other economic elements. The problem must be solved in a timely effective manner otherwise, it will have significant socio, political, cultural and economic adverse effects.

The Objective of the Justice imparting set-up is to deal with the challenges of the dangerous problem of drug addiction and abuse among children which hampers their physical, psychological, social, mental growth and to take effective steps to implement various policies, schemes, laws, child welfare guidelines with further concentration on the genetic dynamics correlations, psychosocial, socio legal and economic influences in India.

Keywords: Children, Drug Addiction and Abuse, Environmental Health Risk Factors, Substance Use Disorders

1. INTRODUCTION

A drug can be defined as a substance or a chemical when inhaled, injected, smoked, consumed or absorbed gives a pleasant or exciting feelings which causes a temporary biological effect or physiological change in the body. Narcotic Drug refers to substances that affect the mind, reduces pain and helps in sleep but high dosage results into loss of consciousness and other major disorders. It is a prohibited substance which is used in contravention to the legal rules and regulations such as heroin, cocaine and other illicit drugs.

Narcotic Drugs used by the children including juveniles, such as tobacco, alcohol, marijuana are taken as an inhalant substance. Teenage children mostly use synthetic marijuana.

Following are the categories of certain drugs used such as:-

- The prescription based and OTP drug which involves amphetamines, prescribed painkillers, strong cough medicine, risky sedatives and other tranquilizers.
- Cannabis, Hallucinogens, MDMA or Ecstasy.
- Ecstasy is a semi synthetic psychedelic entactogen drug of the phenethylamine family group. It is often used for increased awareness of senses with openness, euphoria and happiness with a mental state of increased appreciation for the surroundings and music.
- Cannabis is a herb which is very different from other drugs, which gives

an effect of spacing in and out again, varied perception of time, body relaxation, drowsiness, pleasant sensations, memory loss.

- Amphetamine is a dangerous drug and if used without the guidance of a medical professional becomes extremely fatal as well as risky. It gives strong effective highs. Drug users may crush, snort or use in the form of an injection for several effects. It acts as a stimulant to the central nervous system and produces side effects such as dry mouth, improper heartbeat, headaches, nausea feeling, high anxiety, blood pressure, hypertension, sexual problems like erectile dysfunction.
- Hallucinogens are the drugs which affect the vision, disorganized improper thoughts, chaos and confusion, concentration thinking issues, attentive disorders, anxiety attacks, agitation, paranoia, panic attacks and very high breathing rate.
- Tranquilizers is a kind of sleeping pill which is used for the treatment of mental disorders and for therapeutic purposes.
- Cocaine is a substance used for recreational purposes for giving euphoric effects and further acts as a nervous system stimulant. The user gets a fast heart rate, dilation of pupils, raising body temperature, depression, strokes etc.

These drugs are fatal and dangerous to the body as well as the mind of the person who uses them affecting the physical, psychological, biological, mental health. It takes long term special supervision, care, guidance and treatment to cure the person from the side effects of these drugs with major withdrawal symptoms.

2. RELEVANT PROVISIONS OF NDPS ACT

The Narcotic Drugs and Psychotropic Substances Act is a special legislation framed especially to deal with the matters related to possession and consumption of illegal substances. Generally, when a major person is punished under the NDPS Act, he cannot be released on probation whereas, a child who is

punished under this act may be released according to the relevant provisions of the probation of offenders act as the objective of the legislature is to reform the child and not to punish.

- Section 26 and 27 of the act which relates to cultivation and consumption are the only provisions which give the benefit of probation to the offender irrespective of his age.
- Section 27 of the act punishes a person according to law for consuming such illicit substances.
- The stringent punishments in the act is based on the amount of illicit substances stored, possessed or consumed by the offenders which may extend to twenty years imprisonment.
- Section 31A mentions about capital punishment in case of repetitive contraventions.
- There are certain provisions for the rehabilitation and de-addiction of the young offenders who are addicted to such illegal substances and its usage. Section 64A of the Act gives such offenders chance for adopting such suitable rehabilitation and de-addiction processes.

3. FACTORS RELATED TO DRUG ABUSE

Juveniles are vulnerable and not generally aware whether their conduct is good or bad during the adolescent stage. Also, they are not aware of the future consequences of their actions. There should be proper guidance given at the initial stage, otherwise it will lead to serious damaging consequences. The following are some of the causes or factors affecting this issue:

4. POVERTY OR UNEMPLOYMENT

Many people in India are below the poverty line. People struggle for basic necessities of life like food, clothing and shelter and in that process, they often neglect their children. The child of such families is deprived of basic care, time and supervision from the parents who are

struggling for fulfilling the basic needs by working for long hours in unfavourable conditions which in turn also has adverse effects on the family life. In most of the cases of extreme poverty and unemployment, the children themselves have to do something to fulfil and attain their needs.

4.1 Peer Pressure

Juveniles who commit crimes are taken before the Justice Board for juveniles (JJB), which sends them in an observation home till completion of the trial. The other children residing in these homes also affect the mindset and habits of the co-inmates which instigates them to form gang group and conduct wrongful criminal illegal activities after they come out in the society.

4.2 Recreational Purpose

Children in modern times use drugs for contentment, recreational activities and pleasure. These drugs affect the neurochemistry of brain to produce pleasure and euphoria which differs from drug to drug and different kind of drugs taken. The children suffer from various problems such as depression, anxiety, stress disorders, mental trauma, suffering and pain which forces them to take drug on habitual basis to minimize these distressful feelings.

4.3 Drug Trade

The Drug trade forces the abusers to sell the drugs. Drug dealers, criminals and gangsters sell and transfer the drugs through the child drug addicts. Juveniles are used in drug peddling business who are physically, mentally, emotionally, financially, psychologically controlled by these drug agents.

4.4 Broken Homes

It is said that the stability of a family is the primary condition of a healthy state of the society and for the growth and development of every community. Broken family can be defined as the state wherein both the parents are missing, unknown, absent or away from the house because of death, separation, divorce or other issues related to matrimony. Such status of families leads to harmful physical, mental, social, emotional and psychological

problems for the children. The children end up living alone, homeless, abandoned, surrendered, neglected or on the streets and sometimes face torture from foster families or step parents. All these factors give rise to crimes conducted by the children and drug addiction problems.

4.5 Media

Media presence is not only for entertainment but also for influencing the lives of all the sections of the society especially children. The movies and music videos of the glamour world depicts intake of drugs and consumption of it becomes status symbol and fashion trend in the modern era among the youth.

4.6 Emotional Factors

Many children suffer from lack of self-confidence and other behavioural issues. The use of Drugs gives them that mental confidence, support, relaxation which removes the feelings of social insecurity, inferiority and anxiety in them. Some drugs give aggression and confidence to face the society.

4.7 Experimental Experiences

For the excitement, recreational purposes and to new experiences, the youth consume drugs and get involved in drug trade. Some of them are motivated for such activities on the social networking sites while some are perceived as thrilling, daring or exciting who easily get addicted to the illegal drug trade in that process. These drugs are easily available to the youth and homeless children living on the streets.

4.8 Absence Of Family Care And Support

In these modern times, both the parents of the child work to fulfil the needs of the family and the child which results in neglecting or loneliness of the child. The child is left behind at the house alone which gives him/her an opportunity for the consumption of drugs and indulging in wrongful activities.

5. LEGISLATIONS AND GOVERNMENT POLICIES

The Narcotic Drugs and Psychotropic Substances (NDPS) Act¹ was enacted in 1985. Many efforts with effective transformation in implementation were made. The punishment for ending life of criminals in case of offences related to drugs has proved to curb the problem. Punishment can be of ten years imprisonment which can go upto twenty years with fine upto Rs. two lakhs for young criminals. As per sec. 37, the offences under NDPS Act shall be cognizable and non-bailable². Sec. 39 is related to certain offenders on probation. This provision is made especially for the young offenders to give them a chance for reformation. As per section 27, the court after considering the background of criminal, instead of sentencing him at once to any imprisonment, release him for undergoing treatment in the healthcare centre. The main element as per this act is the quantity of seized drugs. Less imprisonment is given if the illegal substance is for private purpose but, more than commercial limits leads to strict punishment. One year punishment with fine, ten thousand rupees for possessing small portions. Upto twenty years punishment with fine, two lakh rupees for commercial use.

Hanif Khan @ Annu Khan Vs Central Bureau Of Narcotics (2019)³, In this case, Honourable Apex Court regarded that the Narcotics Drugs and Psychotropic Substances Act is based upon the reverse burden of proof theory.

¹ THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, ACT, 1985.

² <https://timesofindia.indiatimes.com/readersblog/legallangle/a-detailed-overview-of-narcotic-drugs-and-psychotropic-substances-act1985-45878/>

³ <https://timesofindia.indiatimes.com/readersblog/legallangle/a-detailed-overview-of-narcotic-drugs-and-psychotropic-substances-act1985-45878/>

6. CONSEQUENCES OF DRUG ADDICTION AND ABUSE

- Illegal drug addiction and abuse among children can be linked with unhealthy risk behaviours. A large number of them are engaged in sexual risk behaviours, have heightened vulnerability to HIV and other sexual transmitted diseases. Usage of drugs can lead to unprotected sex with the strangers. These sexual activities develops risk of pregnancy at teenage level.
- Drug intake decreases the brain control, ability and capacity which causes many issues. It affects the central nervous system and produces changes in the body physically as well as mentally further damaging the brain as it is the main part of our body. Other severe effects on the health are heart attacks, lung and breathing trouble, liver diseases, high blood pressure, anxiety, depression, cancer, strokes and other infections.
- Children under the influence of drugs commit crimes such as theft, murder, burglary, rape, robbery, drug selling and assault becoming children in conflict with law. Many juveniles become part of the mafia drug dealer gangs for monetary purposes.
- Drug consumption also affects the socio-emotional relationships with the family, peer groups, school life and the society.
- Mental health problems such as psychological dysfunction, suicide, short term, long term memory loss at later stage in the life which causes 4 out of 5 juvenile offenders to commit crime while drug abuse.

7. PUNISHMENT

The punishment for the children in conflict with law is of two kinds, one is for passing the sentence and the other is for their reformation. Detention involves home confinement, placing in observation homes, placement with the foster families, guardian, under supervisonal care, in juvenile facilities or in detention centres. Incase of the juvenile habitual or repeated offenders, upto seven years imprisonment prescribed as per law. The Justice Board and the Court of children deals

with the minor criminals. These authorities have wide range of options to deal with the children offenders such as counselling sessions, vocational training, therapies, probation, detention, rehab centres etc. The main focus of these authorities is on the reformation of the children. Incase of probation, there are specific conditions imposed on the child such as going to the school regularly. Probation is for minimum six months.

8. STATISTICAL DATA

The recent United Nations Office on Drugs and Crime (UNODC) World Drug Report 2024⁴, (Delhi, India/27 June 2024) disclosed facts related to increase of illegal substance usage at global level. As per this news, in the year, 2022, 292 million users of such substances were notified. A recent survey related to drug addiction on children of north India revealed that children belonging to the nuclear families were 63.5%, to urban background were 83.5% and school dropouts were 54.1%. Opioids usage was about (76.2%) and regular used opioid is heroin, usage of which is about (36.5%). More than half (54.2%) were nicotine users or dependents. The most common reason for drug addiction and abuse among the youth was their curious nature towards these substances.

9. JUDICIAL INTERVENTION

In the leading case of **Bachpan Bachao Andolan v. Union of India and Others**⁵ which was decided on December 14, 2016, Honourable Dr. D.Y. Chandrachud held that the children should be protected from the harmful consequences of drug and substance abuse. The central government was further directed to conduct study, formulation of an

oriented structure and to include drug misuse curbing measures in the educational centres. Further, guidelines were passed for a robust framework for systemic change. This judicial intervention was extremely important for solving various problems and introducing implementation strategies.

On Dec 16, 2024, Honourable Apex Court focussed on the rise of cases related to illegal substance use among the children of the nation⁶. Honourable Justice Nagarathna, delivered the judgment stating the severe legal, socio-economic and psychological effects of drug and substance abuse and called for urgent and collective action from various stakeholders, natural guardian or parents, civil society and other authorities to curb the menace and issued wide guidelines to the National Legal Services Authority (NALSA) for a quick response. The unprecedented proliferation of drugs across India has devastating consequences and the drug trade funds violence and terrorism while destroying the society. The judgment also stated that drug consumption among youth is due to various factors such as social pressure, academic stress, cultural influences and dangerous lifestyle changes. The younger generation has adopted the mode of escapism to deal with their lifestyle challenges which is not solving the issues. They need to take charge of their decisional autonomy and control their lives. Parents have a major role in curbing substance abuse which can be done by providing love, affection, compassion, nurturing and emotionally safe environment for their children.

Destigmatising Addiction is the main aim along with the practice of treating the victims of drug abuse with care, empathy and support through rehabilitation. The need of the hour is to create constructive citizens and to motivate the adolescents to resist the glorification of drug use. Problem related to illegal substance use cannot be treated as a taboo. Open dialogue and preventive measures is required to protect the vulnerable sections of society. The active role of educational institutions,

4

https://www.unodc.org/southasia/frontpage/2024/June/india_-presentation-of-key-findings-from-unodcs-world-drug-report-2024-to-mark-the-international-day-against-drug-abuse-and-illicit-trafficking.html

5

<https://www.casemine.com/commentary/in/mandate-for-a-national-action-plan-on-child-substance-abuse:-bachpan-bachao-andolan-v.-union-of-india/view>

⁶ <https://www.hindustantimes.com/india-news/drug-abuse-is-not-cool-supreme-court-warns-india-s-youth-101734330583879.html>

social initiatives, counselling sessions and community-based solutions is mandatory to combat the menace effectively.

In a recent rape case of a young girl who was 8 years old born in Kathua, India⁷, Nine members conspired with a juvenile for kidnapping and raping her in the forest. They all gathered in one place and planned to give her "EPITRIL 0.5 mg", a banned drug which is taken as sleeping pills used for treating epilepsy and anxiety disorder issues. Therefore, heinous crimes are being committed by the youth offenders because of administering drugs and alcohol consumption.

10. VARIOUS AWARENESS PROGRAMMES AND CAMPAIGNS

Narcotics Call Centre: Narcotics Control Bureau (NCB) has made effective strategies for establishing Helpline, 'MANAS' by mode of Digital Corporation of India. Several guidelines were issued regarding this recently. For ensuring stability in implementation process, certain modules have been developed at core level for the administrative officers and agencies.

National Action Plan for Drug Demand Reduction (NAPDDR): To deal with the concern of drug use, National Action Plan for Drug Demand Reduction (NAPDDR) was formed for giving monetary help to:-

Integrated Rehabilitation Centres for Addicts (IRCAs) which treat the drug users and conduct supportive sessions for them.

Community Intervention programmes for the upliftment of the children who are below 18 for educating them about life skills and creating general awareness against drug abuse.

Outreach and Drop in Centres (ODICs) for providing safety with security.

Nasha Mukh Bharat Abhiyaan: The objective is to give knowledge generally on drugs especially in the educational Institutions.

⁷ <https://www.hindustantimes.com/india-news/hall-of-shame-the-accused-and-their-role-in-the-rape-murder-of-kathua-girl/story-Wk9f3oJyvHEQvF2CaFzGxO.html>

Also, to focus on treatment services in public as well as private hospitals.

10. RELEVANT SUGGESTIONS

- Drug addiction is an important healthcare problem which should be tackled with a holistic approach. The primary objective of non-profit organisation should be to provide services to families as well as communities suffering from this problem. The strategical plan aims to provide help and support by social workers to the children addicted to these toxic substances and to encourage them for detoxification and to adopt while maintaining a drug-free lifestyle.
- Informing the children regarding influences of illegal substance abuse addiction, the role of media agencies, electronic print media, non-profit social groups and organisations is extremely important and mandatory. The regular curriculum in colleges as well as schools must give directions with suitable instructions on impacts related to illegal toxic substances, misuse and addiction.
- Prevention is a good plan to deal with the issue. The Central, the state government must adopt and create prevention programmes using all modes available at the grassroot level.
- Family Role, programming and influences provide support while developing practices so that the children are guided properly with care and understanding. Enforcement and discussion on family policies related to education and information on drug, substance abuse.
- Conducting the school programmes for awareness to explain drug misuse impact such as lack of practical abilities, mental illness, physical health problems and academic failures. More focus on the development of capabilities while keeping in mind social, vocal and community based solutions.
- Community based and research based programmes with follow up studies is the most effective tool to educate the youth in clubs, schools and other social public places.

- Moreover, necessary amendments should be made to the current legislations. The current laws have to be implemented effectively.
- Special system to deal with the complex drug cases is necessary to be developed.
- Creating suitable health laws for dealing with issues like social, child welfare and quality of life with special focus on the nutritional standards, medical and public health infrastructure technologies.

11. CONCLUSION

The drug peddlers should not be spared and appropriate punishment must be given to them by the special court in a timely manner. The Narcotic Drugs and psychotropic Substances, Act, 1985 (NDPS Act) has mentioned several factors for curbing the offences related to drug abuse and trafficking. But, there is a lot of scope for improvement in provisions related to the consumption and reformation practices. Recommendations and evaluation of the drug policies by the government, role of the judiciary, non-governmental organisations and the society is important for reformation, restoration and rehabilitation of the children. The home and family proves to be a place where children develop the most important life changing moral, social, cultural, ethical values and skills, therefore, it is very significant that the social and family surroundings as well as the environment is healthy so that the development of the personality of the child is proper. The government should take steps in controlling the consumption, availability and distribution of illegal substances. The society should adopt strategies for developing drug-free nation. The government with the help of the citizens must make valuable efforts for the growth and development of the nation which will help further in strengthening the roots of every country.

REFERENCES

Books and journals referred

- Narcotic Drug and Psychotropic Substances, Bare Act 1985; Art.1(p) of Single Convention on Narcotic Drug, 1961.
- The Juvenile Justice (Care and protection of children) Bare Act, 2015.

- Chetna Malhotra "Drug use among juvenile in conflict with law".
- Harper, Douglas, Drug Online Etymology Dictionary

Website Referred

- <https://www.legalserviceindia.com/legal/article-191-juveniles-in-the-hands-of-narcotic-drugs-study-on-drug-abuse.html>
- WHO study group on drug dependence.
- <https://ijmrr.medresearch.in/index.php/ijmrr/article/view/846/1546#:~:text=According%20to%20another%20report%2013.1,age%20of%20eighteen%20%5B15%5D>
- <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4476010/>
- <https://www.drugabuse.gov/family-checkup/>
- <http://lawtimesjournal.in/drug-abuse-and-crimes-can-the-society-break-this-connection-with-the-help-of-laws/>
- <https://www.legalserviceindia.com/legal/article-11899-can-society-break-free-from-drug-abuse-and-crime-in-india-.html>
- <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/jun/doc2024627344601.pdf>
- <https://www.hindustantimes.com/india-news/drug-abuse-is-not-cool-supreme-court-warns-india-s-youth-101734330583879.html>
- <https://timesofindia.indiatimes.com/readersblog/legalangle/a-detailed-overview-of-narcotic-drugs-and-psychotropic-substances-act1985-45878/>

Cases Referred

- Rajesh Kumar Singh vs. State (On Possession of drug by minor and well organized gang of drug smugglers)
- Bachpan Bachao Andolan vs. Union of India & Ors
- Info Park vs. Dr. V.N. Sankarjee 2017(On girl child sexually abused by person under intoxication of drugs)
- Kathua Rape case