

“Drug Trafficking – Comparative study between United States and India”

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INTRODUCTION

Organized group crimes are highly centralized enterprises set up to participate in criminal or an illegal activity and to claim compensation for "protection." The main and primary source of income for such crimes is the supply of goods and services such as drugs, prostitution, gambling which are considered as illegal. In comparison to the four main organized crimes, drug trafficking is seen as one of the most serious crimes. They serve as the major source of income for organized group crimes. According to United Nations and the Rule of Law, Drug trafficking is a global illicit trade involving the cultivation, manufacture, distribution and sale of substances which are subject to drug prohibition laws¹. Drug trafficking is a criminal concept that includes multiple crimes including narcotic drugs and psychotropic medications such as manufacture, manufacturing, shipment, distribution and promotion. It is punished more harshly than drug possession as it comes under both federal and state laws. Transnational drug trafficking includes flow of illicit drugs across borders. In most situations, eager sellers and buyers work together to successfully achieve their goal. In the last twenty-five years, analysts have shown that drug trafficking networks have a great deal in common with legal markets.² The selling and manufacture of drugs accounts for almost one-fifth of all drug-related arrests, the Department of Justice reports. Drug trafficking can generally be divided into three groups: contractor drug trafficking, socially-bonded drug trafficking, and drug trafficking in corporate form.

DRUG AND ITS HISTORY

A drug is any biological material, synthetic or non-synthetic, which is mainly used for non-dietary purposes. It is normally synthesized outside the organism, but is inserted into the organism to achieve its effect. When a drug is termed as 'illegal,' this means that it is forbidden by statute. Different illicit drugs have various effects on individuals, and other factors affect these effects.

Drug use is as prevalent as it is because of human culture. Both primitive and modern cultures seem to have used some drug-modifying mood; and, in some cases, it was just alcohol. Tobacco (Nicotiana), (Cannabis Sativa), opium poppy (Papaver Somniferum) and

¹ www.un.org

² Drug trafficking networks in world economy- Research gate

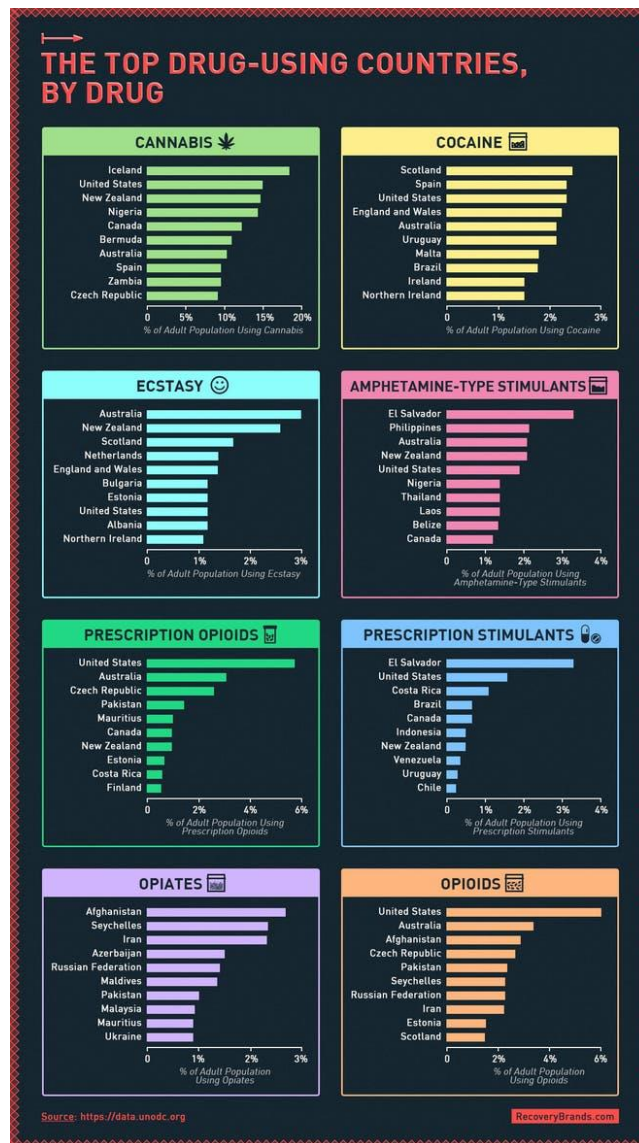
other medication containing plants have been chewed and smoked for whatever length of time that liquor and espresso are expended in the Middle East.

Use of cannabis for religious festivals has been commonly seen in India and Nepal. Opium has also been used for socio-cultural purposes in various parts of the countries, with medical usage being more common than cultural application, as seen by Rajputs in Rajasthan and Gujarat. The prevalence of alcohol abuse in India still has long-standing cultural and social origins. By the end of the nineteenth century, it was discovered that cocaine was being utilized for its euphoric effects in areas of the states of Bengal and Bihar. The practice has extended to major cities such as Calcutta and others. It seems that the disease has spread around the major rail routes to northern India.³

Drugs first appeared in the United States in the 1800s. Opium became very famous in the aftermath of the American Civil War. Cocaine was followed in the 1880s. Coca has been commonly used in health drinks and remedies. Morphine was discovered and used for medical purposes in 1906. Heroin has been used to treat respiratory disorders, cocaine has been used in Coca-Cola, and morphine has been administered routinely by physicians. The misuse of opium and cocaine reached an epidemic level at the end of the 19th century. Marijuana cultivation started in the United States around 1600 with the Jamestown pioneers, who started developing the cannabis sativa or hemp plant for its bizarrely solid fiber that was utilized to make rope, sails, and clothing. Between 1850 and 1937 marijuana was broadly utilized all through United States as a therapeutic medication and could without much of a stretch be bought in drug stores and general stores. The 1960s gave birth to a revolutionary movement that popularized drug use. The counterculture turned marijuana trendy at college campuses. Many "hippies" were seeking to stretch their minds by using hallucinogens such as LSD (Lysergic acid diethylamide). Many soldiers had emerged from the Vietnam War with marijuana and heroin addiction. In short, the demand for drugs in America skyrocketed in the 1960s.⁴ Maltreatment of the medication started during the 1930s, when it was promoted under the name Benzedrine and sold in an over-the-counter inhaler. During World War II, amphetamines were broadly disseminated to officers to battle exhaustion and improve both disposition and continuance, and after the war doctors started to endorse amphetamines to battle wretchedness. As legitimate utilization of amphetamines expanded, an underground market rose. Cocaine usage peaked in the United States 1982 with 10.4 million users.

³ reserachgate.net

⁴ web.stanford.edu



From the above results, we can infer that the United States is almost at the top of the list for any drug. It can also be noticed, however, that there is a significant number of specific drugs used in the United States relative to the majority of the world.

CAUSES OF DRUG TRAFFICKING

1. The major cause of drug trafficking can be best described using demand supply mechanism. It's just business, people want drugs, they're always going to, and as long as there's a market for drugs, someone's going to supply them. There are nearly 62.5 million alcohol users in India, 8.7 million cannabis users and 2 million opiate users. It has been

⁵ <https://www.independent.co.uk/life-style/health-and-families/health-news/drug-addiction>

observed that 17 per cent of current users of alcohol are dependent users. Accordingly, 26% of current users of cannabis and 22% of current users of opioids were addicted patients. These estimates reflect 10 million alcohol-dependent individuals, 2.3 million cannabis dependent individuals and 0.5 million opioid-dependent individuals.

Following are the factors for people to demand drugs:

- I. Unemployment: The unbearable stress, rejection, fear and frequent streaks of depression that often result from being unemployed are high-risk factors for the development of a drug use issue. Many people who are struggling with the ill effects of unemployment turn to alcohol or drugs to balance the discomfort and sense of feebleness they feel.
 - II. Financial burden: A financial burden like that or the genuine threats of an imminent crisis of that nature can lead people into wearisome misery. Sometimes people will consume drugs and/or alcohol as their coping mechanism, as a way of taking their attention off of their problems. First, they start with alcohol or self-meds on pharmaceuticals or periodically using drugs, just to release their stress for a minute. But before they know it, they're going back to using drugs again and again and soon enough the drug or alcohol problem is more dangerous, life-threatening, costly and problematic than the financial crisis ever was.
 - III. Peer Pressure: Peer pressure can make kids do things they would not in any case do with the expectation of fitting in or being seen, and obviously, this can incorporate exploring different avenues regarding liquor or potentially tranquilizes.
2. Greed for money- Due to increase in demand for the drugs people not only set up places to supply the goods legally but also try to sell it illegally in order to make profits out of increasing demand for the goods.

DRUG TRAFFICKING AND ITS NETWORK

Drug trafficking or drug distribution is both a federal and a felony crime. Trafficking is the most important aspect of the illegal drug trade. Without traffickers, the market would consist of remote producers with no means of delivering products to the consumer; traffickers would promote the globalization of drug trafficking. The trafficking cycle typically consists of three locations: the state of production, one or more states that function as transshipment centers and the state of consumption. The goal of the traffickers is to get the drugs from the manufacturers to the customer as quickly as possible without being detected.⁶

IN INDIA

The drug trafficking situation in India is primarily due to a number of external and internal causes. One of the main and key external factors is India's proximity to the major opium-

⁶ INDIANA JOURNAL OF GLOBAL LEGAL STUDIES

producing regions of South West and South East Asia, regarded as the “Golden Crescent” and the “Golden Triangle”, respectively. Increased trafficking of heroin has been seen at the border between India and Pakistan from the 'Golden Crescent' since 1983. The geographical position of India as such makes it vulnerable to transportation, distribution and consumption of Opium derivatives in various forms along the known routes of distribution. Trade in heroin on a commercial scale dates back to the 1970s, when the traditional Balkan routes were disturbed by geopolitical developments. Drug smugglers have started to use India as a transit country for heroin originating in South West Asia. Heroin trafficked in India originates from three primary sources: (a) South West Asia, (b) South East Asia, and (c) natively manufactured diverted opium⁷. South West Asia, which has traditionally been the primary source of heroin seizures, accounted for 37% of total heroin seizures in 1998. However, the extent to which heroin seized in the country can be traced back to the diversion of licit opium grown in the country is a topic that needs to be addressed. There is a small amount of illicit opium cultivation in India mainly in Himachal Pradesh, Kashmir, Uttaranchal and Arunachal Pradesh. It is extremely complicated to estimate the extent of illicit cultivation. Kashmir and Himachal Pradesh have emerged as a source of cannabis, resin or hashish confiscated in the country. Hashish is also being smuggled from Nepal to India, across the land border in the states of Bihar and Uttar Pradesh, from where it makes its way to Delhi and Mumbai⁸.

India is the only country currently producing licit opium gum for domestic use, medical and scientific uses as well as exports under the provisions of the 1961 Single Convention. However, an undisclosed portion of India's licit opium crop (1,061 mt in 2004) is diverted to illegal channels and converted to heroin, typically close to source.

India is a major pharmaceutical manufacturer. Its approximately 25,000 manufacturers account for about 10 % of the total amount of pharmaceuticals produced in the world. While the law requires that all drugs with potential for abuse be sold on prescription only, there are reports of significant diversion (INCB 2003). India, which is currently injecting drugs, is more closely linked to the use of licit opioid drugs than to illicit drugs.

IN UNITED STATES

Drug trafficking organizations are complex entities with clearly specified command- and - control structures that manufacture, transport, and/or distribute significant amounts of one or more illegal drugs. The United States has a multi-billion dollar market for illicit drugs. An estimated 28.6 million Americans, or 10.6 percent of the population, have used illegal drugs in 2016 at least once in a month. The 2018 National Drug Threat Assessment shows that the Mexican transnational criminal organizations (TCOs) continue to dominate the U.S. drug market.

⁷ https://www.unodc.org/pdf/india/publications/south_Asia_Regional_Profile_Sept_2005/10_india.pdf

⁸ https://idsa.in/system/files/OP_DrugTraffickinginIndia.pdf

The Drug Enforcement Administration (DEA) states that these TCOs maintain and expand their influence by controlling lucrative smuggling corridors along the Southwest border and by entering into business alliances with other criminal networks, transnational gangs, and gangs in the United States. TCOs either bring or manufacture illegal drugs north across the U.S.-Mexico border⁹. Data on drug seizures at the US border show an alarming volume of trafficking that has occurred in recent years. Heroin seizures at the south-western border have nearly tripled since 2009, while meth seizures have quintupled through 2014. Worse still, cocaine and marijuana are two of the most commonly seized substances along our southern borders, equating to millions of pounds confiscated by the United States border patrol.¹⁰ When drugs are smuggled outside the ports of entry, they are usually transported by underground tunnels, by boats traveling off the Pacific coast, or by people trekking in remote areas. Experts claim the tunnels are used for large loads that are repackaged and loaded onto trucks and transported around the United States.¹¹ The illicit proceeds may then be laundered or smuggled back across the border as bulk cash. While the volume of bulk cash seized has decreased over the past decade. Traffickers have more recently relied on virtual currencies like Bit coin to move money more securely. Mexican drug traffickers have sometimes established relationships with U.S. gangs to facilitate the distribution and local sale of drugs in the United States. Illicit drug trafficking and sale is a primary source of revenue for these U.S.-based gangs, and is among the most popular of their illegal activities.¹² Since 2012, the amount of traffickers apprehended at U.S. borders has rapidly increased from 364,768 to nearly 500,000 in 2014. From 2012 to 2015 the U.S. Border Patrol has seized more than:

- 1) 8.2 million lbs. of marijuana
- 2) 32,600 lbs. of cocaine
- 3) 34,000 ounces of heroin
- 4) 17,600 lbs. of methamphetamine

In 2010, the FBI issued a statement describing the Southwestern border and the role of Mexico in US illegal drug trafficking. Mexico was at the time the number one international source of marijuana. While Mexico does not produce cocaine, the cartels do move Colombian cocaine through South and Central America through Mexico into the United States. While Asia and the Middle East were the primary sources of heroin, 39 percent of DEA signature programs reported heroin originated in Mexico, making the southwestern border the source of many heroin overdoses west of the Mississippi River.¹³ Non-pharmaceutical fentanyl found in the US is manufactured in China and Mexico. It is trafficked across the Southwest border into the United

⁹ <https://fas.org/sgp/crs/homesec/IN11030.pdf>

¹⁰ <https://drugabuse.com/featured/drug-trafficking-across-borders/>

¹¹ <https://www.usatoday.com/story/drug-wall/story/drug-trafficking-smuggling-cartels-tunnels/559814001/>

¹² Supra note 9

¹³ Supra note 10

States or shipped by mail couriers directly from China or Canada¹⁴. Some 16 to 17 million people worldwide used cocaine in 2007 and 2008, which is similar to the number of global users of opiates. North America accounted for over 40 percent of global cocaine consumption (an estimated total of around 470 tons)¹⁵. While other countries' coast guard, DEA, and naval activities account for just 8 percent of the overall number of seizures, and US seizures constitute more than 30 percent of the total confiscated amounts. This indicates larger volumes are being moved by watercraft and container vessels.

CONSEQUENCES OF DRUG TRAFFICKING AND ITS ABUSE

Personal and social problems:

Drugs are chemical substances that can alter the brain's structure and inner workings, sometimes permanently. They impair a person's self-control with regular use, and interfere with the ability to avoid the temptation to take the medication. The characteristic of addiction is not being able to avoid taking a drug even though you know it's harmful. One thing that is similar to all of these risks is that, they affect not just the users but also the people around them. Our thoughts sometimes get the sharpest tongues. It's hard to be inside our heads, a place where the cruel words and questions are without limits. It is a place that is hard to leave, particularly when it involves addiction.

Personal problems:

1. Loneliness:

Isolation and depression influence opioids abuse and alcoholism greatly. Studies have shown that those who feel more socially isolated usually struggle with elevated problems of mental health and substance abuse. The drug and alcohol addiction may not only be an outcome of isolation, but also a source of isolation.¹⁶ People who use medications to deal with depression, anxiety, and stressful circumstances deliberately use drugs and alcohol to prevent their emotions and reality. They live with denial and humiliation inferring. Trapped in such intense feelings, people who are addicted to drowning and alcohol sometime mask their fears with physical and emotionally abusive actions and false bravado.¹⁷

2. Anger:

People who feel constantly angry or out of control can think drugs may help. Many substances appear to appease the disturbing thoughts and impulses that person hold inside their minds, and may seem vital in creating a short-lived sense of relief. Some

¹⁴ Supra note 9

¹⁵ <https://www.unodc.org/unodc/en/drug-trafficking/index.html>

¹⁶ <http://www.addictioncampuses.com/blog/addiction-isolation-and-the-cycle-of-loneliness/>

¹⁷ <http://psychcentral.com/blog/why-addicts-are-often-lonely-people/>

medications seem to relate especially to people with anger disorders. Individuals can easily develop anger and substance abuse dependent cycle or use substances without realizing it to cope with anger. Consequently, this combination can create someone abusing chemicals and damaging relationships worse.¹⁸

3. Family:

The addictive drugs have deleterious effects on the consumer, and many do not take other individuals directly involved into account but addiction impacts the family. Spouses, children, and parents witness the emotional, financial, legal, medical, and other consequences of a family member's addiction. Early exposure to a home divided by drug use can cause the child to feel neglected and unsafe emotionally and physically. As a result, they can become more unstable mentally and emotionally.¹⁹ Children with one or more drug-abusing parents are more likely to assume parental responsibility, often functioning in denial of addiction or addiction-related attitudes of their parents. These children often lack shelter and have little or no health care.

4. Relationship issue:

Substance abuse and addiction can affect social well-being. Romantic relationships of all sorts can be put under immense pressure when someone is addicted. Because relationships often cannot cope with the euphoric experience of drug use, the individual usually puts less time and effort into sustaining the relationship, allowing various destructive factors to continue to rise. They may think that others do not understand or acknowledge the condition that causes a propensity to be discreet with the loved ones and they may begin to develop distrust problems because of perceived lack of respect for integrity and loyalty. Trust is essential to feelings of security and care in a relationship and diminished confidence also contributes to several relationship-damaging problems such as jealousy, anger, fear, and resentment.²⁰

Social problems

5. Education:

Some types of trauma or changes in brain wiring may affect brain function during the brain's developmental stage. Drug use is one of the ways the wiring can be completely messed up. It interferes with the usual traffic patterns the neurotransmitters use while using drugs. Teens who misuse drugs have poorer grades, a higher rate of absence from school and other events, and a greater risk for dropouts. This is not usual as we all know or hear of addicts and still get high grades. Most people who frequently use drugs don't often do well in school. Heavy use of marijuana in your teens and continued into adulthood can reduce your IQ to as much as eight points. Dropout rates for high school

¹⁸ <http://www.addictioncenter.com/addiction/anger-management/>

¹⁹ <http://www.addictioncenter.com/addiction/how-addiction-affects-the-family/>

²⁰ <http://drugabuse.com/guide-for-families/addiction-hurts-relationships/>

have also increased as a result of substance abuse. One-third of dropouts in the school show that their use of alcohol or other substances was a significant factor in their decision to leave and make them commit crimes.²¹

6. Crime, corruption, and danger for civil society:

Drugs and crime are in many ways associated. Illicit production, manufacture, distribution, possession, and consumption of illicit drugs are criminal offenses in most countries, especially those countries that are signatories to the drug control conventions of the United Nations. For example, in the United States, nearly 60 percent of all federal prisoners were drug offenders in 1994, up from 45 percent in 1988.²² Drugs make many kinds of criminal activity more likely. Drug-related violence mainly exists in the form of trafficking-related activities including violent clashes between trafficking groups fighting for increased market share. It also stems from the need for opioid addicts to fund their addiction through stealing and prostitution. Long-term patterns, based on data collected from 1975 to 1989 and reported to the Commission on Crime Prevention and Criminal Justice, indicate that drug-related crime and robbery is, after the kidnapping, the fastest-growing portion of crime as a whole²³. Many terrorists and organized crime groups are involved in the illegal drug trade, or have close links. The relation between the two is often that of money and power. Illicit drug trafficking is bringing huge profits. Funds are obtained in or converted into an international currency and then transferred to financial centers which can transfer money electronically around the world. The process of moving money makes its origins indistinguishable from those of legitimately acquired currency. In this process, shell, ghost or front operations are used, as are a business which handle large amounts of cash and thus increases corruption and danger for civil society

7. Work and Employment:

Most workers suffer from the consequences of drug abuse and fail to work to their full potential. Employees with drug abuse disorders are less successful, they take more sick days, and they are more likely to hurt themselves or make lawsuits for compensation from the job. They're much more likely to negatively view their work, have issues with bosses, and make mistakes. This is a problem for the company and millions of people. Employees who misuse drugs are more than three and a half times more likely to experience an accident at work, and five times more likely to have an off-the-job accident that affects workplace performance²⁴. It hires 70 percent of substance offenders²⁵. This

²¹ <http://www.justthinktwice.gov/how-does-drug-use-affect-your-high-school-grades>

²² United States Department of Justice (Bureau of Justice Statistics), Survey of Inmates in Federal Correctional Facilities.

²³ 138Crime Trends and Criminal Justice Operations at the Regional and Interregional Levels: Results of the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (United Nations publication, Sales No. E.94.IV.2)

²⁴ <http://noln.net/2017/07/31/workplace-drug-abuse-reducing-risk-impaired-workers/>

²⁵ <http://www.ncadd.prg/about-addiction-update/drugs-and-alcohol-in-the-workplace>

can lead to injuries, inefficiency, and decreased productivity when an individual is disabled. Absenteeism due to recovery from the effects of drug misuse and related illnesses can also be costly for companies. Drug misuse at work costs employers about \$81 billion a year²⁶.

8. Environment:

The environmental impact of illicit drugs is largely a result of the cultivation of cannabis outside and the production of methamphetamine. Many of the chemicals used to manufacture methamphetamine are flame retardant, and the inadequate storage, use, and disposal of these chemicals typical of methamphetamine producers often lead to fires and explosions in clandestine laboratories. Also, the method used to manufacture methamphetamine results in harmful chemicals, between 5 and 7 pounds of waste per pound of methamphetamine, that are usually illegally dumped in fields, lakes, woods, and sewerage systems, causing significant environmental harm. Outdoor cannabis cultivation is causing increasing damage to the environment, especially on public lands. Site operators also contaminate and change watersheds, clear native vegetation, dispose of waste and non-biodegradable materials in abandoned areas, create threats to wildfires, and block natural watercourses. For example, cultivators often dam streams and redirect the water through plastic gravity-fed irrigation tubing to provide water to individual plants. The high demand for water often strains small streams and damages downstream vegetation that depends on consistent water flow. While preparing land for cannabis cultivation, farmers usually clear the understory of the forest, which allows non-native plants to exchange native ones, adversely affecting the environment. We also terrace the land-especially in mountainous areas-resulting in rapid erosion²⁷.

Medical consequences:

People with addiction also have one or more associated health conditions, which can include lung or heart disease, stroke, cancer, or mental health. Imaging scans, chest X-rays, and blood tests can demonstrate the damaging effects of long-term drug use by the body.

OVERDOSE DEATHS

“Abuse of prescription and non prescription opioids continues to be the public health crisis of our time”

Synthetic opioids, such as fentanyl, play a significant role in the increasingly growing number of deaths from overdose. Most of the illicitly produced fentanyl originates in Mexico and China. In addition, toxic fentanyl analogs, such as acetyl fentanyl, are frequently manufactured in China and trafficked into U.S. Fentanyl is up to 40 times more effective than heroin and around 100

²⁶ <http://www.ehstoday.com/health/drug-abuse-costs-employers-81-billion-year>

²⁷ <http://www.justice.gov/archive/ndic/pubs36/38661/drugImpact.htm>

times more potent than morphine²⁸ Acetyl fentanyl is closely linked to heroin, which has been associated with a number of deaths from overdose in the United States. Often, opioid-dependent individuals use fentanyl and acetyl fentanyl as a substitute for heroin, or they are added to heroin products to add bulk or enhance effects. The number of U.S. opioid deaths has significantly increased in the past decade. In reality, overdose is now the leading cause of injury death in the U.S.²⁹. According to an article published in JAMA, from 2000 to 2015 drug overdose deaths more than doubled and opioid deaths more than tripled over the same time period. Death levels from drug overdose were 6.2 per 1000 in 2000³⁰; in 2015, the rate jumped to 16.3 per 100,000 people. In 2014, 129 people died every day from a drug overdose, and 2017 saw a majority of overdose deaths involving synthetic opioids³¹.

MASS INCARCERATION

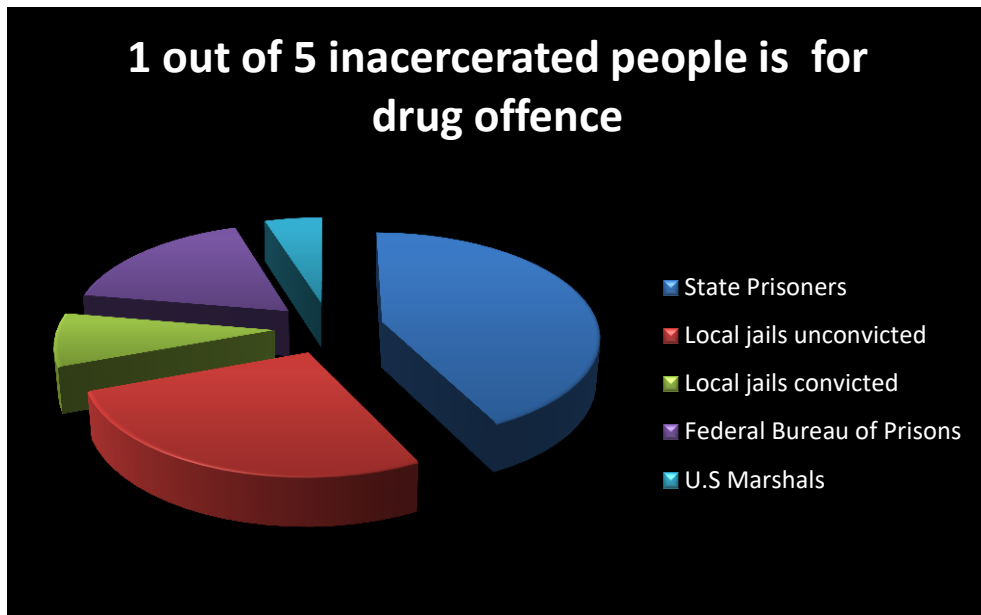
The number of Americans imprisoned for sedate offenses has expanded from 40,900 in 1980 to 469,545, in 2015. The state level detainees have increased by 10% since 1980. All around, one out of every five detainees is detained for drug related offenses, for the most part for insignificant individual belonging. According to the report regarding the number of inmates and percentage of inmates from the Federal Bureau of Prisons (BOP), the drug related offenders were 73,476 in number with a percentage of 45.5. The United States has 456,000 inmates detained for possession, trafficking or other non-violent drug offences. For those convicted of SLL crimes (16,777) in different jails in the country, the largest number of prisoners were convicted under Liquor & Narcotics Drugs-Related Acts (54.3 per cent, 9,113 convicts).

²⁸ Congressional Research Service. (2015) Heroin Trafficking in the United States.

²⁹ U.S. Department of Justice Drug Enforcement Administration. (2016) 2016 National Drug Threat Assessment Summary.

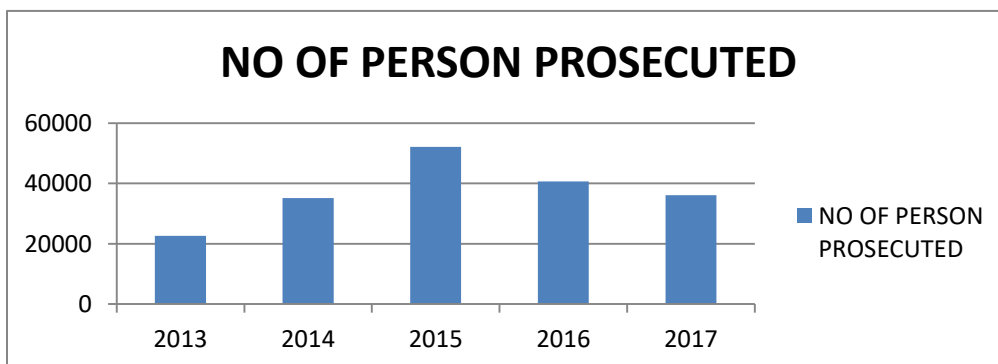
³⁰ Dowell D, Arias E, Kochanek K, Anderson R, Guy GP, Losby JL, Baldwin G. Contribution of Opioid-Involved Poisoning to the change in Life Expectancy in the United States, 2000-2015. JAMA. 2017; 318(11):1065-1067.

³¹ Centers for Disease Control and Prevention. (2017). Provisional Counts of Drug Overdose Death, as of 8/6/2017.



NUMBER OF PERSONS PROSECUTED IN INDIA FOR DRUG TRAFFICKING BETWEEN 2013 AND 2017

This statistic shows the number of persons prosecuted for drug trafficking in India between 2013 and 2017. More than 36 thousand people were prosecuted for their involvement in drug trafficking. As seen from the graph, 2015 saw the most number of prosecutions with over 50 thousand people prosecuted for drug trafficking.³²



³² <https://www.statista.com/statistics/983816/india-persons-prosecuted-for-drug-trafficking/>

UNITED STATES		Sale/Manufacture				
Year	Total Drug Arrests	Sale/Manu. Any Drug	Heroin, Cocaine, and Derivatives	Marijuana	Synthetic or Manufactured Drugs	Other Dangerous Non-narcotic Drugs
2018	1,654,282	224,982	72,788	54,591	29,777	66,171
2017	1,632,921	238,406	84,912	60,418	26,127	65,317
2015	1,488,707	239,682	81,879	68,480	26,797	62,526
2014	1,561,231	263,848	90,551	81,184	29,663	64,010
2013	1,501,043	265,685	90,063	84,058	28,520	63,044

2012	1,552,432	276,333	94,698	91,593	29,496	62,097
2011	1,531,251	278,688	96,469	94,937	27,563	61,250

Table: DATA ON DRUG ARRESTS IN USA BETWEEN 2011 & 2018:³³

LAWS RELATED TO DRUG TRAFFICKING

Drug trafficking laws are determined by federal laws. It is criminalized under both federal and state laws, and it is often prosecuted as a federal crime when a defendant moves drugs across state lines³⁴. Federal drug laws, including the Controlled Substances Act, regulate the possession, sale and manufacture of drugs. They penalize the selling, transportation, and illegal import of controlled substances which are unlawful, such as marijuana, cocaine, heroin, methamphetamines, and other illegal drugs³⁵. Penalties for drug trafficking can vary widely depending on a variety of factors, including the amount and quantity of drugs involved, the geographic area of distribution, and whether children are targeted. Sentences for drug distribution and trafficking can generally range from 3-5 years to life in prison and fine of about \$100,000 for marijuana trafficking but can be significantly higher when larger quantities are involved and he or she may face up to 25 years in prison and fines of half a million dollars if convicted of trafficking in heroin³⁶.

DRUG TRAFFICKING AND CONTROLLED SUBSTANCES

“When a state or federal government classifies a substance as "controlled," it generally refers to the use and distribution of the substance is governed by law. Under federal and state statutes the controlled substances are often classified at different levels or "schedules".”³⁷

³³ https://www.drugwarfacts.org/chapter/crime_arrests#overlay=table/annual-drug-arrests

³⁴ <https://www.justia.com/criminal/offenses/drug-crimes/drug-trafficking/>

³⁵ <https://criminal.findlaw.com/criminal-charges/drug-trafficking-distribution.html>

³⁶ Supra note 25

³⁷ Supra note 26

TRAFFICKING CHARGES

When a person is caught selling a controlled substance across state lines, then federal law will apply, but if drug trafficking is solely within a state, the laws of that state will apply. Just like federal law, all states ban the manufacture, sale or possession of controlled substances. State prison terms are usually shorter than a federal jail term but not always. In fact, states administer fewer amounts than the federal government.

LAWS IN UNITED STATES

The United States and other organized international agencies have fought drug-related crimes throughout history. The first anti-trafficking legislation was passed in 1848, when an act known as the Drug Importation Act was passed. This act allowed the United States Customs to inspect drugs from overseas entering the United States. This was one of the first attempts to intercept and prevent any abuse or market. Since then, legislation has had to be more precise in the narrowing of gray areas within the context of law and international concern.

There are several factors that decide the punishments for drug-related charges: the substance, the quantity of the substance in question, the conduct in which the offender was involved and their prior interactions with law enforcement.³⁸ People who regularly commit serious offenses involving significant quantities of illegal substances are more likely to receive harsher penalties. Selling drugs carries much harsher penalties than those received for simple drug possession in the U.S. Consequences will vary by state, but, as an example, in Wisconsin, any delivery or distribution of a controlled substance is a felony with a fine of up to \$100,000 and 40 years imprisonment.³⁹ Individuals who have repeatedly been caught selling drugs can face double the amount of fines and imprisonment, depending on the case. Those found guilty of supplying drugs to a minor face an even more grim future, with jail terms that can increase from normal sentences up to five years. Including selling narcotics, trafficking controlled substances in and around the United States is a serious felony and is considered a federal crime with lengthy mandatory sentences. Like certain substances licensed under Schedule I and II, the first trafficking conviction is punishable by at least five years in jail.⁴⁰ The second offense leading to serious injury is subject to a mandatory life imprisonment penalty.⁴¹ Along with possession and trafficking, drug-related charges can also be for:

- Manufacturing – Using ingredients to create or manipulate controlled substances can bring about penalties that equivalent or surpass those for drug dealing.

³⁸ <https://www.dea.gov/drug-scheduling>

³⁹ <https://drugabuse.com/addiction/drug-abuse-penalties/>

⁴⁰ <https://fas.org/sgp/crs/misc/RL30722.pdf>

⁴¹ Supra note 30

- Paraphernalia – Possessing or advertising any materials primarily associated with growing, storing, packaging, or using controlled substances can lead to fines and, in some cases, imprisonment.⁴²

LAWS IN INDIA

The Narcotics Control Bureau (NCB) is India's main law enforcement and intelligence body responsible for combating drug trafficking and illegal substance abuse⁴³. It was established on 17 March 1986 to enable the full implementation of the Narcotic Drugs and Psychotropic Substances Act (1985) and to combat its violation by preventing illicit drug trafficking and the Psychotropic Substances Act (1988)⁴⁴. In May 2015, the Government of India announced NDPS rules which would apply to all states and union territories⁴⁵. Six drugs, namely morphine, fentanyl, methadone, oxycodone, codeine, and hydrocodone, have also been included.⁴⁶ According to this Act any kind of offence related to the drug is taken as the serious issue and is considered cognizable with non-bailable offence.

In Chapter IV of the Act fine and punishment varies with the drug offence, accuse for small quantity of drugs the punishment is 6 months rigorous imprisonment or fine of Rs.10,000 or both.⁴⁷ More than a small quantity but less than a commercial quantity of drugs the penalty is 10 years of rigorous imprisonment or fine of Rs. 1,000,000 or both and for commercial quantity of drugs the penalty is 10-20 years of rigorous imprisonment or fine of Rs. 2,000,000 or both.

- Section 4 of the act is about Central Government to take measures for preventing and combating abuse of and illicit traffic in narcotic drugs. The Central Government may take whatever measures it considers necessary or expedient to prevent and combat the abuse of narcotic drugs and psychotropic substances and the illicit trafficking.
- Sec 8 of the act is about Prohibition of certain operations

This section prohibits the cultivation of any coca plant or the collection of any portion of the coca plant; or the cultivation of opium poppy or any cannabis plant; or the produce, possession, selling, purchase, transportation, storage, usage, use, import into India of interstate exports, exporting from India or exporting any narcotic medication or psychotropic product, other than for medical or scientific purposes and in the manner and to the degree specified by the provisions of this Act or the rules or orders made therein under and if any such provision

⁴² Supra note 31

⁴³ Narcotics Control Bureau". National Informatics Center. Archived from the original on 10 April 2009. Retrieved 19 July 2009.

⁴⁴ "Narcotics Control Bureau - Ministry of Finance" (PDF). National Informatics Center. Archived from the original (PDF) on 16 July 2011. Retrieved 19 July 2009.

⁴⁵ "Department of Revenue Gazette Notification: NDPS Rules 2015" (PDF). *Central Bureau of Narcotics*. Retrieved 6 March 2017

⁴⁶ "Department of Revenue Gazette Notification: Essential Narcotic Drugs" (PDF). *Central Bureau of Narcotics*. Retrieved 6 March 2017

⁴⁷ <https://www.latestlaws.com/articles/drug-trafficking-in-india-legal-perspective-by-yash-soni/>

imposes any requirement by license, authorization or authorization also in compliance with the terms and conditions. In this section, nothing relates to the export of poppy straw for decorative purposes⁴⁸.

SUGGESTIONS:

- 1) There is a need for stricter legislation on drug trafficking.
- 2) Death penalty should be included in the law to punish drug traffickers.
- 3) There is a need for a systemic approach to combating drug trafficking rather than a conventional system.
- 4) More attention needs to be paid to borders and immigration controls in order to reduce drug trafficking.
- 5) Comprehensive police training to help combat drug trafficking worldwide.⁴⁹ Consequently, a modernized anti-drug policy will concentrate on combating corruption through a comprehensive strategy that involves strengthening government institutions, supporting human rights, reducing injustice, reducing income inequality, and improving educational systems. Without addressing these structural issues, the exclusive use of enforcement and prohibition tools can inadvertently aggravate issues such as extortion, kidnapping, and trafficking in human beings that undermine democratic processes, human rights, and government trust.⁵⁰

CONCLUSION

Drug usage is not a phenomenon seen over the past two decades, but has been a norm for centuries. What is relevant is the fair use of drugs for lawful purposes, which has been approved by the Government of that country. The trafficking in drugs, which is a heinous crime, must therefore be taken into account, and stringent laws must be enforced with regard to the same and also with regard to those who participate in activities related to drug trafficking in order to eliminate this problem and grow the economy in a better way.

⁴⁸ <http://narcoticsindia.nic.in/NDPS%20Act,%201985.pdf> Archived 2 November 2013 at the Wayback Machine 

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⁴⁹ <https://www.interpol.int/en/Crimes/Drug-trafficking/Our-role-to-fight-drug-trafficking>

⁵⁰ <https://theglobalamericans.org/reports/improved-strategy-fight-drug-trafficking-organized-crime-corruption-hemisphere/>