

Effective Measures in Eliminating Illicit Drug Using and Trafficking: Sri Lankan Experience

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Abstract. The criminal justice system has a vital role to play in the elimination of illegal drug usage and trafficking. Sri Lanka has a national policy and penal laws to impose severe punishments on drug offenders. However, the increasing number of incarcerations and recidivism of drug offenders reveals that the present policy, laws and its enforcement are not satisfactory to eliminate the problem. Therefore, it is necessary to revisit the existing drug policy to suggest new measures to eliminate the problem

Keywords: Illicit Drugs, Penal Laws, National Policy

1. Introduction

Using and trafficking of illicit drugs adversely affects the socio economic policies, security and safety of a country. Using and trafficking of illicit drugs has rapidly increased during the last three decades in Sri Lanka (prison statistics from 1980 to 2011). During the period of 1990s, Sri Lanka had to suffer this problem seriously (National Dangerous Drugs Control Board (NDDCB) 2011). Distributing and Rising in heroin usage in 1980's in urban areas created new socio economic challenges in Sri Lanka (Police Administration Reports). Illicit drug usage and trafficking became a matter of concerns in Sri Lanka and prompted huge levels of public and government interest due to those challenges. As a result the Government of Sri Lanka instigated a new drug policy for eliminating the problem. However, the growing number of illicit drug related offences indicate that the existing policy including laws and other preventive measures are devastatingly unsuccessful. Therefore, the paper will discuss the issues and challenges in relation to the drug problem in Sri Lanka in order to bring about effective measures in eliminating both using and trafficking of illicit drugs.

2. Drug Problem

Sri Lanka is an example of the SAARC region that suffers due to an increase in illicit drug related offences. As a result, like other countries, Sri Lanka too faces several social problems including the growing number of drug addiction, incarceration and recidivism. Moreover, the drug factor is a significant cause in the increase of other crimes such as theft, prostitution, assault and vandalism. Drug addicts commit other crimes to find money for their drug consumption. According to prison statistics, approximately 50% of the recidivists are drug addicts. Further, the highest number of offenders of direct admission to the prison are reported as drug offenders. The emergence of drug trafficking as a trade has led to the emergence of money laundering as a high profile activity. Further, drug trafficking was connected with terrorism during the last 30 years. Presently it is connected with trafficking in persons which poses a threat to the security of the country. It is high time for Sri Lanka to take necessary steps to initiate more effective preventive measures to control the using and trafficking of illicit drugs.

2.1. Illicit Drugs in Sri Lanka

Although in Sri Lanka some herbs are used in indigenous medicine and some synthetic substances are used in western medicine, opium, morphine, heroin, cocaine, cannabis, pethidine, codeine, propiram,

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dextropropoxyphene, desmorphine, ketobemidone, LSD, BMT, THC and STP are considered as illicit drugs. Cannabis, heroin and opium are more commonly used substances in Sri Lanka.

2.2. Present Scenario of the Problem

Cannabis is the main item of drug abuse and it is popular among the adults. The most popular method of using cannabis is smoking. According to statistics, of the drug related arrests, majority were for cannabis in the last two decades. In the year 2011, the highest number of cases of cannabis was reported from the western province especially from the Colombo district followed by the Gampaha district. Since Cannabis is grown in rural areas it is trafficked to Colombo (the capital city of Sri Lanka) and other provincial towns by using public transport. Heroin, which was introduced by foreign tourists to the locals in the 70s, is the second most popular illicit drug among the users today. Heroin is presently trafficked into Sri Lanka by fishing boats mostly from the nearest SAARC countries, especially from India and Pakistan. Heroin is popular among the youth. Heroin is available in street level in Sri Lanka and is most commonly used by inhalation. According to the Narcotic Bureau, the street level supply of heroin is 700-750 kg per annum which is sufficient for 45,000 heroin dependants approximately. In Sri Lanka, diazepam, fructose, acetaminophen and caffeine are commonly used adulterants of heroin. The opium users mostly eat it. The opium related arrests has gradually decreased in last two decades.

As far as the drug abuse of Sri Lanka is concerned, the total number of drug related arrests was approximately 30,000 in the last year. 60% of the arrestees were aged 30 or above and 40% was in their 20s. The men and women ratio of drug arrests was 97:3. Of the drug related arrests, 68% was for cannabis, 30% was for heroin and the other 2% was for other illicit drugs such as opium. Majority of drug-related arrests were reported from the Western province in last three decades. It was 52% in 2011 which was followed by the Southern province (32%) and Sabaragamuwa province (7%). In 2011, the Colombo district contributed to 38% of the total drug arrests followed by 10% in Gampaha and 6% in the Galle district. The prevalence of drug related arrests were 286 per 100,000 population in 2011 (National Dangerous Drugs Control Board (NDDCB) 2011).

2.3. Factors Contributing to Increase the Problem

Among the number of contributing factors (socio economic and legal), some are more contributive towards the increase of the drug problem than others.. They are Ineffective preventive measures including laws, proximity to drug producing/exporting countries, social disorder, and bad peer association. Like other countries in the SARRC Region, in Sri Lanka drug addiction and trafficking have escalated. It is significant to note that Sri Lanka does not manufacture (produce) illicit dangerous drugs other than Cannabis cultivation. Sri Lanka is situated between the golden crescent and the golden triangle which are considered as two major poppy growing areas. Due to this geographical propinquity, Sri Lanka has become a transit point of illegal drug products from Southwest Asia to Europe and other Western Destinations. Though this channel, illicit drugs enter into the country. According to the National Dangerous Drug Control Board, out of the drug attests more than 90% of the youth were addicted to illicit drugs due to bad peer association.

2.4. Drugs and Linked Issues

Sri Lanka faces several social problems including the growing number of drug addiction, increasing incarceration and recidivism. Moreover, the drug factor is a significant cause in the increase of other crimes such as assault, criminal force, vandalism and unnatural offences (homo sexuality, lesbianism). Further, the drug addicts commit other crimes such as theft and prostitution to find money for their drug consumption. According to prison statistics, approximately 50% of the recidivists are drug addicts. Further, the highest number of the offenders of direct admission to the prison is reported as drug offenders. The emergence of drug trafficking as a trade has led to the emergence of money laundering as a high profile activity. Further, drug trafficking is connected with trafficking in persons which pose a threat to the security of the country.

3. Legal Frame Work for Elimination

3.1. Sri Lanka Legislation Pertaining to Drugs

Sri Lanka is a signatory to all three international treaties ((Single Convention On Narcotic Drugs of 1961, Convention on Psychotropic Substances of 1971 and the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988) which determine the drug policy. Sri Lanka set out legal provisions to control illicit drug using and trading mainly by the following legislation: Poison Opium and Dangerous Drugs Ordinance No. 17 of 1929 and the two amendments: Poison, Opium and Dangerous (Amendment) Act No. 13 of 1984 and Poison, Opium and Dangerous Drugs (Amendment) Act No 26 of 1986. The Penal Code Ordinance No. 2 of 1883, Code of Criminal Procedure Act No. 15 of 1979, National Dangerous Drugs Control Board Act No. 11 of 1984, Drug Dependent Persons (treatment and rehabilitation) Act No. 54 of 2007 and Convention Against Illicit Traffic in Narcotic Drug and Psychotropic Substances Act No 1 of 2008 are other important penal legislations enacted against drug related offences. Further, Customs Ordinance No. 17 of 1869, Ayurveda Act No. 31 of 1961 as amended by the Act No. 5 of 1962, Cosmetics, Devices and Drug Act No 27 of 1980 have also restricted some drug related acts and behaviour. According to the above said legislations, standard drug related offences are trafficking, selling, manufacturing and possessing. Possession includes consumption, possession in producing, refining or transforming. Further, it is a crime to sell, give, obtain, procure, store, administer transport, send, deliver, distribute, traffic, import or export such drugs and aid or abet in the commission of such an offence. According to the Sri Lankan law, drug related offences are punishable with death, life or rigorous imprisonment and fine. The death penalty or life imprisonment is impose for manufacture of heroin, cocaine, morphine or opium and the trafficking, possession, import or export of a minimum of 500g of opium, 3g of morphine, 2g of cocaine and 2g of heroin. It was witnessed that only the harsh and punitive sanctions are imposed on drug offenders considering the type and quantity of the drug. According to the Criminal Procedure Act many drug related offences are non- bailable, cognizable, indictable and are heard without jury.

3.2. Official Drug Control in Sri Lanka

The Police Department including the Police Narcotics Bureau (PNB), National Dangerous Drugs Control Board (NDDCB), Excise Department, Sri Lanka Customs and Navy conduct drug law enforcement operations today. The Drug Law Enforcement sub committee of NDDCB coordinates the policy planning in relation to the drug problem and drug law enforcement activities in the country. The Ministry of Health monitors the entry of controlled substance into the county doing random searches in pharmacies. Drug Rehabilitation Centres and Prisons play their role in reforming the drug offenders.

3.3. National Policy

The national policy relating to combat the drug problem was endorsed two decades before. The main goal of the existing national drug policy relating to elimination of the drug problem is to reduce the drug supply and use. The national policy is based on three main aspects such as law enforcement and implementation, prevention and assistance. The policy accepts that...

There must be effective substantive and procedural laws and efficient law enforcement against production, trafficking in large scale and selling in small scale and use of illicit drugs;

There must be an effective mechanism in the monitoring and controlling of imports, exports and distribution of illicit drug and precursor chemicals;

There must be effective preventive techniques/methods to reduce illicit use and adverse consequences of illicit abuse;

There must be an effective methodology to support the regional and international regulations and standards relating to combat the drug problem especially exports, imports and trafficking.

According to the national policy, the problem should be under control before 2010. However, the statistics of the illicit drug arrests, direct admission of drug offenders to the prisons and the correctional centers reveals that the existing system has failed in achieving its main goals.

4. The Failure and Challenges

There some concerns relating to the substantive and procedural laws including their implementations and the role of the law enforcement agencies against drug offences. In Sri Lanka, drug users including dependants, all types of sellers and traffickers are considered as criminals who should be punished with punitive or deterrent aspects. The question arises that whether the users and dependants could be treated as offenders or individuals who need help to recover. The absence of a definition for drug dependant might be the reason for the problem. The drastic increase in the number of drug arrests, incarcerations as first offenders and recidivism reveals that deterrent and punitive approaches are not the answer for all drug offenders. Segregation of drug related behavior such as using, depending and trafficking are significant in this regard.

Weak sentencing policy is another issue to be addressed. The factors considered to determine the appropriate degree of punishment are not clear. A proper sentencing policy must be introduced to the system including sentencing alternatives such as community sentences orders and probation.

The existing procedural rules are not aligned with the international standards. The traffickers (who transport and distribute the illicit drugs) use the jurisdictional barriers to get away from the prosecution and punishment.

So far, the adopted preventive techniques/methods to reduce illicit use and adverse consequences of illicit abuse are not adequate to reduce the illicit drug use or other harmful consequences of abuse. Sri Lanka has only four rehabilitation centres to reform the drug users including dependants. These centres do not have Open Access Services to rehabilitate drug users. In our criminal justice system, the courts send the offenders (drug dependants) to these rehabilitation centers if there is a request only. It is also after the pronouncement of the punishment. Here, these addicts should spend their punishment period in these rehabilitation centres. In these centres, methadone is used as an opiate substitute for drug dependants. Though it has a benefit of keeping these addicts away from the criminal drug subculture, the problem persist of addicts continuing to use other substances alongside methadone and becoming long-term dependants on methadone instead of completely being free from using drugs. Since methadone is available in pharmacies, after they are released from the rehabilitation centers they may again be methadone dependants. After Care Service plays a vital role at this juncture. However, in our criminal justice system there is no such service provided.

Although the drug related offences, the links between drug use and addiction, crime and victimization have been the subject of extensive talk over the last three decades in Sri Lanka the preventive measures taken by the relevant authorities were not adequate to combat the problem. The preventive programme (*mathata thitha* –full-stop for drug using) instigated to eliminate illicit drug using and trafficking was profoundly unsuccessful due to various reasons including social and political influence.

Poor regional and International Corporation is another draw back in our system. Though Sri Lanka is a signatory to all international and regional treaties relating to the elimination of drug problem, still the national laws are not aligned with international standards.

5. Conclusion

The drug users and traffickers are not perturbed by the existing laws in Sri Lanka which are based on punitive and deterrence perspectives. Imprisonment for drug users and dependants reveal the ineffectiveness of criminalizing such offenders. Reducing illegal drug use and combating against the violent drug trade necessarily requires new and more effective policy, preventive measures and strategies which are based on a combination of punitive, distributive and restorative approaches.

6. Acknowledgement

- Statistics published by the National Dangerous Drugs Control Board (NDDCB) 2011. Handbook of Drug Abuse Information 2011 Rajagiriya, Sri Lanka.
- Prison Statistics published by the Department of Prisons Sri Lanka, 2011.
- Statistics published by the Department of Police in Sri Lanka (Police Administrative Report) 2011.

7. References

- [1] *Combating transnational Organized Crime*, ACPF Today 2003
- [2] Helen Codd, *Drugs, Crime and Criminal Justice Policy in the UK : Old Questions and New Challenges* paper presented at the International Conference on Exploring Linkages between Drug Usage and criminal Victimization, India 2012
- [3] Marlatt & Gordon J R, *Replase, Prevention: Maintenance Strategies in the Treatment of Addiction Behaviuors*, New York Press, 2010
- [4] *New Crime Frontier, Dangerous Liaisons in the Asia Pacific Region, Drug and Human Trafficking in a Globalizing World*, ACPF Today, 2003.
- [5] P. Madhava Soma Sundaram amd K. Jaishankar, *Drug and Criminal Victimzation: A Framework for Linking the Delinked*, paper presented at the International Conference on Exploring Linkages between Drug Usage and criminal Victimization, India 2012.