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Criminal confrontation of drug and psychotropic substance abuse: An analytical study

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Abstract

Drug issues hold great importance for researchers specializing in legal sciences in general and criminal law in particular. These issues have become a significant concern in the noble Iraqi society, as evidenced by official reports indicating a substantial increase in drug and psychotropic substance abuse crimes. The fundamental reason for this increase lies in the covert nature of these crimes, as they are often hidden and carried out clandestinely. Many times, the users are unaware that the substances they consume are drugs or psychotropic substances, indicating a deep-seated criminal danger within the user. This poses a threat to the community, as the user may potentially attack protected interests if triggered by certain stimuli.

The research problem centers on the debate among authorities specialized in combating drugs and psychotropic substances, particularly the procedural view of whether the user should be treated as a victim in need of help and rehabilitation, or as an offender fully aware of the criminal nature of their behavior and its consequences. The resolution of this debate shapes the legislator's approach to criminal confrontation of drug and psychotropic substance abuse.

The research concludes that addressing the phenomenon of drug abuse is both a legal and moral duty. Legally, the legislator has taken a dual approach: while imposing severe penalties on dealers and promoters, including the death penalty or life imprisonment, the approach to users is scientific, reformative, and therapeutic. This indicates a preventive policy, exempting users from punishment if they voluntarily seek treatment at specialized hospitals. This is in accordance with the provisions of the Narcotics and Psychotropic Substances Law No. 50 of 2017.

The moral duty falls on all segments of society, involving awareness of the dangers of drug abuse and debunking the false justifications used by users to rationalize their entry into this self-destructive venture. Additionally, it highlights the role of social upbringing in preventing drug and psychotropic substance abuse and the negative impact of social stigma on the treatment process, which can cause withdrawal, intense disgust, and hostility towards a specific segment of society.

Keywords: Criminal confrontation, drug abuse, psychotropic substances, moral duty

Introduction

Drugs are a form of terrorism, if not the most dangerous type affecting society. The spread of this scourge among the community threatens the national security of the country, as drugs provide users with a conducive context for committing and spreading crimes, leading to the disintegration of the social fabric. Our heroic security forces, in their various formations and divisions, particularly the General Directorate of Drug and Psychotropic Substances Affairs, have offered a noble group of martyrs in the fight against this hidden and dangerous enemy.

First: Importance of the Research and Reason for Choosing It

Recently, Iraq has witnessed a noticeable increase in drug and psychotropic substance abuse. This phenomenon has become a public concern due to its real danger to society in general and the noble Iraqi family in particular. Therefore, it is imperative for us and all researchers in this field, adhering to both ethical and scientific commitments, to shed light on the seriousness of this phenomenon and to provide possible solutions that can be translated into legislative and procedural actions, avoiding theoretical discussions.

Second: Objectives of the Research

The research aims to provide a clear definition of drug and psychotropic substance abuse, highlight the dangers of this scourge on social and criminal levels, focus on its real causes and the severe effects it has on individuals and society, and present a legal standard for procedural differentiation in dealing with users, whether they are victims or offenders.

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Third: Research Problem

The core issue of the research lies in the precise definition of drugs and psychotropic substances and the legal classification of users' behavior between criminalization and criminal danger. Based on this classification, appropriate legal actions are taken against them, whether preventive or punitive.

Fourth: Research Questions

The complexity of the topic necessitates raising several questions, summarized as follows:

1. What are drugs and psychotropic substances, and what is the difference between them in terms of their sources and the effects they produce?
2. What is drug and psychotropic substance abuse, and what are its implications in terms of risk and criminal danger?
3. What is the criminal policy of the Iraqi legislator in dealing with the phenomenon of drug and psychotropic substance abuse, regarding both preventive and punitive measures?

Fifth: Research Methodology

Our study on the criminal confrontation of drug and psychotropic substance abuse requires the adoption of an analytical approach in examining and analyzing the legal texts related to abuse crimes, both in terms of local legislation and international treaties and agreements. This approach also involves highlighting necessary additions or amendments to these texts.

Sixth: Research Division

To address the aforementioned points, the research will be divided into three sections:

1. First Section: Concept of Drug and Psychotropic Substance Abuse
 - First Subsection: Definition of Drug and Psychotropic Substance Abuse
 - Second Subsection: Types of Drugs and Psychotropic Substances
2. Second Section: Causes and Effects of Drug and Psychotropic Substance Abuse on Society and Criminality
 - First Subsection: Causes of Drug and Psychotropic Substance Abuse
 - Second Subsection: Effects of Abuse on Society and Criminality
3. Third Section: Criminal Policy in Confronting Drug and Psychotropic Substance Abuse Crimes
 - First Subsection: Preventive Measures against Drug and Psychotropic Substance Abuse
 - Second Subsection: Therapeutic Measures for Drug and Psychotropic Substance Abuse

Chapter one**Concept of Drug and Psychotropic Substance Abuse**

The conceptual framework serves as the scientific foundation on which the researcher relies when addressing the subject of the research. This framework clears up conceptual ambiguities that result from the misuse of language, which often fails to reflect the true nature of things due to confusion in meanings and variations in terminology. It is essential to exploit research concepts and delve into the fundamental terms to obtain clear definitions

of these terms. In light of this, we will discuss the concept of drug and psychotropic substance abuse in the following subsections:

First Subsection**Definition of Drug and Psychotropic Substance Abuse****First Branch****Meaning of Abuse**

Abuse is defined in jurisprudence as "the introduction of a substance into the human body by any means, whether habitually or incidentally, whether orally, nasally, or through injection, as the user is considered a consumer of it" (Shadli, 1999, p. 224) ^[13]. It is also defined as "the repeated consumption of a psychoactive substance that results in harm to the user or leads to social or economic damage" (Soweif, 1996, p. 25) ^[12]. Others define abuse as "the use of any narcotic drug in any form known in a society to achieve a certain psychological or mental pleasure" (Qamaz, 2009, p. 17) ^[38].

Abuse represents an actual behavior that an individual engages in and repeats, resulting in a strong desire to continue this repetition for the temporary illusory comfort it provides. This behavior gradually takes control of the individual at different levels, starting with habituation, followed by dependency, and ending with addiction (Wadi, 2018, p. 122) ^[34].

From a legal perspective, although the legislator has dedicated a specific chapter to the conceptual framework and definitions of drugs and psychotropic substances, as well as related behaviors, as stipulated in Article 1 of the Narcotics and Psychotropic Substances Law No. 50 of 2017, there is no explicit definition of abuse. The same is true for international conventions on drug control, where an explicit definition of abuse is not provided. These conventions focus on the concept of drugs and psychotropic substances. Such conventions include the Single Convention on Narcotic Drugs of 1961, amended by the 1972 Protocol, the United Nations Convention on Psychotropic Substances of 1971, and the Arab Convention on the Suppression of Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1994.

From our perspective, we define drug and psychotropic substance abuse as an illegal behavior in which the user resorts to using one or more substances that cause disturbances in perception or will, reflecting the development of criminal danger within the individual.

Second Branch**Meaning of Drugs and Psychotropic Substances****First: Definition of Drugs**

Drugs have been defined in various ways, with one of the most important definitions stating that they are "a substance that, due to its chemical nature, affects the structure or function of a living organism" (Hilali, 2001, p. 140) ^[28]. This definition traces drugs back to a single origin, which is chemical substances, although drugs can be fundamentally natural, and there is another synthetic type as well.

Another definition states that drugs are "any natural raw material or synthetic or semi-synthetic preparation that adversely affects the central nervous system and contains stimulating, depressing, or hallucinogenic substances, which, if used outside of their natural or medically directed purposes, can lead to habituation or addiction, harming the individual and society in terms of health, social,

psychological, and economic aspects" (Soweif, 1996, p. 17) [12].

Drugs are also defined as "any substance that causes harm to the senses of the person who consumes it, bringing some euphoria and comfort, followed by stupor and drowsiness. For someone under the influence of the drug, the regularity of actions becomes weaker, and understanding becomes narrower" (Abdullah, 2001, p. 354) [18].

From a legal perspective, the Iraqi legislator has taken a dual approach by defining drugs and psychotropic substances in general terms on one hand, and listing them in specific schedules appended to the governing law on the other. Paragraph 1 of Article 1 of the Narcotics and Psychotropic Substances Law No. 50 of 2017 defines drugs as: "any natural or synthetic substance listed in Schedules I, II, III, and IV attached to this law, which are the lists of narcotic substances adopted by the Single Convention on Narcotic Drugs of 1961 and its amendments."

Additionally, the United Nations Commission on Narcotic Drugs defines drugs as: "any raw or prepared substance containing elements that are sedative or stimulant, which, if used outside medical or industrial purposes, can lead to habituation or addiction, harming the individual and society in physical, psychological, and social aspects" (Al-Musharraf and Al-Jawadi, 2011, p. 26) [27].

Second: Definition of Psychotropic Substances

Psychotropic substances are defined in jurisprudence as "those chemical preparations and medicines used as treatments for patients, which do not contain substances of natural plant origin" (Ghalab, 2011, p. 22) [37].

Others define them as "drugs that possess the properties of natural or synthetic narcotics and are manufactured in laboratories through chemical processes from various chemically different materials or natural substances that are not narcotics" (Kamal, 1988, p. 530) [23]. They are also defined as "drugs that have the characteristics of natural narcotics and are manufactured in laboratories using chemical methods from chemically synthesized preparations. They do not contain natural or plant origin and are originally medicines used to treat certain diseases. However, their effect equals the effect of natural narcotic substances when misused" (Hassoun, 2022, p. 545) [30].

From a legal standpoint, Paragraph 2 of Article 1 of the Narcotics and Psychotropic Substances Law defines psychotropic substances as: "any natural or synthetic substance listed in Schedules V, VI, VII, and VIII attached to this law, which are the lists of psychotropic substances adopted by the United Nations Convention on Psychotropic Substances of 1971 and its amendments."

It is observed from the aforementioned definitions that both narcotics and psychotropic substances lead to sedation of the user and increased euphoria, ultimately resulting in habituation and addiction. However, the primary difference between them lies in their source. Narcotics are fundamentally natural, primarily resulting from agriculture, whether they retain their natural form or are transformed into other substances, such as natural opium converting into heroin, and remain within the conceptual framework of narcotics.

On the other hand, psychotropic substances are mostly synthetic preparations used as mental stimulants and enhancers. Continued use of these substances leads to a clear disturbance in the nervous system and has a dangerous

effect on humans, as they can become addictive whether used intentionally or unintentionally (Zaid, 1988, p. 6) [9].

Despite this distinction between narcotics and psychotropic substances in terms of their sources, the legislator equates psychotropic substances with narcotics, whether their sources are natural or synthetic. This legislative approach aligns with the general criminal policy that allows scientific advancements to determine what impairs human cognition and will, subsequently criminalizing and penalizing the use of such substances.

Paragraph 2 of Article 49 of the Narcotics and Psychotropic Substances Law permits the Minister of Health to issue statements amending the schedules attached to this law, whether by deletion, addition, or changing the percentages therein. This is to align with the amendments to the schedules attached to international conventions on narcotics control or the findings of studies conducted or endorsed by the Ministry of Health regarding narcotic substances or psychotropic substances.

Furthermore, Article 60 of the amended Penal Code No. 111 of 1969 states: "A person shall not be criminally liable if, at the time of committing the crime, they were devoid of cognition or will due to insanity, a mental defect, intoxication, or stupefaction caused by intoxicating or narcotic substances administered forcibly or without their knowledge, or for any other reason deemed by science to impair cognition or will..."

This legislative stance is commendable, as science progresses rapidly and may uncover new causes leading to loss of cognition or will (Al-Hadithi, 2018, p. 247) [3]. Particularly, such discoveries might result from specialized medical studies conducted by the Ministry of Health, indicating the potential discovery of new natural-source psychotropic substances beyond synthetic sources.

In light of the above, we define narcotics and psychotropic substances as any natural or synthetic substances that negatively affect human cognition or will, causing health and psychological harm to the user and revealing their criminal danger by potentially threatening protected interests.

The second topic

Types of drugs and psychoactive substances

Within the conceptual framework of drugs and psychoactive substances, they are divided into two main types: natural substances of plant origin, and synthetic substances derived from chemical reactions or sound waves for the same purpose. Details are provided as follows:

The first category

Natural drugs and psychoactive substances

This type of drugs originates from plant sources, whether these plants remain in their natural state like cannabis, opium poppy, khat trees, and Indian hemp shrubs, or they are slightly modified from their plant source like opium and its derivatives such as morphine, heroin, and codeine (Al-Mohamedi, 2005, p. 26) [25]. Cultivation and production of these types of drugs are widespread in various regions depending on the conducive environment for each type, such as the Golden Triangle countries like Thailand, Laos, Myanmar, Burma, and the Golden Crescent including Pakistan, Afghanistan, Iran, and the Golden Corridor in Central Asia, Mexico, India, Lebanon, and Colombia (Abu Al-Rous, 2003, p. 13) [1]. Khat cultivation is particularly

prevalent in Yemen, where its agricultural cycle begins in late summer and matures after three months, producing plants with green stems topped by poppy flowers, after which the leaves fall off to reveal capsules. Indian hemp grows in regions with abundant rainfall, with its perennial green leaves reaching about 5-10 centimeters, and chewing it produces a substance similar to phenethylamine isolated from the plant (Saab, 2015, pp. 46-49) ^[16].

The second category

Synthetic drugs and psychoactive substances

This type of drugs, known as New Psychoactive Substances (NPS), is manufactured through chemical processes, where their primary psychoactive elements are not derived initially from natural substances. The term "synthetic drugs" emerged synonymously with recreational drugs, particularly following the appearance of MDMA (Ecstasy) and other amphetamine derivatives, widely used in celebrations, festivals, and nightclubs despite the presence of other types of psychoactive substances serving the same purpose, such as cannabis and magic mushrooms.

Among the prominent types of synthetic drugs and psychoactive substances are:

- Valium, which is classified as a sedative occasionally used for medical purposes but has a depressant effect on the nervous system of users.
- Nerve stimulants like Maxiton Fort, Methamphetamine (locally known as crystal), widely used among users.
- Substances like Lamivitamin, Nuzorin, Dexamphetamine, and Divtamamine, some of which are used in the manufacture of legitimate medicines like Ephedrine, affecting the central nervous system and causing psychological agitation.
- Sedatives like Secanon and others used for some legitimate medical purposes, these substances directly affect the individual's mood, leading to the Vienna Convention on Psychotropic Substances in Austria in 1972 and inclusion in drug schedules, targeting the central nervous system of individuals, slowing mental activity (Abu Al-Rous, 2003, p. 20) ^[1].

Synthetic drugs directly used for treatments include Tramadol, Morphine, Opium, Captagon, and Heroin, intended to relieve pain by altering brain chemistry, resulting in users losing any sense of pain and feeling extreme relaxation. However, their side effects include users experiencing depression if they discontinue using these drugs, potentially increasing the likelihood of suicidal tendencies (Hassoun, 2022, p. 550) ^[30].

The third category

Digital drugs

In light of the internet revolution and sound wave technology, a new type of psychoactive substances emerged known as "digital drugs." These drugs consist of audio files in MP3 format that are downloaded from specific websites over the internet for a small fee ranging from 3 to 9 dollars per dose, which typically lasts between 15 to 45 minutes. The concept involves transmitting specific frequencies, where one ear receives higher frequencies and the other ear receives slightly lower frequencies, inducing desired psychoactive effects (Mosab, 2015, pp. 86-89) ^[16]. This type of drug gained significant attention around 2010,

sparking media frenzy in the United States when a series of schools in Oklahoma banned students from carrying headphones on school premises due to concerns about digital drug use. Teachers noticed certain behavioral changes among students who used headphones at various times and places.

Despite studies confirming the effects of these drugs on human behavior, criminal legislators have not yet addressed them or included them in the legal framework prohibiting such substances. There have been calls to regulate and ban websites promoting these psychoactive audio clips as part of preventive policies (Saeed, 2022, p. 258) ^[31].

Digital drugs are categorized into six main types based on the effects they induce on users:

1. **Alcohol waves:** These aim to give users a calming and relaxing effect similar to that of alcohol consumption.
2. **Opium waves:** These simulate feelings of euphoria, happiness, drowsiness, and mimic the real effects of opium.
3. **Marijuana waves:** These induce relaxation of the body and a feeling similar to smoking marijuana, leading to a state of euphoria and calmness.
4. **Cocaine waves:** These contain stimulating tones that activate the nervous system, giving users a sense of energy and activity akin to cocaine.
5. **Sexual waves:** These provide users with a sense of sexual euphoria similar to the feeling during sexual intercourse.
6. **Entertainment waves:** These musical compositions aim to provide users with a sense of entertainment and happiness, as if experiencing a state of relaxation and joy, fulfilling all desires (Saeed, 2022, p. 258) ^[31].

Chapter two

Causes of drug abuse and psychotropic substances and their effects on societal and criminal levels

Crime in general, especially drug abuse and psychotropic substances, cannot arise from emptiness, but rather stems from a variety of reasons. These reasons can be general, affecting all members of society such as poverty, ignorance, unemployment, and the erosion of standards and ethical values. Alternatively, they can be specific, such as the lack of religious restraint and the conditions under which individuals pursue deviant self-fulfillment from upright behavior.

Naturally, crime has its effects on the social level, manifested in family and societal disintegration, and the lack of security due to the rise in criminal danger among individuals, as well as the increased criminal risk in their behaviors. This is explained further in the following two points.

The first issue

Causes of drug abuse and psychotropic substances

The main reasons for drug abuse and psychotropic substances lie in the negative psychological effects reflected in the individual's behavior, in addition to what the societal environment provides in terms of motives to justify, facilitate, and achieve this undesirable behavior.

First Branch

Psychological Reasons

The psychological concept of crime in general and drug abuse in particular relies on the mechanism of stimulus and

response. Crime in this context is fundamentally a psychological phenomenon before it becomes social, due to its association with self-preservation instinct and aggression response (Abdullah, 2019, p. 85) ^[32]. Unlike legal or social aspects, the psychological aspects cannot practically be separated into components like motives, inclinations, emotions, beliefs, thoughts, feelings, preparedness, and other psychological components. These components do not act independently but interact continuously to form a distinctive feature of the psychological components of crime. They accumulate towards the moment of committing the crime, transitioning from the realm of thought to action. This is coupled with a set of psychological theories, most notably the theory of instincts, whose fundamentals trace back to the Austrian physician Sigmund Freud. He sought to explain human behavior by identifying two basic instincts: the self-preservation instinct represented by the pleasure principle and its constructive function, and the other instinct being the death instinct represented by aggression. Both of these sets are linked to specific physiological processes of construction and destruction (Freud, 1982, pp. 66-67) ^[21]. However, this theory did not withstand scrutiny for long, leading some scholars to challenge its assumptions regarding two main types of instincts and assume the existence of a large number of instincts, reaching hundreds or even thousands, prompting them to replace the concept of instinct with the concept of motive and need.

In light of the discussions of these theories and their use in explaining human behavior driven towards drug abuse and psychotropic substances, we find that instinct is a three-dimensional psychological manifestation: perception that stimulates it, accompanying emotional activity, and expressive behavior (Saleh, 1988, p. 798) ^[15]. These aspects form within individuals as they begin to form their personal identities, accompanied by their assertion for everything that satisfies their psychological needs. This process leads to a stage where individuals pursue any means to satisfy these needs, including drug abuse and psychotropic substances, eventually leading to addiction. Addiction places the user in a state of physiological thirst due to the body's constant demand for the substances, which activates their instinctual motivations, reduces resistance to regulating them, and weakens overall psychological functions. This arousal of emotions weakens willpower, diminishes the sense of moral duty, and results in the individual losing control over their motives, thereby drifting towards criminal activities, particularly violent crimes (Al-Haidari, 2015, p. 192) ^[6]. This happens without considering the criminal consequences of such behavior due to the psychological complexes that require the satisfaction of their illegitimate needs through drug abuse and psychotropic substances, in hopes of achieving a form of stability and psychological comfort (Aboud, Obeid, 2016, p. 1869) ^[33].

Moreover, frustration significantly influences human inclination towards drug abuse as an escape from their discouraging reality. Psychologists such as John Dollard and Neal Miller adopted this theory, suggesting a link between frustration and aggression. According to this theory, frustration serves as a trigger for aggression, and the latter responds to this stimulus. Frustration manifests through various behaviors resulting from unconscious or subconscious psychological conflicts that hinder the individual from achieving their goals (Al-Sattali, 2018, p. 15) ^[11]. This drives individuals to resort to drug use to

escape latent frustrations or to overcome the source of frustration as an emotional response to tension and distress associated with frustration. If individuals are prevented from achieving this goal, it indirectly or directly leads to aggression towards others. This aggressive behavior is not only directed towards others but also towards oneself when engaging in drug abuse and psychotropic substances, as drug use becomes an aggression against one's own body, leading to significant damages on psychological, mental, and physical levels.

Frustration generally triggers several criminal responses, with the most prominent being drug abuse and psychotropic substances, which serve as a comforting illusion for users to escape the harsh reality surrounding them, especially if frustration has been a constant companion since childhood due to familial neglect. Psychologists have noted that depriving children of maternal affection and care places them against numerous frustrations, evolving their suffering into patterns of aggressive behavior (Al-Akaileh, 2006, p. 201) ^[19]. Additionally, adopting parenting styles based on rejection, neglect, inconsistent treatment, indulgence, harshness, and punishment undermines a child's self-confidence, disrupts their relationships with others, and leads them to feel inferior and inclined towards aggressive behavior (Husseini, 2007, p. 199) ^[5].

The second branch

Social Factors

The societal reasons behind drug abuse and psychotropic substance use primarily stem from significant violations in social upbringing, which encompass the educational processes through which individuals learn the cultural values of the society they grow up in (Giddens, 2005, p. 744) ^[20].

Primary social upbringing occurs in several institutions, primarily the family, followed by school, peer groups, and media. Failures in these institutions to fulfill their roles lead individuals to deviate towards general delinquency and specifically towards drug abuse and psychotropic substances. This breakdown is detailed as follows:

Firstly: Family Disintegration

The family is responsible for providing personal protection to the individual, satisfying their biological and psychological needs, and laying the groundwork for building their personality according to the cultural heritage of the society they belong to. Any familial breakdown, such as serious family problems, divorce, or a family member engaging in deviant behaviors like drug or alcohol abuse, affects the individual. This phenomenon is known as "social learning" or "imitation theory," as advocated by the French sociologist Gabriel Tarde, who stated that "social upbringing is based on imitation by reproducing the behavior of others unilaterally". Thus, the lack of parental supervision, guidance, and the absence of culturally accepted behavioral models push children towards general delinquency and specifically drug abuse. The permanent absence of a father and harsh treatment towards children can significantly contribute to their deviance and subsequently immerse them in drug abuse and addiction.

Secondly: Peer Groups

When individuals interact continuously with a group of friends, they naturally influence each other's behaviors. This

concept falls under the theories of "social learning" and "differential association theory" by the American sociologist Edwin Sutherland. Learning from others and being influenced by their behaviors requires deep and frequent interaction among them. The more negative interactions occur with delinquent groups and the longer they last, the more likely it is to learn criminal behavior (Al-Haidari, 2015, p. 115) ^[6].

Therefore, peer groups represent a continuous influence and pressure on an individual's personal convictions, especially during adolescence, where a teenager's loyalty to their peer group often surpasses their loyalty to their family. This acceptance of the group's standards, values, and trends is significant.

Thirdly: Media

With technological advancements and easy social media access among all people, unfortunately, many media platforms have become stages for portraying debauchery and highlighting humans as influential personalities in society. Among these media actions are movies that glorify drug dealers and users, presenting them as popular heroes who possess wealth, power, and influence. These portrayals shine a spotlight on drug promotion strategies and methods of use, constituting negative drug propaganda and psychotropic substances.

In the context of social learning theory, teenagers are presented with models they admire, leading them towards imitating behaviors under justifications promoted by these models towards drug use or promotion. This makes these media platforms essential partners and active instigators in drug use, facilitating its circulation across all segments of society, particularly among youth.

The second demand

The societal and criminal effects of drug and psychotropic substance abuse

Mr. Prime Minister's Office referred to in the letter number (3013/2331203) dated 29/10/2023, indicating an increase in drug-related crimes during 2023 compared to the previous year. A total of 16,159 drug-related crimes were recorded during the first nine months of 2023, marking an increase of 7% compared to the corresponding period in 2022. This underscores significant effects of drugs and psychotropic substances, whether on the societal level by contributing to social disintegration and the collapse of societal values, or on the criminal and national security levels due to the rising crimes associated with drug and psychotropic substance abuse.

Branch One

Effects on the societal level

First: Effects on the individual level

Drug abuse leads to negative effects on the individual, impacting their willpower, social standing, and the trust others have in them. Drugs render individuals lazy and shallow in their thinking, neglectful of their duties, indifferent in executing responsibilities, and emotionally unstable in their interactions with others (Al-Hadiya, 2008, p. 86) ^[35].

One of the most profound impacts of drug and psychotropic substance abuse on individuals is social stigma. Goffman defines social stigma as an individual's fear of being perceived as contaminated and worthless, which can

fundamentally alter their self-concept and identity. This stigma attaches undesirable labels to the individual, depriving them of social acceptance (Al-Kafa'i & Al-Sharifi, 2022, p. 418) ^[29].

Drug abuse carries social consequences for both the user and their family, attaching negative traits that socially degrade both the user and their family. The stigma extends beyond the individual to their family, relatives, and even their tribe, causing the user to experience withdrawal, aversion, animosity, or lack of sympathy from their community. This social ostracization places them outside the societal norm (Al-Kafa'i & Al-Sharifi, 2022, p. 418) ^[29]. In reality, social stigma turns drug users into criminal threats to their community, as their insistence on their behavior is backed by justifications that oppose societal norms. This makes it difficult for users to return to the right path and quit drug and psychotropic substance abuse due to this negative position.

Secondly: Effects at the family level

Drug abuse disrupts the social structure of the family, creating clear dysfunction in social interactions among its members. The extent of damage varies depending on the position of the user within the family—whether as a father, mother, son, or daughter—increasing the likelihood of crimes committed within the same family. These crimes include domestic violence, moral and social deviance, sparking hatred and animosity among family members. Moreover, drug abuse affects the health of the user, increases the likelihood of giving birth to disabled children, and impacts overall health aspects. Drug abuse also represents an acquired behavior passed down from parents to children or from influential figures within the family to those who emulate their behavior, ultimately leading the user to self-exclusion from social participation through suicide.

Branch Two

Effects at the criminal level:

The criminal effects of drug and psychotropic substance abuse arise from the criminal behavior of the user, posing a threat to protected interests and causing criminal harm.

First: Criminal threat:

Criminal threat and danger are based on the likelihood that an individual will commit subsequent crimes or repeat previous offenses. Criminal threat is defined as "the likelihood of the criminal's return to committing crimes in the future". Drug abuse constitutes a criminal behavior under Article 32 of the Drugs and Psychotropic Substances Law No. 50 of 2017, which penalizes mere intent in drug use or personal consumption. This behavior constitutes a crime in itself, and repeated drug and psychotropic substance abuse signifies the repetition of the same criminal behavior. The continuous and secretive nature of drug abuse are inherent traits of this criminal behavior. Additionally, drug abuse as a criminal behavior requires the possession, purchase, or acquisition of drugs, all of which are criminal acts under the Drugs and Psychotropic Substances Law. Therefore, drug abuse in this context also indicates previous criminal behavior related to drug use.

The established principle in criminal psychology is that engaging in a behavior once makes it less effortful to repeat it, as individuals have a tendency to revert to previously

comfortable behaviors, especially when that behavior, such as drug use, serves as a psychological relief. This behavior also serves as an indicative sign of criminal readiness, as committing a crime indicates the criminal propensity of the actor, suggesting a likelihood of future offenses.

Secondly: Criminal Risk

Criminal risk refers to the consequences that form a material element of the crime. Specialists classify drug-related violence into three forms:

1. Violence arising directly from the chemical effects of the drugs themselves, where certain drugs chemically induce or exacerbate aggressive behavior.
2. Coercive economic violence resulting from addicts' need for money to purchase drugs.
3. Violence within the relationship between addicts and drug dealers or distributors, aiming to control illicit drug markets and turn addicts into distributors or traffickers (Mohammed, 1996, p. 113) ^[24].

Drug abuse also directly leads to serious crimes due to impaired human consciousness and misjudgment. Additionally, drug use sometimes stimulates human awareness and motives, leading to crimes against property or individuals, such as theft, to acquire money and satisfy drug-related needs. Moreover, drug abuse contributes to traffic accidents and fights that can lead to death, as addicts recklessly push aside anyone they perceive as hindering or challenging their behavior while driving.

A study conducted on a sample comprising 4% of university students analyzed statistical data, revealing a close correlation between engaging in criminal behaviors like fights and theft, and both natural and non-medical drug use (Mohadineen, 2003, p. 151) ^[26].

It's worth noting that the legislature deems addiction to alcohol and drugs harmful behavior, allowing either spouse to seek divorce on grounds of harm under Article 40 of Personal Status Law No. 188 of 1959, as amended.

The third section

Criminal Policy in Addressing Drug and Psychotropic Substance Abuse Crimes

Criminal policy is defined as: "The set of rules that determine the formulation of criminal law texts, whether related to criminalization, crime prevention, or its treatment. In other words, criminal policy delineates the necessary principles and procedures in defining what constitutes a crime and in taking preventive measures and prescribed penalties for it." (Surur, 1972, p. 17) ^[10].

From the above definition, it is evident that criminal policy is the legislative approach to criminalization and punishment. This approach, concerning drug use, relies on a set of preventive measures, as well as therapeutic measures embodied in the penalties stipulated in the Drugs and Psychotropic Substances Law.

First Topic

Preventive Measures Against Drug and Psychotropic Substance Abuse

The legislative framework targets criminal behaviors at the ideation stage, preventing their transition to the execution stage through a set of precautionary measures. This does not mean that the legislator intervenes in intentions but rather targets behaviors that generate criminal motives and purposes, justifying the commission of crimes as these

purposes are means of classifying crimes according to the criminal propensity and severity of the behavior. (Al-Shahawi, 1977, p. 79) ^[14]. Some criminal legislations have adopted the concept of criminal risk to some extent as a response to these scientific realities. They have also allocated aspects of criminal punishment or precautionary measures aimed at preempting the risk resulting from certain behaviors before they actually produce effects or repeat their impact after the offender has committed the crime.

Regarding drug and psychotropic substance abuse, the legislator has adopted a scientific, corrective, and therapeutic approach, as stipulated in Paragraph 4 of Article 5 of the Drugs and Psychotropic Substances Law. Among the key measures required within this approach are:

Firstly, obligating young individuals to undergo screening for drug and psychotropic substance abuse, whether the use is known and intentional by the user or if these substances were administered deceptively without their knowledge. The targeted group includes university and secondary school students, as well as long-haul vehicle drivers, in cooperation with relevant authorities such as the Ministries of Higher Education and Scientific Research, Education, and the General Traffic Department within the Ministry of Interior.

Secondly, educational campaigns play a crucial role in preventive measures against drug and psychotropic substance abuse, specifically targeting drug use. This helps expose the fallacy of criminal justifications upon which some individuals rely in this destructive endeavor that harms both the individual and their social environment.

Thirdly, encouraging research efforts to identify the underlying reasons for drug abuse or other criminal behaviors mentioned in the Drugs and Psychotropic Substances Law. Emphasis is placed on clarifying the legal stance for individuals voluntarily seeking treatment, where no criminal prosecution is pursued against them, in accordance with Article 40 of the Drugs and Psychotropic Substances Law.

Fourthly, highlighting the role of social upbringing in preventing drug and psychotropic substance abuse, alongside addressing the negative impact of societal stigma that impedes the treatment of abusers. This stigma often leads to withdrawal and intense aversion and hostility towards a prejudiced judgment against a specific segment of society.

Fifthly, strictly regulating the dispensing of medical substances with narcotic or psychotropic effects on the human nervous system, only through a medical prescription specifying the quantity and duration of use.

Second Issue

Therapeutic Measures for Drug and Psychotropic Substance Abuse

Sometimes, crime can be attributed to a specific health disorder, whether it manifests as an organic disease, a mental or neurological disorder, or a psychological condition. Prevention in this context involves treating the offender for this illness through hospitals and specialized medical centers, or through community-based approaches (Kabish, 1995, p. 231) ^[22]. Addressing crime may also involve imposing deterrent penalties if the abuser persists intentionally in their use of drugs and psychotropic substances, as opposed to cases where their behavior is involuntary or without awareness.

Branch One

Health Measures

Health measures for drug addicts and psychotropic substances are defined by Article 39 of the Narcotics and Psychotropic Substances Law, as follows:

Firstly: Instead of imposing the penalty stipulated in Article 33 of this law, the court shall decide what it deems appropriate, as follows:

- a) Placing those proven to be addicted to drugs or psychotropic substances in a healthcare institution established for this purpose, where they are treated until the specialized committee submits a report on their case to the court to decide on their release or continued placement for a specified period.
- b) Requiring those proven to use drugs or psychotropic substances to attend a (psychological-social) clinic established for this purpose once or twice a week to assist them in overcoming the habit of substance abuse. The responsible physician must submit a report on their condition to the court to decide whether to terminate or continue their attendance for additional periods, with the report not to be delayed beyond 90 days from the start of the patient's clinic visits.
- c) Requiring those to be released from the healthcare institution to attend a (psychological-social) clinic.

Secondly: The Ministry of Health establishes specialized medical committees to implement the procedures stipulated in the first item of this article, specifying the tasks of these committees through instructions issued by the minister.

Thirdly: If the convicted person refuses the treatment prescribed in the article, the court shall place them in lieu of imprisonment for the period stipulated in Article 33 of this law.

Analyzing the preceding text, we find that the legislator took a proactive role by authorizing the specialized court to impose individualized punitive measures, replacing imprisonment with a period not less than 6 months and not exceeding 2 years, along with a fine ranging from 3,000,000 to 5,000,000 dinars, as specified in Article 33 of this law.

The rationale behind legislating this article lies in the public interest adopted by the legislator, as explicitly stated in the fourth paragraph of Article 5 of the Narcotics and Psychotropic Substances Law, by taking necessary measures to combat drug use based on a scientific, rehabilitative, and therapeutic approach for addicts. It is common in drug use cases that individuals unintentionally misunderstand the nature of the substance they consume, often mistaking it for medication (Al-Haidari, 2017, p. 579)^[7].

Drug use can also occur through deceit or without the user's knowledge about the substances consumed, whether through bad influences of friends, certain sports centers, or youth cafes that lure customers through criminal means. This is stipulated by the legislator in the provisions of Article 60 of Penal Code No. 111 of 1969 as amended, which states: "No criminal liability shall be incurred by a person who, at the time of committing the crime, was devoid of consciousness or will due to insanity, mental defect, drunkenness, or drug-induced stupor caused by forcibly administering intoxicating or narcotic substances to them without their knowledge, or for any other reason determined by science to

impair consciousness or will other than mere deficiency or weakness in consciousness or will at the time of committing the crime, which shall be considered as a mitigating excuse."

Furthermore, the legislator authorized in the provisions of Article 144 of the Penal Code for the specialized court to consider the addict's ethics, history, age, and the circumstances of their crime, leading to the belief that they will not commit it again, or that their drug use behavior was unintentional or without knowledge, thus guiding the court to make such adjustments.

Second Branch

Punitive Measures

The legislator has outlined a series of criminal offenses punishable for drug use behaviors as follows:

First: Life or temporary imprisonment and a fine not less than 10,000,000 and not exceeding 30,000,000 dinars according to Article 28 of the Narcotics and Psychotropic Substances Law for:

A- Inciting drug and psychotropic substance use:

The perpetrator's activity in this context involves instigating the idea of a crime in someone, then reinforcing it until it turns into a definite intention to commit it. This incitement is of a psychological nature that affects the perpetrator, pushing them towards committing the crime (Hasni, 2012, p. 485). The instigator may exploit the psychological state or social disintegration of the perpetrator to reinforce their idea swiftly, using criminal justifications that easily permeate the perpetrator's mind and translate into criminal behaviors.

B- Managing, preparing, or facilitating a place for drug and psychotropic substance use, under circumstances not permitted by law:

This form involves aiding in the commission of drug use by performing supportive and facilitative actions to complete the crime. It's noteworthy that the legislator criminalized the mere preparation or setting up of a place for drug use, even if the actual use does not occur there. Proving whether such a place was intended for drug use or not falls under the jurisdiction of the court based on investigations revealing items like needles, rubber ties for tying the user's arm, drug paraphernalia, and conditions suitable for drug consumption, such as pipes used for smoking substances like "crystal meth."

C- Inducing or encouraging a minor, spouse, or relatives up to the fourth degree to use drugs and psychotropic substances:

This offense is divided into two main categories of inciting crime: The first category pertains to inducing a minor to use drugs, taking advantage of their lack of awareness and young age. Thus, the advanced text provides comprehensive criminal protection for minors from this delinquent behavior. The minor's response to inducement to drug use exempts them from punishment, as the instigator in this case is considered a moral actor for harnessing the minor to commit the crime, exploiting their goodwill or lack of awareness due to their young age (Al-Haidari, 2017, p. 283)^[7]. The legislator should ideally include anyone who falls under the category of minors or the unaware, such as the

insane, mentally impaired, or those affected by any other mental disability, according to the provisions of the moral actor stipulated in paragraph 3 of Article 47 of Penal Code No. 111 of 1969 as amended.

The other category concerns exploiting social proximity to influence and deceive a spouse or close relatives up to the fourth degree into drug and psychotropic substance use. Therefore, punishment in this case applies to both the instigator and the respondent if they are aware and conscious, due to the meeting of intentions and their agreement to commit the drug use crime, unlike the case of the moral actor specific to inciting minors.

Secondly: Punishment includes imprisonment for not less than 1 year and not more than 3 years, along with a fine not less than 5,000,000 and not more than 10,000,000 dinars for anyone who purchases drugs or psychotropic substances for the purpose of personal use, according to Article 32 of the Narcotics and Psychotropic Substances Law.

From the analysis of the advanced text, we find that the legislator penalizes mere intent to use drugs and psychotropic substances. This means that mere intent, even if it does not translate into criminal behavior, falls under the aforementioned punitive text. This approach is adopted by the legislator in the provisions of Article 30 of Penal Code No. 111 of 1969 as amended, which states that "attempt" is the commencement of an act with the intent to commit a felony or misdemeanor, even if it fails due to reasons beyond the actor's control.

Thus, the legislator in this text adopts a personal standard in imposing punishment based on mere intent to commit a crime or misdemeanor, because the rationale for punishment lies not in the act causing harm, but in the act posing a threat of harm (Al-Hadithi, 2018, p. 228) [3]. Additionally, the behavior of the user in Article 32 of the Narcotics and Psychotropic Substances Law serves as indicative evidence of more serious crimes, such as drug importation, purchase, cultivation, possession, or trafficking, reflecting the criminal seriousness of their conduct, even if they did not actually consume those substances.

Thirdly: Punishment includes imprisonment for not less than 6 months and not more than 2 years, and a fine not less than 3,000,000 and not more than 5,000,000 dinars, according to the first paragraph of Article 33 of the Narcotics and Psychotropic Substances Law, for:

A. Allowing others to use drugs or psychotropic substances in any place owned by the offender, even if without compensation.

This scenario parallels aiding in drug or psychotropic substance use by allowing others to use these substances in a place owned by the offender. Even if the place is used without compensation, in this context, it is considered contributing to facilitating drug use by providing a location that psychologically motivates the user to commit the crime.

B. Found in any place prepared or arranged for drug or psychotropic substance use, and was aware of it.

This scenario falls within the framework of criminal contribution as stipulated in Article 49 of Penal Code No. 111 of 1969 as amended, which states that "every accomplice is deemed to have committed the crime under Article 48 if present during the commission of any of its constituent acts." Legal scholars have pointed out that the rationale for punishing presence at the crime scene lies in

the indication of willingness to participate in the crime, indicating an intention to go beyond mere participation (Al-Hadithi, 2018, p. 259) [3].

While we respect the opinions of our esteemed professors who have articulated these views, we do not agree because criminal legislative policy in this context does not aim to punish intentions, even if those intentions indicate a willingness to go further than just being present at the crime scene, as long as those intentions are not translated into concrete criminal behavior in reality.

In our view, imposing punishment merely for being present at the crime scene without committing acts that constitute material behavior of the crime depends on what support the accomplice provides to the users, strengthening their morale and pushing them to continue committing this crime. This is all contingent upon the accomplice being knowledgeable about the users' behavior and willingly choosing to stay in that place. If the presence was coincidental and the accomplice left after discovering drug use occurring there, there should be no criminalization or punishment.

Conclusion

1. Drug and psychotropic substance use does not arise in a vacuum but is the result of various reasons, whether they are general issues affecting all members of society such as poverty, ignorance, unemployment, and the erosion of ethical standards and values, or specific reasons such as the absence of religious principles, following deviant models, and personal deficiencies that drive individuals towards deviant behavior.
2. Drug use represents a criminal threat to protected interests and poses a risk of assault when the criminal context arises from the relationship between the instigator and the responder.
3. There are numerous instances of drug and psychotropic substance use occurring surreptitiously and without the user's knowledge, facilitated by bad company, certain sports centers, or youth cafes that attract customers through these criminal means.
4. A new type of drugs and psychotropic substances, digital drugs, has emerged which legislators have not yet addressed, despite their impact being no less severe than other types of drugs.
5. Social upbringing plays a crucial role in either creating drug users or deterring them from this behavior. Parents bear the primary responsibility in preventing their children from falling for the false euphoria sought by drug users.
6. Iraqi legislators have opened the door to embrace drug users by refraining from taking legal action against them, aiming to treat them and reintegrate them into society to play their social role in achieving sustainable development. However, what makes a drug user a criminal is their persistence in drug use and acceptance of the criminal consequences of this behavior.

Recommendations

1. All members of society must play their role based on the principle of social solidarity to strengthen ethical standards and values within the community. They should counteract any attempts to promote non-conformist ideas or justify actions that lead to moral decay among community members.
2. Official and semi-official institutions, civil society

- organizations, and religious institutions should conduct workshops and awareness sessions about the dangers of drugs and psychotropic substances. These efforts should highlight both religious and legal penalties, as well as the health and social impacts on individuals and their social environments who choose this harmful path.
3. The National Committee for Drugs and Psychotropic Substances should adopt a preventive approach by conducting screenings among specific groups such as long-haul truck drivers, government employees, university students, and members of the security forces. This aims to verify if there are cases of drug use and to implement necessary health treatment measures.
 4. The National Committee for Drugs and Psychotropic Substances should issue binding decisions requiring relevant authorities to block websites that promote digital drugs.
 5. The National Committee for Drugs and Psychotropic Substances, in coordination with mental health institutions, should mandate media organizations to refrain from negatively portraying drug use. Instead, they should engage in educational activities that raise awareness about the dangers of drug and psychotropic substance abuse. Legal actions should be taken against any institution directly or indirectly promoting drug trafficking, distribution, or use.

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