



A legal perspective on drug abuse in India

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Abstract

Drug misuse is a long-standing issue that is often seen as a victimless crime since those who consume drugs frequently experience stigma from the legal system and society, which negatively affects their welfare and health. The Narcotic narcotics and Psychotropic Substances Act (NDPS) of 1985 made drug abusers in India criminals for trafficking, storing, and consuming narcotics, so making them both victims of the drug and lawbreakers. In order to address this, this article will highlight the costs associated with criminalizing drug abusers and will balance the survivors of pharmaceutical usage in an optional review. In addition, as the NDPS demonstration also suggests, it intends to focus on restitution for victims of drug abuse as a means of achieving "request decrease" of pharmaceuticals with the help of law enforcement agencies like the police. The study bridges the gap between mental and discerning decision-making in criminology and backs up this argument with a model of law authorization organizations' ongoing involvement that includes networks, victims, and guilty parties.

Keywords: Drugs, drug abuse, psychotropic substance

Introduction

Drug abuse is a socially astute behaviour. Since ancient times, people have used opioids and other drugs that cause dependence in some way on our planet. Furthermore, there has been a sustained period of exchange of these compounds. Regardless of how it is seen, opioids were first used in Western restorative medicine in the latter part of the 1800s. They had been widely utilised, both medicinally and non-remedially, for their relaxing, intoxicating, and anticipated healing qualities. They had also, for a considerable amount of time, been recognised for the purportedly beneficial benefits in their gritty structure. Nevertheless, the introduction of these drugs quickly led to their overuse. Remembering, we may remember that in 1800 AD, a person who was reliant on the Chinese government to prohibit the entry of opium because it posed a risk to the wealth of the Chinese people won the renowned Opium War in defence of the right to unrestricted commerce. Large-scale substance theft by European powers into China was countered by the Chinese winning the Opium War. Medication usage and management know no bounds or imprisonments, just as any sickness does. It taints every developed civilisation, regardless of status, confidence-boosting factors, culture, or the place itself, as it travels from country to country and over the world.

Opiate substances, such as cocaine, opium, and heroin, were well recognised and enthusiastically associated with prescriptions until their addictive qualities and beneficial barriers to widespread use were recognised. It was quickly apparent that the benefits of these medications' therapeutic uses were much outweighed by the health and social risks they posed to individual users as well as to society as a whole due to their easy accessibility and unchecked or excessive usage.

For hundreds of years, opiate narcotics and psychotropic chemicals have been considered among the most terrible enemies of humanity. Even in this day and age of reason and technology, this attitude is still held. Drug abuse and sales are a global phenomenon that have taken on characteristics of a plague, influenced government financial plans, degraded the system, and are also threatening the future of the country. These drugs are being abused and sold illegally at alarming rates. If the sale of these substances, which provide a sense of dependence, is not stopped, it will have catastrophic consequences for both the people who

use them now and those who will use them in the future. In the State of Punjab against Baldev Singh case, the Supreme Court observed that drug misuse is a societal illness and highlighted the negative effects of dealing in and abusing narcotics. While the use of illegal medications has a negative impact on the population as a whole, steady managing also has a negative impact on the nation's economy. In any case, the illegal profits from steady managing are often utilised for criminal activities, such as supporting mental persecution. There is no doubt that the administration, exchange, and use of pharmaceuticals, which is a marvel in and of itself and has taken on the characteristics of a plague, affects the State's financial strategies, taints the system, and poses a threat to a nation's potential future. It conveys a message of a civilisation that has been wiped away and damages society. A social value that is hostile to cure value is illegal. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, which took place in Vienna, Austria in 1988, were arguably one of the first global attempts to address the problem of medication management across international borders. This Convention has the endorsement of the Indian Government."

Drugs and its Classification

Any chemical that, when ingested by the body, modifies the body's physiological or psychological functions—apart from food and water—is considered a drug. Drugs may be classified as illegal (such as cannabis, ecstasy, cocaine, and heroin) or legal (such as alcohol, caffeine, and tobacco).

Psychoactive substances have an impact on the central nervous system, which changes a person's emotions, thoughts, and actions. There are four types of psychoactive drugs: stimulants, depressants, hallucinogens, and 'other'.

Drugs may be categorised based on how they affect the human body or, more accurately, how they affect an individual's psyche. The effects may include dreaming, prompting, or sedation. Regardless, the division of sedative drugs into two distinct categories—narcotics and depressants—creates a logical representation of the realm of drug misuse. It directly stems from the justification that narcotics have their own documented centrality, setting them apart from other comparable drugs to be supervised as depressants. In keeping with this, drugs may be ordered in four categories, such as narcotics, stimulants, depressants, and pharmaceuticals. Drugs classified as hallucinogenic often result in mental dependency, while different kinds of drugs may generate both extreme forms of reliance.

Most substances classified as psychedelics result in mental dependence, while other drug classes—such as opioids, which include heroin, opium, morphine, and synthetic opiates—cause both mild and severe dependence.

Depression-inducing drugs Medications

Incentives Medications

Phenolphenedate

Pemoline

Coke 2

Drugs abuse in India and its related laws

India has a long history of drug addiction, including the misuse of opium and cannabis. In India, where the herb is widely used for its psychedelic effects and, to be honest, still is, there are many allusions to the enjoyable usage of cannabis. The oldest and most trustworthy source on cannabis's psychotropic effects is the Atharva Veda, which

dates to around 2000 BC. In the middle of the 20th century, British experts concluded that because cannabis use was so fundamental to Indian culture, it couldn't and shouldn't be prohibited. When the chance arose, no more measurements focused on the extent of pharmaceutical usage were made. As a result, it is impossible to determine the precise amount of medicine addiction in India without concrete data. In the absence of a national overarching diagram, we are forced to depend on empirical studies of the sub-social affairs or the comprehensive network to determine the severity of the drug misuse problem. Several graphs may be used to further explain the terrible state of affairs in the nation:

Drugs And psychotropic substances ACT, 1988

Three Central Acts—the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act of 1988, the Narcotic Drugs and Psychotropic Substances Act of 1985, and the Medications and Cosmetics Act of 1940—contain the wide lawful methodology section in this issue. One of the main responsibilities is to prevent pharmaceutical misuse, and several ministries, departments, and organisations carry out this duty. The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act) are regulated by these combined ministries of finance and revenue, which hold the nodal co-arrangement role. The Narcotic Drugs and Psychotropic Substances Act of 1985, which came into effect on November 14, 1985, established a clear framework for appointing a central master to oversee the functions and authorities of the central government as stipulated by the Act. As a result of the powers being exercised, on March 17, 1986, the "Opiate Control Bureau" was established, with its main office located in Delhi. The role serves as a practice for the central government's authority and bounds, and it is overseen and managed by it.

The Opium Act of 1857, the Opium Act of 1878, and the Dangerous Drugs Act of 1930 were replaced on November 14, 1985, by the N.D.P.S. Act, 1985, which was specifically designed to prevent drug abuse in India. Most of the previous Acts had an administrative or restrictive nature. In response to the ever-increasing complexity of the issue, faculty requirements are also growing. The NDPS Act of 1985 and the PITNDPS Act of 1988 outline the legislature's multifaceted anti-drug approach in light of the nation's multifaceted drug problem.

The fundamental goal of the drug control establishment is to safeguard public assistance by removing obstacles to prosperity and the unpleasant social and health repercussions that are often brought on by the erratic use of sedatives and psychotropics. In the following words, the Supreme Court of India has expressed its appreciation for the work of the Indian Parliament in a very subtle way, highlighting the successful paths of action that were introduced in the NDPS Act, 1985 by the ruling in *Durand Didier v. Boss Secretary, Union State of Goa*. "With significant concern, we may raise that the sifted through activities of the underground market and the secret sneaking of sedative medications and psychotropic substances into this country and the illicit managing in such medications and substances have provoked constant medication use among a sizeable section of everybody, particularly the young people and understudies of the two sexes, and the danger has acknowledged certifiable and upsetting degree i After all, the Parliament in its information

has made appropriate game plans by introducing this Act 61 of 1985 demonstrating mandatory least confinement and fine in order to feasibly control and eradicate this growing and impacting decimating risk, causing vindictive effects and savage impact on the overall population.

Hemp drugs commission, 1894

In response to a request made in the corridor regarding the methodology of a Commission to investigate the age and use of hemp-sedates in India, the Secretary of State for India expended his energy in asking the Government of India to establish a Commission to investigate the development of the hemp plant in Bengal, the arrangement of drugs derived from it, the trade of those drugs, the impact of their use on the general well-being and social conditions of all people, and the longing limit of prohibiting the advancement of the plant and the freedom of ganja and other drugs. The Indian government established a commission on hemp drugs in 1893, as needs. In its study, the Hemp Drug Commission said that hemp plants were spreading uncontrollably over the Himalayas, from Kashmir to the remarkable region of Assam's east. It links to a narrow division by going down the southern slopes of the mountains and into the lands of Punjab and Ganges.

Addiction of drugs and its reasons

Chronic drug use, additionally called substance use issue, is an illness that influences an individual's mind and conduct and prompts a failure to control the utilization of a legitimate or illicit medication or medicine. Substances, for example, liquor, weed and nicotine likewise are viewed as medications. When you're dependent, you may keep utilizing the medication regardless of the damage it causes.

Various symptoms of this are

1. Signs or behaviours of illicit drug use become more prevalent, among other things.
2. Having the impression that you must take the medication as prescribed, either gradually or even a few times each day.
3. Having real drug cravings that prevented them from thinking about other options.
4. Needing a more noticeable dosage of the medication after a while in order to have a comparable result.
5. Taking higher dosages of the medication over a longer period of time than you had planned.
6. Confirming that you maintain a prescription inventory.

Continuous medication use, often known as substance use disorder, is a mental health condition that affects a person's ability to manage whether to use legitimate or illegal prescription drugs. Substances like alcohol, marijuana, and nicotine are also seen as prescriptions. Once you become dependent on the medication, you could stop taking it without considering the risks. Certain prescription drugs, including opiate painkillers, are more dangerous and lead to dependence more rapidly than others. Over time, you may need higher dosages of the medication to feel elevated. You could need the medication after a little period of time only to feel significantly better. You could discover that it becomes more difficult to stop taking the medication as your use increases.

This obsession almost always leads to ethical and legal problems. Substance abuse problems have undoubtedly been

seen as undesirable behaviour rather than a tiresome illness. Certain drugs, such as alcohol, tobacco, and doctor-approved medications, are considered licit, or legitimate, whereas other drugs that are often misused are considered illicit, or illegal to get. Thus, screening large populations for drug use disorders comes with a number of real-world repercussions and moral questions. Government legislation ensures the accuracy of information on drug abuse by people. The patient record secrecy is legally governed by the Confidentiality of Alcohol and Drug Abuse Patient Records regulation. Given that they won't experience mistreatment in the future, this encourages individuals to look for therapy. In a similar vein, state law may safeguard information on mental health and rehabilitation. States differ in what kind of protection they provide. Prescription misuse raises questions about individual rights and legal limits, as well as about national power and global control. It is both a personal and an open problem. Moral dilemmas that arise under these categories may be connected to specific broad good perspectives. The consequences of accepting utilitarian doubts may be shown in a variety of ways, similar to how ethics is assembled in relation to a theory of human intuition and a conjecture about individual rights. Neither of the positions validates a libertarian premise against control because, first, it is unethical to push an individual's decision to disclose their brain and character to the control of drugs, and, second, there are no moral arguments, nor compelling arguments from social and political theory, in favour of decriminalising the use of non-remedial medications.

Judicial Approach

The NDPS Act's Part V addresses the framework that the approval experts must get, with the final goal of this show taking into account the truth along with the seriousness of the offence and the comprehensive order. To guarantee that drugs are not hidden, the display provides an exceptional framework for section, pursue, seize, and capture inside the exhibition, all while keeping in mind the fundamental idea of offences. The goals of these strategies are to make sure that people are easily located with great precision, as well as to maintain the accuracy and legitimacy of any verification obtained from such an interest. The investigating office must adhere strictly to the Act's prescribed procedure, and any failure to do so should be interpreted by higher authorities as genuinely encouraging a movement against the relevant power.

A Division Bench made up of Rajeev Sharma and Lok Pal Singh, JJ., decided on an open intrigue case writ petition in the Manoj Singh Pawar v. State of Uttarakhand case. The case involved the opening of an alcohol distributor in the heart of Almora town, near the District Hospital and Girls Inter College. The bench advised the State to control the risk of free accessibility of opiates, including alcohol, to minors. The High Court observed that Article 47 of the Constitution gave rise to doubts about the State's commitment to attempt to regulate alcohol use. 'Sedate mistreatment' has been shown to have destroyed many families and fractured society. The Court saw that the smuggling of drugs into the State from outlying areas was increasing; drug dealers, and especially their "bosses," were evading police capture. The Court ruled that strict management is necessary to prevent pharmaceutical abuse. The NDPS Act and the Money Laundering Act, which address the counteraction of illicit tax avoidance and the appropriation of property obtained from or

linked with tax evasion, as well as concerns related thereto, require the assets secured in such circumstances to be reserved. The State also organised entomb alia to assign additional Drug Inspectors, form Special Operation Groups, establish checkpoints at the Indo-Nepal border, try special campaigns to eradicate cannabis, establish Rehabilitation Centres in every area, ensure that no child is given medication or mixed drink, and so on. In the aforesaid wording, the request was denied.

The question in the landmark case of *State of Punjab v. Balbir Singh*⁷ was whether or not resistance of the equivalent vitiates the preliminary. The honourable Supreme Court of India answered that the very assurance that clause (2) of section 42 requires that where an official cuts down any information under sub section (1) or records avocation for his conviction under the specification thereto, he will forthwith send a copy thereof to the speedy authority common is a strong indication of the request that the official will record his motivations behind his conviction as required under the specification and furthermore

In the case of *Pipal Singh v. UOI*⁸, the Punjab and Haryana High Court maintained that the coherence of Section 42 of the Act's courses of action could be viewed from an alternative perspective, given the Supreme Court's ruling in the *Sajan Abraham* case. The court further held that, had Section 42 been followed, the circumstances would have allowed the liable parties to have escaped in the truck near the reserve. However, in the *Mohd. Rahish* case, the Delhi High Court expressed its opinion that, during a watch commitment, the police team received unclear information regarding their responsibilities, and they promptly proceeded to apprehend the censured, thereby infringing upon Section 42 (2) of the Act.

The Hon'ble Himachal Pradesh High Court held in *State of Himachal Pradesh v. Shri Sudarshan Kumar*⁹ that the benefit under Section 50 is an incredibly significant right, which the legislative body has dressed the individual stressed over and has been interwoven in the Act keeping in mind the earnestness of the sentence. The court further held that submitting a request before a Gazetted Officer or Officer would give the system essentially more authenticity and credit an incentive and that it would, in fact, strengthen the prosecution.

Police officers saw the appellant in the most recent case, *Than Kunwar v. The State of Haryana*¹⁰, holding a bag. The accused reportedly turned around and began to walk quickly upon sighting the police party. The ASI became suspicious as a result. He caught them off guard. It was thought that the bag contained drugs. The accused were told they might search the luggage in front of a magistrate or gazetted officer if they so wished. A Gazetted Officer's search was what the appellant wanted. The DSP arrived on the scene. The search was done per his instructions. Three hundred grammes, or six kilogrammes, of opium, made up the bag. Samples were collected. Following that, a formal FIR was filed. The recovery was impacted by the bag, for which it is established law that compliance with Section 50 of the Act is not necessary, the court ruled via Justice Kurian M. Joseph. The court also declared that the High Court's position could not stand.

Conclusion and Suggestions

India is facing a serious problem with the illegal use of drugs, silent management, eating up, and other related issues. This

problem started late. The Narcotic Drugs and Psychotropic Substances Act, 1985 is supported in this way. This Act strengthens and tightens the penalties for offences using sedative drugs and psychotropic substances. But these violations are spreading constantly among all social strata in the general populace. Thus, the only goal of this evaluation is to determine the standard response to it.

Abuse of drugs is a societal conundrum. Since ancient times, opiates and other drugs that cause dependency have been utilised in some capacity on Earth. Similar to this, there has been a long history of trading these chemicals. For a long time, sedative drugs and psychotropic chemicals have been seen as some of the most dreadful enemies of people, and they still are in this day of intelligence and creativity. The misuse and management of medications, once a common occurrence, has now become a global epidemic that threatens not only the future of humanity but also the State's budget. The illegal administration and misuse of these drugs is spreading at an alarming pace. If the man's addiction to these drugs isn't addressed, it will have unimaginable consequences for both the present and those who and what will come after. Abuse has become the most significant problem for individuals, families, and society as a whole. Fear mongering is fueled by the illicit money generated by medication management. The money was used by the dread monger social affairs to fund mental activist operations and buy weapons. It destroys the nation's destiny in addition to having an influence on the State's financial decisions. Among the writers' recommendations and ideas are the following:

1. It is imperative that the NDPS Act's recommendations for punishments be given a new look based on the denunciation approach. A statement that is open-minded does not always address matters of importance.
2. The state is subject to a secured order to guarantee swift starters, with the goal of quickly developing unprecedented courts in each state. In this manner, the required steps need to be combined in order to establish a sufficient number of first-rate courts in every state throughout the nation as soon as possible.
3. To establish a Drug Court to oversee treatment programmes under the supervision of responsible groupings and handle situations using less certified medicines. Reliance therapy must be mandated at every tahsil level, allowing medicate devils and alcoholics to get treatment without fear of being caught.
- Establishing a regulated clinical centre in conjunction with an extraordinary court and mandating predisposition therapy would allow medicine addicts and overindulgent consumers to get treatment without fear of repercussions.
5. In order to alter the assessment's course of action, it should be spearheaded and completed by an official in the same way that a convenient supply of units, prompt disbursement, and preparation are essential for the productive use of packs.

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