

THE MEDICO-LEGAL IMPLICATIONS OF DRUG ABUSE

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ABSTRACT

Drug abuse has become a global problem, now a days and Drugs have become the in thing+and using drugs, a %a fashion statement.+Usually, one starts drugs experimentally or out of curiosity or to be with the crowd or peer pressure. However, these occasional users get entangled in the web of drug abuse and slowly become physically, mentally and psychologically dependent on them. So much so that it not only affects the individual but his family and friends . physiologically, socially and financially; as well as, the society at large. Tolerance to the various drugs of abuse in turn leads to either increased dose or the use of multiple drugs . poly drug abuse.

This paper outlines, the epidemiology of drug abuse, the factors affecting it and the medico-legal issues arising out of such abuse.

Key Words: Drugs, Drug abuse, Substance abuse, Drug dependence, Medico legal implications.

INTRODUCTION

Any substance, other than those required for the maintenance of normal health and those, when taken in to the living organism, may modify one or more of its functions - is a 'Drug'. As per The Drugs and Cosmetics Act, "All medicines for internal or external use of

human beings or animals and all substances intended to be used for/or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals". However, these drugs are often misused for their non-therapeutic properties - to cause a change

in mood, get away from the real world, and many a times, even to end one's life.

The discovery of certain psychedelic (drugs producing hallucinations) drugs has further increased the problem. These substances are often misused to get relief from tension, to escape from practical aspects of personal, familial and social problems and to be in an imaginary state of mental happiness and well-being by being carefree from the influence of the environmental odds. Some of the drugs act as stimulants which give a sense of well-being, hilarity, expansiveness, while the others are depressant in nature which sedate a person. But, finally all these reduce the users to non-productive creatures whose only purpose remains limited to procuring the next dose.

Drug abuse involves the use of a substance despite persistent social, interpersonal or other problems caused by the use of the substance. Substance/ drug dependence is a more severe disorder, which entails signs of physical or psychological tolerance or dependence.³ Drug abuse and dependence cause major deleterious psychological and social problems, including family dysfunction, domestic and criminal violence, child abuse, etc.⁴ The essential characteristic of substance abuse is a maladaptive pattern of use resulting in harm caused by repeated

use. Substance dependence also involves a harmful maladaptive pattern of substance abuse, which may or may not include physical dependence, but it is the compulsive use and the loss of control over the use of the substance that is at the heart of the concept.⁵

Generally speaking, "dependence" includes both the terms addiction and habituation; while "abuse" implies improper or excessive use of therapeutic drugs or the use of non-medically useful or illegal drugs, even in moderate amounts and in the absence of addiction.¹ The World Health Organization Expert Committee on Addiction Producing Drugs coined a new term "drug dependence" to cover both psychological dependence as well as physiological dependence. However, the older terminology, especially "drug addiction" is still in use and is virtually used to label a person as drug addict.⁶

Addict, as per the Narcotics Drugs and Psychotropic Substances Act:⁷ is a person who has dependence on any narcotic drug or psychotropic substance.

Prevalence:

The United States has been called the most drug-abusing industrialized nation in the world, but illegal drugs are a growing problem in other industrialized countries as well. Drug abuse is a major problem for

young adults between the ages of 18 and 25 in the United States, with 15 percent of this age group using illegal drugs at least monthly. Of the adolescents aged 12 to 17 years, one out of 14 uses illegal drugs at least monthly, 4 percent regularly use marijuana and 1.5 percent have tried cocaine within the past year.⁸ The incidence of smoking has increased tremendously over the years, throughout the world. In the US alone, tobacco use causes more than 400,000 deaths, annually.⁹ It is more common in poly-drug abusers, the less educated and those with mental illness.¹⁰

Similarly, alcohol consumption has become increasingly common in the general population.¹¹ In Slovenia, alcohol consumption has increased by 24% per capita in the last decade.¹² Half of all traffic deaths are linked to alcohol and drug abuse. Two out of three murders, half of all fire fatalities, and eight of 10 suicides involve drugs and alcohol. More than 70 percent of individuals arrested in the 20 largest US cities had been using illegal drugs.¹³

Inhalants and volatile substances are one of the most commonly abused substances by the adolescents,¹⁴ and it is also becoming a major public health problem in India.¹⁵

Marijuana is the most widely used illicit drug throughout the world.¹⁶ Many

people using marijuana are poly-drug abusers, particularly of alcohol and cigarettes. The exact incidence in India is not known but it is the most commonly used in hilly regions of the Northern part of the country.¹⁷

The most commonly abused drugs, apart from alcohol and tobacco, in India, appear to be cannabis, opiates, and sedatives and tranquillizers. Indications of significant abuse of cocaine and hallucinogens among the upper echelons of the society are also in abundance¹⁸

Effects of drug abuse:

Drug abuse is a major medical problem with extensive legal, social, moral, ethical and even political conations. It is fraught with many ill-effects involving the individual concerned, his family, friends, and the society at large. Many medico-legal and legal implications, both civil and criminal, are also involved. The country stands to lose numerous productive man-hours, besides incurring huge expenses in treating and caring for these individuals.

It impairs alertness and achievement by distorting sensory perception, interfering with memory, and causing a loss of self-control. Many abused drugs can cause long lasting physical and psychological problems. Marijuana smoke, which contains more cancer-causing agents than tobacco

smoke, damages the lungs and pulmonary system. When smoked by pregnant women, marijuana also can create genetic problems leading to birth defects.

The liver damage, neurological problems and other dangers of alcohol abuse are well known. Cocaine not only affects the emotions, but also disrupts the brain's control of heartbeat and breathing and causes high blood pressure. Single or multiple uses have resulted in fatal seizures. PCP (phencyclidine) can produce convulsions, coma and severe psychological disorders. Using PCP also can lead to heart and lung failure or ruptured blood vessels in the brain, any of which may be fatal.

Drugs can destroy an individual's ability to think and act responsibly and to perform well at school, at work or at home. The continued drug abuse can destroy family relationships, friendships, outside interests, values and goals. Many substances cause physical and psychological dependence. Regular drug abusers find they need to take larger doses to get the same effect. PCP, heroin and other drugs can alter the body's chemistry. When the user stops taking the drug, the body rebels with unpleasant and often painful symptoms of withdrawal. There is no such thing as safe and responsible use of an illegal drug or harmless misuse of

alcohol or prescription medications. Abusing drugs can lead to lifelong consequences such as loss of memory, high blood pressure, mental illness, heart failure, stroke, lung damage and coma, and may often lead to death of the user.

Medico-legal implications:

Courts have yet been unable to decide whether drug dependence is a disease of the mind or not. Recent judgments in the US have shown that this debate is still alive in the various courts and the legal circles.³ However, they are also adapting themselves in tune with the changes in the society through enactment and implementation of various laws, passing judgments, etc.

The Narcotic Drugs and Psychotropic Substances Act⁷ is an important step in this direction. It was passed to consolidate and amend the laws relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances. The major strengths of this Act are that no sentence awarded under the Act shall be suspended, remitted, or commuted; Death penalty is awarded for the second conviction; All offences are cognizable and non-bailable; Most of the offences under the Act invite uniform punishment of a minimum of 10

years rigorous imprisonment, which may extend up to 20 years.+ The Act also envisages severe punishment for traffickers, but reformatory approach for addicts.

Civil matters:

The (dependent) persons competency to take decisions or understand and manage financial matters, etc may become impaired. He may not be able to give a legally valid consent in the stage of intoxication/ withdrawal; or when his mental faculties have been affected by the chronic and constant use of the substance of abuse. The validity of the contracts entered in to and the will(s) made by such a person may be open to question. In fact, everything with any social/ legal or financial implications that is taken up by an addict, may invite censure, depending upon the extent to which his cognitive/ affective or volitional faculties have been affected.

The treating physician has an added responsibility towards these individuals. Failure to accurately assess and diagnose the substance of abuse and the extent of abuse may lead to inappropriate prescription or monitoring of various medications; which may lead to the deterioration of the addict's condition and even death. Malpractice litigations may also arise due to the degree of confidentiality that has to be maintained in cases of

referrals, third-party consultations, and giving information to the authorities, etc.

Criminal matters:

From the medico legal stand point, there is perhaps no other chemical compound more frequently encountered as a contributing or causative factor in violent or natural deaths, than alcohol. It is also involved in many non-fatal incidents that ultimately come under the scrutiny of the law enforcement agencies.¹⁹ It figures prominently in adolescent fatalities arising from motor vehicle collisions.²⁰

The ability of a person to drive a vehicle is greatly affected by alcohol as it causes a drop in the reaction time, impairs concentration, dulls judgment, reduces visual acuity and peripheral vision and gives rise to a feeling of over-confidence. The legally permissible limit of blood alcohol concentration in India is 30mg%.²¹ The statutory limits in some other countries are: 20mg% in Poland and Sweden; 50 mg% in Finland, Norway and Netherlands; 80 mg% in Denmark, Germany, UK, France and Switzerland; 100 mg% in Ireland and 80-150 mg% in the different states of the USA.²² Smoking in public places and while driving has also been made punishable in India.

Substance abuse and dependence have been known to be responsible for or their presence established in an appreciable

percentage of crimes. Many such crimes are committed with the sole purpose of getting the requisite money to procure the future doses of the substance(s). Differences between the peddler and the addict over the purity of the drug/ cost of the dose/ credit limits, etc have led to death of either party in a number of instances.

Battered Baby Syndrome is common in the children of the addict mothers, usually prostitutes. Such children are poorly nourished and will show multiple injuries of various durations along with fractures. The incidence of intra-uterine death is also high in this population.²³

Section 85, IPC²⁴ absolves a man from an offence committed by him in such a state of intoxication as to render him incapable of judging the nature of the act or that he is doing what was either wrong or contrary to the law, provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Voluntary drunkenness is no excuse for the commission of a crime.²⁵ However, it becomes relevant in at least two situations: i) Where a specific intent is an essential element of an offence charged and the state of intoxication of the accused is such that he is incapable of forming the specific intent essential to constitute the crime, as in clauses 1, 2 & 3 of Section 300 IPC

(murder).²⁶ However, even in such cases, where in the accused fails to actually form the specific intent, **Section 86 IPC** would impute the necessary knowledge to him and he would therefore, be liable for culpable homicide not amounting to murder, though not for murder.²⁷ Therefore, voluntary intoxication would only be a limited defense to reduce an offence of murder (S.302 IPC) to one of culpable homicide not amounting to murder (S.304 IPC).²⁸ ii) Where habitual drunkenness has resulted in such a diseased condition of mind that the accused is incapable of knowing the nature of the act or that he is doing what was wrong or contrary to the law. In other words, **Insanity**, whether produced by drunkenness or otherwise, is a defense to the crime charged.²⁹

CONCLUSION:

Drug abuse, nowadays, is assuming the proportions of a wild forest fire spreading through all age groups and breaking out cultural, ethnic and socioeconomic barriers. Hence, its prevention has also become a holistic process aimed at promoting health-enhancing behavior and reducing health-compromising behaviors. Strategies are becoming more comprehensive and inclusive, incorporating the preventive

strategies: Information dissemination, prevention education, alternatives, problem identification and referral, community-based processes, and environmental approaches. Etiological work has been crucial in shaping current prevention efforts. However, governments have an important role, not only in enacting laws and statutes but also in implementing them in letter and spirit while having good and proven welfare programs side by side. In the mean time, the specification of environments at home, at school, or in the community could lend insight to methods or strategies to change those environments.

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