

LAW AGAINST DRUGS: NATIONAL AND INTERNATIONAL COOPERATION

Pushp Lata Verma

Associate Professor
DESM, NCERT, New Delhi

The problem of drug trafficking continues to take a significant toll on valuable human lives across the globe. With our vulnerable geographical position between the two major drug producing regions—the Golden Triangle and Golden Crescent, there are a number of challenges before the law enforcement agencies in India. The Government of India is well aware about the menace and our enforcement agencies in coordination with agencies of neighbouring countries are making all efforts to contain the problem. The Narcotics Control Bureau (NCB) is the nodal agency for matters relating to drug law enforcement. It acts as the national coordinator for intelligence and enforcement coordination with international agencies.

In addition, several educators acknowledged that drug abuse among students are important hurdle to the achievement of educational goals. Substance utilisation has also demonstrated to be connected with a number of negative education related consequences, including school drop-out. This has an impact on the area of education to make sure inclusive and equitable quality education for everyone and to achieve the new global 2030 Agenda for Sustainable Development.

Introduction

Proliferation of drug trafficking is no longer an isolated phenomenon. Though its *modus operandi* carries regional uniqueness, its parasitic entrenchment in the socio-economic scenario is victimising the world populace at large. The threat is daunting and the connected challenges are massive. Rapid technological change and development of communication networks on one hand and breaking down of traditional time, distance and spatial barriers on the other, have worsened the situation. It has become important for the world to cooperate beyond the boundaries, learn from the shared experiences and fortify each other's efforts.

Opioids are the substances that cause the highest adverse impact, but cannabis

remains the world's most widely used drug, with an annual prevalence of 3.8 per cent of the adult population, or an estimated 183 million people, having used cannabis in the past year. Amphetamines remain the second most normally used drug worldwide, with an estimated 35 million past-year users and the use of amphetamines, particularly methamphetamine, is perceived to be increasing in many sub-regions, including North America, Oceania and most parts of Asia.

Drug trafficking is a major challenge for peace, security and prosperity of nations. Drug trafficking and associated crimes have successfully stalled the growth trajectory at many places and have worked to waste precious human resources by forcing a marked section of the global population into addiction, illicit cultivation, etc. There are

primarily three United Nation's Conventions on drug related matters, namely, Single Convention on Narcotic Drug, 1961, Convention on Psychotropic Substances, 1971, UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. These conventions have established mechanisms for international cooperation in the field of drug control. India is a signatory to all these conventions. India has been drawing attention of the global community for solid collective international action.

In the year 1990, SAARC countries signed a SAARC Convention against Psychotropic Substances at the regional level. The convention enjoins the member states to take stringent measures against drug trafficking and to facilitate exchange of information and research in the elimination of illegal drug menace. Further, SAARC Drug Offences Monitoring Desk (SDOMD) has been established with the objective of creating a data bank on all major drug offences in the SAARC region which would help member countries to improve their drug interdiction capabilities. India has also entered into Bilateral Agreement Memorandum of Understanding with countries for mutual cooperation.

The second Anti-drug Working Group meeting of Heads of Drug Control Agencies of BRICS was organised by India in the year 2016. The aim of the meeting was to evaluate the drug abuse situation in the member countries. This apart, it analyzed the legislations of BRICS member states as well as devise modalities for sharing the best practices of enforcement. Besides, the demand reduction is being followed in the member countries. The first BRICS Ministerial Meeting on Combating the Drug Threat was conducted in Moscow

in April 2015. In this meeting, it was decided to create a BRICS Anti-drug Working Group. The Anti-drug Working Group has been established with an aim to address the issue on counteracting the illicit trafficking of narcotic drugs and psychotropic substances.

Role of School Education to Prevent Drug Abuse

Several educators have acknowledged that drug abuse among students is an important hurdle to the achievement of educational goals. It is linked with a broad range of negative impacts on young people's mental as well as physical health and on their well-being. Substance utilisation has also demonstrated to be connected with a number of negative education related consequences, including school drop-out of children. This has an impact on the area of education to make sure inclusive and equitable quality education for everyone and to achieve the global 2030 Agenda for Sustainable Development. There are a variety of factors that place children at a risk of drug abuse and its effects, including the atmosphere in which they reside. Education is a dais that involves children and provides them to evaluate and oppose such risks and stresses. The education segment, therefore, has a primary accountability to shield children and youth from drug abuse. This includes taking steps such as working to make sure that schools are free from tobacco, alcohol and other drugs; ensuring the main curriculum includes knowing abuse the risks related to drug and facilitates the development of students' and constructing the knowledge and skills of educators, parents and communities to empower as well as support the children to prevent drug abuse.

Over the years, there has been attention on the requirement to address young people's

well-being and conduct as a key and essential piece of the school curriculum. There has been growing concern about young people's conduct with respect to health associated behaviours including drugs, incorporating legal substances such as tobacco as well as alcohol. There is an increasing concern regarding the physical and mental health of the children and young people and how the school has a responsibility to make sure an affirmative result in this area. In addition, there has been growing pressure of the requirement for schools to be more associated with matters of behaviour that is accountable towards self as well as others. Besides, how they can make the individual and social capability towards our social system. This reminds us that the idea of what we should do within our school and prevention efforts have to include not only what we teach them but must reflect the requirement for an atmosphere where education and learning is a part of the school ethos. This apart, education appears as something that connects the entire school community including parents and various stakeholders.



It is the primary role of the school to impart knowledge. There is need to establish a sound value base in relation to health and drug use, not to change behaviours that may be determined by factors beyond the influence



of the school. Schools should report to the community on the achievement of educational outcomes that have been identified as contributing to the achievement of the broader health goal of preventing drug use. It is required to reduce adverse consequences to individuals and society. Students, school personnel, parents, prevention practitioners and referral agencies should collaborate to make decisions on drug policy and the management of drug incidents. There is a need for interactive teaching techniques such as discussions, brainstorming, decision-making, assertion training or role-playing new skills and active participation of all students. Educational schemes for the prevention of drug abuse should take into account the levels of drug abuse in society, risk and protective factors. It is necessary to interact with students in a way that acknowledges the reality of their backgrounds and experiences and creates opportunities for meaningful student input into education for drug abuse prevention methods. Students react positively when their individual needs and the needs of users and non-users are acknowledged. In addition, communication channels are kept open without drug use being condoned. Offering teachers professional development, consisting of an orientation to drug abuse prevention education that enables them to use a range of learning strategies, resources

and evaluation techniques appropriate to students' needs, rather than offering training only in the use of a specific resource. There is a need to ensure that schemes have greater impact and sustainability. Teachers should be offered the support of the school leaders as well as technical advice for sharing both successes and problems.

It is important that drug education programmes should be selected to complement the role of classroom teacher with external resources enhancing not replacing that role. The credibility of the teacher's role in meeting student needs may be compromised where externally developed programmes are imposed on schools. A life-skills approach is a way of interacting with children and young people that has the potential to lead drug abuse prevention learning outcomes and may ultimately influence student drug use. Life skills are best taught through interactive methods and are most effective when applied in potential drug use situations that are relevant to the social situations of students. Teacher training is an important component of any drug abuse prevention methods. Education for drug abuse prevention is more effective when teachers receive formal training. There must be focus on providing them with an orientation to drug abuse prevention education that enables them to select content and use a wide range of strategies to meet student needs.

Position in India

In India, the drug trafficking condition is largely attributed to two factors— external and internal. One of the prime external factors happens to be India's close proximity to the major opium producing regions of South West and South East Asia known as the

'Golden Crescent' (Afghanistan, Pakistan and Iran) and the 'Golden Triangle' (Myanmar, Thailand and Lao People's Democratic Republic), respectively. The geographical location of India as such makes it vulnerable to transit, trafficking and consumption of opium derivatives in various forms along the known trafficking paths. As far as cannabis is concerned, it is a weed that is largely cultivated in large parts of the country and one of the most commonly abused substances in India. In addition, the enforcement agencies have detected and dismantled many clandestine laboratories associated with manufacturing of synthetic drugs.

According to recent trends, the synthetic drugs are now replacing the natural and semi-synthetic drugs that have been abused over decades. Despite strict controls and monitoring put in place for certain pharmaceutical products, there is evidence indicating their diversion for abuse. There is diversion of pharmaceutical preparations and prescription drugs containing psychotropic and controlled substances and their smuggling to neighboring nations. The other factors prevalent are involvement of foreign nationals in trafficking of Ketamine, an anesthetic from India to certain parts of South East Asia.

In Indian scenario, the salient features of drug trafficking may be summarised such as diversion of opium from illicit cultivation and indigenous production of low quality heroin. Trafficking of opiates from South West Asia to India may also be considered. Trafficking of hashish from Nepal, Illicit cultivation of opium and cannabis in some pockets; diversion of precursor chemicals and other controlled substances; attempts to establish illicit meth labs in association with foreign operatives;

diversion of pharmaceutical preparations and prescription drugs containing psychotropic substances are also some features. Internet pharmacies and misuse of courier services and involvement of foreign nationals in trafficking and distribution networks are other significant concerns.

It may be mentioned that drugs have legitimate chemical, industrial and pharmaceutical applications. India is the biggest supplier of licit demand for opium required primarily for medicinal purpose in the world. The Government of India permits licit cultivation of poppy on notified tracts to meet legitimate industrial requirements. The government regularly undertakes destruction operations of illicit poppy. Apart from drugs obtained from botanical sources, there are also synthetic drugs such as ATS (amphetamine-type stimulants) and 'precursors'. Precursors are substances or solvents that are used for clandestine manufacture of synthetic drugs. These are chemicals that can be used in the manufacture of illicit narcotic drugs and psychotropic substances.

Law Enforcement against Drugs

Drug trafficking does not recognise national boundaries. Trafficking from one country to another or from one region to another depends upon various factors, the most important being the nature of supply and demand. It is important for drug law enforcement officers to understand the various kinds of drugs that can possibly be abused. The categorisation and classification of narcotic drugs and psychotropic substances, therefore, assume importance as an essential ingredient in drug law enforcement.

In India, Article 47 of the Constitution of India provides that "... the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health."

In our country, the Narcotic Drugs and Psychotropic Substances (NDPS) Act was enacted in 1985. It constitutes the statutory framework for drug law enforcement. The Parliament of India enacted the NDPS Act by consolidating the earlier legislations like the Opium Act, 1857; the Opium Act 1878 and the Dangerous Drugs Act, 1930. The Act also incorporated provisions designed to implement India's obligation under different international conventions.

Offences under the NDPS Act envisages graded punishments having a maximum of twenty years imprisonment and fine upto ₹ 20 lakhs. The Act also has a provision for death penalty in certain cases of repeat offences and provides for the seizure and forfeiture of drug related potential assets not only of the accused but also of his associates and relatives. In 1989, certain significant amendments were made in the Act by the Government of India to provide for the forfeiture of property derived from drug trafficking and for control over chemicals and substances used in the manufacture of narcotic drugs and psychotropic substances. In 2001, some further amendments were incorporated by the Government of India in the NDPS Act with a view to introduce a graded punishment, to rationalise the sentence structure to establish the laundering of the proceeds of drug trafficking as a criminal offence, and to provide a statutory basis for investigative techniques, such as, controlled delivery. In 2014, with a view to further

strengthen the provisions of the principal Act, amendments incorporated by the Government of India in the NDPS Act, made a provision for taking the entire quantity of drug seized in a case for determining the quantum of punishment and not the pure drug content; expanded the scope of provisions for tracing and seizing of illegally acquired properties pursuant to drug trafficking activity and to broad base the definition of illegally acquired property so that it becomes more difficult for drug traffickers to enjoy the fruits of drug trafficking activity.

Under the NDPS Act, 1985, rules have been framed to regulate cultivation, manufacture, import and export of narcotic drugs and psychotropic substances. Further to prevent diversion of precursor chemicals from wide industrial use for illicit manufacturing of narcotic drugs and psychotropic substances, the Narcotic Drugs and Psychotropic Substances (Regulations of Controlled Substances) Order, 2013 has been framed under Section 9A of the NDPS Act by the government.

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (PITNDPS) Act, enacted in 1988, provides for preventive detention of proclaimed and potential offenders. The Act was amended by the government in 1993 and 1996 to address the various aspects to drug related problems.

Drug-trafficking and money laundering are closely related crimes. Control of money laundering activities is an effective preventive measure against trafficking of drugs. The main sources of money laundering in our country result from a range of illegal activities committed within and outside India, which include *inter alia* drug trafficking, transnational organised crime and counterfeiting of Indian

currency. The Government of India has criminalised money laundering by enacting the Prevention of Money Laundering Act, 2002 (PMLA) in accordance with international norms to curb movement of illicit funds, as amended from time to time.

In India, the Narcotics Control Bureau is the national nodal agency for matters relating to the drug law enforcement. Given the federal nature of India's polity and the size and geographical dispersal of drug related problems, a number of agencies at the national and state level such as the Central Bureau of Narcotics (CBN), the Directorate of Revenue Intelligence (DRI), the Customs, Excise, the Central Bureau of Investigation (CBI), State Police and the Border Security Force, State Excise, have been empowered to enforce the NDPS Act. The Narcotics Control Bureau, established in 1986, acts as the national coordinator in matters relating to drug law enforcement. The bureau's responsibilities include administrative coordination with different Union ministries, state government departments and central and state law enforcement agencies for effective implementation of the various regulatory, prohibitory, penal and administrative provisions of the NDPS Act. The Narcotics Control Bureau also acts as the nodal agency for intelligence and enforcement coordination with international enforcement agencies.

The Central Bureau of Narcotics (CBN) was set up in 1950. The CBN is responsible for all aspects of the opium industry including cultivation of poppy plant and preventing illicit precursor trafficking. The responsibilities of CBN also include tracing and freezing of illegally acquired property as per the provisions of the NDPS Act, issuing licenses

and no objection certificate (NOC) for the manufacture of synthetic narcotic drugs and import and export of a select number of precursors. The pre-export notification regime is enforced by the Central Bureau of Narcotics with respect to precursors such as acetic anhydride and pseudo-ephedrine.

To fight drug-trafficking, the enforcement measures include coordination and capacity building to coordinate the efforts of different law enforcement agencies and impart specialised training. These measures include setting up of Multi Agency Centre (MAC) at the national level represented by 22 national intelligence agencies, Subsidiary Multi-Agency Centre (SMAC) at the state level, Economic Intelligence Councils (EIC) at the national level, and Regional Economic Intelligence Councils (REICs). Meetings are also organised by the NCB and coordination at the national and regional levels. Assistance is provided to states for enforcing anti-drug measures and are given with drug test kits.

A three-pronged strategy is required to check drug trafficking, i.e. supply reduction, demand reduction and regulation of licit trade. Supply reduction refers to dealing with the illicit production and trafficking of drugs. While demand reduction addresses the problem from the perspective of addicts and general public especially the vulnerable youth. Many (though not all) narcotic drugs and psychotropic substances also have several medicinal uses. Regulating legal production and trade is also necessary to prevent diversion of licit narcotic drugs into illicit channels while ensuring unhindered supply for medical needs.

The Government of India has created a strong system for identification of areas of

illicit cultivation of opium and cannabis using satellite images and organising destruction of such crops in coordination with state and district administration and paramilitary forces. In the year 2016, this has led to record destruction of opium crops cultivated in an area of about 6442 acres. This is an 85 per cent increase over the previous, which has prevented about one lakh kgs of opium from coming into illicit market. Reducing the demand for illicit drugs is a crucial-component in the overall approach for dealing with drug problem. The measures include building awareness and educating the people about the ill effects of drug abuse through various propaganda campaigns, community based intervention for motivation and counselling. This apart, the measures also include identification, treatment and rehabilitation of drug addicts, training of volunteers, service providers and other stakeholders for building of a committed and skilled cadre, etc.

Based on the Financial Action Task Force (FATF) guidelines, the Financial Intelligence Unit—India (FIU—IND) has been set up in the country by the government which is the Central National Agency for receiving, processing, analysing and disseminating information relating to suspect financial transactions (STR). The FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence in pursuing the efforts against money laundering terrorist financing and related crimes.

In India, there are a number of institutions which are working in the field of drug demand reduction at national, state, regional and local levels. These include the National Centre for Drug Abuse Prevention (NCDAP), the National

Drug Dependence Treatment Centre (NDDTC) established under the All India Institute of Medical Science (AIIMS) and the National Institute of Mental Health and Neuro Sciences (NIMHANS). In August 2016, the Ministry of Social Justice and Empowerment assigned the work of conducting a national survey of extent and pattern of substance use to the National Drug Dependence Treatment Centre, AIIMS. The survey will be carried out in about 25 per cent of the districts in each state. The survey will include a household sample survey and respondent driven sampling survey. The work of the survey is in progress.

The UN General Assembly in a Resolution passed in December 1987 proclaimed 26 June as the International Day against Drug Abuse and Illicit Trafficking. On the occasion of 26 June, the Ministry of Social Justice and Empowerment and the NCB organised various activities like street shows, cultural programmes, run against drug abuse, *padayatra*s, painting, slogan writing competition, pledge taking ceremonies, advertisement in prominent national dailies, etc., in the country.

In order to recognise the efforts and encourage excellence in the field of prevention of substance (drug) abuse and rehabilitation of its victims, the Department

of Social Justice and Empowerment had published a Notification in the Gazette of India on 31 December 2012 about the 'Scheme of national awards for outstanding services in the field of prevention of alcoholism and substance (drug) abuse'. Later, the scheme has been revised and the notification was published in the Gazette of India on 30 December 2015. The scheme is applicable to institutions and individuals working in the field of prevention of alcoholism and substance (drug) abuse. The awards are conferred on the awardees in a function to be held in New Delhi on 26 June of every alternate year, on the occasion of the International Day Against Drug Abuse and Illicit Trafficking. So far three national awards functions have been held on 26 June 2013, 26 June 2014 and 26 June 2016.

The Government of India is committed to eradicating illicit trade in drugs and organised crime of all kinds. The government has adopted a multi-pronged strategy for dealing with this twin evil of combating drug trafficking and related crimes. The strategy requires involvement of drug enforcement agencies and security agencies as well as the civil society. The government is unambiguously committed in this matter and supports all international initiatives on curbing the menace of drug-trafficking.

Reference

- BAROWALIA, J.N. 2011. Commentary on the Narcotic Drugs and Psychotropic Substances Act.
- DEPARTMENT OF SOCIAL JUSTICE AND EMPOWERMENT, MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT. 2016-2017, *ANNUAL REPORT*. Government of India.

MEHANATHAN, M.C. 2007. *Law on Control on Narcotic Drugs and Psychotropic Substances in India*. Lexisnexis India

NARCOTICS CONTROL BUREAU. 2015. *Narcontrol*, June - 2015, Issue - II Ministry of Home Affairs, Government of India.

TALUKDAR, AJANTA. 2004. Supreme Court on Narcotic Drugs and Psychotropic Substances Act, 1985.

UNITED NATIONS OFFICE OF THE DRUGS AND CRIME. 2017. *World Drug Report*.

© NCERT
not to be republished