



The penalty or punishment for unlawful manufacturing, importing, exporting, trafficking, or possession of drugs in India is a strict one

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Abstract

The paper argues that the study of the drug trafficking route along India's west coast has increased. Subsequently, the use of shipping containers for drug trafficking has emerged as a new danger. Alternatively, Indian society is heavily involved in the illegal cultivation, manufacturing, and trafficking of drugs, as well as the diversion of legal opium, originators, and narcotics. These are the activities that raise illicit drug money. In this study, the loopholes of the NDPS Act have been thoroughly studied. What is more, some of the heroin produced illegally in India is a diverted product. Even though opium poppy farming is still illegal in India. Despite the fact that the bulk of raids involve minor amounts of narcotics for which no monetary probe or asset forfeiture is conceivable, It is also important to highlight that India is the only country in the world where narcotics are made, smuggled in and out of the nation, traded in the local market, and redirected for illicit substance business and trafficking. There is no proper law to address this issue, and the loopholes in the NDPS Act are used for drug trafficking.

Keywords: Importing, exporting, trafficking, subsequently, drug trafficking

Introduction

Initially, India is surrounded by the world's two greatest opium-producing zones, the "Golden Crescent" and the "Golden Triangle." Specifically, the regional closeness became a source of flexibility, which made India a hotspot location and a transit route for narcotics smuggling. However, the heroin is untraceable since the narcotics legally manufactured are rerouted to illegal channels, which is quite challenging. Nevertheless, over the decade, marijuana, cannabis, and hash were supplied to India from Nepal. For this reason, drug law enforcement is a multi-stakeholder endeavor. To summarize, the establishment of a drug trafficking route along the west coast, as well as the use of shipping containers for drug trafficking, have emerged as new dangers. Also, there are additional indications of drug routes along the Andaman Sea. While there are the latest government missions and strategies deployed to deal with the threat of drug trafficking in the sea, the effectiveness of the method and significant obstacles remain to be addressed. According to NCB and DRI, drugs enter the country by land, sea, and air. However, over the years, checking at borders has increased, and security has been drastically strengthened. Evidently, the contrabands' enormous profit from drug trade through land channels was seriously harmed. Significantly, from Pakistan, small gunny bags were packed with drugs and thrown across the border into Punjab. Across land borders, smugglers have become more tech-savvy and have been using drones to ship small packages of drugs over the years. Another issue with drug trafficking is that many transactions take place on the "darknet". According to a study, drugs are smuggled through the air using new technologies. Although smugglers use the sea route to smuggle huge amounts of drugs, On the other hand, in the case of undetected entry, the drugs are shifted and extracted from temporary plants in three states, namely Punjab, Madhya Pradesh, and Haryana (The Print, 2021).

As explained above, the movement of heroin out of India via Bangladesh has been detected across the northern population belt. Additionally, there is evidence of drug trafficking to nearby nations in America, Southeast Asia, and European countries. Moreover, cocaine trafficking from America and Europe to India has increased (The Economic Times, 2021). In recent years, drug traffickers have been routing through Tamil Nadu to smuggle drugs internationally. Generally, the end product is exported to South Africa. Alternatively, Indian society is heavily involved in the illegal cultivation, manufacturing, and trafficking of drugs, as well as the diversion of legal opium, antecedents, and narcotics. Alternatively, these are the activities that raise illicit drug money. Currently, there is no count of how much money drugs generate. Unlike illegal cash, criminals are able to use it (a) for their own purposes, (b) for funding terrorism, and (c) for purchasing political control. Despite strict controls, a huge amount of opium is being diverted to illegal networks. Historically, Delhi and Mumbai have been the corridors to export heroin to western destinations. However, the two new routes built in recent years, namely Sri Lanka and Bangladesh, Simultaneously, cannabis is grown in the states of Manipur and Meghalaya. According to study reports, terrorist groups in the region have created a support system with drug trafficking gangs for cash. On the other hand, hashish is manufactured and trafficked via trucks and passenger cars from Nepal. Conversely, movement over the Indo-Nepalese border is unrestricted, with no need for a passport or a visa. While Gujarat and Maharashtra continue to be important transit areas for hashish, Also of importance is the issue of Kashmir, which has emerged as a substantial supplier of hashish. As stated previously, compared to other drugs, cocaine is smuggled in massive quantities to wealthy drug users in the major cities. Also, cocaine is increasingly being reported as a drug of choice among the urban population (The Print, 2021).

The limits and loopholes of the NDPS act

Subsequently, in India, the criminal jurisprudence system holds the accused innocent until proven guilty, which is contrary to the principles and spirit of the NDPS Act. As a result, the NDPS Act was created in accordance with international norms, but it is nonetheless in violation of conventional human rights principles since it holds the accused guilty until proven innocent and places the burden of proof on the individual accused. It should also be noted that under the Act, unless the reverse is proven, the courts will assume that the accused retained the unlawful narcotics found in his possession on purpose. While the legislation does not mention the word “conscious possession,” courts have often found that the Act refers to the “conscious” or “mental state of possession” rather than just physically possessing them. Naturally, the law concludes that drugs were discovered by an individual who was not consciously carrying them because they were unaware of them. Rather, he or she was not physically carrying drugs but consciously possessing them because they were aware of them. Furthermore, the NCB records the declarations of the suspect, which allows police to call for information as evidence, but it is inadmissible in court. Specifically, the matter was unresolved until recently, when the statement given to policemen could not be presented to court as evidence about the convict had been ruled out. Having established this, it is possible to consider that NCB abused the Act and relied mainly on statements recorded under duress. It is clear that the police officers cannot use this as a statement. Thereafter, they are unable to present the content as proof. Hence, it is an extreme case of misappropriation. For instance, technical evidence such as phone texts cannot be used as proof under other acts. But in some cases, putting suspects in prison is the primary proof under the Act. In fact, suspects acquiring a minor amount of drugs are detained and sent for complete de-addiction treatment in government hospitals or rehabilitation centers. On one hand, the act failed to define what constitutes consumption, leaving it up to the investigative officers to determine whether or not an offense has occurred. This is why the law is being abused to lock people caught with even modest amounts of marijuana behind bars for extended periods of time (The Print, 2021).

More importantly, there is a distinction to be made between acquiring and funding narcotics. Evidently, purchases do not qualify as financing. Indeed, a purchase is a violation of the Act, which is punishable by jail or a fine. But in most cases, the drugs are purchased in cash without any traces left behind of the money sourced from the sale or purchase of narcotics. In relation to the buying of drugs in tiny amounts, it is not implied that the person is engaged in the drug business and earns money from it. To this end, the NCB remained unfocused on breaking up the smuggling network, focusing more on consumers with tiny amounts of narcotics while neglecting the giant sharks. Rather than focusing on transferring an addict to rehabilitation centers, they prefer to pursue and imprison, while traffickers walk free, hunting for their next victim. It is evident that a serious legislative change is required, which would result in prevention and treatment. Otherwise, the NDPS Act would be misused in the long run, and the lengthy procedure would become the penalty (The Print, 2021). In general, it is believed that the Act fails to distinguish between casual drug users, hard addicts, petty peddlers, and experienced drug traffickers.

Thus, it would be correct to state that the law created more problems than solved them. Another point to consider is that many criminal gangs have seized the opportunity to take advantage of these laws and are closely tied to law enforcement agencies. Unfortunately, there is enough evidence to suggest that terrorist organizations are involved in drug trafficking, which has worldwide ramifications and poses a threat to the entire globe. It could be concluded that law enforcement agencies have extensive powers, such as preventative detention, yet these methods have proven ineffective and must be reconsidered (Ipleaders, 2014).

The present scenario of narcotics crime in India

As stated previously, opiates are planted in the northeastern states for medicinal purposes. Even though opium poppy farming is still illegal, Thus, the illegal opium cultivation in the northeast was commercialized in the late 1980s; eventually, the native inhabitants contacted the wood dealers from the grasslands and smuggled them for money. Further, these regions have little economic activity and farming techniques, and the survival level is still basic. Overall, opiates are commercialized products, and they are highly addictive. Presently, lawful opium gum is produced for domestic needs and for export to other countries for both medicinal and experimental purposes. In terms of production, opium is cultivated mainly in Uttar Pradesh, Madhya Pradesh, and Rajasthan. However, the law enforcement agency in Gwalior enforced strict licenses. Despite an intricate system of legislative and preventative measures to prevent opium diversion, some amounts do migrate into illegal networks. In short, the price given by the illegal trade varies from Rs. 5,000 per kg to Rs. 20,000, which is an apparent incentive for unethical farmers. In contrast, the legal purchase costs range from Rs. 720 to Rs. 2,100 per kg based on the amount of opiates harvested (UNODC, 2022).

What is more, some of the heroin produced illegally is diverted. Thus, to decrease the danger of diversion, the produce is quickly taken away from the planters after the cutting and harvesting of the opiates. In particular, India is a major producer of pharmaceutical drugs. Despite the fact that the legislation mandates any pharmaceuticals with abuse potential to be offered exclusively by prescription, there has been substantial diversion. Whereas injectable drug usage is now more strongly associated with the consumption of licit opiate medications than with illegal narcotics. A related concern is the introduction of counterfeit narcotics onto the market. In addition, the lack of a heroin signature program in India makes it impossible to determine the exact origin of the heroin confiscated. Similarly, it is feasible to determine origin in circumstances where precise packaging, markings, and numbers are extant. However, because of adulteration and replacement of the real confiscated substance, these distinguishing characteristics are lost as the product travels through numerous hands. Furthermore, heroin from Afghanistan and Pakistan primarily transits through India to international locations. Conversely, there are no indications that drugs trafficked through the northeast are consumed locally or smuggled abroad. But this type of product is consumed in the northeast since the quality of heroin is too high to be smuggled into the country from Myanmar. Concentrating on the issues with prohibition in the north-eastern states, the prevalence of historical transborder cultural linkages,

limitations on travel, hard topography, and the threat of militancy. Alternatively, techniques have been used, such as exporting narcotics in undeclared marine freight consignments via Dubai as a trans-shipment location. Conversely, people from metropolitan areas use heroin, injection drug use (IDU), and reusing needles. Users of opiates and cannabis, on the other hand, were mostly from rural areas. In fact, some of the street children are involved in drug trafficking. Thus, import restrictions and high import duties made smuggling exceedingly profitable (News 18, 2021).

Despite the fact that the bulk of raids involve minor amounts of narcotics for which no monetary probe or asset forfeiture is conceivable, From this, it is suggested that (a) policemen bookcases and they are not instructed to handle monetary probes, and (b) many law-making agencies are unaware of the regulation of monetary probes and property seizure under the NDPS Act. It is also important to highlight that India is the only country where narcotics are made, exported, marketed locally, and redirected for illicit substance business and trafficking. Apart from that, the volume of synthetic drug trafficking and abuse has increased recently. Having established this, small shipments have entered from the Malaysian corridor since 2000 (The Economic Times, 2021).

Conclusion

Even though law enforcement agencies exercise strict controls, precursor chemical substances continue to be diverted from authorized channels. According to a study, Punjab and Maharashtra lead the pack when it comes to synthetic drug smuggling and consumption. In recent times, to transport narcotics to the user, the gangs employed a practice known as “drop shipping.” In other words, primary drug suppliers were sent to tier 1 drop-shippers in India, who kept them in underground storage. Furthermore, through drop shippers and delivery services, the narcotics were delivered in the country, thereby breaking the link between the supplier and the end user. However, a web platform called Dark Net Market (DNM) is operating to purchase and sell drugs, locate suppliers and buyers, and evaluate product quality (The Times of India, 2022). Regarding the worldwide practice of buying drugs through darknet transaction podiums utilizing cryptocurrency, this practice continues to grow (The Economic Times, 2022). Another issue regarding drug shipments is that India is frequently mentioned as the originator of illicit shipments of chemical-based synthetic drugs. To be more precise, these chemical substances have been smuggled via India to numerous places, such as Pakistan, the Balkans, the Philippines, Iran, the UAE, the Syrian Arab Republic, Central America, and African countries. Over the last several years, law-making authorities have made large confiscations of chemical drugs, confirming that there is illicit manufacture and diversion of these chemical substances from lawful commercial agencies despite the rigorous regulations enforced by the Government of India. Importantly, ketamine, which is manufactured lawfully, is purportedly smuggled to nations in Eastern Asia, where it is widely abused (UNODC, 2022). In conclusion, the drug traffickers leave the cars transporting the substances at checkpoints without alarm if they believe they will be nabbed. While drug smuggling was halted during the peak shutdown, some localities in Karnataka, Tamil Nadu,

Telangana, and Andhra Pradesh saw an increase in overseas delivery boxes containing substances (The Economic Times, 2020). It can be concluded that, in spite of strict laws, enforcement agencies, and government control, illegal drug trafficking is rampant under the cover.

Subsequently, drug smuggling through sea routes or the air has emerged as a national security threat. In spite of coast guards and customs, there is an infiltration of drugs from international gangs. Gradually, the law should be stronger to address the above issues. To further understand, many politicians are involved in drug smuggling. Therefore, the law should be strong enough to address political influence and take it to the higher authorities for stringent penalties. Hence, terrorism, security threats, and illegal money pose a serious risk to the people of the country. It is recommended that not only one NDPS Act but various state and local investigative agencies be required at the grassroots level to work in coordination and bust drug racquets. More importantly, random crackdowns and upgrading skills are required to capture online drug trading sites and shut them down overnight. Instead of video recording of statements as evidence, alternative methods should be devised to record evidence.

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