

Control Of Drug Abuse In India: An Overview

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ABSTRACT

The problem of drug abuse has become a global public health concern and is fast assuming alarming proportions in India. No part of the world is unaffected by this issue and India is under the grips of substance abuse. Drug is a chemical substance, associated with distinct physical and psychological effects. It alters a person's normal bodily processes or functions. In medical terms a drug is substances prescribed by a physician or manufactured expressly for the purpose of treating and preventing diseases and ailment by its chemical nature and effect on the structure and functions of a living organism.

Drug abuse or substance abuse refers to the use of certain chemicals for the purpose of creating pleasurable effects on the brain. The use of illegal drugs or the use of prescription or over-the-counter drugs for purposes other than those for which they are meant to be used, or in excessive amounts. Drug abuse may lead to social, physical, emotional, and job-related problems.

Keywords: Drug abuse, Drug, Chemical substance, Substance abuse, Illegal and excessive.

INTRODUCTION

Drug abuse has become a worldwide problem and the leading cause of death. The global problem of addiction and drug abuse is responsible for millions of deaths. In recent years, India is seeing a rising trend in drug abuse. A variety of psychoactive substances like alcohol, cannabis and opioids have been used for hundreds of years in India. In modern times, however, the pattern and dimensions of use of such psychoactive substances has assumed pathological proportions. Some parts of the country report alarmingly high rates of drug dependence, HIV and viral hepatitis amongst people who inject drugs, making health and harm reduction important policy considerations. While India's harsh drug control laws (in particular the criminalization of drug use and the imposition of the death penalty for certain drug offences) conform strictly with prohibition, its regulated opium cultivation industry provides insights for countries that are experimenting with alternatives to prohibition.¹ However it is important for country to come up with multifaceted approach in dealing with control of drug abuse.

¹ https://idhdp.com/media/400258/idpc-briefing-paper_drug-policy-in-india.pdf

DIFFERENT APPROACHES TO CONTROL DRUG ABUSE

I.CONTROL THROUGH LEGISLATION

Narcotic Drugs and Psychotropic Substances Act, 1985

The term ‘narcotic’ in the legal sense is quite different from that used in the medical context which denotes a sleep inducing agent. Legally, a narcotic drug could be a true narcotic i.e. Opiate or a non narcotic such as Cannabis or cocaine

The term ‘psychotropic substance’ denotes mind-altering drugs such as Lysergic Acid Diethylamide (LSD), Phencyclidine, Amphetamines, Barbiturates, Methaqualone, and designer drugs (MDMA, DMT, etc.).²

India is a party to the three United Nations Drug Conventions – the 1961 Single Convention on Narcotic Drugs (1961 Convention), the 1971 Convention on Psychotropic Substances (1971 Convention) and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention). Domestic legislation to give effect to these treaties was introduced only in the 1980s when the ‘grace period’ for abolishing non-medical use of cannabis and opium under the 1961 Convention expired.³

Exercising its powers to make law for the country for implementing “any treaty, agreement or convention or decision made at international conference”, the Indian Parliament passed the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The Act came into force on 14 November 1985, replacing the Opium Acts and the Dangerous Drugs Act. The 1940 Drugs and Cosmetics Act, 1940, however, continues to apply.⁴

The NDPS Act is enacted in order to provide adequate penalties for drug trafficking, strengthen enforcement powers, implement international conventions to which India was a party, and enforce controls over psychotropic substances. The Act was amended in 1989, 2001 and more recently in 2014.

There is clear emphasis on deterrence and punishment in NDPS Act. It provides for prohibition on cultivation, manufacture, possession, sale, purchase, trade, import, export, use and consumption of narcotic drugs and psychotropic substances. The same is permitted only for medical and scientific

² <http://nicfs.gov.in>

³ <https://www.beckleyfoundation.org/policy/global-initiative-for-drug-policy-reform>

⁴ Section 80, NDPS Act.

purposes in accordance with the law. Accessory crimes in relation to substance use i.e. aiding and abetting and criminal conspiracy attract the same punishment as the principal offence.⁵

The Act covers three broad classes of substances: 1) narcotic drugs, that is, those covered under the 1961 Convention; 2) psychotropic substances or those covered under the 1971 Convention as well as other psychoactive substances such as ketamine which are not yet classified under 3 international conventions; and 3) “controlled substances”⁶ that are used to manufacture narcotic drugs or psychotropic substances, for example precursor chemicals such as acetic anhydride, ephedrine and pseudoephedrine.

Narcotic drugs include

- Cannabis: A generic term used to denote the several psychoactive preparations of the cannabis.⁷ plant. Importantly, bhang or the cannabis leaf is excluded and regulated through state excise laws.
- Coca: Cocaine is a powerfully addictive stimulant drug made from the leaves of the coca plant native to South America.⁸ Derivatives include cocaine and any preparation containing 0.1% of cocaine
- Opium: Opium is a highly addictive narcotic drug acquired in the dried latex form the opium poppy (*Papaver somniferum*) seed pod. Heroin is derived from the morphine alkaloid found in opium.⁹ Other derivatives include codeine, thebaine, etc.¹⁰

The NDPS Act lays down the procedure for search, seizure and arrest of persons in public and private places. Safeguards such as prior recording of information, notifying a superior, limiting powers of arrest to designated officers, informing the person being searched of her/his rights have been scrupulously enforced by the courts, in light of the stringent punishments prescribed under the Act.¹¹

NDPS Amendments, 1989

In 1989, the NDPS Act underwent the first set of amendments, after a Cabinet Sub Committee for combating drug trafficking and abuse recommended that the law be made more stringent.¹² The ‘tough on drugs’ rhetoric led to the introduction of very harsh provisions such as mandatory

⁵ Section 29 and 30 NDPS Act

⁶ Section 2 (viid), NDPS Act

⁷ https://www.who.int/substance_abuse/publications/msbcannabis.pdf

⁸ National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services

⁹ <https://www.drugabuse.gov/publications/drugfacts/heroin>

¹⁰ https://idhdp.com/media/400258/idpc-briefing-paper_drug-policy-in-india.pdf

¹¹ State of Punjab v. Baldev Singh (1999) 6 SCC 172

¹² <https://indianexpress.com/>

minimum sentences of 10 years' imprisonment, restrictions on bail, bar on suspension and commutation of sentences, forfeiture of property, trial by special courts and mandatory death sentence for certain repeat offenders.

NDPS Amendments, 2001

Criticism of harsh and disproportionate sentencing structure in NDPS 1989 created a momentum for reform. In 1998, the NDPS (Amendment) Bill, was introduced in Parliament and subsequently examined by the Parliamentary Standing Committee on Finance.

These amendments were finally adopted in 2001, to grade the punishment on the basis of the quantity of drugs involved.¹³

The amending Act of 2001 rationalized the sentence structure so as to ensure that while drug traffickers who traffic in significant quantities of drugs are punished with deterrent sentences, the addicts and those who commit less serious offences are sentenced to less severe punishment. Such provisions have sometimes been misinterpreted to imply that in determining quantities, only the pure drug content in the quantum of drug seized should be reckoned. However the Act duly provides for punishment for preparations of drugs also, this amendment seeks to clarify the legislative intent to take the entire quantity of drug seized in a case for determining the quantum of punishment and not the pure drug content.¹⁴

NDPS Amendments, 2014

In early 2014, the NDPS Act was amended for the third time and the new provisions came into force on 1 May 2014.

The main features include

- Creation of a new category of “essential narcotic drugs”, which the Central Government can specify and regulate uniformly throughout the country
- The objective of the law was widened from containing illicit use to also promoting the medical and scientific use of narcotic drugs and psychotropic substances in keeping with the principle of ‘balance’ between control and availability of narcotic drugs that underpins the international drug control treaties

¹³ <https://legislative.gov.in/sites/default/files/A1985-61.pdf>

¹⁴ https://prsindia.org/files/bills_acts/bills_parliament/The_Narcotic_Drugs_and_Psychotropic_Substances_Amendment_Bill_2011.pdf

- The terms “management” of drug dependence and “recognition and approval” of treatment centers were included thus allowing for the establishment of legally binding treatment standards and evidence-based medical interventions
- Making the death penalty discretionary for a subsequent offence involving a certain quantity of drugs under Section 31A. The court will have the alternative to impose imprisonment for 30 years under Section 31
- Enhanced punishment for small quantity offences from a maximum of six months to one year imprisonment was introduced.¹⁵

II. STRATEGY AND POLICY CONTROLS

To deal with some issues which lacked uniform policy in the country, The National Policy on Narcotic Drugs and Psychotropic Substances, 2012 is framed. For instance, injecting drug users (IDUs) often share needles and syringes. The policy also refers to manufacture and use of natural narcotic drugs, their salts and preparations, to the extent they are controlled, etc.

The policy spells out India's approach towards narcotic drugs and psychotropic substances and serves as a guide to various Ministries and organizations in the Government of India and to the State Governments as well as International Organizations, NGOs, etc. It also reasserts India's commitment to combat the drug menace in a holistic manner.

It also guides on the prevention of illicit cultivation of poppy and cannabis, emphasizing the use of satellite imageries for detection of illicit crop and its subsequent eradication and development of alternate means of livelihood in respect of cultivators in pockets of traditional illicit cultivation.¹⁶

III. INSTITUTION LEVEL CONTROLS

National Academy of Customs, Indirect Taxes & Narcotics or NACIN is the apex institute of Government of India for capacity building in the field of indirect taxation. It also plays a vital role in international capacity building by imparting training to officers of various countries in the field of customs, drug laws and environment protection. NACIN is the World Customs Organization (WCO) Regional Training Centre (RTC) for Asia Pacific. United Nations Environment Program (UNEP) has

¹⁵ THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) ACT, 2014 (NO. 16 OF 2014)

¹⁶ <https://dor.gov.in/sites/default/files/National%20Policy%20on%20NDPS%20published.pdf>

designated NACIN as a collaboration centre for capacity building in the field of environment protection.¹⁷

In collaboration with United Nations Office on Drugs & Crime (UNODC), NACIN is imparting training on drug law enforcement to various Asian nations. The Government of India has entrusted NACIN the responsibility of knowledge exchange, experience sharing and training with various countries of the world.¹⁸

CONCLUSION

Drug abuse is increasingly becoming an area of concern as traditional moorings, effective social taboos, emphasis on self-restraint and pervasive control and discipline of the joint family and community are eroding with industrialization and urbanization leading to detrimental impact on the society.

Drug abuse is a result of two factors- the availability of drugs and the psycho-social conditions which result in their abuse.

India has braced itself to face the menace of drug abuse both at the national and international levels. Several measures involving innovative changes in enforcement, legal and judicial systems have been brought into effect. The introduction of death penalty for drug-related offences has been a major deterrent. Even though there are various legal provisions, instances of illegal cultivation of opium poppy and cannabis are still prevalent. The Government of India considers such illegal cultivation as a matter of serious concern. The Central and State Governments shall continue to work together to combat this problem and issue directions to all officers under their control to discharge their responsibility under Section 47 of the NDPS Act.

Apart from this, equal emphasis shall be placed on supply and demand reduction. Demand reduction also has two components- treating the drug addicts and educating and enabling the society to prevent addiction and to rehabilitate addicts after they have been treated. Thus, drug abuse is a psycho-socio medical problem, which needs both medical intervention and community based interventions and controls.

India also needs a comprehensive strategy which envisions various Governmental and Non Governmental organizations to coordinate to combat the menace of ever increasing drug abuse.

¹⁷ <https://nacin.gov.in/page/about-us>

¹⁸ <https://nacin.gov.in/page>

The strategies such as prevention by the introductions of laws, treatment and rehabilitation for the drug addicted persons would be most important cornerstones in the comprehensive management of the problem of drug abuse. An interdisciplinary, integrated and coordinated action particularly involving active cooperation of the family and the community levels is also needed.

Application of harm reduction principles and its implementation to control drug abuse, with the objective of reducing the harms associated with drugs, instead of being guided by the unachievable goal of creating a 'drug-free' society is the key to solve the drug menace.