

# opción

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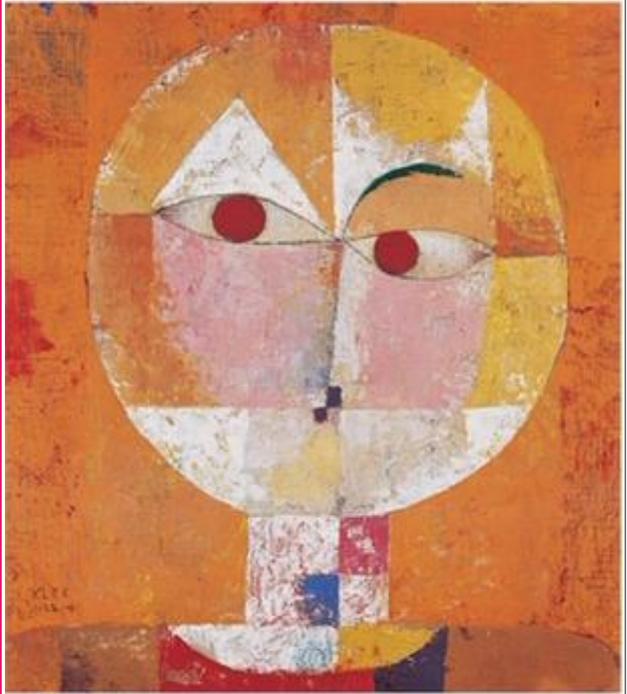
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# Actual problems of synthetic drug abuse and its legal regulation in Russia

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## Abstract

The need for this research was caused by the threatening processes of the global spread of synthetic drug abuse (SDA) and lack of its proper legal regulation in Russia. Based on theoretical, legalistic and comparative approaches, we used both legal and non-legal sources of information to clarify the problem and its conceptual apparatus. We identified that apart from the evident harm caused to teens' health, the destructive consequences of SDA may expand to a socially dangerous behavior. In conclusion, we make some proposals on revision and extension of the existing sanctions of Article 228 of the Criminal Code of Russia although we recommend maintaining balance while using legal or political instruments of criminalization and decriminalization of acts to ensure effective protection of important social values in accordance with individual freedoms.

**Keywords:** synthetic, drug, abuse, legal, regulation.

## Problemas reales del abuso de drogas sintéticas y su regulación legal en Rusia

### Resumen

La necesidad de esta investigación fue causada por los procesos amenazadores de la propagación global del abuso de drogas sintéticas (SDA) y la falta de su regulación legal adecuada en Rusia. Basado en enfoques teóricos, legalistas y comparativos, utilizamos fuentes de información legales y no legales para determinar el problema y aclarar su aparato conceptual. Identificamos que, además del daño evidente causado a la salud de los adolescentes, las consecuencias destructivas

del SDA pueden expandir el comportamiento socialmente peligroso. En conclusión, hacemos algunas propuestas sobre la revisión y extensión de las sanciones existentes del Artículo 228 del Código Penal de Rusia, aunque recomendamos mantener el equilibrio al usar instrumentos legales y políticos de criminalización y despenalización de actos para garantizar la protección efectiva de los valores sociales importantes de conformidad con libertades individuales.

**Palabras clave:** sintético, drogas, abuso, legal, regulación.

## 1. INTRODUCTION

In accordance with the current global trends and innovative solutions, Russia, like other civilized countries, has embarked on the path of humanization, liberalization and partial decriminalization of its criminal law. Since 2011, in accordance with the provisions of the Federal Law No.420-FZ "On amendments to the Criminal Code and certain legislative acts of the Russian Federation", a large number of substantial corpus delicti (composition) were decriminalized. Responsibility for the commission of certain acts was partially transferred from criminal to administrative if such acts were committed once and did not pose a serious threat or danger (PROZUMENTOV, 2012). Corresponding changes were made to the Code of Administrative Offenses and the Code of Criminal Procedure.

However, recent 2019 initiatives by human rights activists to mitigate criminal penalties for the purchase and possession of drugs on a large scale without a sale target (Sec. 2, Article 228 of the Criminal Code) have caused endless debates among lawmakers and the public

about the need and timeliness of such changes to the law. The activists submitted a bill to the State Duma proposing amendments to the Criminal Code and Criminal Procedure Code of Russia on the basis that Section 2 of Article 228 is the most "repressive norm", according to which most frequently those who are first prosecuted for drugs are punished in a form of a real deprivation of liberty (Criminal Code of the Russian Federation).

Supporters of the bill criticize the extensive nature of criminal prohibitions, although justify them with various both explicit and implicit factors, such as weaknesses in a law enforcement system, shortcomings in crime combating practices, reappraisal or deficiencies in potential and existing preventive measures, low level of legal culture and legal awareness among the public, etc. They propose to limit the processes of criminalization and resort to them only in exceptional cases, thereby decriminalizing those acts that do not pose a significant public danger (KAPINUS, 2018). Russia, in their view, should adopt a more comprehensive strategy that will balance prohibition and law enforcement with methods of treatment, prevention, and harm reduction (GALEOTTI, 2016).

Opponents, on the contrary, express serious doubts about the necessity and timeliness of amendments. They insist on the premature nature of any steps taken to decriminalize criminal law and express deep concern about whether the Russian government, law enforcement agencies and society can cope with the increase in crime rate and ensure

proper restraints and control in this sector (SAFUANOV ET AL., 2016). Criticism is reasonably based on obvious failures of the criminal justice system unable to effectively solve many of the vital problems, including police abuse, growth of organized and hate crime, increase of drug-related crimes, epidemic rise of synthetic drug abuse (SDA), corruption caused by collusion between politicians and business, crises of confidence in prison system, etc. (SINGH, & LIGHT, 2017). Yet these issues take on peculiar, large-scale forms that require specific responses as well as contextually grounded research.

Today, with 6 percent of the population using drugs, Russia is suffering from serious and problematic drug consumption and a growing public health crisis (GALEOTTI, 2016). The recent reported sharp deterioration in drug use naturally led to an increase in drug-related crime. According to the Ministry of Health of Russia, if in 2003-2007 there was a steady downward trend in cases of drug addiction, today the situation with drug abuse resembles a "compressed spring", which has come into motion and led to a new wave of drug addiction and drug-related crime (POZDNYAKOVA, 2013; CHAVANT ET AL., 2015). The data provided by the United Nations Office on Drugs and Crime (UNPODC) in its World Drug Report 2018 confirm that both the range of drugs and drug markets are expanding and diversifying as never before. Non-medical use of prescription drugs, abuse of synthetic drugs has reached epidemic proportions in most parts of the world, including Russia, affecting many lives, especially of young people (YIN, 2019).

Since synthetic drugs can produce a number of harmful effects, including anxiety, paranoia, aggressiveness, loss of consciousness, violence, etc. (GADD ET AL., 2019), then synthetic drug abuse can with high probability endanger the lives and health of both users and innocent third parties, which is considered a socially dangerous act and as such must be punishable by the state. It should be noted, that there is no criminal liability for a person who simply uses drugs in Russia. The same applies to synthetic drug users. This does not mean that the addicts will completely avoid punishment; within the meanings of Article 6.9 of the Code of Administrative Offenses; drug addicts will be assigned to an administrative penalty (SAFUANOV ET AL., 2016).

Given the destructive consequences of synthetic drug abuse (SDA) and its socially dangerous character, such penalties seem to be too lenient. Even contrary to the arguments of supporters of the policy of gradual humanization, liberalization and decriminalization of the criminal legislation as well as the latest 2019 initiatives by human rights activists to mitigate punishment for the purchase and storage of drugs on a large scale without the purpose of sale, we still insist that there is an urgent need to revise legal regulation of SDA, extend the sanctions of Article 228 of the Criminal Code to include SDA into its corpus delicti and introduce stricter punishment for it up to the criminal one.

## **2. METHODOLOGICAL FRAMEWORK**

Based on theoretical, legalistic and comparative approaches we used both legal and non-legal sources of information and sought to determine the problem and clarify its conceptual apparatus. We also aimed to identify most evident risks and damages of synthetic drug abuse (SDA) for teens and the youth; provided the typology of most common forms of synthetic drugs based on a variety of foreign methodological approaches; analyzed the current Russian and foreign legislation on illicit use of drugs, including those designed by chemists, and related psychotropic substances; illustrated the study with some real-life examples to support our legal arguments, etc. In order to fight against synthetic drugs and their trafficking, it is necessary first to know what they are, including their typology, dangers, risks, effects, potential users and possible destructive consequences their abuse may pose to both users and innocent people (POZDNYAKOVA, 2013). To identify the most common views and attitudes of the youth to the use and effects of existing illicit drugs we conducted an anonymous survey among law students aged 19-21. The results showed that students, in general, had a negative attitude towards drugs and backed more stringent punishment for their use up to the criminal liability.

### **3. RESULTS AND DISCUSSION**

The interest in the theme of this research was caused by three factors at least. The first reason is closely associated with the teaching activities of one of our authors who conducts inter alia her authoring courses called "Criminal deviantology" and "Criminal responsibility for crimes against public health and public morality" specially designed for future Bachelors and Masters of Law at Kazan University (Russia). Both courses contain training modules, in one way or another, connected with drugs, drug addicts or drug-related crimes. Avalanche of information from multiple legal and non-legal sources on synthetic drug abuse and psychotropic substances has certainly attracted our attention due to widespread dissemination of this evil both in Russia and abroad (STETINA ET AL., 2008; CHAVANT ET AL., 2015; DEBNAM ET AL., 2018).

The second reason to study this topic arose solely out of scientific and research curiosity since we wanted to clarify the problem and its conceptual apparatus. We found it quite difficult to define the term "synthetic drugs" in short words as the notion is constantly evolving and different authors are inventing more and more new fancy names and explanations for this dangerous and sneaky enemy (STETINA ET AL., 2008; ARNOLD, 2013; ZAWILSKA, & ANDRZEJCZAK, 2015; BAUMANN, 2016; DEBNAM ET AL., 2018; GADD ET AL., 2019; YIN, 2019).

The term "synthetic drug" refers to a substance designed in a laboratory to mimic the pharmacological effects of a controlled drug. Some authors use other names for the same phenomenon and call synthetic drugs "designer drugs", "legal highs" or "research chemicals" (ZAWILSKA, & ANDRZEJCZAK, 2015). These drugs, collectively known as "new psychoactive substances" (NPS), are synthetic alternatives to traditional illegal drugs of abuse and prove to be extremely dangerous due to their strength, the novelty of composition, and ingredients practically unknown to consumers, law enforcers and toxicologists (BAUMANN, 2016).

Some drugs are natural, meaning that the plants from which they are derived exist in nature without any help from humankind: for example, opium poppies (heroin, morphine, codeine), coca leaves (cocaine), psilocybin mushrooms (shrooms), cannabis (marijuana); then other drugs are synthetic, which means they are created using man-made chemicals, not natural ingredients: for example, K2 (also known as Spice), Ecstasy (also known as Molly), bath salts, etc. (ARNOLD, 2013; YIN, 2019).

Most of the synthetic drugs are generally created in illegal Asian laboratories as derivatives and analogues of parent drugs, like cannabis (STETINA ET AL., 2008). Manufacturers create these drugs with slightly altered molecular structures in order to avoid having them classified as illicit drugs and bypass regulations prohibiting controlled substances (ARNOLD, 2013). But even small modifications in

substances can produce major effects, often endangering the lives of the users: causing addiction, severe health issues, and even death (ZAWILSKA, & ANDRZEJCZAK, 2015).

Synthetic drugs began appearing in Europe and the United States around 2009, and have shown a startling rise in popularity over the past decade to become one of the most common illicit substances (BAUMANN ET AL., 2014). Because of the public health risks posed by synthetic drugs, the governments of many countries have passed legislation to ban the sale, possession and use of specific synthetic cathinones and cannabinoids (POZDNYAKOVA, 2013; BAUMANN, 2016), but such legislation only contributed to the emergence of new "replacement" analogues and allowed manufacturers to stay ahead of law enforcement agencies (DEBNAM ET AL., 2018). The worst here is that synthetic drugs are especially popular with young people due to their cheap price and accessibility though the youth could hardly estimate the real dangers of SDA (ARNOLD, 2013; YIN, 2019).

#### **4. SUMMARY**

The broad term applies to almost every synthetic drug, but it is typically used to refer to synthetic recreational drugs with innocuous or fun names and colorful appearances (STETINA ET AL., 2008). These actually aim to mask their extreme harm and potential dangers. In fact,

synthetic drugs are found to be more potent and dangerous than their street drug counterparts (ZAWILSKA, & ANDRZEJCZAK, 2015). For example, one chemical derivative was found to act 50 times more strongly than cocaine, vastly increasing its potential for abuse and toxicity (BAUMANN ET AL., 2014). Normally, such drugs are sold to consumers via the Internet or shipped to locations in Europe, the United States and Russia, being packed for retail sale and labeled as "not for human consumption". Also, synthetic drugs are usually marketed as non-drug products to minimize legal scrutiny, and freely cross border and customs control (BAUMANN, 2016).

Synthetic drugs are distinguished by the following: unknown content – as they may be labeled as herbal smoking blends, plant food, jewelry cleaner, or bath salts (BAUMANN ET AL., 2014); unknown chemical composition – as formula may frequently be altered to avoid government bans and control; potency of drugs is literally in hands of manufacturers, so every dose is different (ARNOLD, 2013); unknown potential adverse risks and effects – high doses or chronic exposure can lead to dangerous consequences, such as psychosis, panic attacks, violent behavior, death (BAUMANN, 2016); unknown place or source of origin – drugs may be synthesized elsewhere by a clandestine chemist who hijacks medical and patent literature to create compounds with the effects of psychoactive drugs (BAUMANN ET AL., 2014; CHAVANT ET AL., 2015).

Synthetics are popular due to a cheap price; high level of

accessibility – the Internet sales and availability of online recipes for syntheses of psychoactive compounds (ARNOLD, 2013); high and fast toxic effect – spices can be 800 times more powerful than their plant-based counterparts (DEBNAM ET AL., 2018); lack of odor associated use of drugs – allows "getting high" without being caught (CHAVANT ET AL., 2015); low or none risk of being detected by standard toxicology screens (BAUMANN, 2016); and lack of strict legal regulation of drug abuse (ARNOLD, 2013).

We also identified most evident risks, damages and effects of synthetic drug abuse (SDA) for teens and the youth and came to conclusion that apart from the evident harm caused to their health – increased heart rate, chest pain or heart attacks, elevated body temperature, sweating, inability to speak and seizures – some ending in deaths (POZDNYAKOVA, 2013), the destructive consequences of SDA may expand to a socially dangerous behavior actualized by extreme anxiety, hallucinations, paranoia, aggression, suicidal or homicidal behavior, etc., which requires retaliatory measures (SAFUANOV ET AL., 2016; KAPINUS, 2018; YIN, 2019).

Most common types of abusers of synthetic drugs were also singled out in a course of this research. According to the 2018 UNODC Research on Drugs and Age, these are: 1) young people (teens) between 12-17 ages whose curiosity combined with an easy access to the Internet cause them to try drugs; 2) recovering addicts who mistakenly think synthetic versions to be safe alternatives to

heavy drugs, though due to volatile potency of designer drugs they may start using much stronger drugs than ever before; 3) convicted felons who prefer synthetic drugs as they are cheap, accessible, have no odor, hardly detectable by prison supervisors or standard toxicology screens (UNODC RESEARCH, 2018; GADD ET AL., 2019; YIN, 2019).

We provided the typology of most common forms of synthetic drugs based on a variety of foreign methodological approaches (ARNOLD, 2013; BAUMANN, 2016; GALEOTTI, 2016; GADD ET AL., 2019; YIN, 2019). Roughly, synthetic drugs fall into three broad categories: synthetic cathinones – stimulant-like drugs known as bath salts; synthetic cannabinoids – marijuana-like drugs also known as spices or incenses; and synthetic amphetamine-like drugs – LSD-like drugs or "N-bombs". The cathinones and amphetamines are both stimulants and have similar horrible side-effects. A sad story of 17-year-old Henry Kwan from Sydney, Australia who died after jumping off a balcony is only one case from many about the effects following the use of synthetic drugs. The teen took a synthetic LSD-like hallucinogen and thought he could fly.

## **5. CONCLUSIONS**

The third reason for our research was caused by the recent 2019 initiatives by human rights activists to mitigate punishment for the

purchase and storage of drugs on a large scale without a sale target. We analyzed the current Russian legislation on the illicit use of drugs and related psychotropic substances and concluded that most sanctions are too lenient to answer the needs of deterrence and retribution. In the absence of a threat of criminal punishment, drug addicts take it as permission to do whatever they want. A petty administrative penalty could hardly scare them and force to stop using drugs (ZAWILSKA, & ANDRZEJCZAK, 2015). All previously mentioned dangerous consequences and effects of synthetic drug abuse (SDA) seem to be just devastating and call for urgent measures to be taken (SAFUANOV ET AL., 2016).

In order to identify most common views and attitudes of the youth to the use and effects of illicit drugs, in general, and synthetic drug abuse (SDA), in particular, we conducted an anonymous survey among 120 law students of Kazan university aged 19-21. The results indicated that most Russian students identified drugs as illegal (88%); potentially dangerous (78%); and socially dangerous (75%). A large number of students rejected any drug use (93%) but underestimated the harms associated with drug abuse (62%). At the same time, they showed awareness about the ease of access to drugs and NPS via the Internet (91%); only a few students (2%) reported synthetic or other drug use in the past 90 days. Most of the respondents opposed any mitigation of drug laws in Russia (77%); supported the need to revise legal regulation of synthetic drug abuse (70%); and backed stricter penalties for SDA with guilty and socially dangerous consequences up

to the criminal punishment (79%). In the end, the conclusion was made that the majority of students have a very bad or negative attitude to drug use or addiction and back penalties for it that are more stringent up to the criminal liability. Universities need to increase effective education about the harms and dangers of any illicit substance use, including common risk factors associated with synthetic drug abuse (SDA) (YIN, 2019).

On these grounds we assume that if crime is defined as a guilty socially dangerous act prohibited by the Criminal Code under the threat of punishment, then the sanctions of Article 228 of the Criminal Code of Russia shall be revised and extended so as to include synthetic drug abuse (SDA) into its corpus delicti (KAPINUS, 2018). SDA shall be treated as the accomplished criminal act based on its guilty and socially dangerous character, which need to be prohibited by the Criminal Code under the threat of punishment. Bringing criminals to justice was always a priority and prerogative of the state, and even minor crimes need proper regulation, conviction and serious consequences to follow (PROZUMENTOV, 2012; SAFUANOV ET AL., 2016).

We realize at the same time that our proposals will hardly receive broad support right now especially in the light of the ongoing processes of decriminalization of the criminal law (KAPINUS, 2018). Our proposals for revision and extension of the sanctions of Article 228 of the Criminal Code to include synthetic drug abuse (SDA) into

the scope of criminal law is based on a data-proven analysis showing the guilt and social danger produced by SDA (GALEOTTI, 2016). Given the wide range of devastating consequences of excessive criminal law restrictions on society and any individual, we recommend to keep balance while using criminal legal or political instruments of criminalization and decriminalization of acts to ensure effective protection of important social values and ideals in accordance with civil liberties or personal (individual) freedoms.

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