

The Phenomenon of Digital Drugs – Between Risk Mitigation and Legislative Deficiency

ظاهرة المخدرات الرقمية - بين الحد من مخاطرها والقصور التشريعي.

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Abstract:

Drug-related crimes are among the most dangerous offenses affecting societies, manifesting in various forms. With technological advancements and the emergence of digitization, a new type of drug has appeared, known as "**digital drugs**." These have spread alarmingly across the world and in some Arab countries. Digital drugs take the form of audio files or sound waves containing specific frequencies that influence brain activity. They are downloaded from the internet and marketed at low prices to attract a larger number of young people. This phenomenon arises in the absence of legislative provisions, both at the national level and in comparative legal systems.

Keywords : Drugs, Digital Drugs, Digitization, Internet and Marketing, Comparative Legislation.

الملخص:

تعتبر جرائم المخدرات بصورة عامة من أكثر الجرائم خطورة على حياة المجتمعات، حيث تعددت صورها وأشكالها ومع التقدم التكنولوجي وظهور الرقمنة، برز نوع جديد من المخدرات وه ما يُعرف "بالمخدرات الرقمية" التي انتشرت بصورة خطيرة في العالم وبعض الدول العربية، حيث تكون على شكل ملفات صوتية أو أنغام تحتوي على ترددات تؤثر على الدماغ، يتم تحميلها من الأنترنت ويتم الترويج لها وبيعها بأسعار منخفضة لاستقطاب أكبر عدد من فئة الشباب، وهذا في ظل غياب نصوص تشريعية سواء على المستوى الوطني أو على مستوى التشريعات المقارنة.

الكلمات المفتاحية: مخدرات، مخدرات رقمية، رقمنة، إنترنت وترويج، لتشريعات مقارنة.

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I. Introduction:

The immense transformations brought about by the technological revolution have played a significant role in shifting traditional societies into modern, intelligent ones that rely on advanced technology, fostering increased interconnection and interaction among communities.

With the widespread use of the Internet, cyber-related crimes have become more prevalent and diverse, posing significant threats due to the ease with which they can be committed through the global information network.

Given its accessibility and low cost, technological advancements have been exploited for the promotion and sale of drugs, as well as the invention of new methods of drug consumption. As a result, drug use and distribution have taken on a new dimension.

The emergence of this type of drug can be traced back to Oklahoma, USA, where specialized commercial websites began promoting drugs through online platforms. These sites rely on developing specific applications and programs that, when listened to, induce a state of intoxication. These digital drugs are transnational in nature, making them particularly dangerous as they are difficult to detect and prosecute.

The importance of studying this topic lies in both its scientific and practical significance. Scientifically, it is crucial to define the origins, evolution, concept, legal nature, and components of digital drugs. Practically, the study aims to examine digital drugs within the scope of criminalization, particularly given that most legal frameworks do not explicitly address the prohibition of this phenomenon. This raises the issue of legislative deterrence, as there is currently no specific legal provision criminalizing the promotion and consumption of digital drugs. Traditional penal laws have become outdated in addressing these emerging crimes. Consequently, the following central research question arises:

To what extent can the phenomenon of digital drugs be combated in the absence of a legislative framework that criminalizes and penalizes them?

From this central question, several sub-questions emerge, including:

- What is the definition of digital drugs?
- What are the legal elements constituting digital drugs?
- What is the stance of Algerian legislators and comparative legal systems on the criminalization of digital drugs?

Regarding the research methodology, a descriptive approach will be employed to define and clarify the concept of digital drugs, alongside an analytical approach to examine the phenomenon and its impact on users' cognitive functions. Additionally, a comparative approach will be utilized to explore different criminal policies and legal responses adopted by various legal systems to address digital drugs.

This study will be divided into three main sections:

- The nature of digital drugs.
- The methods of their dissemination.
- The legislative response to digital drugs.

I_1. The Nature of Digital Drugs

Drugs are a serious phenomenon that threatens societies, and digital drugs represent a new form of targeting that has emerged and evolved alongside advancements in information technology. These drugs consist of auditory frequencies that range from Alpha, Beta, and Theta waves to Delta waves, producing either stimulating or sedative effects on brain centers and the nervous system. These frequencies differ between the right and left ear—meaning that if the right ear receives a frequency of 100 Hz, the left ear receives 70 Hz. The brain then attempts to balance the two sounds and equalize them by compensating for the difference, leading to an increased release of dopamine, the hormone responsible for activity and happiness (Al-Obaidi, 2021, p. 71).

The main challenge posed by these crimes is the inability of judicial and legal authorities to track perpetrators, as laws do not always evolve at the same pace as technological advancements.

I_2. The Emergence and Development of Digital Drugs

The emergence of digital drugs was not a coincidence; rather, they developed as a result of a series of experiments aimed at alleviating patient suffering by combining music with medicine.

This type of drug was first discovered in 1839 by the German physicist Heinrich Dove (Ahmed & Mohammed , 2006, p. 8). The technique is based on the concept that when two synchronized but slightly different sounds are played at a specific frequency—such as 315 Hz in one ear and 325 Hz in the other—listening to them simultaneously produces a third sound or rapid pulsation in the listener's ear. Although this third sound is not actually transmitted, the brain perceives a frequency corresponding to the difference between the two original frequencies, triggering a neural response that may cause hallucinations, loss of concentration, relaxation, or euphoria (Aslan, 2023, pp. 19-20).

This technique was first used in 1970 to treat mild depression in patients who refused conventional medication. Instead, treatment was administered using electromagnetic frequencies to regulate mood.

With the rise of the Internet and social media, digital drug technologies began to be commercially promoted. The first specialized website in this field was "IDoser.com", where the letter "I" represents the Internet. The website markets its products as safe audio tracks tailored to user preferences. This led to the creation of multiple similar websites, such as "Digipll.com", which sells digital pills (Talib, 2016, p. 19). Notably, these websites are continuously increasing, and the absence of legal oversight and regulation has contributed to the expansion of digital drug usage.

Recently, digital drugs have begun spreading in the Arab world, particularly in Beirut, Lebanon, and the United Arab Emirates (Hanoun, 2018, p. 36) .

I_3. Definition and Legal Nature of Digital Drugs

The definitions and terminology used for digital drugs vary, as their promoters present them as a modern alternative to traditional narcotics.

From a physical perspective, digital drugs are defined by computational linguistics expert Dr. Salah Al-Najim from Kuwait University as: "MP3 audio files stored in a specialized playback format, developed by a commercial website using an open-source GPL technology. These files, marketed as digital drugs, range in duration from 30 to 40 minutes and can be downloaded and played through a dedicated application for iOS-Android operating systems on smartphones, tablets, and computers." (Jubairi, 2015).

Some experts argue that the term "digital drugs" is a substitute for the scientific term binaural beat therapy, which operates in a similar way to traditional drugs. Others suggest that digital drugs are audio files containing monophonic tones that induce effects similar to heroin, cocaine, and other conventional narcotics (Zainab, 2016, p. 2).

I_4. Types of Digital Drugs

Recently, various types of digital drugs have emerged, each with a specific name based on its effect. These drugs operate at specific frequencies and are categorized according to the desired experience.

Common names for digital drugs include: "Live the Moment", "Fly in the Sky", "Pleasure in Music", "Migratory Birds", these have gained widespread popularity globally with the advancement of the Internet and mobile technology (Aslan, 2023, p. 27).

Another category includes drugs like "Crystal Legend", which induces relaxation and euphoria, and "High Wave", which consists of loud tones that stimulate both the body and mind simultaneously (Morsi, 2017, p. 53).

II. Methods of Digital Drug Distribution

Digital drugs are primarily marketed through online platforms, where they are advertised as safe and legal, given that no law explicitly criminalizes listening to audio files. Various platforms, from mobile applications to multimedia software, facilitate access to these drugs. Websites even provide step-by-step user guides to enhance their effectiveness in inducing relaxation or euphoria.

II_1. Promotion and Illicit Trafficking of Digital Drugs

Promotion of digital drugs is carried out through detailed descriptions on websites and social media pages. It can be done by a single individual using free platforms on the global information network, or by organized groups through live streaming sessions on certain web pages (Harwal, 2014, p. 251).

The illicit trafficking of digital drugs often occurs through email-based marketing, which has become a widespread method of distribution and consumer targeting, particularly among individuals prone to addiction (Harwal, 2014, p. 252).

II_2. The Illicit Consumption of Digital Drugs

Drug consumption refers to the intake of a narcotic substance into the body through any means that affects its physiological functions.

Several online platforms provide dedicated chat rooms where users can share experiences and tips on various types of digital drugs. These chatrooms often mix casual conversations

with discussions about drug use, allowing users to exchange methods of access, consumption techniques, and potential effects (Ahmed A.-R. , 2012, p. 85) .

II_2.1. Online Drug Use and Psychoactive Substances

Digital drug users engage in discussions via **online chatrooms**, where conversations cover both **general topics and drug-related matters**, including **how to consume and enhance drug effects** (Abdel Fattah Bayoumi , Juveniles and the Internet - An In-Depth Study on the Impact of the Internet on Juvenile Delinquency, 2004, p. 112).

The United Nations Medical Committee Advisor, neurologist Dr. Raji Al-Omda, has confirmed that these auditory frequencies disrupt brain electrical activity, **leading to** mental disorientation, detachment from reality, hallucinations, tremors, seizures, and increased heart rate and respiration (Al-Obaidi, 2021, p. 86).

II_2.2. The Illicit Cultivation of Cannabis via the Internet

Modern technology, particularly the Internet, is also being used to facilitate the illegal cultivation of narcotic plants, such as cannabis.

The availability of online **seed stores** has contributed to the widespread illegal distribution of cannabis seeds and cultivation equipment. Specialized online stores—referred to as "Cannabis Boutiques"—**use** advanced horticultural techniques **to** cultivate high-quality cannabis.

Notably, **vendors from India, Canada, and the Netherlands** operate online platforms offering cannabis seeds for sale, further enabling its illegal cultivation and distribution (Aslan, 2023, p. 56).

III_ The Legislative Confrontation of Digital Drugs

Due to the novelty of the concept of digital drugs, which emerged as a result of technological advancements, and given that there is no legal basis for this type of drug, criminal legislations have shown varying stances on this issue.

Digital drugs differ from traditional drugs in their unique nature, which involves specific assumed elements. In particular, information technology tools constitute an essential element in this crime, without which the act cannot be criminalized.

III.1. Elements of the Crime of Digital Drugs

III.1.1. The Legal Element of Digital Drugs

From a legal standpoint, there is no explicit legal provision criminalizing listening to or producing digital sounds. In contrast, recognized drug-related crimes and psychoactive substances are subject to penalties, including medications and intoxicants. However, there is no law prohibiting the downloading of audio files, even if they have effects similar to natural or synthetic drugs or utilize sound waves to simulate mental states.

Despite the safeguards provided by the principle of legality in crimes and punishments—which states that "there is no crime or punishment except by law"—this principle is criticized for causing rigidity and limiting the ability of laws to address emerging crimes like digital drugs. Judges are bound by this principle and cannot go beyond it, necessitating amendments

to existing laws to criminalize the distribution and consumption of this new type of drug (Aslan, 2023, p. 70).

III.1.2. The Material Element

A crime cannot be legally defined without a material element, as no societal disturbance or violation of protected rights occurs without tangible materiality. Additionally, the presence of a material element facilitates proving the crime, as there must be a physical act that constitutes an attack on legally protected interests. This principle has no exceptions.

The material element of digital drug crimes does not differ significantly from the one defined in criminal law. It consists of criminal behavior, harmful consequences, and a causal relationship. However, a unique aspect of digital drugs is the necessity of a connection between the mind-altering drug and the perpetrator's criminal behavior (Abdel Qader , 2008, p. 175).

III.1.2.1. Criminal Behavior

Criminal behavior refers to an act or series of acts committed by a person that the law considers a crime punishable by law. It represents the tangible conduct an individual brings into existence and for which the legislator prescribes a penalty (Mustafa, 2003, p. 266) .

III.1.2.1.1. The Drug

Linguistically, the term "drug" (mukhadir) in the Arabic language (with a damma on the letter "mīm" and a kasra on the emphasized letter "dāl") means *"anything that induces noticeable lethargy and relaxation in the body."* It is said: *"The limb became numb,"* meaning it weakened and could no longer move. Similarly, one might say, *"His body was numbed,"* or *"His hands or legs were numbed."* (Ibn Manzur, p. 312).

In terminology, narcotics have been defined as: *"A substance with specific properties that, when consumed and abused for non-medical purposes, affects the body, mind, or psyche, whether taken orally, nasally, or through any other method."* (Mohammed, 1996, p. 25).

As for digital drugs, the criminalization text covers all types and names of digital drugs, and they are subject to punishment as long as they contain even a minimal percentage of narcotic doses.

III.1.2.1.2. The Criminal Act

The criminal act in digital drug cases involves accessing specialized websites that sell these sound files and listening to them, promoting or selling them, or creating and manufacturing these files.

For legal accountability, the perpetrator must access these designated websites, listen to the music, and pay money to obtain these sound frequencies or promote them. These are considered material actions in digital drug crimes (Al-Rajeh, 2019, p. 47)..

Since digital drugs are studied in an electronic format, the criminal tool used is also digital or electronic, such as a computer, the internet, or a smartphone.

III.1.2.2. The Criminal Result

The criminal result is the second component of the material element after criminal behavior. It is defined as "the change that criminal behavior produces in the external world, representing an attack on a legally protected interest" (Tawfiq , 2009, p. 80).

It is also defined as "the consequence of an action committed by an individual, making it essential for the crime's completion" (Ahmed A. , 2010, p. 126).

In digital drug crimes, the criminal result occurs when intoxication takes place, determined by the impact of sound frequencies on the mind and psychological state of the user.

A user, promoter, creator, or website administrator of digital drug content can be held accountable regardless of whether the criminal result (intoxication) is achieved. For example, if a person downloads a digital drug file but does not listen to it, the criminal result does not occur, allowing the individual to escape legal punishment (Al-Rajeh, 2019, p. 49).

III.1.2.3. The Causal Relationship

The causal relationship is established when an individual accesses a website, consumes digital doses, and experiences euphoria or relaxation without any external interference.

The relationship is also completed if the creation of a website leads to the spread of digital drugs or if someone promotes these drugs, resulting in others obtaining them and suffering harm.

For example, if a person downloads a digital drug file and sends it to another person who knowingly listens to it and experiences its effects, the first individual is guilty of promotion, while the second is guilty of consumption (Al-Rajeh, 2019, p. 50).

III.1.3. The Mental Element

The mental element links the material aspects of the crime to the perpetrator's personality, with intention being its core.

It is also a prerequisite for criminal responsibility, often referred to as the "element of liability." In digital drug crimes, the mental element consists of criminal intent, which includes knowledge and intent.

III.1.3.1. Knowledge

Knowledge is defined as a perception of reality that aligns with actual facts (Fawzia , 2007, p. 297).

A digital drug user exhibits external behavior by accessing digital dose websites, listening to these sounds, and experiencing euphoria or relaxation. This demonstrates awareness that these websites promote digital drugs and intent, as shown by paying for the experience.

Knowledge is absent when an individual is unaware that the sound files contain a drug-like effect. In such cases, criminal responsibility is negated (Al-Rajeh, 2019, p. 54).

III.1.3.2. Intent

A person is criminally liable for digital drug use when intent is present. For example, if an individual deliberately produces digital drug files and distributes them online, their intent is evident.

Conversely, liability is absent in cases of coercion—whether physical or psychological—such as being forced to download digital drugs under threat. Similarly, liability is negated in cases of mental incapacity, such as insanity or mental deficiency, which impair one's ability to exercise control.

III.2. The Stance of Algerian and Comparative Legislations on Digital Drugs

Given that criminal law serves as the backbone of legal frameworks by protecting individual rights and freedoms, the question arises: has the Algerian legislator or comparative legislations criminalized digital drugs?

There is a legislative gap in addressing digital drugs, facilitating their proliferation. No explicit legislation criminalizes the promotion or consumption of digital drugs, largely because tracking their distribution online is difficult, and they do not have physical distribution hubs or cross borders.

III.2.1. The Stance of Comparative Legislations

III.2.1.1. The Position of the French Legislator on Digital Drugs

Several legislative texts have governed cybercrimes in French legislation. The French Penal Code No. 92-336, issued in December 1992, addressed cybercrimes with independent provisions in its second chapter.

Additionally, the French legislator, through an amendment issued in 1994, added a third chapter to the second section of the third part of the Penal Code under the title "*Attacks on Automated Data Processing Systems*," as outlined in Article 323 (paragraphs 1, 2, 3, and 4) (Al-Malt, p. 168).

Until now, the French legislator has not addressed the issue of digital drugs, whether by criminalization or punishment, and has not recognized them as a form of narcotics.

III.2.1.2. The Anglo-American Legal System's Stance

In the United Kingdom, a law called the Computer Misuse Act was enacted in 1990, addressing criminal liability arising from cybercrimes. The first provision of this law dealt with unauthorized access to computer material, while the second provision covered unauthorized access with intent to facilitate or commit further offenses. The third provision included offenses related to the modification or alteration of computer material (Abdel Fattah Bayoumi, 2006, pp. 7-8). However, this law did not address the issue of digital drugs.

Regarding U.S. law, it can be said that the United States was among the first countries to address cybercrimes legislatively. By the end of the 20th century, the U.S. had completed its legislative framework concerning electronic transactions. One of the key laws enacted in this regard was the Electronic Signatures in Global and National Commerce Act (E-Sign Act), passed in the year 2000 (Ahmed & Mohammed, 2006, p. 21).

III.2.1.3. The Position of Arab Legislations on Digital Drugs

Arab legislations have not addressed the issue of digital drugs, as the reliance on computer applications in Arab countries only began in the late 20th century. With this technological shift, legislative efforts also emerged to regulate electronic transactions and combat cybercrimes (Ahmed & Mohammed , 2006, p. 22).

In Algeria, the legislator kept pace with technological advancements by amending evidence laws under Law No. 05/10 of June 20, 2005, which modified and supplemented the Civil Code, recognizing electronic evidence as equivalent to written proof under specific conditions (Aslan, 2023, p. 124). However, Law No. 04/18, concerning drug prevention, illicit drug use, and trafficking, does not include digital drugs. This omission is likely due to the unique nature of cybercrimes and the lack of scientific studies defining digital drugs.

Additionally, the principle of legality in criminal law states that no act can be considered a crime without a legal provision explicitly criminalizing it. This means that, in the absence of specific legislation, digital drugs are not considered a criminal offense.

The Algerian Penal Code does include provisions related to cybercrimes, such as unauthorized access to processing systems, data manipulation, and destruction or alteration of digital information. These offenses are detailed in Section VII bis, under the title "Crimes Against Automated Data Processing Systems."

In Tunisia, the Electronic Commerce and Transactions Law was enacted in 2000, regulating electronic contracts and transactions, while also addressing cybercrimes related to e-commerce.

Similarly, the Egyptian legislator did not classify digital drugs among the criminalized narcotic substances (Ragheb, 2016, p. 142) .

In Jordan, Law No. 11 of 1988 on Drugs and Psychotropic Substances includes a special annex listing illegal narcotics, but digital audio files are not included, meaning that they are not classified as illegal drugs and are therefore not punishable by law (Shaaban, 2010, p. 430).

From the above, it is evident that both Arab and international legislations have failed to address this emerging type of drug. Therefore, it is necessary for lawmakers to:

Enact specific laws criminalizing digital drugs.

Include digital drugs under existing drug control laws.

Increase monitoring of e-commerce platforms to prevent the promotion of digital drugs.

One potential reference is the Model Arab Law for Drug Control, adopted in 1986, which provides a guiding framework for Arab states, including Algeria, when drafting national legislation on cybercrimes. This model law outlines various internet-related offenses, their penalties, and references to national laws for determining their legal consequences (Ahmed & Mohammed , 2006, p. 23).

A comprehensive legislative response is needed, with international and national cooperation to enact modern laws criminalizing acts that endanger users of digital drug platforms, while imposing appropriate penalties (Mansou, 2006, p. 136).

The Budapest Convention on Cybercrime (2001) can serve as a foundation for international collaboration in combating digital drugs. Although this convention does not explicitly address digital drugs, Article 2 states that each signatory country must adopt legislative measures to criminalize actions that cause serious harm to digital data. Since digital drugs affect electronic data and signals within devices, they could be interpreted as causing harm under this convention (Al-Obaidi, 2021, p. 104).

Therefore, it is crucial for international bodies and national governments to act swiftly in adapting legal frameworks to counter the growing threat of digital drugs.

Conclusion:

At the end of this study, and as a result of examining the phenomenon of digital drugs, their methods of dissemination, the pillars on which they are based, and the stance of comparative laws toward them, it has become evident how dangerous this phenomenon is. Digital drugs lack a tangible structure; they are merely audio files that can be downloaded and played via the internet. They can be accessed through smartphones, tablets, or regular computers. These audio files and tones consist of mono and binaural sound waves that affect the brain, causing disturbances that lead to sensations of euphoria, relaxation, or even loss of consciousness. The danger of digital drugs also lies in their easy accessibility, rapid spread among young people, and low cost—some are even available for free on certain websites. At the same time, proving criminal intent in their use is difficult, as they lack physical components.

We have observed the absence of a national vision and awareness mechanisms to limit the spread of this phenomenon, not only in Algeria but across all comparative legal systems. There are no specific provisions that criminalize the design, promotion, or consumption of this type of drug. As a result, in the absence of legal texts criminalizing these actions, their consumption remains legally permissible based on the principle of legality: "No crime and no punishment without a legal provision," despite their serious risks.

Recommendations:

→ We propose that the Algerian legislator enact a specific law addressing digital drugs, defining this crime, outlining its dangers to mental and psychological health, and establishing strategies and mechanisms for combating it. Alternatively, a supplement could be added to the law on drug prevention and psychotropic substances.

→ The creation of fake websites to lure and track digital drug dealers and users through electronic infiltration techniques.

→ The necessity of effective international cooperation to combat digital drug crimes and the development of electronic monitoring systems that can block or shut down websites promoting such drugs.

→ The invention or development of an early warning device that alerts the user when frequency manipulations occur on their receiving device or headphones, particularly in cases where the person is unknowingly exposed or accessing such sites for the first time.

→ To effectively combat this emerging type of drug, families must play a stronger role in monitoring their children by reducing their screen time and supervising the websites they visit.

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