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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

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Assistant professor of Law

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Avinash Kumar



methodology and teaching and learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

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ANALYSIS ON DRUG COURTS

AUTHORED BY - DIVYA BHARATHI M

PG STUDENT-SOEL

INTRODUCTION

Numerous law enforcement organisations are seizing children in considerable numbers for a variety of drug-related offences. Whether the charges are "small" or "big," everyone must go through the anguish of being arrested, posting bond, and going through the legal process, which can take a long time and waste a person's entire youth. The stigma associated with a drug case can result in prospects for higher education, marriage, or even job. People who use illegal drugs run a higher chance of developing addiction as well as a number of other health problems and problem behaviour. Increased risk of injury, sexually and intravenously transmitted diseases and infections, unwanted pregnancies, substance-induced mental illness, decreased academic and professional performance, aggression, and other types of maltreatment are all effects of drug usage. The whole effect can be devastating for young people. Young people destroying their lives due to engagement in drug offences is a global phenomenon. Many Western nations have developed a novel strategy to rescue children who become embroiled in drug misuse. The dispute over whether continued drug use is a sign of moral weakness or a disease has persisted for a very long time. Drug use is viewed as both a criminal offence that needs to be punished and as a chronic, relapsing sickness or behavioural problem that needs continuing care and support. Western nations were motivated to establish Drug Courts by the latter viewpoint. All drug courts should incorporate a system of data collecting and storage into their design, according to the Drug Courts Programme Office's (1997) recommendation. Data on participant demographics, programme compliance, and post-graduation arrests and convictions should all be gathered. After the programme is over, participants should be tracked for as long as possible, ideally many years. The effectiveness of the drug court in preventing recidivism and relapse may then be determined using this data. In order to assist the design and implementation of the data collection and analysis, the Drug Courts Programme Office suggests that drug courts hire an outside researcher with experience in rehabilitation.

Reducing substance use and recidivism are the objectives of drug courts¹. In

¹(Goldkamp et al., 2001; Lutze & van Wormer, 2007).

addition to helping offenders get back on the right track, most drug courts work to assist them in doing so, particularly if they have undergone inpatient treatment or have served a prison sentence. Last but not least, drug courts aim to lower the number of inmates and the cost of maintaining a jail population².

DESIGN OF THIS DRUG COURT

The goal of drug courts is to prioritise rehabilitation above punishment. They are founded on a psychosocial theory that argues that crime is a treatable condition. Because treatment targets the root causes of crime and enhances a person's capacity to reintegrate into society, there is scientific support for the claim that it has better long-term outcomes than incarceration. Only about 11% of prison inmates in the United States obtain treatment, despite the fact that about 65% of them fit the medical criteria for addiction (CASA, 2010). Contrarily, therapy is provided to 68% of drug court participants³. The precise kind of therapies provided differ greatly amongst drug courts. Cognitive behavioural therapy (CBT) including individual, group, and family therapy are examples of behavioural treatments. While some programmes offer acupuncture, 12-step programmes, or behavioural relapse prevention programmes, others offer medical detoxification therapies (Gottfredson et al., 2003). Additionally, some drug courts provide support services including social or sports activities, help with housing, financial, and legal issues, as well as education and job training, medical treatment, and education.

AN INTERNATIONAL PERSPECTIVE

Drug courts differ in how they handle cases and approach them; their main objective is rehabilitation rather than conviction. Drug courts are a novel idea for problem-solving courts that use a public health perspective and a specialised model in which the legal system, the prosecution, the defence, law enforcement, the mental health and social service sectors, and the treatment communities collaborate to support addicts in long-term recovery. They support rehabilitation over incarceration and stress a collaborative approach between the prosecution, the offender, and the court. If drug court programmes are completed successfully, charges may be dropped entirely, receive lighter sentences, or both. substance courts combine case

² Lowenkamp, Holsinger, & Latessa, 2005; Peters & Murrin, 2000).

³ (Gottfredson, Najaka, & Kearley, 2003). Gottfredson, D. C., Najaka, S. S., & Kearley, B. (2003). Effectiveness of drug treatment courts: Evidence from a randomized trial. *Criminology & Public Policy*,

processing with assistance for alcohol and other substance treatment. Through a coordinated approach to offenders who are dependent on alcohol and other drugs, the goal is to halt the abuse of alcohol and other substances as well as related criminal conduct. A non-adversarial, multidisciplinary team of judges, prosecutors, defence attorneys, social workers, and therapeutic service specialists often runs these courts. Participation in hearings encourages support from stakeholders who represent law enforcement, the family, and the community. The main goal is to use the court's power to alter the drug-abusing habits of defendants in order to reduce crime. Eligible defendants who consent to participate are diverted to drug court programmes in a variety of methods in exchange for the potential of dismissed charges or reduced sentences at various stages in judicial process. Usually, these programmes are presented to defendants as an alternative to probation or parole. It lessens the workload and expenses associated with continuously processing low-level, non-violent offenders through the courts, jails, and prisons of the country while simultaneously assisting participants in recovering from addiction and preventing future criminal activity⁴.

COUNTRY-WISE, As a pilot project, Sydney, Australia's first Drug Court opened its doors. Offenders are given a first sentence, but it is suspended, and they also have to participate in a drug court programme. The implementation of the harsh Rockefeller Drug Laws, which overloaded the state's criminal justice system with an unrelenting wave of drug cases throughout the 1970s, prompted the creation of a comparable Drug Court in New York City in 1974 after officials there observed the program's success. In Miami-Dade County, Florida, the first Drug Court was established in 1989. All 50 US states and Washington, D.C. currently have drug courts, and by 2020 there will be more than 3,700 courts nationwide. Although an estimated 1.5 million qualified people are currently in front of the courts, only about 120,000 people are processed annually in the drug courts. In addition to other countries, Canada, Australia, the UK, and others have formed such courts.

The costs of drug courts and whether they ultimately save the criminal justice system money have been the subject of numerous studies⁵. According to a 2004 research on the Multnomah County, Oregon drug court, the county saved \$1,442 for each participant compared to "business as usual" . "Business as usual" refers to the standard court and jail procedures that the majority

⁴ (Lutze & van Wormer, 2007; Peters & Murrin, 2000).

⁵ <https://www.ebpsociety.org/blog/education/271-efficacy-drug-courts>

of offenders in the US go through. Along with material costs, the study also took into account the costs of arrest, booking, court appearances, jail and prison time, therapy, and probation services. Specifically, compared to business as usual, the probation, law enforcement, and public defender agencies all saw financial savings under the drug court paradigm. Compared to business as usual, the prosecution, courts, and treatment facilities spent more on drug court participation⁶.

The price of treating an offender in a drug court environment will vary depending on where the court is located, as would the actual sum saved over traditional jail. The price of incarceration varies greatly between states and is influenced by things like the amount of time an offender spends in solitary confinement, the programming available in the jail, and the need for medical and mental health care. Regardless of location, it does appear that drug courts are much less expensive than incarceration. Additionally, whether a participant in a drug court actually stays out of the system for the remainder of their lives will determine the total lifetime savings per participant. Results from drug court imply that it may result in shorter treatment and jail periods for repeat offenders⁷.

Drug courts differ from traditional criminal courts in their practises and processes. Defence attorneys and prosecutors have considerably smaller roles. Regular drug court meetings frequently don't even have attorneys present. Instead, the judge and the client converse openly and freely in the drug court environment during the bulk of the courtroom sessions. A treatment professional who assesses the client's progress in treatment and advises the judge frequently goes with the client. Court proceedings are characterised by emotional testimony on the healing process, sometimes accompanied by tears, and are frequently interspersed with cheers from the audience. Drug Courts are becoming a key resource for criminology, the sociology of drugs and deviance, and legal philosophy courses since they represent the beginning and development of a new judicial trend. Drug Treatment Courts (DTCs) are established at the judicial level to direct substance-using offenders to drug treatment programmes. Despite the fact that DTCs vary widely in terms of, among other things, inclusion criteria, practises, treatment services, and treatment providers, some essential elements may be identified: (1) Services for drug and alcohol rehab are made available to offenders. (2) The usual course of action is a non-adversarial approach and continued court interaction. (3) Regular drug and alcohol testing is

⁶ <https://connectusfund.org/19-biggest-pros-and-cons-of-drug-courts>

⁷ <https://www.opensocietyfoundations.org/voices/drug-courts-are-not-ans>

required; (4) compliance is rewarded or punished; (5) programme goals are monitored and evaluated throughout several court appearances; and (6) there is close coordination between the drug court, government agencies, and community-based organisations.

As a result, drug courts send drug-related offenders with lesser penalties to treatment rather than to prison. The right and left have both found political backing for drug courts since they were first introduced in Miami, Florida, in 1989. Both sides seek to reduce expenses, decrease jail rates, and provide rehabilitation; proponents of drug courts assert that they accomplish all three goals. So it comes as no surprise that the drug court concept has gained enormous popularity in the US, going so far as to influence American foreign policy. The therapeutic jurisprudence, which sees the law as a social force that shapes behaviour and has consequences, holds up drug courts as examples of its application. The idea that substantive norms and procedures can have therapeutic or counter-therapeutic consequences, whether on purpose or not, is essential to this normative perspective⁸.

The success criteria in drug court efficacy have been determined by numerous studies. According to Lowenkamp et al. (2005), participants who finish the programme in less than a year typically experience better outcomes than those who receive treatment for a longer amount of time. This is probably because prolonged therapy is required as a result of numerous relapses and maybe treatment interruption owing to jail time for non-compliance. Like other forms of treatment, outpatient programmes frequently outperform inpatient programmes in terms of effectiveness (Lowenkamp et al., 2005). According to several studies (Lowenkamp et al. 2005; Lutze & van Wormer, 2007; Peters & Murrin, 2000; Roman, Townsend, & Bhati, 2003), younger, white, female individuals with moderate degrees of addiction tended to do better than older, male, minority participants with severe addictions.⁹

Additionally, it should be mentioned that the majority of studies on the efficiency of drug courts highlight the fairly shoddy methodology employed (Brown, 2011; Mitchel et al., 2012). Most research have a tendency to be retrospective, and it can be challenging to locate complete records for all previously registered drug court participants. The study may be skewed if a comparison group of ineligible offenders is used, as there may be a systematic difference

⁸ Carey, S. M., & Finigan, M. W. (2004). A Detailed Cost Analysis in a Mature Drug Court Setting A Cost-Benefit Evaluation of the Multnomah County Drug Court. *Journal of Contemporary Criminal Justice*, 20(3), 315-338.

⁹ Brown, R. (2011). Drug court effectiveness: A matched cohort study in the Dane County Drug Treatment Court. *Journal of Offender Rehabilitation*, 50(4), 191-201.

between eligible and ineligible criminals (Brown, 2011). This does not necessarily imply that outcomes are incorrect, but rather that the drug courts may not be as successful as supporters claim. Since some regions have had drug courts for over 20 years.

The goal of therapeutic jurisprudence is to determine how far the rule of law can be used therapeutically without compromising other fundamental principles of the legal system, such as due process. The therapeutic jurisprudence was first put forth as the philosophical underpinning of the drug court movement by Judge Peggy Fulton Hora and associates. Since then, several academics have described drug courts as an example of therapeutic jurisprudence in action. By aiding offenders with the process of transformation, holding them accountable for their actions, and educating them about the patterns of their destructive substance use and associated behaviours, the legal system serves as a catalyst for change for offenders. Other "problem-solving" courts, such as those that deal with domestic abuse and mental health issues, are using this strategy in many parts of the world where the role of the court has also changed.

CONCLUSIONS AND SUGGESTIONS

Drug courts are not without their flaws, though. The effectiveness of drug courts is still a hotly debated issue, despite being one of the most extensively examined aspects of the American criminal justice system.

The main advantage of drug courts is that they aid addicts in their efforts to overcome addiction and deter future criminal conduct, which relieves the government's ongoing responsibility and financial burden of handling low-level, non-violent criminals in overworked courts and overcrowded jails. India must therefore establish a few drug courts in order to save the numerous children who are falling into the drug trap.

THANK YOU