

Socio-Legal Aspect of Drug Addiction and Criminal Behaviour in Children



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Abstract

Juvenile delinquency is a gateway to adult crime, since a large percentage of criminal careers had their roots in childhood. It is a problem that has been causing a serious concern all over the world. In recent years, children and their problem have been receiving attention both of the Government as also of the society. Like any other countries of the world, India have also envisaged to tackle the problem of juvenile delinquency on two fundamental principles that the young offenders should not be 'tried' but they should rather be 'corrected' and they should not be 'punished' but 'reformed'. The child of today is the citizen of tomorrow, the criminal traits of the youngsters must be suppressed in time so as to prevent them from becoming hardened criminals in future. It is with this aim in view that most of the countries of the world are engaged in handling the problem of juvenile delinquents on priority basis. This paper has same objective to identify problems relating to drug abuse and juvenile criminality.

Keywords: Drug Addiction, Juvenile, Juvenile Criminality, Delinquent, Substances.

Introduction

The child of today is the citizen of tomorrow, the criminal traits of the youngsters must be suppressed in time so as to prevent them from becoming hardened criminals in future. It is with this aim in view that most of the countries of the world are engaged in handling the problem of juvenile delinquents on priority basis. This paper has same objective to identify problems relating to drug addiction and juvenile criminality.

The truth about juvenile drug abuse is that it functions much like the traditional kind. All addictions at their heart have emotional basis and belief systems. We may not even realize that what we have imposed on the world, can lead to considerable distress. According to a new report released by The National Centre on Addiction and Substance Abuse (CASA) at Columbia University, four out of every five children and teen arrestees in state juvenile justice systems are under the influence of alcohol or drugs while committing crimes.¹

School children seem to be experimenting with a whole range of drugs. A study on 2,000 school students in Shimla by the NGO 'Youth Enlightening the Society' along with Indira Gandhi Medical College, points in this direction that over 55 per cent boys and 24 per cent girls students are regular drug users, with 29 per cent hooked to cannabis, cough syrups and opium. Abhishek Verma, 21, who started "sniffing" at the age of 15, certainly understands the reason why: "It was cool, rebellious and heady. I could do it in class and the teacher wouldn't know. Soon I became the most popular person in school," says the son of a doctor couple who still hasn't managed to come to terms with his addiction.

Drug use leads to a criminal way of life. The illegality of purchase and possession of opiates and similar drugs makes the drug user a delinquent ipso facto. The high cost of heroine, the drug generally used by juvenile, also forces specific delinquency against property, for cash and returns. The average addict youngster is too young and too unskilled to be able to support his habit by his earnings. Not only have many users freely admitted having committed crimes, but there is also independent evidence that in those areas of the city where drug rates have gone up, the proportion of juvenile delinquencies likely to result in cash income has also gone up.

Youngsters who experiment with drugs know that what they are doing is both illicit and dangerous. While they may not be fully aware of all facts about addiction, they are likely to have seen addicts and certainly have heard about addicts being jailed, about the pains of withdrawal, and about the high cost of drugs. One would expect, therefore, that willingness

to experiment with an illegal and dangerous activity, presupposes a certain attitude towards the drug.

A juvenile drug user is by definition delinquent, since drugs are illegal. But among drug users, some were delinquent before they began using drugs, and others became delinquent in order to support their habit. But the research shows that the drug user who was not delinquent prior to becoming a user is likely to come from a family of slightly higher socio-economic status than the users who were also otherwise delinquent. For the sake of convenience, we can speak of them as delinquent and non-delinquent users².

Drug addiction is a condition characterized by compulsive drug intake, craving and seeking, despite negative consequences associated with drug use.³ Although being addicted implies drug dependence, it is possible to be dependent on a drug without being addicted. People that take drugs to treat diseases and disorders, which interfere with their ability to function, may experience improvement of their condition. Such persons are dependent on the drug, but are not addicted. One is addicted, rather than merely dependent, if one exhibits compulsive behaviour towards the drug and has difficulty quitting it.

To qualify as being dependent a person must take a drug regularly. Experience unpleasant symptoms if discontinued, which makes stopping difficult. Substance abuse can occur with or without dependency, and with or without addiction. Substance abuse is any use of a substance, which causes more harm than good.

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Stimulant

These drugs, excites or speed up the central nervous system. Both smoke and smokeless forms of tobacco products belong to this category.

Volatile Solvents

These are most cheaply available drugs particularly for the street based children. Correction fluid, paint, thinners, petrol and glue are the commonest forms abused. The correction fluid is highly used by the street based children, it contains a lethal chemical called toluene.

Depressant

These substances depress or slow down the function of the central nervous system. All type of alcohol products belong to this category. Usually the children tend to use the cheapest forms liked brewed liquor, beer etc.

Cannabinoid

Cannabis drugs are made from Indian hemp plant- Cannabis sativa. This plant has mind altering properties. The main products under this category are Bhang, Charas and Ganja. These substances are

illegal. Street based and slum based children are used for peddling these drugs by mafias sometimes. Significant number of street children found to be addicted to these drugs.

Narcotics

'Narco' means 'to deaden' or benumb. The narcotic products have the property of numbing and thus relieving pain. Narcotics of natural origin (eg.opium, morphine, codeine), semi synthetic (eg.heroin) are referred to as opiates. The synthetic narcotics known as opiods (eg. Buprenorphine). A significant number of street children get addicted to narcotic substances like heroin, opiods and codeine.

Prescription Drugs

It has become a common phenomenon, due to easy availability of these pharmaceutical drugs; it is purchased and used by children. Cough syrups, pain killers and sleeping pills are commonly abused by children.

Whatever type of substances children indulge in, it creates a huge hindrance for survival, protection, growth and for their healthy development. On regular use of any of these substances, the body develops tolerance for it. Tolerance refers to the condition where the user needs more and more of the drugs to experience the same effect. Smaller quantities that were sufficient earlier are no longer effective and the user is forced to increase the amount of drug intake. This increased amount of consumption, eventually leads to psychological and physical dependence. Psychological dependence is a state characterized by emotional and mental preoccupation with the effects of the substances and a persistent craving for it. As psychological dependence develops the user gets mentally hooked onto the drug. When physical dependence develops, the user's body becomes totally dependent on the drug. With prolonged use, the body becomes so used to functioning, under the influence of the drug that it is able to function normally only if the drug is present. When physical and psychological dependence increases they get into a phase of chronic addiction.

Addiction is the only disease where the victim does not fully realize the enormity of the problem. The stigma associated with drug use, the guilt and shame resulting from inappropriate use and the lack of awareness about the impact of drugs on their health and behavior-all these lead to a denial of the problem of addiction.

Addiction to substance abuse especially among the vulnerable children can directly contribute to high risk lifestyle. These children get into illegal activities like gambling, drug peddling, pick pocketing, stealing, fighting, rape and self directed aggression causing self harm to slash themselves with sharp objects especially when they are intoxicated. Some of the children reported to undergo severe depression and attempt suicide. The children are forced into or paid for or offered drugs in exchange for sex. There is nexus between street children and commercial sex workers, many of whom abuse drugs or alcohol. Children are made to act as pimps or go between in exchange of money, drugs and shelter and sexual favours. Children who get into substance abuse problem are easily prone to delinquent behavior and anti-social activities. They can also easily become

victim of HIV/AIDS and other sexually transmitted infections, when they involve in unprotected sex under the influence of substance⁵.

History

The use of the cannabis plant for a variety of purposes has long existed in India, a fact also noted for many other countries in Asia. Its use for medicinal reasons, as well as its mind altering capacity, is significant. Cannabis has been used along with other ingredients to treat rheumatism, migraine, malaria and cholera; to relieve fluxes; facilitate surgical operations; to relax nerves; restore appetite; for general well-being; and it is also considered beneficial for the functioning of the heart and liver. Additionally, the cannabis plant provides food grain, oil seed and fibre for manufacture of fibrous products in select parts of India.

The practice of using cannabis to alter consciousness and as part of religious and shamanistic rituals has also existed in India for centuries. For example, the drug has a strong religious association as a gift from Lord Shiva to his followers. Opium has also been used for socio-cultural reasons in different parts of the country, with medicinal use being more prevalent than cultural use, like that seen among the Rajputs in Rajasthan and Gujarat⁶.

Prior to the introduction of contemporary drug control legislation, a system for procuring opium and cannabis through legal outlets existed. However, drug control initiatives put in place procedures that made it difficult to obtain these substances. Legislation in 1985 and 2000 include provisions for medical use, but there has been a trend not only to reduce the quantity released by the government, but also to tighten up procedural regulations for obtaining the drugs by traditional medicinal practitioners. The resulting inability to source sufficient licit opium and cannabis for traditional use has forced such practitioners to make purchases from the expanding illegal market.

Socio-Cultural Controls

Until the 1980s cannabis consumption does not appear to have been regarded as an issue of major social concern in India, with little or no official mention of excessive use. Prevalent socio-cultural regulations with regard to the form of use, mode of consumption, context of use and profile of users, ensured a system of use management that limited drug use within the country. For instance, norms restricted the use of cannabis and opium to the adult male population. In the case of cannabis, this is a pattern documented in a number of countries including Cambodia, Vietnam, Thailand, Laos, China, Nepal and Pakistan. Even among the male adult population, there were restrictions on the context for consumption, with sanctioned use often linked or limited to specific religious and social occasions. In India and Nepal, the use of cannabis appears to be linked to religious festivals like *Shivaratri*, *Krishna Ashtami* (birth of Lord Krishna) and participation in *bhajan* sessions. Indeed, occasions like *Holi*, 'the festival of colours,' are not complete without the sharing of *bhang* - a drink made with cannabis. At such select occasions, women and youngsters were permitted to use *bhang* and other items made from

cannabis, including snacks, sweets and curry. Opium is also offered at the harvest festival in a ceremony called *akha teej*, intended to strengthen family marital clan bonds and put aside old feuds.

It is this specification regarding the profile of users and a desire for cultural confirmation that ensured the existence of mechanisms to control drug use. The provision made for women and children to consume cannabis products in select cultural contexts and in specified forms indicates a strong cultural acceptance for cannabis within India. Norms reaffirmed the cultural dimension of cannabis use and probably prevented excessive non-cultural use of cannabis. As noted earlier, the adherence to cultural norms on sanctioned use emerged from a strong association of cannabis with Lord Shiva. For example, *Sadhus* (hermits) of various sects who primarily worship Lord Shiva make use of the drug for strengthening their concentration and spiritual search. Prior to smoking cannabis, the *sadhus* praise their Lord and take it in his name, a pattern of consumption seen also among lay followers. During *Shivaratri*, the distribution of cannabis drink and other products is perceived as a way to strengthen the association with the Lord. It is likely that such a relationship played a major role in restricting its use within India and Nepal, despite easy availability and local cultivation. The drug's connection to *Shivaratri* almost certainly limited its use beyond the ceremonial context. Unlike cannabis, opium does not appear to have any significant religious associations, but even here the link between cultural identity and the consumption of opium acted as a strong mechanism to restrict consumption of the drug in excess. Studies conducted into opium use in Rajasthan and Gujarat indicate strong links between cultural and caste membership, and use of the drug.

An opium drink can be used to greet guests to social functions that include marriage celebrations, sealing a business deal or mourning the demise of a relative. In this case, culture permits opium consumption in the male adult population but, unlike with cannabis, there is no specific cultural sanction for women and youngsters to use the substance except for medicinal purposes. Such sanctioned cultural use, and its occasion or context, produces a situation within which a drug's mind-altering properties are not the sole focus of the practice. For example, in consumption during a celebration or get together, songs and social interaction form the binding force for consuming the substance. Consumption of *bhang* during *Holi* calls for community participation from the decision to prepare the drink, through to making it, and finally its consumption in a group setting.

The pattern of consumption for smoking cannabis and opium also restricts drug use, because as a group activity the users only inhale a few times from the pipe. Moreover, smoking the pipe is but a part of social interaction and not the sole activity of the group. Sharing the drug is also not the result of any economic consideration as is sometimes seen in the case of heroin.

Main Causes Of Drug Addiction among Juveniles

To carry out preventive work among children and teenagers it is necessary to see the drug use problem in modern context. Here are the factors

which cause drug-related criminality among teenagers and young people:⁷

Unfavourable Family Climate

Every year in India we have about 50 000 citizens who are candidates for deprivation of parental rights and register about 150000 children and teenagers registered who do not have support from their parents. Also more than 100000 parents are registered whose behaviour and life style affects their children's behaviour (parents who use alcohol, drugs, fight with each other and beat their children). Every year child abuse makes about 2000 children commit suicide and about 30000 run away from their parents;

Educational Institutions and Social Organization Fail to Support Parents in Upbringing of Their Children

The reforms of educational institutions and legal bodies led to the liquidation of educational and pedagogical role of school and preventive role of police. Life showed that this course of reforms was wrong and vicious. Now the schools are gradually assuming their old functions, but this process is not going smoothly in all regions because it is very difficult to win the vicious psychology of indifference cruelty and greediness. "Parents spending less time with their children, anxiety, frustration, stressful lifestyle can be the reasons behind adoption of drugs by city youth.

Poor Quality of Educational Work in Schools

Teachers are not qualified to do preventive and educational work efficiently with different categories of children.

Family Disruption

Family disruption leads to the situation of drug addiction. In India we have about 4,00,000 single-father and about 5 million single-mother families.

Unemployment, Poor Financial Situation

When parents are not able to give their children good food and clothes. Such poor families are not able to protect children from negative influence of the environment and often become a criminal factor itself. Social inequality, namely a wide financial gap between the children from different social groups leads to jealousy, aggression and violence. Uneven social distribution in society often removes the bans for committing crimes.

A Great Number of Children Who Deviate From School

Those children start working in the early age, very often gets a job in a criminal environment. Children who started working in early age are isolated from spiritual life, sport activities, good entertainment and healthy life style.

Drawbacks of the State Social Policy

Degradation of health care sector leads to the increase of number of both physical and psychological diseases among children

Destructive Effect of Mass Media For Children

Propaganda of violence and cruelty, spotlight on the bad sides of human nature leads to the reinforcement of the criminal army. It is clear that by putting different bans for example by closing night clubs we will not settle the problem of drug use in the places of entertainment. But by carrying out constants anti drug campaign our public organizations, youth

movements, educational institutions can do a lot for the settlement of the problem. Unfortunately, by now their activities have not led to reduction the number of drug users and drug-related crimes.

Development in Pharmarceutical and Medical Science

Have provided scope for production of a variety of toxic synthetic substances. This has contributed substantially to drug abuse and addiction.

Legal Framework

Juvenile delinquency is a gateway to adult crime, since a large percentage of criminal careers had their roots in childhood. It is a problem that has been causing a serious concern all over the world. In recent years, children and their problem have been receiving attention both of the Government and the society. Like any other countries of the world, India have also envisaged to tackle the problem of juvenile delinquency on two fundamental principles that the young offenders should not be 'tried' but they should rather be 'corrected' and they should not be 'punished' but 'reformed'. To attain the objective adequate provisions under Sections 82⁸ and 83⁹ of the Indian Penal Code, 1860 have been made. Nothing is an offence which is done by a child under seven years of age and nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity understanding to judge of the nature and consequences of his conduct on that occasion.

Again, Section 360 of the Code of Criminal procedure, 1973 provides¹⁰ that "when any person who is below twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for a life and no previous conviction is proved against the offender, if it appears to the court before which he is convicted regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed." Section 27¹¹ of the Code of Criminal Procedure also suggests that a lenient treatment to juveniles has already received statutory recognition in the Indian law. The Section provides that is a person below sixteen years of age commits an offence other than the one punishable with death of imprisonment for life, he should be awarded a lenient punishment depending on his previous history, character and circumstances which led him to commit the crime. His sentence can further be commuted for good behaviour during the term of his imprisonment.

The Narcotic Drugs and Psychotropic Substances Act, 1985 declares that illegal the production, possession, transportation, purchase and sale of any narcotic drugs or psychotropic substances and makes the person, addict/trafficker liable for punishment. Use or threat of use of violence or arms by the offender, use of minors for the commission of offence, commission of the offence in an educational institution or social service facility are some of the grounds for higher punishment. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 under this law, people who use

children for drug trafficking can be booked as abettors or conspirators to the act.

To provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juvenile the Juvenile Justice Act, 1986 was enacted by Parliament. Several provisions of the Constitution including Clause (3) of Article 15¹², Article 21-A, Clause (e) and (f) of Article 39¹³, Article 45¹⁴ and Article 47¹⁵ also impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected. Indian Constitution directs the State for making any special provision for women and children and the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

To achieve this object the Juvenile Justice (Care and Protection of Children) Bill was introduced in Parliament and it came on the statute book as the Juvenile Justice (Care and Protection of Children) Act, 2000. If the juvenile commits an offence, he is to be dealt with by juvenile courts established under the 2000 Act. That Court will not hold a trial of the case; but only to inquire into the offence as provided by the Act. There is no theory of punishment imported in the Act. The whole trust is on the protection, development and rehabilitation of the juvenile. Juvenile cannot be sent to the prison. Bail cannot be refused and the maximum that happens is juvenile delinquents are given to the care of either the probation officer or in the care of the parents or some fit person or institution. This is not as punishment but as a step for their rehabilitation. They suffer no disqualification if the offence is proved. From this it can be safely concluded that parliament totally excluded the jurisdiction of the ordinary courts in relation to juvenile offenders. In other words, jurisdiction of all other courts established under law is ousted and it is solely conferred on juvenile courts in so far as juvenile offenders are concerned¹⁶.

And the Controversy

And the same was contradicted in Sanjay Kumar v/s State of M.P.¹⁷, it was held that an accused u/section 20(1) (b)¹⁸ of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) is not entitled to be released on bail unless he satisfies the condition precedent as enshrined U/Sec.37¹⁹ of the

NDPS, Act. It is further held that a juvenile has to satisfy the conditions precedent as provided U/Sec.37 of the NDPS, Act. Orissa High Court in Antaryami Patra V/s State of Orissa²⁰ was of the opinion that no doubt Sec.18 of Juvenile Justice Act made a general provision with regard to the right of juvenile delinquent to be released on bail irrespective of the offence committed by him, but a Narcotic Drugs Act is a special provision has been made with regard to the pre-conditions to be satisfied for an accused being released on bail. Therefore, the said special provision of the special statute, namely Sec.37 of The Narcotic Drugs Act, would override Sec.18 of The Juvenile Justice Act and therefore even in case of a juvenile delinquent involved in commission of an offence under the said Act, no bail can be granted until and unless the provision of Sec. 37 of The Narcotic Drugs Act are complied with.

Conclusion and Suggestions

1. As we have discussed in this paper with the legal perspective of drug addiction and trafficking, we found certain contradiction in Juvenile Justice Act, 2000 and NDPS Act, 1985. Even after the amendments made in 2001, this issue has not been addressed. Therefore it is suggested that these acts should work in conformity with each other giving way to a model juvenile justice code to set a standard of practices and accountability for states in handling juvenile offenders.
2. In our opinion the first thing that should be done is to work out the ideology and specific activities which will form the base for preventive work in the framework of federal target program "Complex measures for fighting drug use and illegal drug traffic". But even efficient target program financed by the government will not bring good results if our people do not face the reality and continue to live in the world of make believe.
3. Training all juvenile justice system staff, including juvenile judges, law enforcement and other court personnel how to recognise and deal with substance-involved offenders.
4. Making available treatment, healthcare, education and job training programs to children in juvenile justice systems.
5. Expanding Govt grant programs for juvenile justice and delinquency prevention and conditioning such grants on reform of state systems.
6. Developing state and national data systems to judge progress in meeting the needs of these children.

References

1. <http://alcoholism.about.com/od/teen>
2. https://en.wikipedia.org/wiki/juvenile_delinquency
3. http://en.wikipedia.org/wiki/Drug_addiction
4. Immaculate Mary, Protecting Children from Substance Abuse: A Critical Need for Meaningful Achievement of Millennium Development Goals. Accessed from: http://www.ihsnet.org.in/IHSPresentations/Protecting_Children_from_Substance_Abuse/08Jan09.pdf
5. Benegal V, etal (1998) *Drug Abuse among street children in Bangalore*, accessed from:<http://>

- www.nimhans.kar.nic.in/deaddiction/lit/Drug%20Abuse%20Street%20Children_Bangalore.pdf.
6. www.Indiaeducation.net/parents.corner
 7. Ibid
 8. Nothing is an offence which is done by a child under seven years of age.
 9. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.
 10. For more Detail see, Criminal Procedure Code, 1973; Sec.360
 11. See, Ibid; Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960, (60 of 1960) or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.
 12. Nothing in this article shall prevent the State from making any special provision for women and children.
 13. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
 14. The State shall endeavor to provide, within a period of ten years from the commencement of

this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

15. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health..
16. See, In re: Session Judge, Kalpetta, 1995 Cri LJ 330
17. See, 2000 (1) M.P.LJ 507
18. See, Sec.20 of NDPS Act, 1985; Punishment for contravention in relation to cannabis plant and cannabis.
19. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,-(a) every offence punishable under this Act shall be cognizable;(b) no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his own bond unless-(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.]
20. See, 1993 Cri.L.J 1908