

Import of “Designer Drugs” As Psychotropic Substances of Drug Abuse - Need to Amend Drugs and Cosmetics Act, 1940

¹Monica Khanna and ²Dr.Seema Garg

¹Research Scholar, Sant Baba Bhag Singh University, Khiala, Jalandhar, Punjab

²Supervisor, Sant Baba Bhag Singh University, Khiala, Jalandhar, Punjab. India

ARTICLE DETAILS

Article History

Published Online: 15 March 2019

Keywords

Cannabis, Charas, Chitta, Ganja, Constitutional Provisions, Drugs and Cosmetics Act, 1940

ABSTRACT

Cannabis or hemp is also known as Bhang in Hindi, is a drug that has been used since time immemorial for its use as hemp fibre, hemp seed, oil, vegetable, juice, medicinal purpose, and also as a recreational drug. Three main species of Cannabis has been found namely Cannabis sativa, Cannabis indica, Cannabis ruderalis. All the species are recognized commonly in Cannabis sativa as one species. Cannabis belongs to the family of Cannabaceae. The problem of drug abuse among the adolescents in Punjab is the major worry for the parents residing in the villages of Punjab. In the earlier times Punjab was said to be called by the name of “Sone Di Chidi” The land of five rivers “Punj – ab” (Punjab) has now become the “Chitti Chidi” with the increased usage of the drug abusing drug “Chitta” (Heroin). Newer substances of abuse are often looked into to find an alternate way of abuse. Heroin being costly cannot be purchased by the poor and the poor often looks for the cheaper sources of abuse so that he or she can satisfy himself/herself. With the ever emerging ban on “Chitta” and the syringes and needles not to be given to anybody without prescription, the abusers are looking for the newer ways of abuse and turn towards the newer forms of lab designed drugs of abuse most commonly known by the name of K2 Drugs or as “Designer Drugs”. In this article the author tries to gain the knowledge about these K2 Designer Drugs besides discussing the Constitutional Provisions, the amendments made in the Act, the role played by the Drugs and Cosmetics Act, 1940 in import of these drugs beside combating this evil and saving the lives of the young generation for the better future of our country like India.

1. Introduction

Cannabis¹ or marijuana is a drug obtained from the Cannabis plant belonging to the family Cannabaceae. The drug is used for medicinal purpose and for recreational purposes by the drug addicts. Cannabis is usually abused in the form of smoking, or as an extract. It produces the effects of elevated mood levels, various physical and mental effects and an increase in the level of appetite. In the form of smoke the effects occurs in the body with as little as within 2-3 minutes of smoking and usually lasts for about 2-6 hrs. The side effects of the drug includes dry mouth, short term memory, redness in the eyes, anxiety etc with long term use leading to addiction, decrease in the motor ability, behavioral problems etc. Women taking doses of cannabis during pregnancy give birth to the children with behavioral problems. Cannabis contains an active chemical constituent namely Tetrahydrocannabinol (THC), Cannabidiol and Cannabinol. Cannabinoids, and the compounds act on the cannabinoid receptors present throughout the body. These drugs alter the neurotransmitters that are released in the brain. There are two types of Cannabinoid receptors in the human body. The first one is the CB₁ and the other one is the CB₂. The CB₁ receptors are found in the brain in the basal ganglia region, limbic region, including the hippocampus and the striatum areas. CB₂ receptors are found in the immune system of the human body and found mostly in the spleen. These receptors are said to be responsible for the anti-inflammatory as seen in the animal models.

2. Active constituents and their role in the human body

Tetrahydrocannabinol (THC) is a psychoactive component of the Cannabis plant. Delta 9 – tetrahydrocannabinol and Delta 8- tetrahydrocannabinol induces anandamide (also known as N- arachidonylethanolamine or AEA – a fatty acid neurotransmitter derived from the non oxidative metabolism of arachidonic acid) and 2-arachidonylglycerol synthesis (2 Arachidonoylglycerol (2 AG) is an agonist of CB₁ receptor and a primary endogenous ligand for the CB₂ receptor.

Cannabidiol is basically non psychotropic in nature and it plays role in promoting sleep and suppressing arousal. Cannabinoids can be separated from the plant part by solvent extraction method. Commonly used solvents are alcohol; supercritical solvent extraction technique with carbon dioxide is an alternative technique. After separation the isolated compounds can be separated by distillation technique.

3. Research Objective of the Study

The objective of the study is to identify the root causes of drug abuse and lacunas in the Drugs and Cosmetics Act, 1940 which can be remedied by law?

4. “Designer Drugs” or K2 Drugs

The abuse of the cannabinoids and their related drugs is not new and the people around the world abuse it in one form or the other. With the advancements in the pharmaceuticals research newer forms of drug abuse especially the abuse of K2 drugs (Synthetic Cannabinoids) is on the rise in the U.S.A and

Canada. Synthetic cannabinoids are the chemical substances which bind to the cannabinoid receptors in the body. These drugs are synthesized in the laboratory and are termed as "Designer Drugs"². These drugs are sprayed onto the plant matter and are then smoked. They are marketed in the world as "herbal incense" and is sold under the name of K2, spice, synthetic marijuana. These types of products are labeled as "Not for Human Consumption" but still they are very widely used by the addicts especially in the European countries, USA & Canada. Synthetic drugs have higher affinity for binding to the CB₁ receptor and have a high potency value. They are more potent than the naturally occurring cannabinoids. K2 belongs to the category of NPS (New Psychoactive Substances). K2 drugs consist of manmade chemicals that change the person's mental state. Side effects of synthetic cannabinoids include improved mood, altered perception, anxiety, delusional thinking, relaxation, confusion, hallucinations, tremor, seizures, tachycardia, hypokalaemia, chest pain, cardiac problems, stroke, kidney damage; acute psychosis brain damage and death are some of the effects that can be seen by the use of synthetic marijuana. Synthetic cannabinoids are 100 times more powerful than marijuana and is highly addictive and can lead to withdrawal symptoms if the substance is removed from the abuser system. The abuser becomes irritable in attitude. Headache, depression, occurs due to the over dosage and can lead to fatal consequences.

Mechanism of Action of Synthetic Cannabinoids. Like the natural cannabinoids³ synthetic cannabinoids are 100 times more potent than their natural counterparts. With the high potency and speed they bind to the CB₁ receptors present all over the body especially the brain. The human body has the potential to revert the effects of the drug that has binded to the receptors and hence the effect of any drug that a human body consumes get lowered with time and the effect of the drug decreases, but in the case of synthetic marijuana or the K2 drugs the chemical in the body is unknown to the body and the body does not know how to deal with such kind of synthetic material or lower its potency by removing it from the receptor as in case of CB₁ receptor. As already stated the K2 drugs or synthetic marijuana or spice bind to the CB₁ receptor with 100 times the potency than the natural counterpart and hence it becomes difficult for the body to how the drug is to be metabolized, which organs need to be involved, what are the chemical and the enzymes required to detoxify the body and hence when this system fails, due to over dosage the human body fails to respond to bring the person back to his senses and eventually leading to the death of the person.

5. The Drugs and Cosmetics Act 1940

The Drug and Cosmetic Act⁴ is an Act which was passed in the year 1940. The law was passed to regulate the import, manufacture, and distribution of drugs in India. The primary objective of the Drug and Cosmetic Act is to ensure safe, effectiveness, and conformity to state quality standards of the drugs. The Drug and Cosmetic Rules 1945, contains provisions for classification of drugs under given schedules and there are guidelines for the storage, sale, display and prescription of each schedule. Methamphetamine commonly termed as "Ice" is a common drug of abuse. Ice basically did not originate in India but came to India from the U.S from where it was smuggled into India. Here the flaw in the Drug and Cosmetics

Act, 1940 occurs. The Drug and Cosmetics Act, 1940 regulates the import of the drugs in the country from the country of origin.

The drug and the Cosmetics Act prohibits to import the following class of drugs

- Any drug which is not of standard quality
- Any misbranded, spurious, or adulterated drug
- Any misbranded or spurious cosmetic
- Any drug or cosmetic which requires import license and if imported without any license
- Any patent or proprietary medicine, the true formulae or list of active ingredients with their true quantities, is not displayed on the label or container in a prescribed manner
- Any drug which claims to cure or prevent any disease or ailment described in schedule J
- Any drug or cosmetic, the import of which is prohibited by rules

The Drug and Cosmetics Act, 1940 also mentions the import of following class of drug and cosmetics permitted under license only

- Drugs specified in schedule C and C1
- Drugs specified in schedule X
- Drugs for examination, test and analysis
- Any new drug

So why methamphetamine a substance of abuse is allowed to be smuggled from the U.S to India. How is this kind of drug being imported into India and under which license is it allowed to enter in the Indian market.

As mentioned in the Drugs and Cosmetic Act, 1940, the import of drug is allowed only through following places

- By Sea: Mumbai, Chennai, Kolkata, Cochin
- By Air: Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, and Hyderabad
- By Rail: Ferozpur Cantt and Amritsar railway station (drugs coming from Pakistan)
- Ranaghat, Bongaon, Mahiassan (drugs coming from Bangladesh)
- Raxaul (drugs coming from Nepal)

Other drugs that are smuggled into India are Cocaine, Heroin, Marijuana etc. Another substance of abuse, dextropropoxyphene is also in use. According to the leading newspaper "The Times of India"⁵, dated 4th June 2018, "Use of Designer Drugs on the Rise", dextropropoxyphene is used in the city of Ludhiana in Punjab rampantly. Beside it other substances of abuse in demand are diphenoxylate (used to cure diarrhea) also known by the name "speed" due to its analgesic properties. Alprazolam, Diazepam, Buprenorphine are some of the other substances of abuse reported from the city. It was found stated that certain new drugs were freely available at pan shops. The pan wala's can be seen selling small black tablets which they refer to them as "munacca" Small packets of black powder in the name of "gur manjan" can also be purchased from the pan wala's which is consumed for instant rush.. All these sort of items are given under cover and to the known only. Here the questions arises what role does the Drug and Cosmetics Act, 1940 play in distribution of the drugs. How these substance of abuse reach the panwala's and then in the hands of small children. Another substance of abuse under the name of "cut" is a mixture of heroin, sucrose and caffeine. Tramadol is the substance of abuse whose

addiction is on the rise. On an average a person consumes 4-5 tablets per day becomes habitual to the drug and thus becomes an addict. The manufacture, distribution and sale of the drug is regulated under the Drugs and Cosmetics Act, 1940, yet the drug is easily available for consumption. Though the government has imposed stringent regulations regarding the sale of the banned drugs still the drug is being sold and consumed in the dark under the counter at the prices higher than the cost of the drug. In a case, an International courier service FedEx was booked to smuggle marijuana and hemp capsules from the United State to India by a Delhi based businessman for his consumption. In order to keep of the consignment off the radar, four different name and address were used on the consignment but the NCB on the tip off confiscated the contraband. When intervened it was found that

the Delhi based businessman talked to his friend sitting in Russia to arrange the drug for him and he in turn contacted his known ones sitting in the USA and the drug was couriered. In another case marijuana was smuggled from US seized at Delhi courier terminal. In this case the consignor declared 256 GB level 3 computer server weighing 14.5 Kg each. When the consignment was passed through X Ray machine on suspecting something, and the screws were removed, it was found that there was no circuitry inside the computer systems and marijuana was found concealed inside. This is how the Drug and Cosmetics Act, 1940 is befooled. The consignment might have passed into India if it would have been left unchecked. The Drug and Cosmetics Act, 1940 lays down the offences and penalties related to the import of the drug

Offences and Penalties under the Drug and Cosmetic Act, 1940

Any one who,

Sr No	Import of Drug	Punishment and Fine upon First Offence	Punishment and Fine upon Subsequent Offence
1	Adulterated or Spurious Drug or Cosmetic or Cosmetic unsafe for use	Imprisonment upto 3 Years or with fine upto 5,000 /- or both	Imprisonment upto 5 Years or with fine upto 10,000 or both on subsequent conviction
2	Imports any drug or cosmetic, the import of which is prohibited under Section 10	Imprisonment upto 6 Months or with fine upto 5,000/- or both on first conviction	Imprisonment upto 5 Years or with fine upto 10,000 or both upon subsequent conviction
3	Import any drug or cosmetic, the import of which is prohibited in the public interest	Imprisonment upto 3 Years or with fine upto 5,000 or both	Imprisonment upto 5 Years or with fine upto 10,000 or both

In spite of the strict provisions mentioned in the Drug and Cosmetic Act, 1940 the substances of abuse are still available freely in country which needs to be checked. Whether the problem lies in the import, manufacture, issuance of license, the problem still persists and needs to be checked at the earliest.

6. Conclusion

An increase in the drug addiction is increasing day by day and ultimately leading to the increase in the crime rate and other socio economic problems. With the advent of newer drugs in the market termed as “designer drugs” there is a severe need to amend the existing drug laws especially the laws relating to the Drugs and Cosmetics Act, 1940 which regulates the import, manufacture and distribution of the drugs in the Indian market. The root cause of the drug abuse problem is the lack of stringency in the existing Drugs and Cosmetics Act, 1940 which regulates the import, manufacture and distribution of the drugs in India.

References

- Gokhale SB and Kokate CK, A Text Book of Pharmacognosy.39th ed. (Maharashtra) Nirali Publications, 2019: 9.67-9.71
- https://scholar.google.com/scholar_lookup?title=%E2%80%98Spice%E2%80%99%20and%20other%20herbal%20blends%3A%20harmless%20incense%20or%20cannabinoid%20designer%20drugs%3F&author=V%20Auw%3%A4rter&author=S%20Dresen&author=W%20Weinmann&author=M%20M%3BCiller&author=M%20P%3BCtz&author=N%20Ferrei%3CB3s&publication_year=2009&journal=J%20Mass%20Spectrom&volume=44&pages=832-837

7. Recommended Suggestions

The author suggest the following suggestions (i) There should be time to time amendments in the existing drug laws of India as newer and newer drug substances of abuse along with their derivatives are being developed worldwide. (ii) Quality Assurance must be taken into account. (iii) Maintenance of drug data of addicts needs to be maintained and regulated by incorporating various agencies and organizations working in this area. (iv) Transparency in the policy needs to be implemented for solving the crime related problems. (v) Differentiating the synthetic drugs from natural substances of abuse and amending of the existing drug laws. (vi) Bringing awareness and educating the people can eradicate the problem of drug addiction. (vii) Rehabilitation centers should coordinate with the central and state government for preventing the substance abuse. (viii) Stringency in the existing drug laws needs to be taken seriously.

3. Wallis TE, Text Book of Pharmacognosy, 19th ed. C.B.S. Publishers, 2005: 15-25
4. Government of India, "The Drugs and Cosmetics Act", 1940
5. The Times of India, "Use of Designer Drugs on the Rise" 4th June 2018, <https://timesofindia.indiatimes.com/city/ludhiana/use-of-designer-drugs-on-the-rise/articleshow/64848212.cms> [accessed on 14th January 2019]