



Role Of Drugs And Alcohol In Criminology And Its Role On The Criminal Justice System

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ABSTRACT: Alcoholism and drug addiction may be conceptualized as crime without victim i.e., addicts himself is the victim who becomes a prey of its misuse. This devastating melody is eroding the roots of social, economic and cultural fibre of Indian society. It gives rise to criminality and criminal behaviour which eventually leads to social organization. Alcoholism and drug related offences being victimless crime; they fall in the category of public order crime or consensual crimes. Alcoholism and drug addiction are indicative of the irresponsibility and weakness of the character of the persons using these intoxicants. The relation between alcoholism and various aggressive and criminal acts is often confirmed by police records and prison statistics which indicate that in the present day there is a considerable increase in such alcoholic criminal episodes. In this article discuss about main causes of alcoholism, drug addiction, international perspective of this problem, illicit drug trafficking and drug addicts and remedial measures.

Keywords: Alcoholism And Drug Addiction, Narcotic Drugs and Psychotropic Substances, Conventions, Illicit Drug Trafficking

I. INTRODUCTION

The state of alcoholism in India is a matter of serious physical and psychological dependence which interferes with the physical and mental health and the social, economic and familial responsibilities not only of the person indulging in the frequent consumption of the alcoholic beverages but the people associated with him. This menace of alcoholism has been tremendously increasing in the developing countries like India since the 1980's. India has witnessed dangerous patterns of excessive alcohol intake leading to intoxication related higher levels of risks involved. The Global Status Report on 'alcohol and health', 2014, compiled a data taking into consideration persons who consumed alcohol and who were above 15 years of age, released by the World Health Organization (WHO) revealed that the amount of alcohol consumption

has risen in India between the period of 2008 to 2012.¹ An alarming revelation made was that over 11 percent of the population in India indulged in heavy or binge drinking while globally the figure stood at 16 percent. It was further brought forth that around 30 percent of the total population of India consumed alcohol in the year 2010. 93 percent of alcohol was consumed in the form of spirits, followed by beer with 7 percent and less than 1 percent of the population consumed wine. In terms of alcohol consumption, it was Kerala which led the Indian states followed by Maharashtra and Punjab. An average individual above the age of 15 years consumed over 8 litres of alcohol per annum. India was also rated 4 on a scale of 1 to 5 on the 'years of life lost' scale which is based on alcohol attributable years of life lost. This indicates that alcohol consuming population of India loses most of the years of their life due to drinking and its harmful consequences² India has been identified as the third largest market in the world for its alcoholic beverages with high level of alcoholic contents due to its booming population which has paved way for many multi-national liquor companies to invest in India. According to the Indian Alcohol Policy Alliance per capita consumption of alcohol in India has increased by 106.7 percent over the period of 15 years between the span of 1970 to 1996. The rate at which the sale of alcohol is growing is 6 percent per annum and it is estimated that shortly this rate is going to increase to 8 percent per year. Alcohol use among youth is increasing from 23-36 yrs. in 1950 to 1960 to 19-45 yrs. in 1980 to 1990.³ The reasons attributed towards this growing trend is changing social norms, urbanization, increased availability, high intensity mass marketing, relaxation of overseas trade rules along with poor level of alcohol related awareness.

II. CAUSES OF DRUG ADDICTION AND ALCOHOLISM

There are Various Causes for Alcoholism and Drug Addiction, some of them are Mentioned Below:

1. Growth of Industrialization and urbanization have given a new way of life with new values like permissiveness, as a result the old age inhibitions taboos and because the traditional social control mechanisms have ceased to have force.
2. Failure in business or professional life is a main cause of addiction to drugs and alcohol
3. Unemployment
4. Lack of parental control and their care towards their children, due to working situation of both the spouses and disintegration of joint family system, has also made their children addicted to drugs
5. Pharmaceuticals and medical development has provided for production of various toxic and synthetic substances, which adds more to the problem.
6. People when misuse drugs to cure from their diseases and get addicted to it easily
7. People when suffer from failure, frustration or stress take drug as a measure to get off from their stress due to which there is an increase in the use of alcohols and drugs

¹ Alcohol Consumption in India on the Rise: WHO Report, 15th May, 2014', Available at http://www.mid-day.com/articles/alcohol-consumption-in-india-on-the-rise,WHO-report/15299173#_stash_x46dBHqU.dpuf (Visited on November 11, 2019).

² Ibid

³ Alcohol Related Harm in India – A Fact Sheet', available at: www.indianalcoholpolicy.org (Visited on January 22, 2020).

8. Hippie culture distracts youngsters to drug addiction and alcoholism. they start taking it on experimental basis and get attracted to it afterwards on frequent use of it.
9. Belief of people doing manual labour that use of drugs will give them strength is one of the causes which draws them to the use of drugs which in turn adversely affects their health.
10. Family strives and breakdown due to temperamental difference, poverty, neighbourhood influences may make a person addicted to drugs and alcohol; this is also called social disorganization.

III. ALCOHOLISM: A PEEP INTO ITS LONG-TERM CONSEQUENCES

Alcoholism in India has become a matter of grave concern as it has various adverse immediate and long-term consequences. Hazardous drinking is associated with increased risk of severe health problems. About 15 percent to 20 percent of traumatic brain injuries were related to alcohol use; 37 percent of injuries in a public hospital were due to alcohol; 7.6 percent of psychiatric emergencies were caused due to alcohol; 34 percent of those who attempted suicide were abusing alcohol. Excessive alcohol use can lead to development of chronic diseases and neurological impairments.⁴ About 20 percent of absenteeism and 40 percent of accidents at job place are related to alcohol. Annual loss due to alcohol was estimated to be 70,000 to 80,000 million.⁵ It was also observed that 35 percent of men became violent towards their wife after consumption of alcohol. Alcoholism is a major factor in child maltreatment and neglect cases.⁶ Around 3 percent to 45 percent of the household expenditure is spent on alcohol. Engaging in alcoholism increases indebtedness and reduces the ability to sustain the family. Consumption of excessive alcohol also causes miscarriage and still birth among pregnant

IV. MAIN CAUSE OF DRUG ADDICTION

Alcoholics and drug addicts take to drinking or use of drugs for a variety of reasons. The factors mainly responsible for the spread of this evil are

1. Rapid industrialization and urbanization have ushered a new way of life with new values like permissiveness. As a result the age-old inhibitions, taboos and traditional social control mechanisms have ceased to have force. Many cases of drug or alcohol addicts arise after apparent failure in business or professional life⁴. unemployment is also an important factor contributing to drug and alcohol addiction especially among youths.
2. The lack of parental care and control partly due to working situation of both spouses and disintegration of joint family system are also contributory factors to encourage this vice. The menace of drug abuse is more common among the middle, upper middle and high economic class families. Urban areas seem to be more affected by this vice.
3. The recent developments in pharmaceutical and medical sciences have provided scope for production of a variety of toxic synthetic substances. This has contributed substantially to drug abuse and addiction.

⁴ Sharma HR, Mohan D. "Drug Abuse in India: Prevalence, pattern, policy and prevention" Social Defence, 1981:16(63):63.

4. Frustration and emotional stress due to failures, sorrows or miseries of life, diverts people to join the company of addicts. For them drugs or alcohol is a medicine a blessing in disguise ⁵ In course of time they become addicted to this vice.

5. Hippie-culture also detracts youngsters to drug addiction and they start it as a fun or enjoyment. They start consuming drugs or alcohol on an experimental basis out of fun and enjoyment. The frequency of consumption gradually increases due to its narcotic effect and finally a good majority of them turn out to be drug addicts and habitual.

The process of alcoholism and drug addiction sets in when a person knowingly or unknowingly begins to consume alcohol or narcotic drug as a medicine for a sound sleep at night or to get stimulation for work to get relief from domestic problem or to repress depression, resentment or to get rid of disturbing mental restlessness and so on⁶.

V. EFFECTS OF ALCOHOL AND DRUGS

Addiction to any bad thing is harmful, likely there are various ill effects of alcoholism and drug addiction, which are discussed under following heads:

A) Health Complications: Drug and alcohol use impact nearly every part of body. Substance abuse can lead to abnormal heart rates and heart attacks, and injecting drugs can result in collapsed veins and infections in heart valves. Some drugs can also infect the bones, while others result in severe muscle cramping and general weakness. Using drugs over a long period of time will also eventually damage kidneys and liver.

B) Infections: Under the influence of drugs or alcohol, one may forget to engage in safe sex practices. Having unprotected sex increases the chances of contracting a sexually transmitted disease. Sharing the needles used to inject certain drugs can give diseases like hepatitis C, hepatitis B, and HIV. Common colds, flu etc. can spread from sharing pipes and bongs.

C) Legal Consequences: Drug and alcohol abuse not only have negative effects on health but can also have legal consequences that one has to deal with for the rest of his life. Many employers require to take a drug test before offering a job—many of them even conduct random drug tests even after joining the job. Refusing to give up drugs could end up making one unemployed, which comes with even more issues. Driving under the influence of drugs or alcohol can lead to a suspended driver's license, usually for 6 months to 2 years. One has to pay heavy fines and may even spend some time in jail in case of drunken driving.

D) Financial Problems: Substance abuse also impacts productivity and success at work and in school. The time spent searching for, using and recuperating from drugs can be better spent learning new skills to advance career. The legal issues tied to drug use will increase the bills as well. The car and health insurance rates may get increased and one has to pay for DUIs, and legal counsel.

⁵ George Catlin. E.G: Alcoholism in the Encyclopaedia of social science, 1930, 155.

⁶ Dressler David: Reading in Criminology and penology, 1966, 103.

E) Injuries and Death: If drugs and alcohol is used, one is more likely to experience physical injury or be involved in car accidents. Even worse, it increases the risk of death through both suicide and homicide. These drug-related deaths are on the rise, doubling since the early 1980s. Alcohol specifically results in 5.2 million accidental injuries and 1.8 million deaths each year. It's estimated that 1 out of every 4 deaths is caused by drugs and alcohol, according to the World Health Organization.

VI. ALCOHOLISM AND CONSEQUENT CRIMINAL BEHAVIOUR

It is quite evident that alcoholism and drug abuse by people is coupled with serious risks: personal, health, academia, safety relationships, drug addiction to name a few. The most significant risk is the connection between alcohol, drugs and crime. Alcohol impinges on crime from several directions. Some offenses are defined in relation to alcohol, concerning the degree or manner of consumption permitted. Other offences are increased in frequency by the effect of alcohol on the perpetrator or in some cases, the victim⁷.

There are three types of alcohol or drug related criminal offences:⁸

1. Alcohol and Drug Defined:

These offences relate to violation of laws prohibiting or regulating the possession, use, distribution or manufacture of alcohol or illegal drugs. For example, alcohol or drug possession or use, providing alcohol to persons under the age of 21, cultivation, production, distribution or sales of illegal drugs.

2. Alcohol and Drug Related

These offences relate to violation of laws as a result of being under the influence of drugs or trying to get cash by illegal means to pay for drugs. For example, criminal behaviour resulting from the ill effects of alcoholism: fights, theft, vandalism, violence against family and friends and rival groups, sexual offences, drunken driving, accidental deaths etc.

3. Alcohol and Drug using life styles

These offences relate to violation of law as a result of living a life style where a person may not have an independent job or source of income and is imposed to individuals or situations which encourage crime. For example – The relationships developed through the use of alcohol, the individual has more opportunities to violate the law and learn criminal skills from other offenders.

There are various types of harm caused by intake of different drugs but statistics have evidenced that amongst them alcohol have caused the maximum harm. Excessive alcohol intake is often associated with serious crimes like murder, rape, robbery, aggravated assault, burglary, larceny / theft, serious motor vehicle offences with dangerous consequences, arson, domestic violence etc.⁹ Thus, alcoholism and criminality are closely linked.

VII. INTERNATIONAL PERSPECTIVE OF THE PROBLEM

With the rapid expansion of trade and commerce beyond national boundaries, the problem of drug addiction and trafficking has become a global phenomenon. Therefore as a measure of drug control a thirteen-nation international conference on Narcotic drugs was held in China⁷ [6] in 1909. Thereafter the international Opium convention called The Hague convention on Narcotic was held in 1912 which was the first drug traffic control treaty at the international level. One of the most important conventions on drug abuse was the single convention on Narcotic Drugs 1961 (SCND) which attempted to simplify and consolidate international drug control machinery. The convention codified all the existing multinational treaties and merged the permanent central board and drug supervisory Board into a single international Narcotic control board (INCB) in 1961. It has been assigned the responsibility of ensuring the balance between supply and demand for narcotics purposes and makes all out to prevent illicit drug cultivation, manufacture, traffic and misuse. Another international convention on prevention, abuse and illegal trafficking in narcotics called the convention on psychotropic substances was signed in 1971 which came into force on 16 august 1976. The convention has stressed the need for prevention of abuse of psychotropic substances and early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved⁸. An international conference on Drug control was held in Vienna from 17 to 26 June 1987 under the auspices of United Nations. It focused attention on drug control policies and strategies which could be enforced at the national, regional and international level to prevent drug abuse and illegal trafficking of narcotic substances. The Commission on Narcotic Drugs & Psychotropic substances and India has enacted the Narcotic Drugs & Psychotropic substances Act 1988. It provides for death penalty on convention for a second drug trafficking offence.

➤ **Illicit Drug Trafficking**

Illicit drug trafficking is so complex in nature that it involves a large variety of drugs from many sources throughout the world. In the Indian context the geographical location of this country is most suited to the unabated inflow of drugs and illicit drug products by sea and land routes from all sides. Iran, Afghanistan and Pakistan which are the largest producers of opium, manufacture heroine from it and the same is smuggled into India .so is also the case with North-East neighbouring countries namely Burma, Thailand and Laos. The state of Bihar provides entry route for Ganja from Nepal. Quite a large quantity of opium and cannabis are being illicitly cultivated within India itself, besides the licensed cultivation for medical purposes⁹.

➤ **Indian Law**

Prior to 1950, laws dealing with narcotic drugs came under the Opium Act 1857 and 1878 and the Dangerous Drugs act 1930. These were merged in 1950 after the formation of the Opium department, which is now known as the central Bureau of Narcotics (CBN). This Bureau is responsible for supervision of licit cultivation of opium and for enforcing laws on illegal trade and use of drugs. The succeeding decades, witnessed an alarming increasing in drug menace hence the parliament enacted the Narcotic Drugs & Psychotropic substances Act 1985(NDPS Act) which came into effect on 16th September 1985. The act has been amended thrice –in 1988

⁷ It was termed as Opium Commission in China, 1909.

⁸ Art. 20(1) of the Convention on Psychotropic substances Act, 1971.

⁹ Joga Rao SV. Law and policy on Drug Trafficking –A Phenome logical study 35 JILI, 1993, 56-57

and 2001 and again in 2014. There is no complete ban or prohibition of using Narcotic drugs and psychotropic substances in India under the NDPS Act 1985. These substances can be used in a controlled manner for therapeutic and scientific purposes in compatibility with the international legal obligations¹⁰.

The Act emphasizes on the preventive aspects of drug abuse and covers a wide list of substances that are recognized as narcotic drugs. It seeks to prevent people from the dangers of drug-abuse. It was for the first time in India that legislation recognized a wide list of substances that were categorized as dangerous drugs.

The supreme court of India, in *Dawood Lama's case*¹¹ confirmed the conviction of the accused, a foreign national under the Narcotic Drugs & Psychotropic substances Act 1985 and sentenced him to 10 years rigorous imprisonment and to pay a fine of Rs. 1,00,000/- and in default further undergo rigorous imprisonment for two years. In this case brown sugar was seized from the accused which is a narcotic drug and not a psychotropic substance. The court further ruled that under NDPS Act the police officer taking search is duty bound to inform the person arrested that if he so desired, he shall be searched in the presence of a gazetted Officer or a Magistrate.

VIII. ENFORCEMENT AGENCIES

The entire gamut of legislation in India is directed against illicit trafficking in drug and alcoholic substances. The machinery utilized for the purpose at central level includes the Department of Customs, Central Excise Narcotics Commissioner, and central Bureau of investigation, central Economic intelligence Bureau, Directorate of Revenue Intelligence, Border Security Force and the Drugs Controller. At state level the state Excise, police and Drug Control the menace of drug addiction and alcoholism. In order to coordinate the activities of the various enforcement agencies involved in the anti-drug trafficking, a central authority called the Narcotic control bureau with a wide range of functions has been set up. The main functions of the bureau are –

1. Co-ordination of all enforcement actions by various central and state authorities
2. Implementation of counter measures against illicit drug trafficking under international protocols, conventions and treaties;
3. Assistance to the concerned authorities in foreign countries.

The NDPS [2] Act has provided for the establishment of special courts for expeditious trial of drug addicts and traffickers. But the lack of adequate training to the concerned officials in skilful investigation of drug trafficking cases often leads to lacunae and loopholes in the procedure of investigation which enables drug peddlers and addicts to escape prosecution. That apart, lack of motivation on the part of enforcement agencies is also one of the causes for the inefficient implementation of the NDPA Act.

¹⁰ Chapter IV of the NDPS Act defines the offence under the Act and penalties for them *Wilfred Joseph Dawood Lama vs State of Maharsahra*, 1990.CR. L. J 1034

¹¹ Narcotic Drug and psychotropic substances Act, 1985.

IX. MEASURES FOR CHECK AND CONTROL ON ALCOHOLISM AND DRUG ADDICTION

Drug abuse is a serious psycho -sociological problems often difficult to be cured. The best way to avoid these tragedies is to never start taking drugs. However, nowadays, specific treatments are available for different types of mental illness. A regular, prolonged and sincere treatment is required. Social therapy or rehabilitation has got a very significant role. Measures to check and control drug addiction and alcoholism are:

1. Early detection, treatment and rehabilitation of drug addicts can reduce drug users.
2. Parents should set a warm and friendly atmosphere at home so that the drug users can feel easy to cooperate with.
3. Motivation of the addicts to make up their mind up for detoxification.
4. The youth should be motivated to be involved in the fight against drug abuse.
5. Educating the community about the problems of drug addiction.
6. Enforcement of laws, rules and regulation for the control and supply of drugs.
7. The educational course should contain about the drug addiction and drug abuse in detail.
8. Various effects of drug addiction must be advertised through newspapers, radio, television, magazine and vice-versa.
9. The experience of drug users can be advertised to the people through media to aware those who might start taking drugs.

A) Some More Facts on Drug Addiction and Alcoholism

Investigations made by sociologists and criminologists on alcohol-crime relationship reveal that there is a close resemblance between the structure of alcoholics and criminals. This proposition brings us to the following conclusions regarding the impact of alcoholism and drug-addicts on criminality:

1. Crimes are often planned in liquor shops and bars where alcohol is sold.
2. Offenders generally consume liquor and alcohol or drugs to overcome their inhibitions and emotional strains.
3. The booty and gains of crime are often distributed and shared in liquor or wine-shops.
4. Alcohol and narcotic drugs help to remove the element of self-criticism from the criminal in relation to himself and his acts.
5. Juvenile delinquency and drinking are intimately connected.
6. The illegality of purchase and possession of alcohol and narcotic drugs make alcoholics or drug addicts delinquent ipso facto.
7. Alcoholism and drug addiction being forbidden by law, their procurement gives rise to a number of related crimes such as illicit spirit-distilling, smuggling of wine or intoxicating drugs, racketeering, drug trafficking underhand deals in transmission of alcohol and narcotics from one place to another and bribing the officials to escape arrest and punishment.
8. Research studies have shown that alcohol is more contributory to criminality than other drugs, probably because its legal and common usage makes it readily available.

B) Laws

“Drug abuse is a social evil. It destroys vitals not only of the society but also adversely affects the economic growth of the country....”¹²

The problem of use and abuse of drugs is not new to our country. For the uninitiated, the British Empire, to be more precise, The British East India Company used to export opium from Bengal, Malwa, and Banaras region to China as long back as the 1800s. The Chinese government, to fight the problem of opium addiction and abuse passed edicts, banning the export of opium to China. As a result, the infamous Opium War took place, and the British imposed their wishes on the Great Asian Dynasty in the name of free trade.

Fast forward two centuries, and this time, our country is dealing with the issue of drug abuse. India’s response to the problem of drug abuse flows on different currents of traditional and modern society. There is widespread availability, but also stringent enforcement of anti-drugs policies. We tolerate the use of drugs (bhanga thandai on Holi) and also prohibit it. We produce drugs for medical use, but there is a lack of medical aid for opium addicts. India’s drug policies are based on the supply and demand control. The country’s large pharmaceutical industry is very much inclined towards the illicit manufacturing of drugs. Some parts of the country report startling rate of drug abuse making harm reduction and health vital policy considerations while the stringent drug control laws (criminalization of drug use; even capital punishment in some cases) conform strictly to the prohibitions that are in place.

As early as 1930 itself, the Dangerous Drugs Act was enacted to control and regulate drugs derived from poppies, hemp, and coca. Through this act, the cultivation, sale, possession, manufacture, and trade of drugs obtained through these products mentioned above was licensed, and unlicensed activities were penalized.¹³ The provisions of the Dangerous Drugs Act, 1930 are still relevant in the present context, especially regarding the statutory definition of hemp, coca and opium and their byproducts, and the category of manufactured drugs. The Drugs and Cosmetics Act of 1940¹⁴ was also introduced for regulating the medical use of drugs such as cannabis and opium, but nonetheless, the Dangerous Drugs Act stood strong. Post-independence, when the Constitution was adopted, all laws came under the purview of the Constitution and some obstacles were faced by the anti-drugs laws on the grounds that they were against the freedom of trade and occupation of the cultivators. The cases, however, were ineffectual as the Courts took the support of India’s international anti-drugs commitments to justify the restrictions.¹⁵ The prohibition became more stringed when Courts and the Legislature started taking the support of Article 47 of the Constitution to restrict the use of drugs. Article 47 states that the State shall endeavour to prohibit the use of drugs except for medicinal purposes.

¹² Y K Sabbarwal, Former Chief Justice of India (2006)

¹³ The Dangerous Drugs Act, 1930 (Act 2 of 1930). See sections 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14

¹⁴ The Drugs and Cosmetics Act, 1940 (Act 23 of 1940)

¹⁵ Balley Singh v State of Uttar Pradesh and ors AIR 1967 Al 341

X. CHALLENGES TO CRIMINAL JUSTICE SYSTEMS

1. The International Narcotics Control Board calls on all Governments, when determining their national drug control policies, to recognize the important contribution of criminal justice systems in preventing and controlling the illicit supply and consumption of drugs. There are several ways in which the criminal justice system can assist in the struggle against drug production, trafficking and abuse and drug-related crime. It is aimed at convicting and punishing the guilty, thereby deterring criminal conduct, as well as offering to the abuser an opportunity for treatment and rehabilitation. By making drug seizures, it reduces the quantity of illicit drugs in circulation, thus making it more difficult for users to obtain such drugs. Freezing and confiscating assets derived from drug trafficking not only deprive traffickers of the proceeds of their activities, but can also provide an additional source of revenue for law enforcement activities.

2. The Board notes that there has been a significant increase in the number of opiates, amphetamines, other psychotropic substances and cocaine seized in recent years. Those seizures reflect the increased efforts and resources devoted by many States to fighting the growing problems of illicit trafficking and drug abuse. Since 1980, global seizures of opiates have increased more than fivefold and seizures of cocaine have increased over tenfold. There has also been an increased number of arrests and convictions of drug offenders, including illicit drug producers and traffickers and persons engaged in laundering drug-related proceeds. Although these developments are in part an indication of growth in the drug abuse problem, they are also an indication of better law enforcement and better training of law enforcement officers.

3. The Board notes that, despite increased law enforcement efforts, illicit drug production, trafficking and abuse have expanded into regions not previously affected. New trafficking routes have emerged, new drugs of abuse have been developed and drug trafficking organizations have replaced their jailed members. Changing social and economic factors, although promoting legitimate world trade and development, have also facilitated the work of drug traffickers. Reduced border controls and newly created trade agreements have not only eased the worldwide movement of legal goods, but have also simplified the smuggling of drugs of abuse. Improvements in communications and transportation have provided opportunities for drug traffickers to operate their organizations throughout the world. The development of new agricultural methods has increased illicit crop yields and chemical advances have enabled greater production of illicit drugs. All of these factors have complicated the work of law enforcement, often resulting in much more sophisticated techniques being required to investigate drug trafficking.

4. Major drug trafficking organizations are involved in a complex chain of transactions, including planning and organizing, purchasing raw materials from farmers, chemical processing, transportation, national and international distribution and money-laundering. The Board notes that many law enforcement agencies do not have the resources and skills to do more than apprehend the street seller and the individual drug abuser, leaving intact the structure of the production and distribution chain and, above all, its management. Furthermore, while many members in the higher echelons of drug trafficking groups go unpunished, the growing number of small-time pushers and drug users being arrested is putting pressure on criminal justice systems by increasing prison populations and prison expenditure, as well as the cost of running law enforcement operations and the judicial

system. This may lead to a feeling of injustice in the community and undermine public confidence in the criminal justice system. Many jurisdictions are experiencing the combined effect of increased illicit drug trafficking and consumption, more vigorous drug law enforcement and growing prison populations.

5. An area requiring special attention is the provision of adequate safeguards against the corruption or intimidation of public officials and institutions. The enormous sums of money generated by illicit drug trafficking have given drug traffickers immense economic power. This has enabled them to subvert public administration, including the criminal justice system, by bribing or otherwise corrupting officials or, if that fails, by attempting to intimidate them through threats and acts of violence. Police, judicial officers, politicians, tax authorities, customs officers and other officials are all threatened in some way. Moreover, legitimate businesses may become involved in the laundering of drug trafficking proceeds. i Such money may then be invested again in otherwise legitimate businesses, making them dependent on illicit sources of funding and providing them with an unfair competitive advantage over businesses without such backing. Corruption undermines the legitimacy of governments and public confidence in the rule of law, as well as economic and social institutions. Corruption should be recognized as a problem before governments introduce countermeasures involving legislation, training and procedural safeguards. Substantial improvements to the conditions of service are needed for holders of public office.

6. A more strategic approach to tackling drug trafficking is needed to reduce supply more efficiently and to free the stretched resources of national criminal justice systems. The aim should be not only to arrest and try individuals suspected of having committed drug-related crimes, but also to disrupt the operations of entire drug trafficking gangs and eventually put them out of business. This can be done by targeting the organizers of such criminal groups for investigation and prosecution, by enhancing international cooperation and by depriving drug traffickers of the proceeds of their crimes, which in turn limits their opportunities to reinvest and to finance corruption. In this way weak and permissive jurisdictions can be strengthened and safe havens gradually eliminated.

XI. CURRENT LEGAL FRAMEWORK

A) Narcotic Drugs and Psychotropic Substances Act, 1985

India is a signatory to three of United Nation's drug conventions. The first being the 1961 Single Convention on Narcotic drugs, the second being the 1971 Convention on Psychotropic Substances and the last being the 1988 Convention against Illicit trafficking Narcotic Drugs and Psychotropic substances. The domestic legislation was enacted after almost 25 years of signing the 1961 convention when the grace period for abolishing the non-medical use of drugs expired under the 1961 Convention.¹⁶ The 1985 Act was passed in a hurry without any discussion, and it replaced the 1930 act of Dangerous Drugs Act, but the Drugs and Cosmetics Act, 1940 remained and still continues to apply.¹⁷ The Act of 1985 has been amended three times in 1989, 2001 and then a couple of years ago in 2014. The amendments will be discussed further. The NDPS

¹⁶ Charles, M., Bewley-Taylor, D. & Neidpath, A. (October 2005), Drug policy in India: Compounding harm?

¹⁷ See: Section 80, NDPS Act

Act places a restriction upon cultivation, production, sale, purchase, possession, use, consumption, import, and export of narcotic drugs and psychotropic substances except when they are used for a scientific purpose or medical use. Three classes of substances are covered under the NDPS Act:

1. Narcotic drugs covered under the 1961 Convention.
2. Psychotropic substances, and those substances which are covered under the 1971 Convention.
3. Controlled substances that are used to manufacture drugs or psychotropic substances.

Narcotic drugs include:

- Coca Plant- Leaf or other derivatives including cocaine. It also includes any preparation which contains 0.1% cocaine.
- Opium- This category includes poppy straw, poppy plant, opium poppy juice, and any preparation having 0.2% morphine. Derivatives of opium include morphine, heroin, thebaine, etc.
- Cannabis- Resin (Chara's and Hashish), plant, fruit tops and flowering of the plant (Ganja), or any mixture of Ganja, Chara's and Hashish are all included in this category. It is important to note that cannabis leaves i.e. bhang is excluded from this category and is regulated by the state laws.

The NDPS Act lays down the procedure to be followed in case any search or seizure is to be done. Procedure for arresting a person in relation to an offense In the NDPS Act is also provided for¹⁸. But the norms of investigation and permissibility of evidence are interpreted in such a way that they are prejudicial to the cause of the accused¹⁹. It can be said that the NDPS Act is essentially a punitive and punishing statute, it also contains a regulatory framework. The Act gives authority to the Central and the State government to frame rules in relation to drug-use activities. The regulatory framework also paves a way for supply of opium, to registered users, for medicative purposes²⁰. Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act was introduced in 1988 as a supplementary to the NDPS Act.

B) NDPS Amendments

a) 1989: - The NDPS Act went through its first change in the year 1989. Very harsh punishments were introduced, like the mandatory minimum imprisonment of 10 years, a bar on suspension, restriction on bail, trial by special court, forfeiture of property, and mandatory death penalty in some cases of repeated offense. After these amendments, people caught even with small number of drugs had to go through long imprisonments and very hefty fines, until and unless the person could prove that it was for his own personal use.

b) 2001: - Due to the criticism faced by the 1989 amendment because of its irregular sentencing policies, the 2001 amendment was passed. According to the 2001 amendment, the penal provisions were upgraded, and penalties were imposed based on the quantity of the drugs. Three categories regarding the quantity were made-small, commercial, and intermediate. The threshold was provided through a Central Government notification in October 2001.

c) 2014: - The NDPS Act was again amended in the year 2014, and from May 2014, the amendments came into force. The main features of the latest amendments are-

¹⁸ Sections 41, 42, 43 and 50, NDPS Act

¹⁹ Raj Kumar Karwal v Union of India (1990) 2 SCC 409 and Kanhaiyalal v Union of India (2008) 4 SCC 668.

²⁰ Section 10 (1)(a)(vi), NDPS Act.

- A new category of essential narcotic drugs was created which the Central Government can regulate uniformly throughout the nation.
- The objective of the law was widened with the promotion of narcotic drugs and psychotropic substance for scientific and medical use but also prohibiting illicit use.
- Including the terms “management” of drug dependence and “recognition and approval” of treatment centres, thus allowing for the establishment of legally binding treatment standards and evidence-based medical interventions.
- The death penalty was made discretionary for repeated offense.

d) Significant Aspects of the NDPS Act: -

1. Quantity Based Sentencing- under the NDPS Act, sentencing of punishment is based on the substance and its quantity found. The government has also cleared the fact that when the quantity of the seized product is to be calculated, the weight of the product will be given prime consideration instead of the pure drug content of the product.

2. Death Penalty- the harshness of the NDPS Act is very evident from the fact that death penalty has also been included as a form of punishment under the Act. Courts can award death sentence in the case of certain repeated offense (such as manufacture, production, import, export, possession, and transportation) involving large quantities of drugs.¹¹ The death penalty was made mandatory through the 1989 amendment, but the range of offenses in which death penalty could be awarded was narrowed down in 2001. Through the 2014 amendment, the death penalty was made discretionary and an alternative punishment of 30 years of imprisonment was introduced.

3. Treatment for Drug Dependence- the NDPS Act supports treatment for people who use drugs both as an ‘alternative’ to, and independent of criminal measures. Several provisions stipulated under the Act depanelize consumption and offenses involving small quantities of drugs and encourage treatment seeking.

XII. SUGGESTION TO CONTROL ALCOHOLISM AND DRUG ADDICTION

Like any other socio-legal problem, the problem of drug addiction and abuse is a complex problem. Besides the legislative measures for combating this menace. Some other remedial measures to help to a large extent in preventing this evil are follows:

1. Efforts to control alcoholism and drug addiction have been made by introducing stringent legislative measures to regulate the manufacture, transportation and sale of these products and ban on their possession or use for other than medical and scientific purposes.
2. The use of alcohol and narcotic drugs for cure or treatment purposes has, however been permitted to cater to the legitimate needs through a proper licensing system and regulatory measures.
3. International control of narcotic drugs is attained through international agreements and conventions reached between nations under the United Nations commission on Narcotics Drugs to which India is a signatory
4. Apart from regulatory measures to control alcoholism and drug addiction the system of licensing physicians to give drugs to addicts at a reasonable rate also helps in preventing their exploitation from the underworld peddlers and thus mitigating this crime.

5. In India, various legislative measures have been introduced to control alcoholism and sale of alcoholic beverages. Several states introduced prohibition laws during the preceding decades. The prohibition Enquiry committee appointed by the planning commission in its report of June 1955 recommended that the scheme of prohibition and anti-drug should be integrated with the country's developments plans with a view to control alcoholism and improves the standard of living of the people.

6. Perhaps the best remedy to contain this evil is to educate people about the harmful effects of drug addiction and consumption of liquor. This kind of education would be most beneficial for the adolescents and school or college going students. The voluntary social organization and mass media can also usefully impart this education. Scientifically correct knowledge and education about evil effects of intoxication and drug addiction should, in fact form a part of regular curriculum at the school level.

XIII. Effective use of criminal justice systems

1. The Board is aware of the difficulties that many Governments face in making their criminal justice systems more effective. It therefore notes with interest that some have begun to rationalize their criminal justice systems by prioritizing cases deemed to be of greater importance. Some countries are targeting a greater proportion of their resources where the impact of law enforcement efforts upon the flow of the illicit traffic is greatest, namely drug kingpins and key drug traffickers. In other countries, however, high drug-related crime rates have forced law enforcement resources to be used on a more ad hoc basis. More rational use of those resources would reduce the pressure exerted on law enforcement authorities to deal with drug-related arrests and on criminal justice systems to process those arrests.

2. It is recommended that States should consider targeting, as a matter of priority, large-scale drug traffickers and the organizers of drug trafficking operations. Arresting one large-scale drug trafficker has a greater impact than arresting minor offenders; it also frees resources so that the criminal justice system can concentrate more on such higher-priority cases. Other approaches to alleviating the burden of criminal justice systems should also be explored, such as streamlining procedures to reduce the period detainees spend in custody before trial. The use of new technologies such as electronic mail, computerized data transmission, and transmission of documents by facsimile can also improve the efficiency of the administration of justice.

3. The Board considers it vital that the penalties imposed by criminal justice systems be commensurate with the seriousness of the offences. It notes with great concern the short sentences served by some major drug traffickers, often resulting from plea agreements or amnesties. For example, following a government amnesty programme, a major drug figure was recently released in Colombia for good behaviour after having served five years of an eight-year sentence, far shorter than the average time served in many countries by a convicted small-time distributor or transporter of illicit drugs. When the proceeds of a drug trafficker's illicit activities are left largely intact, the deterrent effect of even a long prison sentence is largely nullified. Only when the threat of lengthy prison sentences and the loss of all financial gain are perceived to be real will persons seeking to make a fast fortune be deterred from drug trafficking. Making greater use of treatment and alternative penalties, as well as imposing shorter prison sentences on minor offenders, in

accordance with the provisions of the 1988 Convention would result in more effective administration of justice and would free resources to deal more effectively with major instigators of drug-related crime.

4. The Board reiterates that the problem of drug abuse must be dealt with simultaneously from the different perspectives of law enforcement, prevention, treatment and rehabilitation. The alternatives to imprisonment that have been developed in different parts of the world should be examined more closely, bearing in mind the differing legal philosophies and systems. Strains on criminal justice systems, together with a concern to enhance the treatment and rehabilitation of, above all, juveniles, first offenders and the infirm, have led many countries to search for alternatives to incarceration, such as house arrest, supervised probation, community service or other non-custodial measures. In consequence, a number of debates have developed concerning, among other things, the effectiveness of these alternative sanctions, difficulties in their enforcement and the cost-effectiveness of such sanctions.

5. In their articles on penal provisions, three of the international drug control treaties refer to measures for the treatment, education, after-care, rehabilitation or social reintegration of the offender as alternatives to conviction or punishment or in addition to conviction or punishment: the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, v article 36; the Convention on Psychotropic Substances of 1971, vi article 22; and the 1988 Convention, article 3.

6. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders invited Member States to avoid, reduce or eliminate overcrowding in prisons by considering the use of a combination of measures: a reduction in the length of prison sentences available; the substitution of non-custodial sanctions or measures; and the reduction of pre-trial detention by facilitating pre-trial release or the use of bail and recognizances. The Eighth Congress also invited Member States to consider the use of non-custodial measures in relation to the personal use of drugs and to provide medical, psychological and social treatment programmes for drug-dependent offenders in appropriate cassava in addition, the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) * set out generally accepted principles and practices concerning non-custodial measures. One main objective of these measures is to allow for a bridge between the penal system and the system of care for offenders who are drug abusers, depending on the seriousness of the offence and the condition of the offender. In this regard, the Board believes that increased cooperation between judicial, health and social authorities is a necessity. There is a range of alternatives to conviction for relatively minor offences, including discontinuation of criminal proceedings, conditional discontinuance and admonishment or cautioning, as well as a range of alternatives to custody, including fines and suspended sentences, parole, probation, community service, corrective labour, treatment and supervision. It should, however, be clearly understood that the Board, in supporting appropriate recourse to treatment and non-custodial measures for minor offences, is in no way suggesting that drug-related offences should be decriminalized or that the implementation of the international drug control treaties should at all be weakened.

7. There are different ways in which a criminal justice system may make better use of available resources: for example, by management of the flow of arrested persons into the criminal justice system by prioritizing the offences to be targeted; and also by management of the arrested persons within the various stages of the criminal justice system and by making appropriate use of various sentencing modalities. Both the absolute number of

drug-related convictions and the often-increasing length of prison sentences can have adverse effects upon prison conditions. Prison overcrowding, which is only one aspect of this, may in turn have adverse effects not only on prison conditions, but also on the likelihood of prison violence. The increased use and availability of illicit drugs in prisons and the related increased risk of infection from the human immunodeficiency virus (HIV) and of other infections, as well as minor drug offenders being exposed to the "school of crime" in prison, are side effects of law enforcement and criminal justice policies that require close consideration.

8. Many countries are exploring alternative ways of dealing with drug offenders. Minor drug offenders may be diverted from the criminal justice system because of a desire to avoid the imprisonment of first-time offenders or juveniles, the need to provide for treatment and rehabilitation or the need to relieve courts and correctional systems overburdened by large numbers of people charged with minor offences. Drug treatment can be a cost-effective alternative to imprisonment, reducing related health-care costs as well as costs associated with criminal proceedings and imprisonment. Treatment may also be included in local or national demand reduction programmes that encourage drug addicts to undergo treatment voluntarily. A number of countries have community programmes operating on both a formal and informal basis to assist in this regard, independently of the arrest or conviction of the drug user.

XIV. CONCLUSION

²¹Overall, a general decreasing trend can be observed in cigarette use and alcohol use among adolescents. However, despite rather strict regulations on tobacco in most countries and on alcohol in some countries, adolescents still report relatively easy access to tobacco and alcohol. Moreover, trends over the past two decades indicate a closing of the gender gap in the use of tobacco and alcohol. The data suggest that cannabis remains an 'established' drug. Although prevalence peaked in 2003 and decreased slightly thereafter, the prevalence rates in lifetime and current cannabis use are higher in 2015 than in 1995. In many countries, prevalence rates for NPS suggest that these substances are more attractive than the 'old drugs' amphetamine, ecstasy, cocaine or LSD. Availability of NPS and adolescents' use of these substances need to be closely monitored.

With the popularity of smart phones and tablets, internet use has become more popular and increasingly mobile. The students were using the internet quite regularly and most commonly reported using it for social media, for instance to stay in contact with friends. Since the internet has become an integral part of life and is used on a daily basis, the development of patterns of addictive use among children and adolescents needs to be closely monitored and investigated in further studies. Associated with the increased internet use, online gaming has also become more popular, especially among boys. Moreover, youth gambling has become a popular form of recreation. Measures to prevent adolescents from developing problems associated with gambling, such as debts, psychological deficits and social disadvantages, are of high priority.

Substance or internet use should not always be considered individually: there seems to be a high association between the use of different drugs, including alcohol and tobacco, and risky behaviours such as gambling.

²¹ <http://www.espad.org/report/discussion-and-conclusion/conclusion>

These associations have frequently been discussed in the light of the gateway theory, assuming that progression from one drug to other increases with the frequency of use of the former drug²². Others have suggested a connection between different types of problem behaviour and that certain risk-imbued behaviour patterns are caused by identical underlying common factors²³

Drug Addiction and Alcoholism is one of the major problems of youth on whose shoulders the future of our country is dependent. The reason for this is both the internal and external factors. The ill practice of taking drugs and alcohol will not only destroy the life of people but also hamper the growth and development of our country. One should have self-realization in one's own mind and heart that what he is doing is right or wrong and should follow the path which takes him to the brighter side of life.

The efforts to contain and prevent the drug abuse in India lay with the legislature, but the courts supplement the legislative efforts in order to make India a drug free society. The courts in Independent India had not been slow to recognize the evil of drug abuse and were not oblivious of the need to adopt themselves to meet the same within the framework of enacted law. The judges have not only tried to deal with drug abuse cases inside the court rooms, but the judiciary has also acted outside the courtrooms in order to take all required steps for eradication of this menace from our society. We must appreciate the efforts of the judiciary in this regard. On the one hand they are strictly dealing with the issue of drug abuse, but at the same time the courts are also conscious of the fact that given a free hand the investigating agencies may misuse their powers, and in order to prevent such misuse of power the judiciary has laid down guidelines in various cases from time to time for the investigating agencies so that such cases could be properly investigated and disposed off on the priority basis. Secondly where the laws enacted for this purpose fails to achieve us the desired results due to faulty language; it is the judiciary which has come to the rescue of legislatures, by interpreting those laws in a way which ultimately gives us the intended results.

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²² Kandel et al., 1992

²³ Jessor and Jessor, 1977; Morral et al., 2002