



Narcotics laws and drug Trafficking: Roles and challenges

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Abstract

Drug trafficking in today's society has become the major organized crime at global level. It has addicted many people to harmful drugs. The drugs have badly affected the health of users and hence various laws have been enforced to completely eradicate the evil of drugs from society.

The drug syndicate has already spread the drug market across various nations and without effective strategies both at national and international level controlling these crimes will be a toughest task. At international level different steps have been taken for controlling the drug market but still drug trafficking is increasing every day.

This research mainly aims to study in depth the problems of drug trafficking. This research will be very useful in understanding how strategies can be developed for controlling drug trafficking in India. Further this research brings out strategies by which drug trafficking can be controlled in India. For this research International Conventions and Narcotics laws of our country are studied and analysed. The research explores various steps that can be taken to control the increase of drug trafficking.

Keywords: Drugs trafficking, narcotics laws, psychotropic substances, the narcotics drugs and psychotropic substances Act, 1985

Introduction

Drug trafficking is increasing at a global level and it is also a major issue in India. Article 47 of the Constitution in Directive Principles of State Policy obligates the State to bring prohibition of intoxicating drinks and drugs except for medicinal purposes. The major laws for controlling drug trafficking in India include the Narcotic Drugs and Psychotropic Substances Act, 1985 and the Prevention of Illicit Drugs and Psychotropic Substances Act, 1988.

Even Though there are various strict legal regulations to control the growth of drug trafficking, drug syndicates are still growing in different parts of India in an uncontrolled manner. Nearly 237 substances are mentioned in the list of Narcotics Control Bureau which are considered illicit drugs in India.

The problem of drug trafficking has been raised on multiple platforms at National and International Level and everyone has raised their concerns on uncontrolled increase in drugs market at global level. Various conventions and treaties to control the manufacturing and selling of drugs in different areas cannot be eliminated and many people are getting addicted to drugs. It is affecting the health of the users and ultimately destroying the lives of millions of people.

This research mainly aims to analyse the growth of drug trafficking in India and find effective ways by which drug trafficking can be controlled in India. For this research the existing drug law Narcotics Drugs and Psychotropic Substances Act of 1985 have been studied along with different treaties that have been signed at the International level to control the drugs trafficking at global level.

Research Problems

The drug trafficking has been increasing at a vast level not only in India but across different nations. Many youths are getting drug addicted and this social evil has affected them socially, financially with major consequences on their health. Many steps have been taken to control drug

trafficking by various government and non-governmental organisations but still this is increasing day by day. This research aims to identify the solutions of following questions:

1. What is the existing legal framework to control the drugs trafficking in India and at Global level?
2. How can the drug syndicate be totally controlled in our country?
3. What are the challenges faced due to the increase of drug trafficking in our country?
4. What measures can be adopted to control and eradicate drug trafficking from our country?

Objectives of the Research

The objectives of research include:

- The first objective of this research is to understand the concept of Narcotics Laws and drugs trafficking.
- The second objective of this research is to examine the reasons for evolution and development of Narcotics Laws in India.
- The third objective of this research is to find the effectiveness of Narcotics Laws in controlling the Drugs Trafficking in India.
- This next objective of this research is to find the challenges in controlling drug trafficking in India.
- The fifth objective of this research is to analyze how the State and its authorities can be made more accountable in order to identify and punish the persons associated with drug syndicates.
- The last objective of this research is to explore the ways in which the Narcotics laws can be strengthened to totally eliminate the drugs trafficking in India.

Research Methodology

This study adopts a doctrinal legal research methodology, supplemented by comparative and analytical approaches to evaluate the implication of Narcotics laws in India. This

research involves primary sources such as Judicial decisions of Supreme Court and High Courts, constitutional provisions, Narcotics laws such as the Narcotics Drugs and Psychotropic Substances Act, 1985 and Secondary Sources such as books, journal articles. Data collection and analysis involves Legal databases such as SCC Online, Westlaw, HeinOnline, and Manupatra to collect case laws and scholarly works. A case study method is employed to analyze landmark judgments that have decided the drug trafficking issues. A content analysis of judicial reasoning is undertaken to evaluate the legal acceptability and challenges in the implementation of Narcotics Laws in India.

The research aims to understand the current legal stance, identify gaps, and suggest reforms for proper implementation of these laws. The study is primarily qualitative and involves a systematic examination of Statutes, case laws, and legal commentaries, scholarly articles from socio-legal journals.

Challenges posed by Drug Trafficking at Global Level

The drugs syndicate is present at the global level. According to a survey conducted by UNODC, the South Asian country Afghanistan is the world's largest illicit opium producing country, accounting for less than 90 percent of global output. Drug trafficking has become a most lucrative form of business for criminals. Many terrorist organizations are involved in the drug trade. Drug trafficking is a source of income to these terror groups. There has been a rise in manufacturing and selling of drugs in various direct and indirect ways. ^[1]

Controlling of certain substances is difficult as they are used for legitimate purposes. Opiates remain a highly problematic drug as its overdose will lead to death among those users who take drugs through injections. Lack of strict implementation of drug laws has further increased the drug trafficking at global level.

Earlier natural and semi-synthetic drugs were used but now synthetic drugs are replacing them. The emergence of New Psychoactive Substances has created vast challenges for the government and law enforcement agencies at International level. The precursor chemicals which are widely used in manufacturing drugs in a legitimate way are also misused by drug traffickers for producing illicit drugs. As use of these chemicals cannot be controlled, drug trafficking also cannot be stopped.

Poverty and corruption are two main reasons due to which drug trafficking is increasing at a vast level in different countries. Many people in the desire of better social status and economic position become members of drug syndicates and supply drugs. On the other hand, due to corruption, the main person cannot be arrested due to which the growth of drug trade cannot be stopped and it becomes a challenge for the society at large.

Growing drug trafficking has also led to increase in the financial support to the terrorist organisations that are actively involved in drug syndicate. The growth of Narcoterrorism has become a very complex challenge to the law enforcement agencies at global level.

Initiatives taken at Global Level against Drugs Trafficking

At the International level there have been three important conventions that regulate the growth of drugs at global level and other related activities such as production, distribution

and possession of controlled substances for medicinal and scientific purposes.

The first convention was passed in 1961. This treaty controls cultivation, production, supply, trade and transport of controlled substances involving specific narcotic drugs and lays down the system of regulations by providing licenses, measures for treatment, research etc. for their medical and scientific uses. The Convention also establishes the International Narcotics Control Board. It was amended in 1972. This convention has merged pre-existing multilateral treaties. It created four Schedules of controlled substances and a process for adding new substances to the Schedules without amending the treaty.

The Convention on Psychotropic Substances of 1971 is the second treaty of United Nations which has been designed to control psychoactive drugs such as amphetamine type stimulants, Barbiturates, Benzodiazepines and Psychedelics signed in Vienna, Austria on 21 February 1971.

Finally, the third Convention was signed against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1988. This Convention has extended the control regime to substances frequently used in the illicit manufacture of controlled drugs also known as precursors. This Convention has focused on the growing problem of transnational trafficking and further strengthens the International cooperation in criminal matters including extradition and mutual legal assistance. ^[2]

In 1946, the Economic and Social Council established the Commission on Narcotics Drugs, the central policy making body of the United Nations in drug related matters. This Commission meets annually to address international drug control issues and common strategies that can be made to control the increase of drug trafficking at global level.

The United Nations Office on Drugs and Crime assists countries at global level to frame legislation, rules and regulations on controlling the illicit trade of drugs. It also assists countries in meeting their requirement of precursor chemicals and maintaining a database for this purpose. It also helps in improving law enforcement agencies by providing training to officials on detection and prevention of illicit drug smuggling in their nation. It will also help in the investigation procedure on identifying the main source of the drug syndicate and all the members involved in the illegal drug trade. The training will improve awareness of the officials about the strategies that should be adopted by them to totally control drug trafficking.

Apart from the United Nations, even Interpol is also taking effective steps to control the trade of drugs in various nations. India has also collaborated with the Interpol to see that drug trafficking and narcoterrorism can be controlled. India also has bilateral cooperation with various countries to totally control the drug syndicate at international level.

Reasons for the Growth of Drugs Trafficking in India

There are various reasons due to which drug trafficking has increased in India. The first major reason is the geographical location of India between the golden crescent and golden triangle region which are the global hub of drug supply and has also contributed to the development of drug trafficking in India. The next reason includes poverty due to which many people are involved with drug supply syndicates in India. The lot of illiteracy has led to increase in the unemployment rate in India which has subsequently involved various illiterate people including tribal.

The technology has also been used nowadays for drug supplies. No proper control on drones used in cross border drug supply has also increased drug smuggling in India. Specially in border States the drugs are supplied by using drone technology. Various news reports have mentioned about the increase of cross border drug smuggling in border States of India and hence it is very important to control such drones.

Apart from this various Non-Resident Indians and local gangsters are involved in drug supply across India. Due to which the supply network of drugs has a vast spread in India. These local gangsters have great influence at the local level and as a result they have major involvement in the uncontrolled spread of drugs in their area. Very few drugs are generally seized by authorities due to which large amounts of drugs move in unrestricted manner and as a large number of people are involved in this crime totally eliminating the availability of drugs is very difficult.

Whereas improper implementation of drug laws is also the reason for the vast range of production, supply and use of the drugs in India. Many people who are involved in drug trafficking have influence of power and politics due to which even if police and other law enforcement agencies are successful in arresting them, this drug racket continues with its other members.

Seeing the growth of drug trafficking in India, the Supreme Court has taken strict action against the increase of drugs trafficking and drugs marketing in India. In the Case of *Navas v State of Kerala* [3] where the prime accused in the instant matter was found in possession of concealed 40.5 Kg of Ganja. In this case Kerala High Court pointed out towards the difference between setting aside of an unjustified, illegal or perverse orders by a superior court and cancelling by Court on the ground of accused's or because of some new facts requiring such intervention as explained in *Gurcharan Singh v State (Delhi Administration)* [4] and found the cancellation of bail by the Special Judge to be justified for being involved in another crime while being on bail.

In the case of *Union of India v Ajay Kumar* [5] where 1005 Kg of Ganja is found with the accused, who was revealed to be the kingpin and organizer of Ganja trade. The Supreme Court held that bail cannot be granted in matters involving commercial quantities of narcotics until the Court is satisfied regarding the innocence of the person involved.

In the case of *Bama Devi v State of Orissa* [6] wherein the accused along with five others was alleged to be transporting contraband ganja weighing around 476 Kgs to Punjab, Orissa High Court expressed that the case could not be falsified in its entirety since other witnesses were yet to be examined and the witnesses examined so far did not support the applicant's case. Thus, the Court refused to extend bail while particularly considering large quantities of contraband.

Role of Narcotics Laws in controlling the Drugs Trafficking in India

The Narcotics Drugs and Psychotropic Substances Act of 1985 had been introduced in the Lower House of Indian Parliament on 23 August 1985. It was enforced on 14 November 1985. The NDPS Act has laid various provisions to control the produce, manufacture, cultivation, possession, sale, purchase, transport, store and consumption of any

narcotic drug or psychotropic substance. All these activities are illegal in India.

The narcotic substances are any psychoactive compound with paralyzing properties but now primarily refers to opiates and opioids like morphine, heroin and their derivatives. [7] The Psychotropic Substances refers to mind altering drugs such as Lysergic Acid Diethylamide, Phencyclidine, Amphetamines, Barbiturates, Methaqualone etc. The Narcotics Control Bureau was set up with effect on 17 March 1986. This organization serves as the apex coordinating agency for the enforcement of drug laws in India. They play a crucial role in the enforcement of Narcotic Drugs and Psychotropic Substances Act, 1985.

The Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act, 1988 plays a significant role in seeing that provisions of NDPS Act are not violated at any level. Various law enforcement agencies be it State Police, Border Security Forces, Central Industrial Security Forces, Railway Security Forces, Narcotics Department, Customs Department or any other law enforcement agency has the responsibility to keep a check on the supply of drugs at national and international level.

India has rectified the Single Convention on Narcotic Drugs, Convention on the Psychotropic Substances and United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This Act fulfils various obligations mentioned in these treaties.

The punishment for many offences under NDPS Act depends on the type and quantity of drugs involved—with three levels of punishments for small, lesser and immediate quantity, i.e. quantity more than small and lesser than commercial quantity. The punishment prescribed for different quantities under the NDPS Act, 1985 is as follows:

1. Where the contravention involves small quantities less than 1 Kg will be punished with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Rupees or with both.
2. Where the contravention involves quantity lesser than commercial quantity but greater than small quantity will be punished with rigorous imprisonment for a term which may extend to ten years and with fine which may extend to One Lakh Rupees.
3. Where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh Rupees but which may extend to two lakh Rupees. [8]

Whoever engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorisation of the Central Government or otherwise than in accordance with the condition (if any) of such authorisation granted under section 12, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees. [9]

Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal

or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.^[10]

Whoever, consumes any narcotic drug or psychotropic substance shall be punishable, —

- a. where the narcotic drug or psychotropic substance consumed is cocaine, morphine, di-acetyl-morphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and
- b. where the narcotic drug or psychotropic substance consumed is other than those specified in or under clause (a), with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.^[11]

Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of 3 [clause (viii b) of section 2] or harbors any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.^[12]

Whoever attempts to commit any offence punishable under this Chapter or to cause such offence to be committed and in such attempt does any act towards the commission of the offence shall be punishable with the punishment provided for the offence.^[13]

Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence. A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—

- a. would constitute an offence if committed within India; or
- b. under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.^[14]

Result and Discussions on the challenges faced in India due to Drugs Trafficking

This research finds that there are numerous narcotics laws to control the drug syndicate but still lack of effective implementation of these laws has resulted in an overall increase of the drug market in India. Many people are illegally involved in the supply of drugs in India. Hence, totally controlling its supply chain is very difficult for the officials.

Moreover, new challenges have emerged in recent years related to new harmful drug substances, new drug trafficking routes and modes adopted for its supply, which have had a huge impact on the efforts taken at various levels to control the world wide illicit drug market. The traditional methods are no longer used in drug trafficking and that's why it's very important to use technologies so that drug traffickers can be arrested.

Challenges remain in ensuring that the approaches that were adopted earlier to offer the right balance between reduction of the demand and elimination of supply can fulfil the demand of these emerging techniques of present times.

Lack of trained narcotics officials to identify and arrest the main sources involved in this drug smuggling is also a legal challenge to narcotics laws which has majorly affected the steps to control the growth of drugs in India. Less number of trained officials has ultimately reduced the strength of authorities and that's why many students have become addicted to Drugs.

Further uncontrolled supply chain of drugs specifically in border areas have created multiple challenges to the International security agencies like army, Border Security Forces, ITBP, Local Police, custom officials and other law enforcement agencies. Many people of border areas due to their poverty easily become members of these drug syndicates.

Drug market has a lot of money due to which many political leaders are also indirectly connected to these industries and as a result it is very difficult to identify and punish the main sources of these drug syndicates. The main sources generally use their power and influence to escape from their accountability. Increase in corruption is the main reason for the uncontrolled growth of these crimes.

The emergence of various psychotropic substances which are still not part of research has created the challenge of identifying these psychotropic substances, their impact on health and strategies that can be adopted to reduce their marketing at both national and international level.

Conclusion and Recommendations

From the above analysis we can conclude that drug trafficking is becoming a major issue in various countries. The drugs have a major impact on our lives as it has majorly affected the user's health. Multiple treaties and conventions have been signed for controlling the use of banned drugs but still it is growing in different parts of the world including India.

The network of drug syndicates is very large due to which it has become a major challenge for the law enforcement agencies. Due to political support enjoyed by the main sources of the drug syndicate, they cannot be easily arrested by the police officials. Generally, only the small suppliers and users are arrested whereas main suppliers cannot be identified by the officials due to which drug trafficking cannot be controlled effectively. These challenges provide opportunities to our government and law enforcement agencies to take effective steps in controlling the drug market in India.

Based on the Research following legal reforms can be suggested:

- Innovative drug policies can give tangible results to reduce the illicit cultivation of drug plants. Further these policies can also help in improving the health of people who are addicted to drugs.

- Families can play a major role in controlling the use of drugs by guiding their children not to take drugs and also they can keep a check in their homes and surroundings to better control the drugs at ground level. They can inform legal authorities if they find the use, cultivation or selling of drugs in their homes or surrounding areas.
 - Proper awareness on rehabilitation centers should be made in the public domain so that people will be more aware on how the drug addict can be provided with better treatment facilities. This is very important as it will ensure that drug addicted persons receive proper treatment on time.
 - Media and Social media can be used for creating proper awareness in the society. Schools, colleges and other educational institutes should be used for doing public awareness.
 - Proper training should be given to officials and also more officials should be employed so that an increase in the officials of Law enforcement agencies can in better manner identify people who are involved in drug syndicates. Sudden checking should be done in doubtful areas so that the drug trafficking can be totally controlled.
 - Proper implementation of Narcotic Drugs and Psychotropic Substances Act and other laws should be ensured so that the drug related crimes can be totally controlled.
 - The financial accounts of people involved in drug syndicates should be checked thoroughly so that all the people involved in these crimes can be identified and arrested.
 - More effective legislative control should be established to control the cultivation of new Narcotics drugs and Psychotropic Substances. For this more research should be promoted by which these substances can be identified and its marketing can be controlled. The Government should provide financial assistance required for the research purposes.
7. The Narcotics Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), s. 2 (vi)
 8. The Narcotics Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), s. 15-30
 9. The Narcotics Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), s. 24
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 13. The Narcotics Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), s. 28
 14. The Narcotics Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), s. 29

Hence, we can understand from this research that effective implementation of laws is very much important so that people who are involved in this crime can be punished. Apart from this proper strategy should be adopted to keep a check on the growth of drug syndicate networks. This will help in totally eliminating the growth of drug trafficking in India.

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