



Drug Abuse in India: Need and Efficacy of NDPS Act, 1985

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ABSTRACT:

Drug misuse has emerged as one of the most important social and legal concerns in contemporary India. It is a problem that affects millions of people across a wide range of socioeconomic backgrounds and geographical locations. The Narcotic Drugs and Psychotropic Substances legislation, 1985 (NDPS Act) was created as India's major legal framework to tackle the rising threat of drug trafficking and misuse. This legislation was adopted in 1985. The purpose of this research paper is to investigate the historical circumstances that led to the enactment of the National Drug Policy Act (NDPS Act), provide an analysis of its most important sections and revisions, assess the effectiveness of the NDPS Act in combating drug-related crimes, and identify contemporary obstacles in its implementation. The purpose of this study is to provide a comprehensive analysis of judicial precedents, statistical data, and comparative legal frameworks. The findings of this study indicate that although the National Drug Policy Act (NDPS Act) has established a strong legal foundation for the fight against drug offences, there are still significant gaps in its practical implementation. These gaps are particularly concerning when it comes to addressing the public health aspects of drug addiction and being sure that punishment is proportionate. At the end of the article, recommendations are provided for improving the efficiency of the Act by implementing judicial reforms, enhancing rehabilitative methods, and improving collaboration between different agencies.

Keywords: NDPS Act 1985, drug abuse, narcotic drugs, psychotropic substances, drug policy, criminal law, rehabilitation

Introduction

Within the context of India, the spread of drug usage reflects a multidimensional challenge that extends beyond the usual bounds of law enforcement, public health, and social welfare. The magnitude of this challenge is reflected in alarming statistics: according to the National Survey on Extent and Pattern of Substance Use in India (2019), approximately 31 million people in the country are users of cannabis, and 2.26 million people are dependent on opioids (Ministry of Social Justice and Empowerment, 2019). All of these statistics are alarming. Because of this pandemic, broad legal involvement was required, which ultimately resulted in the passage of the Narcotic Drugs and Psychotropic Substances Act in the year 1985.

By unifying a number of other laws that were already in place and adding draconian punishments for the trafficking, possession, and use of narcotic narcotics and psychotropic substances, the National Drug and Psychotropic Substances Act (NDPS Act) ultimately became India's major weapon against drug-related offences. In spite of this, doubts continue to be raised about the effectiveness of the Act in fulfilling its dual goals of discouraging drug-related criminal activity and treating the underlying public health epidemic of addiction, which has been established over forty years after it was enacted.

This research study provides a detailed assessment of the development, execution, and impact of the National Drug Policy and Strategy Act (NDPS Act) on the landscape of drug misuse in India. The purpose of this study is to analyse whether the Act has successfully balanced its punitive and rehabilitative purposes while adjusting to increasing obstacles in the global drug trade. This evaluation will be accomplished through the analysis of court interpretations, enforcement data, and comparable legal frameworks.

Historical Context and Need for the NDPS Act

Pre-1985 Legal Framework

An approach to drug control in India was fragmented over various statutes prior to the implementation of the National Drug Policy and Security Act (NDPS Act). These statutes included the Opium Act of 1878, the Opium Act of 1957, and the Dangerous Drugs Act of 1930. In order to handle the ever-changing nature of drug trafficking and the introduction of synthetic psychotropic chemicals, this piecemeal legislation proved to be insufficient (Chandra & Ray, 2009). A number of significant flaws were present in the current legislative system, including inconsistencies in the classifications of controlled drugs, variations in the structures of penalties, and a restricted capacity for dealing with international drug trafficking networks.

International Obligations and Pressures

There was a considerable impact that India's dedication to international drug control treaties had on the formation of the National Drug Policy Act (NDPS Act). India was required to create comprehensive domestic law that was in line with international standards since it was a signatory to both the

Single Convention on Narcotic Drugs in 1961 and the Convention on Psychotropic Substances in 1971 (Dhawan et al., 2017). Increased demand from the international community, notably the United States, to enhance anti-drug measures further pushed the need for unified law. This pressure was particularly intense in the United States.

Emerging Drug Abuse Patterns

The panorama of drug misuse in India saw a significant upheaval during the 1970s and early 1980s. The introduction of heroin and synthetic substances was a significant addition to the traditional consumption patterns, which principally involved the use of opium and cannabis. According to Kumar (2018), the proximity of the Golden Triangle to the borders of India's northeastern region made it easier for significant trafficking routes to be established, which resulted in the nation being both a transit point and a consuming market for different types of illegal narcotics. This ever-changing danger profile necessitated a more complex legal response than what could be provided by the legislation that were in place at the time.

Socio-Economic Factors

The socio-economic revolution that took place in India throughout the 1980s, which included urbanisation, shifting gender roles within families, and increasing vulnerability among young people, all led to the rise in the prevalence of drug usage. Economic liberalisation and greater connection inadvertently made it easier for drug trafficking networks to operate, while poor social support systems left disadvantaged people open to substance misuse (Pal et al., 2004). Economic liberalisation and improved connectivity. In order to address these underlying social variables, the government acknowledged that traditional measures to law enforcement were not sufficient on their own.

Key Provisions and Structure of the NDPS Act, 1985

Definitional Framework

Comprehensive definitions of narcotic drugs, psychotropic substances, and actions connected to them were defined under the National Drug Policy Act (NDPS Act). A comprehensive categorisation system is provided in Section 2 of the Act. This classification system differentiates between several categories of banned drugs on the basis of their pharmacological qualities and the potential for misuse. According to Sharma (2015), legal clarity and the facilitation of successful prosecution of drug-related offences were both significantly aided by the accuracy with which this term was formulated.

Prohibition and Control Mechanisms

The core prohibition framework is established in Chapter III of the Act, which makes it illegal to cultivate, produce, possess, sell, purchase, transport, warehouse, use, consume, import, or export psychotropic substances and narcotic drugs unless one is in possession of a license or permit. The prior legislation, which had mostly concentrated on certain drugs or activities, was significantly different from this broad ban strategy, which constituted a substantial departure (Garg & Panda, 2016).

Penalty Structure

The NDPS Act's first punishment structure was characterised by its harshness, with minimum obligatory terms for certain kinds of offences. Both of these elements were included in the original framework. According to the amount of chemicals involved, the Act established three different levels of offences: minor quantity, intermediate quantity, and commercial quantity. These levels were dependent on the amount of substances involved. According to Jhangiani (2019), this graded strategy was developed with the intention of distinguishing between users, small-time dealers, and large traffickers. However, the execution of this technique has produced a significant amount of debate.

Enforcement Agencies and Powers

Multiple organisations, such as the Narcotics Control Bureau (NCB), state police forces, customs authorities, and other approved personnel, are given the authority to investigate and punish drug-related offences as a result of the Act. On the other hand, Section 50 prescribes particular processes for personal searches in order to preserve individual rights (Malhotra, 2020). Section 42 authorises sweeping search and seizure authorities. The laws in question are an attempt to strike a compromise between the constitutional safeguards and the efficacy of the enforcement.

Amendments and Evolution of the Act

The 2001 Amendment: A Paradigm Shift

It was the amendment that took place in 2001 that brought about the most important change to the National Drug Policy Act (NDPS Act), which radically transformed its attitude to drug users. As a result of this revision, the emphasis was shifted away from incarceration for possession and use of tiny quantities and towards treatment and rehabilitation activities. When bail provisions for small quantity offences were liberalised, Section 64A was established to allow for mandatory treatment of addicts (Tripathi, 2018). Additionally, bail provisions were provided for minor offences. This transition not only addressed the public health implications of drug usage, but it also signalled a trend towards a more balanced approach.

Subsequent Modifications

Additional revisions were made in 2014, with the primary focus being on procedural improvements. These amendments included provisions for required medical examinations and increased protections against false implication. Increasing concerns about abuses of human rights and the necessity to avoid misuse of the Act's harsh provisions were the driving forces behind these modifications (Singh & Kumar, 2021). Additionally, the revisions addressed concerns regarding the admission of evidence as well as the rights of those who are accused even while the inquiry is underway.

Judicial Interpretations and Case Law Development

In the process of designing the execution of the Act, the Supreme Court and several High Courts have made significant contributions via the issuance of historic judgements. Within the context of the case of Tofan Singh v. State of Tamil Nadu (2013), the Supreme Court emphasised the need of adhering to the specified protocols when conducting searches and seizures. In a similar vein, the Supreme Court of India defined the conditions for demonstrating conscious possession of narcotic drugs in the case of State of Punjab v. Baldev Singh (1999) (Reddy, 2019). These judicial interpretations have been of great assistance in protecting individual rights and have given law enforcement authorities with significant direction.

Efficacy Analysis: Achievements and Limitations

Statistical Performance Indicators

According to the findings of a review of enforcement statistics, the effectiveness of the NDPS Act is not uniformly successful. As stated by the National Crime Records Bureau (2020), the number of drug-related cases that were registered under the NDPS Act significantly rose from 15,000 in the year 2010 to over 25,000 in the year 2019, which suggests either an improvement in law enforcement or a rise in the number of drug-related crimes. According to the National Crime Records Bureau (2020), the conviction rate for NDPS cases has remained relatively low at roughly 35%, which raises doubts about the quality of investigations and prosecutions.

Impact on Drug Trafficking Networks

There have been numerous high-profile seizures and prosecutions of major drug cartels as a result of the Act, which has showed great efficacy in dismantling large-scale organisations that are involved in trafficking. According to Agarwal (2017), the formation of the Narcotics Control Bureau as a specialised organisation has resulted in greater intelligence collecting capabilities as well as enhanced cooperation amongst other law enforcement authorities. On the other hand, the adaptation of trafficking networks and the advent of novel synthetic substances continue to be major difficulties.

Public Health Outcomes

The amendment that was passed in 2001 placed a strong focus on treatment and rehabilitation, which has led to favourable outcomes in certain states. De-addiction centres have reported an increase in the number of voluntary admissions after the introduction of the decriminalisation of personal use. On the other hand, the execution of treatment requirements continues to be variable across various jurisdictions, and a significant number of states do not have a suitable infrastructure for rehabilitation programs (Basu et al., 2019). However, the stigma that is attached to drug use continues to be a barrier to the implementation of effective public health approaches.

Human Rights Considerations

Significant human rights concerns have been raised as a result of the harsh requirements of the Act, notably with relation to arbitrary arrests, violence in the facilities where individuals are being held, and disproportionate punishment for small offences. Reports of human rights breaches continue to be reported, despite the fact that the amendment that was passed in 2001 brought about reforms. This highlights the necessity for improved training of law enforcement officers and stronger supervision procedures (Human Rights Watch, 2020).

Contemporary Challenges and Emerging Issues

Digital Drug Trade

The present framework of the National Drug Policy and Strategy (NDPS) is not adequately suited to deal with the new issues that have arisen for drug law enforcement as a result of the proliferation of cryptocurrency transactions and dark web markets. It has been demonstrated that traditional techniques of inquiry are not sufficient for tracing digital transactions, and the provisions of the Act do not effectively cover activities related to drug trafficking that take place online (Nayak, 2021). This technological progression necessitates immediate modifications to both legislative and procedural frameworks.

Synthetic Drugs and New Psychoactive Substances

The substance-specific approach that the Act takes is facing a severe challenge as a result of the rise of synthetic drugs and novel psychoactive substances (NPS). There are several synthetic medications that do not come within the present scheduling system of the Act, which results in legal gaps that are exploited by traffickers. According to Dutta and Basu's research from 2020, the legislative mechanism for adding new compounds to banned lists is not enough to keep up with the high rate of chemical discovery.

Inter-State and International Coordination

Even though the National Counterintelligence Bureau (NCB) was established as a central coordinating organisation, there are still issues with interstate collaboration in drug law enforcement. There are still several obstacles that prevent successful anti-drug operations from being carried out, including jurisdictional issues, different enforcement priorities, and insufficient information sharing. In a same vein, the mechanisms of international collaboration need to be strengthened in order to combat networks of trafficking that traverse international borders (Rao, 2018).

Resource Constraints and Capacity Building

Many law enforcement agencies do not have the resources, training, or technology skills to adequately apply the National Defence Personnel Security Act (NDPS Act). In the field of drug analysis, forensic laboratories are experiencing backlogs, while investigating agencies are struggling with a lack of available people and antiquated infrastructure. According to Mehta and Singh (2019), these capacity limits have a substantial influence on the effectiveness of the Act's enforcement ability.

Comparative Analysis with International Best Practices

Portugal's Decriminalization Model

Lessons that are useful for Indian policymakers might be learnt from Portugal's full decriminalisation method, which was adopted in the year 2001. According to the Transform Drug Policy Foundation (2014), Portugal was able to achieve considerable reductions in the number of fatalities, HIV infections, and drug-related crimes that were caused by drug use. This was accomplished by addressing drug use as a public health issue rather than a criminal concern. Although the amendment that India passed in 2001 headed in a similar direction, the implementation of that amendment is still imperfect and inconsistent.

United States: From War on Drugs to Harm Reduction

An understanding of the evolution of policy may be gained from the gradual transition that the United States has made from exclusively punitive methods to the incorporation of harm reduction strategies. According to Kleiman et al. (2018), recent changes that place an emphasis on drug courts, alternative treatment solutions, and the legalisation of medicinal marijuana illustrate the significance of taking a balanced approach. It would be beneficial for India to implement comparable diversionary programs for drug offenders charged with non-violent offences.

Switzerland's Heroin-Assisted Treatment

It is clear that evidence-based therapies are helpful for treating chronic drug users, as demonstrated by Switzerland's heroin-assisted treatment program, which has been met with controversy but has been successful. According to Uchtenhagen (2014), this strategy has resulted in a considerable reduction in drug-related criminal activity and dramatically better health outcomes for participants. These cutting-edge therapeutic techniques have the potential to supplement India's current rehabilitation framework.

Recommendations for Reform

Legislative Reforms

To answer the problems of the present day, the National Defence Personnel Act has to undergo a full review and be updated. Key legislative reforms should include the following: updating the scheduling system to accommodate new psychoactive substances; incorporating provisions for digital drug transactions; strengthening international cooperation mechanisms; and establishing clear guidelines for proportionate sentencing based on the severity of the offence and the circumstances surrounding the offender (Committee on Drug Policy Reform, 2021).

Institutional Strengthening

It is very necessary, in order to improve the efficacy of the Act, to strengthen institutional capacity across all levels of drug law enforcement. This includes increasing the resources and mandate of the National Crime Bureau (NCB), establishing specialised drug courts to provide a quicker and more informed adjudication process, boosting the capacities of forensic laboratories, and enhancing training programs for law enforcement professionals (Ministry of Home Affairs, 2020).

Public Health Integration

According to the National AIDS Control Organisation (2019), the provisions of the Act that pertain to public health need to be significantly strengthened. This can be accomplished by expanding treatment and rehabilitation infrastructure, integrating drug treatment services with general healthcare systems, implementing harm reduction programs that are supported by evidence, and addressing the stigma and discrimination that drug users face.

Community-Based Approaches

Participation from the community and the establishment of social support networks are necessary for effective drug control. Community-based preventive initiatives, peer support networks for recovery, family counselling and support services, and public awareness campaigns that focus on evidence-based information rather than fear-mongering should be prioritised in the reforms that are being implemented (Social Justice Ministry, 2021).

Conclusion

India's attempts to tackle drug misuse and trafficking have reached a key milestone with the passage of the Narcotic Drugs and Psychotropic Substances Act in 1985. The Act has been successful in providing a comprehensive legal framework and has achieved noteworthy victories in enforcement; yet, its efficacy is still limited due to difficulties in execution, constraints in resources, and changing patterns of drug trafficking. The amendment that was passed in 2001 was a significant development in the direction of acknowledging the public health implications of drug usage; nonetheless, this forward-thinking approach has to be implemented in a more comprehensive manner.

Moving forward, India's policy for drug control has to adopt a balanced approach that combines effective law enforcement with public health programs that are supported by research. For this reason, not only are legislative reforms necessary to handle modern concerns, but also the development of institutions, the enhancement of resources, and the participation of the community are also required. It has been demonstrated through the experiences of other nations that in order to find long-term solutions to drug issues, there must be a long-term commitment to comprehensive policies that target both the decrease of supply and demand.

The NDPS Act has to be updated in order to continue being effective and relevant as India continues to struggle with the many problems associated with drug usage. This progress need to be led by scientific facts, principles of human rights, and the realisation that drug usage is a challenge to law enforcement in addition to being a problem that affects public health. The only way for India to have any hope of addressing the varied nature of its drug issue and creating a society that protects both public safety and individual well-being is to take such an all-encompassing strategy.

All of the stakeholders need to demonstrate a persistent commitment, enough resources, and political will in order to move forward with the process. India's experience with the National Drug and Alcohol Policy Act (NDPS Act) illustrates that considerable success is feasible when law enforcement efforts are joined with humane treatment techniques and evidence-based policy reforms. This is despite the fact that the hurdles to be overcome are significant. Ultimately, the effectiveness of the Act will not be determined by the number of arrests made or the quantities that are seized; rather, it will be determined by the establishment of communities in which drug misuse is prevented, treatment is provided in an effective manner, and individuals are provided with the chance to recover and reintegrate into society.

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