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Narcotic and Psychotropic Substances

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ABSTRACT

This article provides a comparative assessment of the Narcotic Drugs and Psychotropic Substances (NDPS) Act and the Drugs and Cosmetics (D&C) Act, highlighting their key features and legal implications The Drugs and Cosmetics Act, 1940 is considered a life-saving statute, enacted with the primary objective of regulating the import, manufacture, distribution, and sale of drugs and cosmetics in India. On the other hand, the NDPS Act, 1985 serves as a more stringent piece of legislation, aimed at controlling and regulating operations related to narcotic drugs and psychotropic substances. While both laws deal with drugs, the NDPS Act is stricter and more specialized, incorporating some of the strongest legal provisions in Indian law. Notable features of the NDPS Act include Minimum mandatory punishment of 10 years' imprisonment and a fine of ₹1,00,000 for certain offenses. India's struggle with narcotic drugs and psychotropic substances remains one of the most pressing socio-legal concerns today. Its geographic closeness to the "Golden Triangle" and "Golden Crescent" makes the country particularly vulnerable to trafficking, production, and usage of drugs. The introduction of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, marked a turning point in India's legal framework by imposing strict prohibitions, heavy penalties, and centralized regulatory measures. Yet, after nearly four decades of its operation, a key contradiction has emerged: while the Act has strengthened enforcement mechanisms, it has largely neglected the social, economic, public health, and rehabilitative aspects of drug addiction. This study undertakes a socio-legal evaluation of India's drug control regime, tracing its historical development, identifying enforcement difficulties, and situating it within international contexts. It advocates for a more balanced approach that combines strict punitive measures against traffickers with compassionate policies toward users, highlighting the need for prevention, treatment, and holistic reform

KEY WORDS: Drugs and Cosmetics Act, 1940,Narcotic Drugs and Psychotropic Substances Act, 1985NDPS Act, drug regulation in India, drug abuse prevention, public health protection, life-saving statute, stringent legislation, quality control of drugs, licensing of drugs, non-bailable offenses, mandatory minimum punishment, drug consumption offense, death penalty for repeat offenses, attempt and abetment liabimmunity from prosecution, narcotic drugs control, psychotropic substances regulation, legal provisions on drugs in India

INTRODUCTION

This article compares the NDPS Act, 1985, with the Drugs and Cosmetics Act, 1940 (D&C Act), highlighting gaps and suggesting improvements by drawing lessons from the NDPS framework.

India regulates narcotic drugs and psychotropic substances to balance medical needs with international commitments under the 1961, 1971, and 1988 UN conventions. These require restricting use to medical and scientific purposes while preventing abuse.

The NDPS Act, enacted in 1985 to replace the Dangerous Drugs Act of 1930, was passed swiftly and later amended in 1989, 2001, and 2014. It prohibits cultivation, manufacture, possession, trade, and consumption of narcotic and psychotropic substances, except under license. It classifies (1) narcotic drugs, (2) psychotropic substances, and (3) controlled substances (precursors like acetic anhydride, ephedrine, and pseudoephedrine).

The Act prescribes strict procedures for search, seizure, and arrest, with judicial emphasis on safeguards such as recording prior information, authorized arrests, and informing individuals of their rights, given the severity of punishments.

Keywords: D&C Act, NDPS Act, Offence

OBJECTIVES

- Set up a legal system that imposes strict consequences and sanctions on those who break these regulations.
- Implement the requirements of international treaties related to narcotic and psychotropic substances, such as the major UN conventions, by incorporating them into national law.
- Create procedures for confiscating drugs, substances, and any assets connected to the illegal drug trade.

Natural Substances

- **Meaning:** Drugs obtained from plants or fungi that act on the nervous system. They provide pain relief in medicine but have high abuse potential.
- **Narcotics:** Opium, Morphine, Codeine
- **Psychotropics:** Cannabis (THC, CBD), Psilocybin (mushrooms), Mescaline (peyote)
- **Medical Role:** Pain control, cough remedies, and experimental therapies (e.g., psilocybin for depression, cannabis for epilepsy).
- **Risks:** Dependence, breathing issues, recreational misuse, and psychological harm such as panic or psychosis.

Psychotropic Substances (General)

- **Meaning:** Chemicals that alter mood, thinking, or behaviour, with effects ranging from stimulation to sedation or hallucinations.

Types:

- Stimulants – e.g., Amphetamines, Cocaine, MDMA
- Depressants – e.g., Benzodiazepines, Barbiturates
- Hallucinogens – e.g., LSD, Psilocybin, Mescaline, Ketamine
- Medicines – e.g., SSRIs, Lithium, Antipsychotics
- **Uses:** Manage mental health conditions like depression, anxiety, PTSD, ADHD, bipolar disorder, and insomnia; psychedelics are also studied for therapy.
- **Risks:** Tolerance, dependence, memory and mood issues, overdose, and psychiatric side effects.

Synthetic Substances

- **Meaning:** Man-made drugs created to replicate or intensify natural compounds, often stronger and riskier.
- **Narcotics:** Fentanyl, Methadone, Pethidine, Tramadol
- **Psychotropics:** MDMA, Benzodiazepines, synthetic cannabinoids (Spice, K2), synthetic cathinones (bath salts)
- **Risks:** High overdose danger, strong addictive potential, and unpredictable reactions, especially from designer drugs.

Legal Framework

- **Global Treaties:**
- 1961 *Single Convention on Narcotic Drugs* – regulates opium, cannabis, coca.
- 1971 *Convention on Psychotropic Substances* – covers natural and synthetic psychoactive drugs.
- **Domestic Laws:** Permit restricted medical or research use while criminalizing unauthorized manufacture, trafficking, and possession.

LEGISLATIVE POLICY OF INDIAN PARLIAMENT ON DRUG ABUSE

India's drug regulation policy is guided by Article 47 of the Constitution, which calls for the prohibition of intoxicating substances except for medical use. Earlier laws such as the Opium Acts (1857, 1878) and the Dangerous Drugs Act (1930) proved inadequate against rising drug abuse and trafficking. To strengthen control, the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), 1985 was enacted.

- Consolidate and modernize drug-related laws.
- Impose strict controls on narcotic and psychotropic substances.
- Enable confiscation of assets acquired through illicit trafficking.
- Fulfil India's obligations under international drug control conventions.

Drug	**Quantity and Punishment**			
	Small Quantity	Maximum of 6 months rigorous imprisonment or a fine up to Rs. 10,000 or Both.	***Commercial Quantity***	Rigorous imprisonment from 10years (min.) to 20 years (max.) & a fine from Rs 1 lakh to 2 lakhs.
Heroin	5mg		250gms	
Opium	25mg		2.5kgs	
Morphine	5mg		250gms	
Ganja	1000mg		20kgs	
Charas	100mg		1kg	
Cocaine	2mg		100gms	
Methadone	2mg		50gms	
Amphetamine	2mg		50gms	
LSD	0.002gm		0.1gm	

Table :1

Penalty for Violation of the NDPS Act

- **Small quantity:** Up to 1 year imprisonment, or fine up to ₹10,000, or both.
- **More than small but less than commercial:** Up to 10 years rigorous imprisonment and fine up to ₹1 lakh.
- **Commercial quantity:** 10–20 years rigorous imprisonment and fine between ₹1–2 lakhs.

Additional provisions:

- **Repeat offences:** Minimum 15 years, up to 30 years imprisonment, and fines of ₹1.5–3 lakhs.
- **Financing trafficking/harbouring offenders:** 10–20 years imprisonment and fines up to ₹2 lakhs.
- **Attempts, conspiracy, abetment:** Punished the same as the main offence.
- **Thresholds:** Specific notified limits define “small” and “commercial” for each drug (e.g., 2g amphetamine = small; 50g = commercial).

The law’s harsh penalties aim to deter drug abuse, trafficking, and related crimes.

Drug Control Initiatives in India

The **NDPS Act, 1985**, was enacted to regulate narcotic drugs and psychotropic substances in India, targeting trafficking, abuse, and misuse. However, it faces criticism for treating all drugs equally, imposing harsh penalties even for minor offenses like small amounts of cannabis, which can disproportionately impact individuals and may push the market toward harder drugs.Reform advocates suggest decriminalizing or regulating soft drugs like cannabis to reduce harm, citing cultural history and evidence that regulated use can prevent escalation to more dangerous substances. Opponents warn of potential increased use of hard drugs, invoking the “gateway drug” theory, and support a strict zero-tolerance approach. Current debates emphasize shifting from punishment-focused policies toward **public health-oriented strategies**, including prevention, rehabilitation, and differentiated treatment for users. Complementary measures include the **Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988**, which enables preventive detention for illegal traffickers

Checklist for Investigating Offences under the NDPS Act

Recording Information: Document all NDPS violation reports and forward to senior officers.

1. **Verification:** Cross-check information through reliable sources or surveillance.
2. **Operation Planning:** Assign duties, brief officers on objectives, and ensure valid ID cards are carried.
3. **Tools & Equipment:** Prepare necessary tools, communication devices, cameras, arms, search forms, sealing materials, and weighing instruments.

4. **Drug Identification Kit:** Carry functional reagents for on-site drug testing.
5. **Entry into Premises:** Obtain authorization under Section 41(2); secure entry/exit points and control communications.
6. **Search Documentation:** Record grounds for search (Form DR-I) and submit to superior officer.
7. **Disclosure & Purpose:** Officers must identify themselves, state search purpose, allow reciprocal search, and restrict external communication.
8. **Independent Witnesses:** Conduct search in presence of at least two impartial local witnesses and the occupant or representative.

Narcotic Drug Detection Kit and NDPS (Amendment) Bill, 2021

The **NDPS Act, 1985** regulates the manufacture, transport, possession, and use of narcotic and psychotropic substances and criminalizes financing or facilitating illicit drug activities.

Key points:

- **Penalties:** Rigorous imprisonment of 10–20 years and fines of ₹1–2 lakh; repeat offences may attract the death penalty.
- **Asset Confiscation:** Properties obtained or used in illegal drug trafficking can be seized.
- **Enforcement:** The **Narcotics Control Bureau (NCB)** was established in 1986 to oversee and enforce the Act.

Recent Advancements in Narcotic and Psychotropic Substances (2024–2025)

Regulatory Updates

- **China (2025):** Added 13 new controlled synthetic drugs, effective July 1, addressing designer drug threats.
- **India (2025):** Updated the NDPS Act to include newly abused synthetic drugs and pharmaceutical preparations.

2. Strengthened Enforcement

- India established **NCORD** (four-tier Narco-Coordination Centre) and **ANTFs** in every state/UT for better coordination.
- Centralized portal and **Joint Coordination Committee (JCC)** enhance tracking and investigations.
- 2024 drug seizures in India totalled ₹25,330 crore, a 55% increase over the previous year.

3. Substance Classification Trends

- Rapid scheduling of new psychoactive substances (NPS) like synthetic stimulants, cannabinoids, and opioids.
- Notable additions: Mephedrone, Ketamine, Tramadol, fentanyl analogues, and Isotonitazene.

4. Public Health-Oriented Policy

- Experts advocate harm-reduction strategies, focusing on demand management, rehabilitation, and reduced reliance on strict punitive measures.

Summary: Global and national trends emphasize timely regulation of emerging substances, stronger enforcement coordination, and adoption of public health approaches alongside traditional punitive measures.

Licensing for Controlled Substances and Narcotics in India

In India, controlled substances and narcotics are drugs or chemicals monitored closely by the government due to their potential for misuse, addiction, or illegal activity. The licensing and regulation of these substances are strict because of their medicinal value as well as the public health and safety risks they pose.

What are Controlled Substances and Narcotics

- Controlled substances include drugs and chemicals that are regulated by law. This category encompasses medications for pain relief, sleep disorders, or mental health conditions, along with certain chemicals used in the manufacture of narcotic drugs.
- Narcotics generally refer to substances that dull the senses and relieve pain, mainly derived from opium or synthetic chemicals. Such substances are highly addictive. Well-known examples are morphine, heroin, and codeine.

Regulatory and Licensing Procedures

India's regulatory framework for narcotics and controlled substances involves a detailed licensing process governed by the NDPS Act, 1985, and associated rules:

- Licensing for Cultivation and Manufacture Licensing for opium poppy cultivation and narcotic drug manufacturing is managed by the Narcotics Commissioner and local authorities. Eligibility criteria, minimum yields, and other conditions are finalized annually by the

government, and licenses are issued or refused based on compliance with these rules. Cultivators and manufacturers must apply through prescribed forms, pay applicable fees, and may appeal decisions if licenses are denied or revoked.

- Import and Export Licenses: Companies or individuals intending to import or export narcotic drugs or psychotropic substances must apply for specific certificates, such as import or export permits, through prescribed forms (e.g., IMP-1, EXP-1). These applications are scrutinized, and agencies like the Narcotics Commissioner and international bodies like the INCB are involved to ensure compliance with international obligations.
- Import of Precursor Chemicals and No Objection Certificates (NOC): Importers of precursor chemicals like Ephedrine or Pseudoephedrine need to obtain NOCs by submitting detailed applications, paying fees, and providing documentation such as licenses, import contracts, and certification from the authorities like the Drug Controller General of India. These permits are issued after verification that imports conform to Indian and international regulations.

Governing Laws

- **NDPS Act, 1985:** Prohibits unauthorized production, possession, sale, transport, purchase, and consumption of narcotic and psychotropic substances.
- **NDPS Rules, 1985:** Provides detailed procedures for cultivation, manufacture, possession, and transport.
- **NDPS (Regulation of Controlled Substances) Order, 2013:** Classifies certain precursor chemicals as controlled substances.

DISCUSSION

- The Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985 is a key piece of legislation in India designed to combat the illicit trade and misuse of narcotics and psychotropic substances. It covers a wide spectrum of drugs, including natural substances like opium, coca leaves, and cannabis, as well as synthetic narcotics. These substances are grouped under schedules based on their abuse potential and medical use. The Act governs activities such as production, manufacture, possession, sale, purchase, consumption, transport, storage, import, export, and interstate trade of these drugs. Although herbal medicines are often used for conditions like asthma, allergies, and cancer, the primary aim of the Act remains to curb abuse through strict penalties for unauthorized production, possession, or trafficking.
- At the same time, the law supports the legitimate medical and scientific use of these substances by creating central and state-level authorities to issue licenses and permits. This balance ensures that patients have access to necessary medication while reducing the risk of diversion into unlawful channels. Enforcement measures under the Act focus on strengthening law enforcement, securing borders, and enhancing surveillance systems. Demand-reduction strategies include awareness programs, rehabilitation initiatives, and collaborations between enforcement agencies, healthcare professionals, NGOs, and community leaders to promote prevention and treatment.
- The Act also empowers authorities to detain suspected traffickers preventively and seize properties derived from illegal drug operations, thereby targeting the financial backbone of trafficking networks. By combining stringent punishments with preventive strategies and lawful access for medical needs, the NDPS Act functions as a comprehensive framework that unites multiple stakeholders in India's fight against drug misuse and trafficking.

Labelling and Sealing of Evidence

- If narcotic drugs are seized in packets or containers, each must be assigned a serial number for identification.
- If the drug is in loose form, it should be packed into unit containers of uniform size, with each container given a serial number.
- On each package or on an attached cardboard label (bearing the seal of the seizing officer), the following details must be recorded:
- Gross weight (contents + packaging)
- Net weight (contents only)
- Description/particulars of the drug
- Date of seizure
- A high-accuracy or electronic balance should be used for weighing.
- If multiple samples are drawn, they should be numbered consecutively and marked as S-1, S-2, S-3, etc., on both the *original* and *duplicate* samples.
- Each sample must also bear the serial number of the package, marked as P-1, P-2, P-3, and so on.
- Samples must be drawn and sealed

Licensing Authorities

- Narcotics Control Bureau (NCB): Central agency enforcing NDPS Act, overseeing anti-drug trafficking and abuse.
- Central Bureau of Narcotics (CBN): Under the Department of Revenue, handles licensing for legal cultivation of opium and production of narcotic drugs; also issues import/export licenses.
- State Drug Controllers: Regulate licensing for retail/wholesale dealers, pharmacies, and manufacturers at the state level.
- Drug Controller General of India (DCGI): Oversees licensing for pharmaceutical companies manufacturing drugs containing controlled substances.

Types of Licenses

- Manufacture and Sale License: Required to manufacture drugs with narcotic or psychotropic substances (issued by state Drug Controllers and sometimes DCGI).
- Possession License: Needed for authorized possession by hospitals, pharmacies, or research institutions.
- Transport and Import/Export License: Required for transporting narcotics within India and for international trade (managed by CBN).
- Retail/Wholesale License: For stockists and sellers of medicines containing controlled substances (issued by state authorities).
- Controlled Substance Registration: Companies dealing with controlled substances (e.g., precursors) must register with NCB.

Procedure for Obtaining a License

1. Identify License Category: Determine if the substance is narcotic, psychotropic or controlled.
2. Submit Application: Apply online/offline with details about the applicant, substance, quantity, purpose, storage, and previous licenses.
3. Provide Documentation: Identity proofs, company registration, site plan, affidavits, technical staff details.
4. Inspection: Premises inspection by officials to verify safety and compliance.

Grant of License: Upon satisfactory compliance, license is issued for a fixed period with renewal and compliance checks required

Why is alcohol excluded and opium is included in NDPS act:-

Alcohol is excluded from, and opium is included in, the NDPS Act, 1985 because of differences in social acceptance, economic factors, cultural traditions, and the medical risks associated with dependence. Alcohol has been consumed for centuries and is deeply entrenched in social customs worldwide, making any attempt at prohibition politically and socially difficult. By contrast, opium and similar narcotics are regarded as highly addictive drugs with severe health consequences, prompting their regulation under international law and India's drug policy framework.

Alcohol Exclusion:

- Widely accepted in cultural and social practices.
- Generates significant state revenue through taxation, making prohibition economically impractical.
- Enforcement is complicated due to local and illicit production.
- Dependence develops more gradually, with varied long-term outcomes.

Opium Inclusion

- Classified as a "hard drug" with rapid dependence, high overdose risk, and severe health consequences.
- Regulated under international treaties (opium, cannabis, cocaine), which exclude alcohol and tobacco.
- NDPS Act controls both supply (trafficking, smuggling) and demand, with rehabilitation provisions.
- Opioid addiction progresses quickly, associated with high mortality and serious health risks.

CONCLUSION

Over the past 27 years, India has made significant progress in combating drug dependence, notably in developing policies and expanding infrastructure. This progress is commendable; however, the key challenge now is assessing the effectiveness and impact of these initiatives. It is crucial to continuously evaluate and refine strategies and policies based on solid research outcomes. Without systematic evaluation, plans remain theoretical and lack real-world impact. Recent advancements show quick regulatory adaptations to new psychoactive substances, enhanced coordination among enforcement agencies through improved technology, a growing emphasis on harm reduction strategies, and strengthened international cooperation. This evolving environment reflects the changing threat posed by synthetic narcotics and psychotropic drugs and highlights the dynamic approaches taken to curb their misuse and trafficking.

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