

INTERNATIONAL JOURNAL OF LEGAL ENFORCEMENT

ISSN: 2582 8894|UIA: AA1003/2020



Volume 1 Issue 2

|June 2021|

Website: www.internationaljournaloflegalenforcement-ijle.com

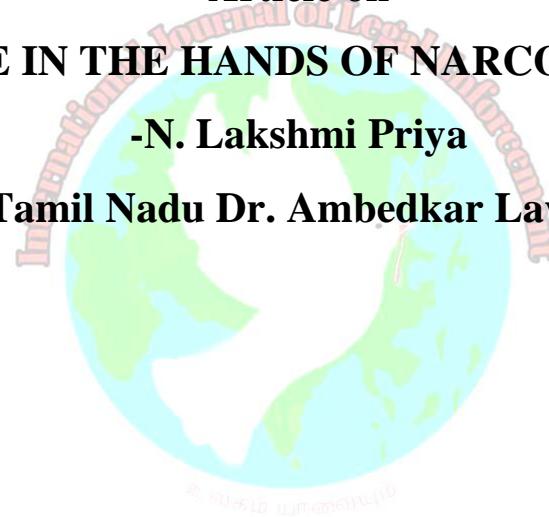
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“Dharma is to protect the Needy”

Article on
JUVENILE IN THE HANDS OF NARCOTIC DRUGS
-N. Lakshmi Priya
Student, Tamil Nadu Dr. Ambedkar Law University



ABSTRACT

Drug is a chemical which is used in medicine as well as available in other forms, when consumed it alters the body's function both physically and mentally, when dosage is taken in excess it results in fatal situation. The availability of drugs to school and college students is never ending problem, though there are several acts to protect and punish for substance abuse but still exploitation of children of adolescent age has not been stopped, this substance abuse not only affects their psychological balance but also leads them to do criminal activity. The drugs are classified into many types such as depressants, stimulants and hallucinogens. These drug consumption affects neurological system thereby deviant behaviour is seen both in juveniles and as well as in adults. Juvenile drug offenders often involve in criminal activities due to their involvement with drugs. Even juveniles' homes act as hub which influences non drug offenders to engage in substance abuse, which results in affecting their adulthood. Even the Narcotic Drugs and Psychotropic Substances Act, 1985 and Juvenile Justice (Care and Protection) Act 2015 struggles to find a exact provision to deal with juvenile drug offenders. The present study examines the impact of juveniles who comes to court for drug related offense done in association with drugs. Its high time to revamp societal structures to protect children from substance abuse and needs law to rehabilitate and design treatments to help juveniles and also juvenile courts must invent stratergies to reduce recidivism.

Key words: juvenile, drug abuse, juvenile courts, recidivism.

Introduction Chapter:

Introduction:

Juvenile is a child who is below the age of 18 years, in the recent times due to technological advancement or other family circumstances or due to lack of societal norms there has been increase in the deviant behaviour of juveniles, which is commonly termed as juvenile delinquency. Drug is a chemical which is used in medicine as well as available in other forms, when consumed it alters the body's function both physically and mentally, when dosage is taken in excess it results in fatal situation. The availability of drugs to school and college students is never ending problem, though there are several acts to protect and punish for substance abuse but still exploitation of children of adolescent age has not been stopped, this substance abuse not only affects their psychological balance but also leads them to do criminal activity. The drugs are classified into many types such as depressants, stimulants and hallucinogens. These drug consumption affects neurological system thereby deviant behaviour is seen both in juveniles and as well as in adults.

Major issue behind this drug abuse is it easily mixes with blood of the consumer and thereby even if medicine is provided body will not be in a condition to respond to it. In drug abuse cases no person can be termed as victim, as person who consume drugs knows its consequence and voluntarily takes this drug. Now the major issue is influence of drugs among children and youth, substance abuse among juveniles has been increased in recent times, though we know about this crime, still there is no proper section in law to protect children from substance abuse as well as still government finds difficult to criminalise supply of drugs. In India drug abuse among children results in committing crimes or suicide and even juvenile courts finds every possible way to criminalise offenders who supply drugs to children as well as they try to deal them under child in conflict of law. This paper deals about how to protect children from substance abuse thereby they are prevented from committing or involving in criminal activities and further analysis is made both on both Juvenile justice act 2015 in comparison with Narcotics drugs act to criminalise substance abuse done against children.

DEFINITION:

Juvenile is defined as child below the age of 18 or person who has not attained majority.

S.2(13) of Juvenile Justice Act 2015 defines a child who is in conflict with the law, child who is below the age of 18 found to be convicted for an offence.

Drug Addict – Person who is habitual user or consumer of drugs is generally defined as drug addict

Psychotropic substance – Natural or synthetic material or substance or any salt or preparation of such substance which is included in the list of psychotropic substance in the given schedule.

Narcotic drugs – Narcotic drugs are the drugs which are made of psycho active compounds which gives numbness and paralyzing effects.

RESEARCH PROBLEM

The problem with substance abuse against children is juvenile drug offenders or juvenile delinquents are generally not charged with drug related offences. It is generally presumed that juveniles will not be associated with drug abuse, even if it happens there is no exact statute to deal with drug abuse done by or against children and proving the crime against child has always been a herculean task with regards to substance abuse. But the sad truth is even juveniles use drugs and this intoxication state makes them to commit crime. Both crime and drug co-exist with each other in harming society. This paper aims to protect children from substance abuse thereby analysing Juvenile justice Act 2015 and s.77 of NDPS act in order to protect children from the hands of narcotics.

This study is undertaken in order to address and clarify the abovementioned concerns.

Existing Legal Situation

1. UN convention on right of child – main aim to protect human right treaties and it helps in setting out human right to protection from drugs
2. Narcotic Drugs and Psychotropic Substance Act 1985 – This act is enacted to regulate and control drug offences and provides strict punishments which includes even death by penalty.
3. Juvenile Justice Care and Protection Act 2015 is enacted to deal with children in conflict with law and children in need of care and protection and ensures Rehabilitation of social reintegration of children.
4. Beijing rules, Riyadh Guidelines and Havana Conventions deals with prevention and protection of juvenile delinquency
5. Narcotics control division, The Narcotic Control Bureau (NCB) are the most common drug law enforcement agencies to control and regulate drug related offences

6. Other acts enacted to regulate drugs is Drug and Cosmetics Act,1940 and Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substance Act,1988.

SCOPE AND OBJECTIVE:

Scope:

The paper focuses on the protection of children from the hands of narcotics and also examines the way to prove the criminalised activity of supplying drugs to children thereby involving them in criminal activities. Though Juvenile Justice Act is enacted to protect children of both categories still there is no exact provision to deal with juvenile drug offenders. Following this, the paper will discuss the need for separate section to penalise juvenile drug offenders in addition to NDPS act¹. Lastly, the paper will discuss about how this legal framework will protect juvenile drug offenders and rehabilitate them and moreover stricter punishment must be imposed for supplying drugs to according to s.77 of NDPS Act. This paper limits itself to the above-mentioned legislations.

Objective:

1. Juvenile Justice Act 2015 is a reformatory act which deals with both categories of child
2. Juvenile Justice Board aims to deal with children in conflict with law by developing various developmental programmes
3. Rehabilitation of social reintegration of children
4. New offence and enhanced punishments
5. Regulation of various child care institutions
6. De addiction programmes and therapy centre to protect juvenile drug offenders
7. Objective of NDPS Act is to make stringent laws and punishments to control and regulate laws relating to narcotic drugs.
8. Enlargement of powers of Juvenile Justice Board and juvenile courts.

METHODOLOGY:

The methodology followed in this paper is ‘Doctrinal Method of Research’ as research is based on legal statutes and case laws to arrive at conclusions. Also, it follows content analysis methodology as secondary sources such as journals, news articles, blogs and interviews are referred to.

¹ <http://www.legalserviceindia.com/legal/article-191-juveniles-in-the-hands-of-narcotic-drugs-study-on-drug-abuse.html>

RESEARCH QUESTIONS:

1. Does substance abuse influence the child to commit crime?
2. Analyse the Impact of substance abuse on juveniles and root cause of drug abuse?
3. Is juvenile drug courts lacks standards to deal with juvenile delinquents who commit offences after drug consumption and can that juvenile get bail?

ADOLSCENT/ JUVENILE DRUG ABUSE

Usage of drugs among teenagers has been increased in recent times, this increasing problem starts from schools, especially pre-teen age group and teen-age group are the most vulnerable age group who are easily addicted to substance abuse. The root cause for juveniles or adolescent to use drugs is due to family circumstances or friends who is in contact with drugs or pressure which pushes him to take drugs as relief. Even these persons at the beginning they never knew about these substances and its impact, but after using it they tend to get addicted to this intoxicated state. In most of the cases crimes happens only when they could not get the drugs, in such cases they even have courage to self-harm themselves or others in order to get drugs². In most of the cases parents are scared of society so they even find it as shame to consult psychologist. Drug usage destroys the victim future all together. The parents and society must cooperate with police to fight against person producing and supplying drug and must bring children to de addiction centres or programmes without thinking it as shame. Moreover schools and colleges must have a psychological classes to deal with anxiety, stress, self doubt and failure. Psychological classes help them to understand the ill effects of using drug and its impact on health.

TEENAGE SUICIDES AND SUBSTANCE ABUSE

Teenage is the most crucial stage for parents to handle children. Most of the teenager cannot handle pressure or rejections³ , even a exam failure makes them feel vulnerable or love failure tends them to use drugs, at one point where they themselves know that they are trapped in drug zone they start to isolate themselves and over the time

² . Practical Approach to Narcotic Drugs and Pyshcotropic Substances Act 1985.

Secondary sources - Dr.K.P.Singh

³ ibid

this isolation from family and society and lack of interest in life makes them to commit suicide. Even child or teen or adults everyone at some point of time feels depressed and this is the time where we need to lend each other's hands to lift them rather than pushing them to learn bad habits.

DRUG ABUSE KINDS

- ❖ Natural drugs
- ❖ Semi synthetic and synthetic drugs
- ❖ Opium poppy
- ❖ Ganja
- ❖ Cannabis
- ❖ Cocoa
- ❖ Alcohol

CAUSES FOR JUVENILES TO INVOLVE IN DRUG RELATED OFFENCE

- ❖ Poverty
- ❖ Mental health issues
- ❖ Hormonal changes
- ❖ Bad peers
- ❖ Neighborhood

JUVENILE DRUG OFFENDERS

Adolescent or young children are most affected persons to drugs, Supply of drugs to children or adolescent age group people makes them to act as puppet in order to get those drugs thereby they commit or involve in crimes. In most of the cases Drug abuse and Crime co-exist.⁴ In most of the cases it is noted that non drug person are the ones who supply drugs to other person and then involve them in delinquent activities, mostly children and adolescent age become victims of substance abuse. Juvenile drug offenders engaged in drug habits commits crime in case if they cannot afford to buy them that's where they break things or harm the parents or others in order to satisfy their need for drugs., Even recent survey states that child care institutions and juvenile homes are the place where there is a large supply of drugs

⁴ Handbook on Juvenile Justice – Nayan Joshi

and instead of rehabilitation young children are addicted to drugs still authorities find difficult to track the routes of drug supply inside these institutions.

Drug's usage and impact

Drugs are smoked or consumed orally based on nature of drug, sometimes they inject themselves at when excess dosage is consumed or injected it results in harmful situation which is more complex than smoking habit. Parental drug abuse or neglect of parents supports also make the youth or children to indulge in substance usage.⁵ Children who are victims to abuse are more likely to have the various disorders like anger, frustration, aggression, imposter syndrome and other psychological problems and behavioural problems like anxiety, becoming introvert, suddenly starts avoiding fellow peers. Thus drugs and crime co-exist.

EFFECTS OF DRUGS

Even drugs are used by sport persons in order to increase their stamina some stimulants are used to increase their activity; common stimulant is amphetamines which are used both by soldiers and athletes. Most commonly used drugs are Heroine, Morphine, steroids etc. Media plays a major role in drug abuse and glorifies drug dealer as villain with great power and strength, which influences teens and juveniles to commit crimes.

DRUG ABUSE AND CRIMINAL LAWS

1. Generally, it is dealt under s.399 of IPC where convicted juvenile offender is sent to reformatory schools
2. S.562 also permits discharge of certain convicted offenders on probation. It also permitted their release with admonition or advice. Probation is generally given to first time offenders in order to prevent them from associating with other criminals.
3. In general child below the age of 8 to 12 cannot be responsible for criminal acts according s.82 of IPC.

NDPS ACT AND JUVENILE OFFENDERS

The Narcotic Drugs and Psychotropic Substances Act, 1985 is enacted to regulate and control drug related offences and to provide stringent punishments. Even small consumption of drug is punishable under this act. For drug related offences rigorous

⁵ . <https://www.scconline.com/blog/post/tag/narcotic-drugs-and-psychotropic-substances-act/>

punishment such as imprisonment up to 20 years and for repeated cases death penalty is also issued for drug offenders.

IMMUNITIES FOR JUVENILE DRUG OFFENDERS UNDER THE NDPS ACT⁶

Juvenile offenders are generally exempted from NDPS Act as they are governed by Juvenile Justice Care and Protection of Children Act 2015.

JUVENILE JUSTICE CARE AND PROTECTION ACT 2015

This replaced Juvenile Justice Act 2000 and new laws included various amendments to deal with Juvenile Delinquency and in particular juvenile drug offenders generally come under the category of juveniles in conflict with law. Children below the age of 18 but above 16 years if they commit any heinous crime then according to this they can be tried as adults. There is no specific provision in Juvenile Justice Care and Protection Act 2015 to deal with juvenile drug offenders. Child Court can decide whether to trial the offender as juvenile or adult based on the crime done. In most of the cases juvenile should be decided based on the state of the mind when he committed crime and not the state of body. Before punishing, it must be taken into consideration that there is no possibilities to reform child, then punishment will be the only way to reform them.⁷

NEED FOR JUVENILE DRUG COURTS

Juvenile court histories shows that both male and female juveniles involve in drug related offences. In most of the cases main parameter considered is based on severity of crime and drug used by delinquent in drug-related and of other criminal offences, criminal involvement was greatest among opiate abusers, followed by cocaine consumption and other sedatives abusers. However, these females are less affected by drugs when compared to males. There were significant differences between the patterns of offences of the four groups, which did not support the economic necessity of crime among juvenile drug abusers. The observation made helped us to find that most of the drug consumption starts from soft drugs and progresses to hard drug consumption and in most of the cases juvenile who gets addicted

⁶ <https://dor.gov.in/narcoticdrugspsychotropic/procedural-safeguards-and-immunities-under-ndps-act>

⁷<https://blog.ipleaders.in/introduction-overview-juvenile-justice-care-protection-act-2015/>

to soft drugs involves themselves into criminal activity to buy or consume hard drugs. Therefore, it is clear and drug and crime co-exist, the former tends to precede the latter.

In most of the foreign nation and in various jurisdictions juvenile drug courts has been introduced to deal with juvenile drug offenders. Judicial supervision for juvenile drug offenders must be different from regular juvenile court process.

Juvenile drug Court has various stages

1. Analyzing the drug used.
2. Reports to identify substance abuse issues
3. Ensure both family and minors are properly engaged in treatment services.
4. Drug testing to determine the level of drug used.

Generally, these things are recorded by probation officers and then they submit Social Investigation Report. The court grants bail only after getting the report from Probation Officer.

PUNISHMENT AND ITS IMPACTS.

Term of Sentence – Generally drug offenders are given strict punishment but in case of juvenile drug offenders punishment is given to rehabilitate and reintegrate them into society.

Issues and Challenges with Juvenile Justice in India

1. Lack of provision to deal with juvenile drug offenders.
2. Term of sentence for juvenile drug offenders is not mentioned in NDPS Act as well as Juvenile Justice Act 2015 cannot be decided by Juvenile Justice Board
3. After care programmes must be taught in order to reintegrate them into society.
4. Probation are given to first time offenders in order to reform them after due admonition.⁸
5. **Juveniles in Adult jails:** According to NCPCCR, reports It states that a larger number of juveniles are found in adult jails.
6. **juvenile homes:** Lack of training among staff and proper management is main reason for drug abuse among juveniles in homes.

SECTION 37 OF NDPS ACT IS NOT APPLICABLE TO JUVENILE JUSTICE ACT.

⁸ . <https://blog.ipleaders.in/introduction-overview-juvenile-justice-care-protection-act-2015/>

Patna High Court has clearly stated that section 37 of NDPS act will not be applicable for juveniles. In this case appellant who was a truck driver was apprehended for carrying 1814 kgs of Ganja, later he took a plea that he was a juvenile at time of crime occurrence, then after assessment Juvenile Justice Board found him as 16 years 9 months and 21 days child so he was trailed under child in conflict with law⁹. After assessment case court transferred the case to Child Court u/s.18(3) of JJA 2015

Issue: Is bail for juvenile u/s.12 of JJA violates s.37 of NDPS Act.?

Held: Court held that the children court has decided to treat the appellant as adult accordingly charges are framed , and further the release will lead him to associate with the persons involved in illegal; drug transportation, hence appellant release would defeat the ends of justice so appellant was denied the benefit of bail¹⁰

CONCLUSION

According to the Recommendations of Justice Verma Committee court should have reformative approach regarding juvenile drug delinquency. Powers of Cr.PC must be enlarged and international conventions must be obliged in order to attain the purpose of JJA. Juvenile Board must consist of staffs who are well trained with child psychology including magistrate and social workers. Drug abuse must be slowly cured with the help of parents and society. Parental supervision over juveniles is utmost necessary during adolescent age. Child guidance clinic of consulting psychologist is necessary whenever there is deviant behaviour seen among children. Economic standards must be increased so that it prevents children from becoming a criminal. Though NDPS Act is enacted to regulate control and punish drug offender's juvenile are exempted from the Act and even in JJA 2015 they are dealt by child court based on which court decide whether to treat them as adult or children while giving punishment. Drug abuse among children must be controlled to max level in order to make them a healthy citizen both mentally and physically, this can be achieved only with the support of parents, society and law. Thus, we can protect juveniles to certain level and thus we can protect them from substance abuse and sudden inspection to juvenile homes is necessary to ensure that juveniles delinquents are safe and healthy.

⁹ . <https://www.livelaw.in/news-updates/section-37-ndps-act-not-applicable-in-juveniles-case-juvenile-justice-act-overrides-ndps-167674> accessed on 20.01.2021

¹⁰ . Anamul Haque v. The Union of India Criminal Appeal No.84 of 2020

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