

Victims of Drug Abuse and the Law Enforcement: A field Intervention

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ABSTRACT

Drug abuse is an age old phenomenon traditionally viewed as a form of victimless crime as drug abusers often face stigmatization from the society and the legal structures which in turn impacts their welfare and health. Therefore, the stigma, and the discriminations caused by it often lead to violations of human rights of the drug abuser which are rarely questioned.

In India, Narcotic Drugs and Psychotropic Substances Act, (NDPS) 1985 criminalizes trafficking, storage and consumption of drugs making the drug abuser a victim to the drug and an offender against law. Like in case of any other offense, police are the first point of contact. After being booked under the NDPS Act, the victims (offenders) are produced in court and are released on bail or with minimum imprisonment. The increase in prison population of drug abusers, the recidivism rates of people being booked under NDPS cases and the case load of cases on the police indicates the failure of criminalizing a drug abuser as a solution to the issue of drug addiction.

However recent neo-liberal criminologists are attempting to shift this view of drug abuse being a form of victimless crime by delving into the manifestations of neglect, death and killing associated with drug addiction to explain immediate, peripheral and secondary harm to not justify the shift. This paper intends to counter this by highlighting the disadvantages of criminalization of drug abusers and stresses on an alternative stand of viewing them as victims of drug abuse. It also intends to focus on rehabilitation of the victims of drug abuse as a way towards “demand reduction” of drugs with the help of the law enforcement agency i.e. the police as also envisioned by the NDPS act. The paper traverses the criminological theories from psychological to rational choice and supports the argument with an ongoing intervention model of the law enforcement agencies with community, victims and offenders.

1. Introduction:

In the context of a crime, a victim is an individual, group or entity who has suffered hurt either physically, emotionally or psychologically, harm or loss because of an illegal activity. Victimization refers to the process of being victimized. Based on the hierarchy of suffering, victimization can be primary or secondary. The former would refer to direct victimization due to an offence committed against oneself. The latter refers to an individual being victimized by legal or other institutions, communities and the society (Paranjape, 2011).

While in case of a drug abuser, the individual is a victim and an offender at the same time. These crimes are known as victimless crimes since there exists no victim in these crimes. The drug abuser here faces primary victimization in matters of addiction to a drug, deterioration of health and also physical harm to oneself and then faces secondary victimization of being stigmatized from the legal institutions, medical institutions, family, community and the society.

Many of the interventions for the issue of drug abuse have been approached from the health and medical perspective and much research has been done on the effects of drug abuse and addiction. However, limited data is available on field interventions for the issue of drug abuse and more importantly the studies published are issue-based and not much on intervention models.

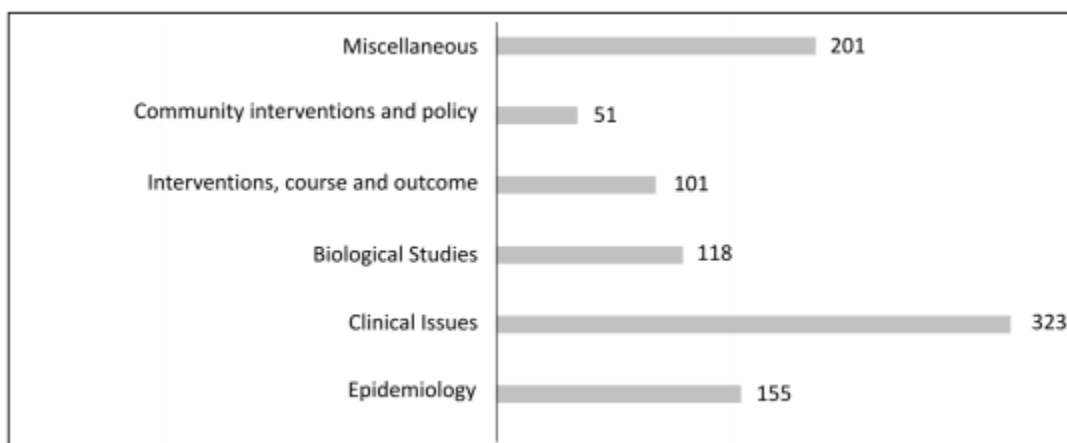


Fig 2: Number of studies done based on the approach taken ¹

¹ Figure retrieved from "Substance Abuse and Addiction Research in India" by Murthy et.al (January, 2010) as printed in the Indian Journal of Psychiatry, pg. no. S190

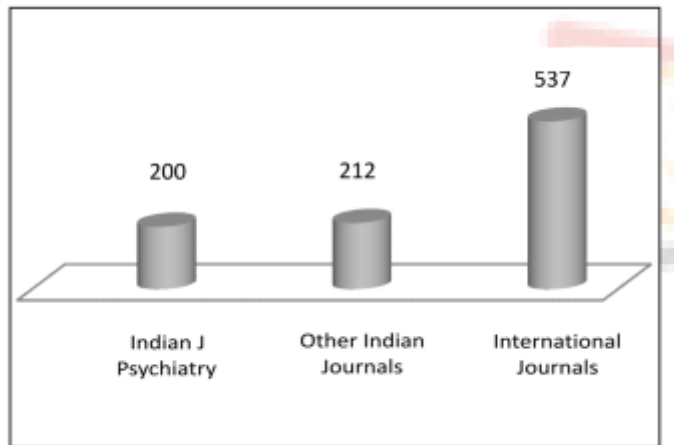


Fig 3: Publications in the field of Substance Abuse and Addiction Research ²

Based on the study conducted by Murthy et.al. (2010), the figures above indicate the lack of research on intervention based models in the field of drug abuse. Also, Fig 2 indicates a show of research from a medical and health perspective as compared to other approaches.

Drug abuse and the people addicted to drugs are often viewed as people in need of medical treatments but according to Boyum and Klieman, 1995, the relationship between drug abuse and criminal activity is extensive since about 40% of the crimes are committed by people addicted to drugs in the want of purchasing and consuming more drugs (Rajkumar & French, 1997). Therefore, the criminal justice system becomes a stakeholder in the prevention of drug abuse and the treatment of the drug abuser. In this matter, the Narcotics Control Bureau (NCB) which is the national body responsible for the prevention and control of Narcotics in the country is assigned the job to also conduct trainings on demand reduction with police officers and to also organize awareness programs for children in schools and other institutions. However, the NCB limits itself to this. The state police holds additional responsibility in the issue of drug abuse since the cases booked under NDPS are investigated by them.

This paper highlights the adverse impact of criminalizing the drug abuser as well as the importance of the need of change of lens towards the issue of drug abuse from a medico-legal perspective to a medico-socio-legal perspective. Considering all the challenges faced in the fight against drug addiction, the authors have based the findings through an on-going field intervention and have exposed an intervention model which is being tested on field to

² Figure retrieved from "Substance Abuse and Addiction Research in India" by Murthy et.al (January, 2010) as printed in the Indian Journal of Psychiatry, pg. no. S190

address the issue of drug abuse, reduce case load on the police by way of reduction in recidivism rates which would lead to corresponding reduction of population in prisons and finally focusing on the rehabilitation and reintegration of the drug dependent person back in the society.

2. Drug Addiction: A global Phenomenon

The issue of drug abuse and drug addiction is not less known to be a global phenomenon. The expansion of the drug trafficking trade has taken over almost all the countries of the world and its impact is felt in the health sector as well as the human development of any country. The drug market of the world is approximately of an astounding \$500 billion a year and continues to grow³ with an increase in demand for drugs both- natural and synthesized.

According to the UNODC Drug Report of 2016, an estimated 1/4th of a billion people in the age group of 15 to 64 years abused at least one drug in the year. The UNODC report also shows that in the year 2014 over 207,400 deaths caused due to drug abuse which indicated that the deaths due to drug abuse remained unchanged from the previous research statistics. However, this ratio is an unacceptable one and nothing effective was done to prevent it (UNODC Drug Report, 2016).

As far as drug trade in India is concerned, India lies between the Golden triangle and the golden crescent and hence becomes the hub for drug trafficking in the continent worldwide.

³ As cited in International Drug Trafficking: A Global Problem with a Domestic Solution by Matthew Jenner, p.no. 902 of the Indiana Journal of Global studies, 2011.



Fig 1: Map and routes of drug trafficking through India.⁴

While the market of drug trafficking is a huge one which has the world's biggest and the richest involved in it, it becomes difficult and of higher strategic importance of how to deal with it. However, socio-legal experts, medical practitioners and field workers have rather paved ways of working towards the issue of substance addiction through the concept of demand reduction.

3. Victimology of a Drug Abuser:

Substance abuse is a complicated disorder and has many consequences. The victim of drug abuse extends from the ones suffering from this disorder and it further extends to family and the community. As already mentioned above, the abuser has to be seen as a drug dependent person in need of help. This makes it possible to see the person affected by drugs as victim who can be cured and not an offender, the layers of stigma which an addict faces in various phases which leads to victimization of the abuser is illustrated below.

3.1 Victim of loss of health (physiological & psychological):

The harm caused by drugs is not only because of the type of substance used but is also the way it is consumed. The combination of the type of substance abused and the way it is consumed causes harm to an individual (Jones, 2011). Substances can be administered in the body through different media such as oral ingestion, intravenous, snorting (through

⁴ NCB Annual Report 2015, Chapter no. 1, Pg no. 5

respiratory tract) and smoking. When these substances enter the body, it leads to a number of physiological and psychological changes. These changes are the reason of dependency of people on the substance leading to addiction. Continuous and excessive abuse leads to complicated health problems and in many cases, these diseases prove to be fatal to the human life (NIDA, 2014) .

Apart from drugs such as heroin, cocaine etc daily usable items such as paint thinner, buttons, ink whitener, Iodex and more such are used as an alternative drugs especially those who can't afford to purchase the mainstream drugs. These cause the equal amount of dependency than any other kind of synthesized substance leading to addiction among the youth.⁵

Another major health concern is the spread of HIV through intravenous abuse of drugs. The virus is spread by sexual intercourse, contaminated blood (e.g. during transfusions), mother-to-child transmission during the prenatal period and use of contaminated syringes and injection equipment. Drugs when injected intravenously with the same syringe which is normally shared among the abusers in a group gives rise to the threat of spread of HIV which may lead to AIDS (UNDCP, 1995).

3.2 Victim of loss on employment/economic factors:

Drug abuse leads to a lot of economic instability among the families of the abuser. This happens by the process of over spending on the substance. After the abuser gets deeply into the act, he/she tends to move away from the job and his/her workplace. Low performance at work due to excessive substance abuse leads to lowering of the earning of the individual. The individual may also lose the job due to the performance at work place. This affects the family's economic stability and causes the family member to resort to other methods of earning. The abuser too, in orders to gain more substance but has no money to buy it, resorts to crimes of theft, stealing and burglary in turn making him/her into a criminal.

3.3 Victim of loss of Family and Community:

Family is the basic unit of any society. When families are broken down, it indicates the loss of a social life which in turn leads to the disruption of a society as a whole. Over use or abuse of illicit or licit substances by individuals in families can affect the families in major ways thus breaking down the basic structure of the society.

⁵ Based on the field experience of the authors on the on-going drug de-addiction and law enforcement project

The continuous changing patterns of social, economic changes in the society have lead to weakening the bonds within the family unit. This leads to loss of the feeling of belongingness among the individuals within a family (Jones, 2011). Loss of family affection leads the youth of the society to turn to peer groups and get into activities that harm the person and the community at large.

The influence of peer groups, which is usually strong during formative years of youth, may be stronger than that of parents in some cases (Jones, 2011). Therefore, when the youth tend to abuse drugs due to peer influence and peer pressure, it gradually leads to the disruption of the family life. Having a substance addict in the family creates tensions among the familial bonds and relationships. Research shows that many of the substance abusers or addicts have been involved in the crimes of domestic violence, intimate partner violence, assault etc. (Bhatt, 1998).

As introduced earlier, substance abuse has become a major and global issue. Substance abuse has been proved by researches as one of the reasons for crimes against women especially domestic violence (Bhatt, 1998). Hence, it has become a growing concern among the social scientist and workers to find a solution to the problem of substance abuse. To find a solution, it is necessary to look at the impact it has on the lives of individuals and society as a whole.

4. Current Scenario: Drug Abusers as victims of the Criminal Justice System

The NCRB statistics of 2014 show that over 50,000 cases are charge sheeted per year by the police and still have a pendency of 31.7 percent by the end of the year.⁶ The prison statistics of 2015 shows 7227 convicted under NDPS cases all over India and 15959 under trials under NDPS cases in the prisons all over India. These numbers itself highlight the overcrowding in prisons of cases of NDPS and the quanta of cases dealt by the police.

In India, the NDPS Act, 1985 continues to criminalize the drug abuser making a victimless crime an offence towards oneself. The NDPS Act,1985 was formulated with a view to curb the illicit production, manufacturing, storage, supply and consumption of substances that are banned under the law. All types of narcotic drugs and psychotropic substances which are used other than for medical purposes are prohibited under this law (NDPS, 1985).

⁶ Table 4.3, page no 124, Crime in India, NCRB, 2014

In field experience of the authors, when an individual is booked under NDPS case and brought to the police station and later produced in court, the individual is made to plead guilty and then pay an amount of Rs500 as bail charges and are released on bail. The individual then returns back to the community and in almost all cases, returns to abusing drugs again. This also brings an increase in the recidivism rates in cases of NDPS. This cycle causes a stress on the family of the drug abuser, on the community, on the police in matters of case load and also leads to stigmatization or secondary victimization of the individual and the community he/she belongs to. The NDPS Act sec 64A gives immunity from prosecution to the offender if the individual voluntarily agrees to undergo medical treatment for addiction from a hospital or institution recognized by the government. However, this is rarely practiced or known (NDPS, 1985).

The implementation of any law is dependent on the law enforcement that is the police. The duty of the police is also to safeguard the rights of the people of the society and hence drug abuse prevention model necessitates the change in role of the police to see them as victims and not offenders.

5. Experiential Intervention Model with law enforcement:

A baseline survey study was conducted by TISS Mumbai in 2015 which exposes the socio-economic vulnerabilities faced by M East Ward in Mumbai, India which is the most underprivileged ward in Mumbai.⁷ The study focused on mainly four parameters education, health, livelihood and habitat. With a slum population of 77.55% in the ward a large population of the M/East ward indulges in drug abuse. Despite many civil society organizations and Ngo's working in the region, the issue of drug abuse has been on the rise.

If one looks at the world consumption of drug as mentioned above the picture is very shocking; the use of substance in India especially among the youth has assumed alarming dimensions. This is notably because youth is the time for experimentation and forming identity and drug abuse is usually associated with a particular sub-culture usually which emerges due to peer pressure. Thus mapping the gravity of the problem in the region an experiential model is being tried out by the Fellows of TISS Criminal Justice Fellowship of Tata Institute of Social Sciences Mumbai and the law enforcement to address the problem of drug abuse in the region.

⁷ Report of 'Socio-Economic conditions and vulnerabilities of the M-east ward project, TISS, 2015, retrieved from <http://urk.tiss.edu/images/pdf/M-Ward-Report.pdf>

In a mapping of cases at one of the police stations in Zone 6, Mumbai it was observed that a minimum of 30 cases on an average are registered in a month. Many of these cases had repeat offenders under the NDPS Act. The implementation of any law is dependent on the law enforcement that is the police. The duty of the police is also to safeguard the rights of the people of the society and hence drug abuse prevention model necessitates the role of the police. In this regard, the new approach to tackle the abuse of drugs has resulted in the “de-addiction drive”; an initiative taken up by Mumbai Police East Region in the year 2016, and supported by Centre for Criminology and Justice TISS Mumbai defines the role of police in drug de-addiction and rehabilitation of victims of drug abuse. Below is the conceptual map which illustrates the process of the intervention model.

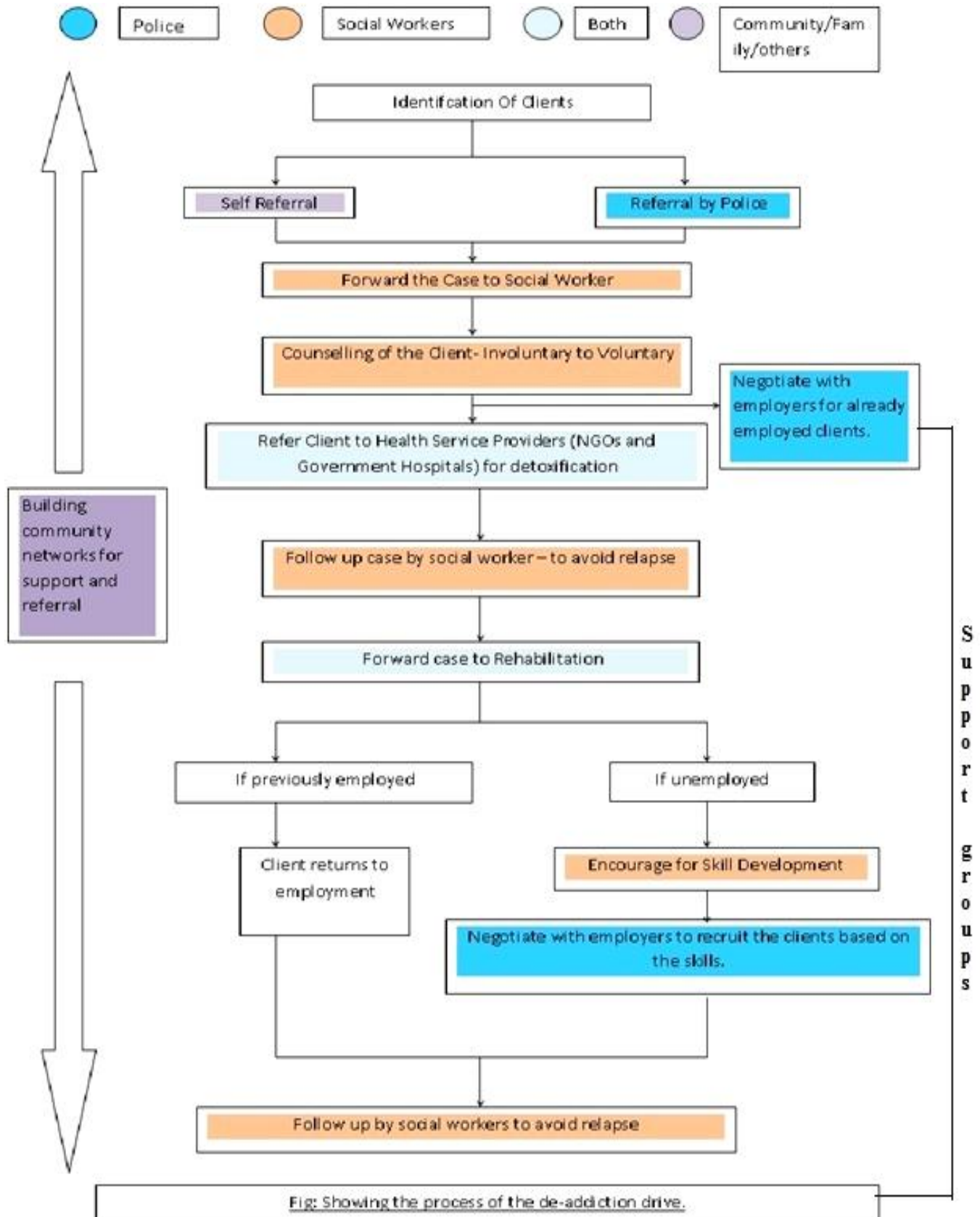


Fig: The process of de-addiction drive model⁸

⁸ The model was formulated by the social workers from the Centre for Criminology and Justice, TISS, Mumbai and supported by Addl. Commissioner of East Region Mumbai Police (2016).

This initiative aims to work towards Rehabilitation of person affected by drugs and to reintegrate the person back in the community. Within the context of problem of drug abuse it is widely understood that it something which cannot be dealt over night, the service users have diverse and multiple needs hence it is unlikely that any single agency can provide everything which is needed to address the varies issues contained within the cycle of drug abuse. This initiative is to bring the various stakeholders drawn from government, civil society, academic institutions and the community on a common platform to initiate a dialogue, to create a sustainable referral model of rehabilitation in order to deal with rising problem of addiction in city. This model is supported by professional social workers from TISS in collaboration with police of Zone 6 Mumbai and different stakeholders who will act as facilitators of the whole process. This Plan of Action comprises of four major stages:

- ❖ **Stage One-** Referral of cases directly from the community or through police station under the de-addiction drive with the help of professional social worker at police station. The case is referred to the social worker who evaluates the case through home visit (s) and pre-counseling. After all the necessary documentation and home visits the client is referred to one of the de-addiction centre within the network of stakeholders for a period of one month of detoxification with the guidance and the assistance of a social worker.
- ❖ **Stage two** – The social worker constantly follows up the case and also updates the particular police station while simultaneously working with the client’s family. The social worker then networks the client with NA/AA group so that the client can immediately be associated within the NA/AA meetings soon after completing the detoxification period.
- ❖ **Stage three-** The Social worker along with the police in charge looks for vocational training programs for recovered individuals which will help the client find employment. If the client is already employed, the employer is negotiated to grant the client leave for a period of one month during which the client undergoes detoxification
- ❖ **Stage Four-** Building capacity of the community to deal with the issue of addiction and develop a modus operandi to effectively utilize successful rehabilitated Ex-Addicted person to mentor youth in the community. The social worker documents the case and also follows up with the client in order to prevent relapse while also working towards building a support group for drug abusers in the community.

Field challenges in implementation of the model:

One of the major challenges encountered is the lack of resources and service providers i.e. the de-addiction centres, medical institutions and rehabilitation centres. The existing centers are usually overcrowded which leads to the client's disinterest in the process of being rehabilitated and relapses after the pre-counseling. The De-addiction drive aims at free detoxification and rehabilitation for a period of one month. In the authors' experience, the period of one month is a short one. For a client to be completely rehabilitated and avoid relapse, there is a need for minimum of free three month rehabilitation program. Another significant challenge which was observed is the lack of manpower (police and social workers) at police stations to work on the issue of drug abuse and hence the individual affected by drugs is victimized under the criminal justice system which completely neglects the aspect of rehabilitation and reintegration of the client. Owing to the addiction to drugs, the drug abusers, who often are the only bread winners of the family, fail to commit themselves to the process of rehabilitation since it affects their family source of income. The family and the community also stand as equivalent stake holders in the process of reintegration of the victim of drug abuse in the society. In experience, many of the de-addiction centers require the presence of a family member throughout the process of detoxification. In many cases, none of the family members are willing to commit the time. There is also a lack of support groups like Narcotics anonymous, alcoholic anonymous etc., vocational training centres and after care centres, which are needed to avoid relapse of a client.

Conclusion:

Going back to the criminological theories of crime, the psychodynamic theories explains that an individual with a certain type of personality have an affliction towards drug use, abuse or addiction (Goode, 2012). The Rational Choice theories, however, contradicts the psychological theories by assuming that "*all human behavior is willful and determined.*" (Seigel, 2010, 2007). In the context of drug abuse, the psychodynamic lays the onus of drug abuse and addiction completely on an individual, whereas the Rational choice theory explains drug abuse as a rational choice of an individual to abuse drugs with the knowledge of its consequences. It is seen that the explanation of drug abuse and addiction over the years has seen a shift from the personality of an individual (Psychodynamic theories) to the choices of an individual (Rational choice theories) further now bringing them under the Liberal theories

which suggests that an individual abuses drugs not only out of his rational choice but also due to social circumstances and situations. Among Liberal criminologists, Quinney's Social reality of crime suggests that "*crime is created*" based on the existing legal and social structures (Wozniak, 2010). In the context of drug abuse, Quinney's theory of social reality explains drug abuse as a created crime because of illegalization of drugs leading to criminalization of drug abuse.

While legalization of drugs is a far off thought and argued process in the Indian context, the efforts towards implementation of strategies to curb demand of drugs can be focused upon. More interventions strategies and models, like the one mentioned by the authors in the paper which look at the drug dependent person as a victim and not an offender, if implemented, can lead to demand reduction of drugs and have an overall impact on the issue of drug addiction.

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