A CRITICAL STUDY OF LAW RELATING TO CONTROL AND REGULATION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES IN INDIA

Dissertation submitted to National Law University and Judicial Academy, Assam in partial fulfilment for award of the degree of ONE YEAR LL.M DEGREE PROGRAMME

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SUPERVISOR'S CERTIFICATE

This is to certify that ANMOL BANSAL has completed his dissertation titled "A CRITICAL STUDY OF LAW RELATING TO CONTROL AND REGULATION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES IN INDIA" under my supervision for the award of the degree of MASTER OF LAWS/ONE YEAR LL.M DEGREE PROGRAMME of National Law University and Judicial Academy, Assam.

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DECLARATION

I, Anmol Bansal, pursuing Master of Laws (LLM) from National Law University and Judicial Academy, Assam, do hereby declare that the present dissertation titled "A **CRITICAL STUDY OF LAW RELATING TO CONTROL AND REGULATION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES IN INDIA**" is an original research work and has not been submitted either in part or in full anywhere for any purpose, academic or otherwise, to the best of my knowledge.

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TABLE OF CONTENTS

CO	NTENTS	PAGE NO				
Ack	nowledgment	i				
Tab	le of Cases	ii				
Tab	le of Statutes	iii				
Tab	le of Abbreviations	iv				
СН	APTER 1: Introduction	1-9				
1.1	A History of Narcotic Drugs and Psychotropic Substances	1-2				
1.2	Usage of Drugs under the British Regime	3-5				
1.3	Statement Of Problem	5-6				
1.4	Aims and Objectives of Study	6				
1.5	Research Questions	6-7				
1.6	Research Methodology	7				
1.7	Literature Review	7-9				
1.8	Chapterisation	9				
СН	APTER 2: Nature, Extent and Effect of Drug Abuse	10-34				
2.1	How Drugs are abused?	12				
2.2	The Global Context of Drug Abuse	12-14				
2.3	Drugs Problem in India	14-17				
2.4	Nature of Drug Addiction	17-21				
2.5	Abuse of Prescription Drugs	21-22				
2.6	Drugs, Alcohol and Juvenile	22-23				
2.7	Drugs use in Sports (Doping)	23-26				
2.8	Effect of Drug Addiction	26-34				
	1. Psychological Effects	27-29				
	2. Physical Effects	29-30				
	3. Economical Effects	30-34				
СН	35-46					
3.1	The Shanghai Opium Commission, 1909	35-36				
3.2	2 The Hague Declaration, 1912 36-37					
3.3	3.3 The League of Nations (1925-1945) 37-38					

The Opium Geneva Conventions (1924 and 1925) 38-				
3.5 The Geneva Narcotics Manufacturing and Distribution Limitation Convention, 1931	40-42			
Bangkok Opium Smoking Convention, 1931				
3.7 The Geneva Suppression of the Illicit Traffic in Dangerous Drugs Convention, 1936	42-43			
3.8 Under the United Nation, 1946 onwards	43-46			
1. The Opium Protocol, 1953	43-45			
2. The Convention on Psychotropic Substances, 1971	45-46			
CHAPTER 4: National Policy and Legal Framework	47-74			
4.1 The Opium Act, 1857	47-49			
4.2 The Dangerous Drugs Act, 1930	49-52			
4.3 Narcotic Drugs and Psychotropic Substances Act, 1985	52-			
1. Offences are Cognizable and Non Bailable	54			
2. Enforcement System	54			
3. Illicit Opium Cultivation	54-55			
4. Forfeiture of Property	56			
5. Penalties and Offences	56-58			
6. Precursor Control	58			
4.4 Critical Assessment of NDPS Act, 1985	59-66			
4.5 Prevention of Illicit Traffic in NDPS Act, 1988	66-68			
4.6 National Policy on NDPS, 2012	68-69			
4.7 Drug Law Enforcement Agencies in India	69-74			
1. The Narcotic Control Bureau	69-72			
2. Central Bureau of Narcotics	72-73			
3. Narcotics Control Division	73-74			
CHAPTER 5: Drug Addiction and Human Rights	75-94			
5.1 International Drug Control and Human Rights	77-78			
5.2 Drug Use and Human Rights Violation	78-82			
5.3 Criminal Laws, Policies and Law Enforcement Approaches	82-83			
5.4 Drug Detention Centres	83-85			
1. Imprisonment and Forced Labour	83-84			
2. Inhuman or Degrading Treatment	84-85			

BIBLIOGRAPHY				
CHAPTER 6: CONCLUSION AND SUGGESTIONS 95-10				
5.10	NARCO Analysis Test is a violation of Human Rights	90-94		
5.9	Drug Trafficking and Human Rights	88-90		
5.8	Criminalisation and Human Rights	87-88		
5.7	Principles of Human Rights and Drug Treatment	86-87		
5.6	Violation of Bodily Integrity and Arbitrary Arrest	85-86		
5.5	Detention without Trial	85		

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TABLE OF CASES

- 1. Aryan Shahrukh Khan versus The Union of India
- 2. Ayyub Khan versus State of Maharashtra
- 3. Dada versus State of Maharashtra
- 4. Dharmendra Suganchand Chelawat versus Union of India
- 5. Dinesh Dalmia versus State
- 6. Fardeen Feroz Khan versus Union of India
- 7. Gaunter Edwin versus State of Goa
- 8. Indrodeo Mahto versus State of Maharashtra
- 9. Jagdish Chander versus State and Ors.
- 10. Kamarunnissa versus Union of India
- 11. Kamruddin J. Pathan versus State of Maharashtra
- 12. Kharak Singh versus State of U.P.
- 13. Noor Salman Makani versus State of India
- 14. P.L.J. Iqbal versus Union of India
- 15. P.P. Beeran versus State of Kerala
- 16. Ram Jawayya Kapur versus State of Punjab
- 17. Sanjay Kumar Agarwal versus Union of India
- 18. State of Bombay versus Kathikalu Oghad
- 19. State of Punjab versus Balbir Singh
- 20. State of Orissa versus Kanduri Sahoo
- 21. Sumita versus Union of India
- 22. Yakub Ibrahim Patel versus S.H. Shool and Ors.

TABLE OF STATUTES

INTERNATIONAL

The Shanghai Opium Commission, 1909 The Hague Declaration, 1912 The League of Nations (1925-1945) The Opium Geneva Conventions (1924 and 1925) The Geneva Narcotics Manufacturing and Distribution Limitation Convention, 1931 Bangkok Opium Smoking Convention, 1931 The Geneva Suppression of the Illicit Traffic in Dangerous Drugs Convention, 1936 The Opium Protocol, 1953 The Convention on Psychotropic Substances, 1971

NATIONAL

The Opium Act, 1857 The Dangerous Drugs Act, 1930 Criminal Procedure Code, 1973 Narcotic Drugs and Psychotropic Substances Act, 1985 The National Defence Authorization Act, 1985

TABLE OF ABBREVIATIONS

AIC	:	All India Congress
ATOD	:	Alcohol, Tobacco and Other Drugs
CAS	:	Court of Arbitration for Sports
CBI	:	Central Bureau of Investigation
CBN	:	Central Bureau of Narcotics
CCF	:	Chief Controller Factories
CEIB	:	Central Economic Intelligence Bureau
DGITI	:	Directorate General of Income Tax Investigation
DNC	:	Deputy Narcotics Commissioner
DPSP	:	Directive Principles of State Policy
DSB	:	Drug Supervisory Body
EPO	:	Erythropoietin
GPDH	:	Government Psychiatric Disease Hospital
HGH	:	Human Growth Hormone
IAAF	:	International Association of Athletics Federation
INTERPOL	:	International Police
LSD	:	Lysergic Acid Diethylamide
NADA	:	National Anti-Doping Agency
NCB	:	Narcotic Control Bureau
NCD	:	Narcotic Control Division
NDPS	:	Narcotic Drugs and Psychotropic Substance
NGO	:	Non-Governmental Organisation
OAC	:	Opium Advisory Committee
PCOB	:	Permanent Central Opium Board
UN	:	United Nation
UNDCP	:	United Nations Office on Drugs and Crime
UNESCO	:	United Nations Educational, Scientific and Cultural
		Organisation
USA	:	United States of America
USSR	:	Union of Soviet Socialist Republics
WADA	:	World Anti-Doping Agency
WHO	:	World Health Organisation

CHAPTER 1 INTRODUCTION

Drug and alcohol misuse are now acknowledged as major world problems. The global industry with the fastest pace of growth is the drug trafficking business. The common person may easily get drugs because this company's network has penetrated the streets. The world over, this trap is now widely used. Drug use is becoming a part of their daily life. These people will kill anyone who disagrees with them because they are so accustomed to drugs. It is difficult to describe drug addiction because it is a technical phrase. In its broadest meaning, addiction refers to a craving for a certain substance that persists over time. Long-term users typically consider gradually increasing their intake of a substance. It progresses to addiction.

Drug addiction was once only an issue in Western and more developed countries until recent years. However, both developed and developing countries are currently seeing rapid expansion of it. It is utilised similarly to how it is used in rich countries to achieve happiness in underdeveloped and poor countries. It's amazing to think that this depravity is consuming entire countries like a fire.

The consumption of dangerously high quantities of narcotic drugs is the biggest problem currently facing civic society. There is a lot of work being done in our country to combat drug abuse. It is a social issue that affects people's minds and emotions, according to many research.

1.1 A HISTORY OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Strong evidence suggests that urge for psychoactive substances has existed since the starting of mankind. In the past, psychotropic medications had a big impact on society. They had a considerable impact on the ancient people's way of life and cultural beliefs.

"We have drunk Soma and become immortal; we have attained the light, the Gods discovered. Now what my foeman's malice do to harm us?"¹ The plant Soma (more commonly known as Bhang) is expressly mentioned in a significant number of hymns

¹ 'Soma' (encyclopedia, 21 May 2018) https://www.encyclopedia.com/philosophy-and-religion/eastern-religions/hinduism/soma visited on 3rd March, 2023.

from the Vedas as being crucial for spiritual ceremonies. In fact, this plant was seen as being so significant that it was compared to the gods in earlier times.

As one of India's five sacred plants, Bhang was described between the years 2,000 and 800 BCE in the Hindu literature as "Sacred Grass." The Atharva Veda makes multiple references to its therapeutic applications. It has been presented to Lord Shiva as an offering.²

Opium is another psychoactive substance that can be found in ancient Indian literature. Opium is frequently mentioned as being used as an anaesthetic before performing any surgery in the ancient literature "Sushruta Samhita," which was written by the great Indian physicist Sushruta and encompasses knowledge of general medicine and surgery. Regarding the introduction of opium to Indian society, there are two alternative accounts. While some say that Alexander the Great introduced opium about 330 BCE, others contend that the Arabs did so throughout the Middle Ages.³

Contrarily, cannabis has always been grown as an Indian-originated plant. It's noteworthy to note that the Ayurvedic books, which were written in western India, mostly discussed the medical usage of opium. It's probable that the Arabic medicine that Muslim doctors brought to Europe throughout the Middle Ages had an impact on the doctors of this time.

Opium is not mentioned in any of the Ayurvedic manuscripts from eastern India's Vedic era, despite the fact that opium was utilised in practically all of India's Ayurvedic texts in later times.

Opium and cannabis have both been used medicinally at various points in history. It suggests that the medicinal usage of both marijuana and opium may have been affected by one another. Sarnagadhra's observation that both of these medications have vyavayi properties lends credence to this claim. Vyavayi is a rug that affects the entire body and is instantly absorbed without passing through digestive digestion. Opium and cannabis had an immediate medicinal impact.⁴

² 'History of Cannabis' (*Cannabiscity*) https://cannabiscity.us/cannabis-info/history-of-cannabis/ accessed on 14 April 2023

³ Opium Throughout History' (The Opium Kings) https://www.pbs.org/heroin/etc/history.html

⁴'History of Opium, Morphine and Heroin' (*History of Heroine, morphine and opiates*) https://www.history.com/topics/crime/history- of-heroin-morphine-and-opiates) accessed on 14 April 2023.

1.2 USAGE OF DRUGS UNDER THE BRITISDH REGIME

Opium is hardly ever mentioned in Hindu religious texts from antiquity or in texts on Indian medicine written by specialists like Chakra, Sushruta, and Vagabatt. Opium is mentioned, though, in texts like "Sharangadhar" and "Samhita," which are dated to the 14th and 16th centuries, respectively. Additionally, opium is mentioned in the book "Ain-I-Akbari," which was authored by Abul Fazal under the rule of Mughal Emperor Akbar.

The idea that opium might alleviate sex abnormalities caused opium to become extremely popular in India during the Mughal dynasty. Opium production increased throughout time. Early on in 18th century, Portuguese traders realised that they can make a significant profit by smuggling opium from India into China and selling it there. Opium was in high demand in China. In the year 1773, the British made the initial discovery of the trade and very immediately established themselves as the principal suppliers to Chinese market. The East India Company discovered a way to cultivate opium's poppy seeds in great quantities and at a low cost, which enabled them to obtain a monopoly on the manufacturing of the drug in the Indian province of Bengal. Bengal is located in southern India. Opium was traded between Turkey and India by a number of Western countries, notably the United States, which was also a participant in the trade.⁵

In the 18th and 19th centuries, opium traffic developed, and Western nations, especially Great Britain, traded and sold opium produced in India to China. Warren Hasting promoted the opium trade for international trade in Chinese territory while advising against internal consumption. Using the proceeds from the sale of opium, the British purchased luxury commodities from China that were in high demand in the West, such as porcelain, silk, and tea.

By the 1830s, British India had grown to value this trade so much that when the Qing government attempted to suppress it during the First Opium War, the British government deployed ships to assault the coastal cities. In this way, the British effectively prevented the Qing authorities from successfully putting an end to the unlawful sale and smuggling of Indian opium to Chinese users. One of the elements

⁵ 'Opium trade' – British and Chinese History (*Encyclopedia Britannica*)

http://www.britannica.com/topic/ opium- trade accessed on 16th April, 2023.

that contributed to the Second Opium War was the Qing government's opposition to legalising opium sales.

In accordance with the system put in place by Lord Cornwallis, opium cultivation was only permitted with a government licence, and drug sales were also subject to restrictions. Later, the opium legislation of 1857 and the opium act of 1878 were passed, primarily to place strict restrictions on opium manufacture and poppy cultivation. "The Narcotic Drugs and Psychotropic Substances Act, 1985" has subsequently taken the role of these acts, although the same system is still in existence today.⁶

As opium trafficking increased, criticism of it also increased, particularly in Britain. Evangelicals and Quakers led a reform movement that organised, petitioned, and proposed parliamentary resolutions to put an end to the trade. Eventually, in 1893, under the Liberal government of Prime Minister William Gladstone, anti-opium efforts won out, and Parliament granted approval for the creation of a Commission on Opium.

The Commission was given the responsibility of deciding whether opium exports to the East should be terminated as well as if poppy production and opium consumption in India itself should be limited to medical applications alone. After conducting a comprehensive inquiry, the Royal Commission released its over two-thousand-page report in early April 1895.

According to the British Government's Royal Commission on Opium, which was established in 1893, opium usage for oral consumption was common in India, but smoking it was uncommon. The commission determined that outlawing opium would be impossible due to its ceremonial and social purposes. After considering these ideas, the government decided against making the production, sale, or distribution of opium illegal. The opium trade with China, on the other hand, was terminated in 1906 after the British House of Commons decided to denounce the practise as being morally objectionable and passed a resolution to that effect. 1924 saw the passage of a resolution by the All-India Congress Committee that condemned the opium policy of the administration.

The Dangerous Drug Act was passed in 1930 after India ratified the Geneva Convention in 1925. However, there were no restrictions on how the opium was used. The

⁶ Available at, https://www.unodc.org/unodc/en/data-and-analysis/bulletin/bulletin.html accessed on 16th April, 2023.

government decided to make opium use illegal in 1946. The existing addicts, however, were granted an exception as long as they lived and provided, they produced the necessary medical documentation. It is crucial to bring up the UN Protocol when discussing the limits under which opium had to be grown after 1945. "This pact granted the seven countries (including India) access to cultivate and export opium under strict conditions." "Create a governmental apparatus that would equate to a national monopoly of opium production as well as international and wholesale trading." Only farmers with a permit may grow opium poppies, and each permit had a specific yield beneath the crop. Following independence, the 1949 Indian Conference on Opium and "the 1948 International Convention on Opium" controlled "the Indian Government and all state governments in India." One of the Protocol of 1948's goals was to "cease supplies of opium for oral consumption in the territory of India." Opium was regarded as "one of the deadliest disabling agents on the list of narcotics," prompting Indian authorities to take strong action. As a result, there were fewer legally recognised addicts, and less opium was consumed.

"The Second and Third All India Narcotics Conferences, held in 1956 and 1959, respectively," reached the consensus that, with the exception of individuals who require it for medicinal purposes, opium use should be completely prohibited for non-medical and quasi-medical purposes. As a result, the authorities decided to only provide opium to addicts who had registered themselves, closing all opium dealers and establishments.

It can be said with certainty that the Indian state deserves praise for making effective use of the federal "governmental" infrastructure that the British left behind in their battle against opium. Between the Rebellion and World War II, the British established the legal system that it operated under. The comprehensive NDPS Act, 1985 finally replaced this framework and repealed the Opium Acts of 1857 and 1878.

1.3 STATEMENT OF PROBLEM

The problem undertaken in this present study is to discuss about the patterns of drug addiction and alcoholism in India. The study is about analysing the current Indian and international legal framework regulating narcotics and psychotropic substances.

Moreover, the purpose of this study is to evaluate how effectively drug abuse, intoxication, and the trafficking of illegal drugs are discouraged and controlled in India.

The extent of governmental control over the production of pharmaceuticals and psychotropic substances is also examined in this study. Drug abuse and use of narcotics and psychotropic substances have been increased over the years. Millions of people in India are addicted to alcohol, cannabis, and opiates, as well as misusing other substances, according to a report that was jointly published by UN Office on substances and "Crime and the Ministry of Social Justice in India." The NDPS Act is a strict law that regulates the system of drug misuse and trafficking in India. The NDPS Act also provides for the death penalty in certain instances, such as when an individual is a repeat offender. The laws about narcotic drugs are studied, and it is determined whether or not they are adequate to deal with the current situation with drug addiction and alcoholism in the country.

It is crucial to critically assess the laws that are now in force in other countries before weighing the advantages and disadvantages of the laws that are in existence in India. This present study also provides for an in-depth analysis on the global trends in cultivation, production, trafficking and abuse of narcotic drugs with special reference to Asia, Latin America and other continents.

1.4 OBJECTIVES OF STUDY

The objectives of this research are given below:

- 1. To analyse the present pattern of drug addiction and alcoholism inIndia.
- 2. To ascertain the causes of illegal drug trade and narco -terrorism.
- 3. To bring into light the present drug trafficking trends and patterns in India.
- 4. To analyse the weaknesses of the narcotics drug laws and determine whether they are being adequately executed or not.
- 5. To analyse the global trends in cultivation, production, trafficking and abuse of narcotic drugs with special reference to Asia, Latin America and other continents.

1.5 RESEARCH QUESTIONS

- 1. What is the present pattern of drug addiction in India?
- 2. What is the extent of drug addiction and what are its harmful impacts?
- 3. What are the causes of illegal drug trade and narco -terrorism?

4. What is the international legal framework in regulating narcotics and psychotropic substances?

1.7 RESEARCH METHODOLOGY

The present research will primarily adopt a doctrinal methodology, which involves analysing legal sources such as statutes, case law, government data, and recommendations of various commissions and committees. In addition to library resources and reports, the research will also utilize internet resources and case studies to supplement the primary sources of data.

The research will be conducted with a socio-legal perspective, focusing on legal ideas and practices related to the subject matter. The purpose of this study is to evaluate how effectively drug abuse, intoxication, and the trafficking of illegal drugs are discouraged and controlled in India. The extent of governmental control over the production of pharmaceuticals and psychotropic substances is also examined in this study. To weigh the merits and downsides of the laws currently in existence in India, it is necessary to critically evaluate the laws currently in force in other nations.

1.8 LITERATURE REVIEW

Shweta Sharma, Kapil Kumar, "An Overview on Narcotic Drugs and Psychotropic Substances Act, 1985", The article examines a topic that relates to the Narcotic Drugs and Psychotropic Substances Act, more frequently referred to as the NDPS Act. This act was passed in 1970. The purpose of this legislation was to regulate and ban the use of drugs of abuse, as well as their distribution, manufacturing, and trading in the marketplace. Narcotic drugs are compounds that have the power to put a person to sleep, whereas psychotropic medications are substances that have the potential to change a person's mental state. On November 14, 1985, the National Disaster Protection Act (NDPS Act) was passed into law by the Parliament of India. The act makes provisions for the cultivation of cannabis, poppy, or coca plants, as well as the synthesis of psychotropic compounds for medical use, despite the fact that these medicines have some therapeutic benefit. The act's principal purpose is to regulate the production of narcotic and psychoactive substances as well as their possession, sale, and transportation in the marketplace. It ensures that psychotropic substances are not easily accessible to the general public by prohibiting the sale of around 200 of them without the requirement of a prescription. Infraction of this legislation can result in penalty, which, depending on the seriousness of the offence, can take the form of either a lengthy prison sentence or monetary fines, or both. If the drugs were purchased with the intent of using them oneself, the penalty may be less harsh. However, because of the obstacles provided by synthetic drugs, street drugs, and designer drugs, the act has undergone several revisions since its formation. This makes it difficult to handle the issues related with emerging substances of abuse. In addition, the NDPS Act has a difficult time distinguishing between people who use drugs, those who sell drugs, and the most serious offenders who are involved in the drug trade. This report offers a comprehensive analysis of the NDPS act as well as its efficiency.

Satyakam Mohapatra, "Current Status of the Narcotic Drugs and Psychotropic Substances Act, 1985", The concept mentioned in the article revolves around substance use and abuse, particularly in India. It highlights that substance abuse is prevalent worldwide and that India has a significant number of substance abusers. The repercussions of substance abuse in terms of morbidity and mortality are emphasized. To address drug abuse control in India, the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) serves as the framework. However, the concept also mentions that certain anomalies of the NDPS Act have been rectified by the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 2011. The article discusses the widespread issue of substance abuse, its impact on public health, and the legal framework in India to control drug abuse. The mentioned amendment bill likely addresses some shortcomings or gaps in the existing NDPS Act.

Hunt Geoffrey, Milhet Maitena, "Drugs and Culture", The current approach to drugs is heavily influenced by outdated medical and criminal perspectives that originated more than a century ago. These perspectives have established addiction as a medical issue and drug control as a means of enforcement, shaping the dominant understanding and discussions around drug-related matters. The concepts of treating drug use as a disease and as a crime overwhelmingly define how we perceive and regulate drug consumption. However, "Drugs and Culture" offers alternative viewpoints and insights into drug-related issues, emphasizing the socio-cultural aspects of drug use and regulation in modern societies. The book explores how the consumption of specific psychoactive substances becomes associated with particular social groups, investigates the societal forces that shape our perceptions of these phenomena, and examines the factors that influence political and policy responses to drug use. By drawing on disciplines such as anthropology, sociology, history, political science, and geopolitics, this publication challenges the prevailing tendency to pathologize and criminalize drug use. It presents a collection of international and comparative perspectives on drug research, aiming to broaden our understanding of drugs and their regulation beyond the conventional frameworks.

1.9 CHAPTERISATION

This research is divided into 6 chapters as follows:

CHAPTER 1 INTRODUCTION

Chapter 1 is the general introduction of the subject and it highlights the historical use of narcotics and psychotropic substances.

CHAPTER 2 NATURE, EXTENT AND EFFECT OF DRUG ABUSE

Chapter 2 explains the nature and extent of drug abuse nationally and internationally. This chapter highlights the nature of drug addiction in society (especially in India). This chapter also talks about the negative effects of drug addiction.

CHAPTER 3 INTERNATIONAL POLICY AND LEGAL FRAMEWORK

Chapter 3 of this research talks about international legal framework adopted by various nations to combat drug addiction, illegal drugs trafficking, money laundering etc.

CHAPTER 4 NATIONAL POLICY AND LEGAL FRAMEWORK

Chapter 4 talks about the policies and legal provisions adopted by India over the period of time. It also mentions some of the drug regulating bodies and their functions.

CHAPTER 5 DRUGS ADDICTION AND HUMAN RIGHTS

Chapter 5 talks about how drug addicts get taken advantage of and get violated of their human rights. This chapter try to highlight some of the human rights violation that happens with drug addicts.

CHAPTER 6 CONCLUSION AND SUGGESTIONS

Chapter 6 sums up the research and gives some valuable suggestion to curb the big social evil.

CHAPTER 2

NATURE, EXTENT AND EFFECT OF DRUG ABUSE

In both industrialized and developing nations, drug addiction is an issue that is hurting young people more and more. One of the most pervasive and urgent societal problems that is having a serious impact on society's margins is drug addiction. In the current world, we deal with problems that are getting worse, such poverty, corruption, begging, underdevelopment, unemployment, and other things. Alcoholism and drug addiction, which are two of the problems that are escalating the fastest, are brought about when all of these problems are combined. Drug users enjoy a fictitious sense of assurance and security. Then, these young people commit additional crimes including kidnapping, rape, robbery, and other offences.

The scourge of drunkenness and drug addiction affects every corner of the planet. Around the world, a great deal of drug users leads miserable lives on the verge of death.⁷ Our country is also being affected by the drug epidemic. It is impossible to estimate the exact number of drug users in India.⁸ Drug addicts are getting more common on a daily basis all over the world, according to news reports, study reports, and media publications. The fundamental question of whether drug addiction is rising or dropping cannot be addressed with absolute confidence. In India, the epidemic of young people misusing narcotics has alarming proportions. The onset of substance use is influenced by shifting cultural views, escalating economic stress, and deteriorating supporting connections. It is improbable that someone would start using alcohol, tobacco, or any other illegal substance if they did not do so right away in the present environment. Drug use among young people is a topic that is widely explored. the prevalence of alcohol addiction worldwide and the fact that alcohol is the most often used drug worldwide.⁹

Around the world, there are many distinct types of drug abuse. As society accepts such behavior more and more, people use drugs both therapeutically and recreationally. Due to the tremendous cultural stigma attached to the use of opiate narcotics and the pressures police apply to drug users and traffickers, drug addicts and users are forced

⁷ M. Mudasir Naqshbandi, 'Drug addiction and youth of Kashmir' (DPhil thesis, School of Social Work, Indira Gandhi National Open University, 2012).

⁸ 'Drug Abuse in India' (Youth Ki Awaaz), www.youthkiaawaaz.com accessed on 8th April, 2023.

⁹ 'Nature and Extent of drug abuse and alcoholism' (*drug abuse*) www.drugabuse.com accessed on 8th April, 2023.

to hide themselves from unfamiliar or unfriendly eyes. They do not emerge into the open to be counted. As a result, data on the severity of drug addiction must frequently be reliant on incarcerated drug users or addicts. If only we knew how many people who abuse drugs or are addicted to them are arrested annually. We would have a strong starting point for estimating the extent of drug addiction in this country.

We are unable to estimate the proportion of drug users and addicts who are currently detained. Additionally, variations in police activity are more likely to be the cause of changes in the number of arrests than variations in drug use or drug addiction. A person who has been arrested for drug use may not genuinely be an addict, despite the fact that the police may classify him as one. Therefore, it is critical to carefully consider any claims regarding the prevalence of drug addiction and how it varies from year to year.¹⁰

Drugs such as marijuana, ganja, charas, hash oil, and lysergic acid diethylamide (LSD) are now frequently abused in addition to analgesics such as morphine, opium, heroin, and brown sugar, stimulants such as cocaine and amphetamine, depressants such as alcohol and barbiturates, and hallucinogens such as mescaline and phencyclidine and psilocybin.¹¹

The \$500 billion yearly sales of the pharmaceutical sector make it the third-largest worldwide industry after the arms and oil industries, according to figures. Worldwide, 190 million people use drugs of some type. There are growing numbers of drug users in India, which is also a part of this drug usage cycle. There are officially 1 million and as many as 5 million heroin users in India, according to (Drugs, 2004).¹²

Geographic proximity has been crucial in the production, cultivation, trafficking, and promotion of drug abuse on a global scale. The Golden triangle, a sizable region of South-East Asia that includes the wild mountainous terrain of Eastern Burma, Northern Laos, and Thailand, is where the majority of opium is grown. Opium commerce plays a significant role in armed conflicts since the substance is exchanged for guns and ammo. Opioid production and consumption aren't solely motivated by the local hill people's need for social acceptance and economic gain. The "Golden Crescent" region, which includes Pakistan, Afghanistan, and Iran, is essential to the drug trafficking for

¹⁰ ACPO Drugs Committee (2002), A review of drugs policy and proposals for the future, p. 22.

¹¹ Supra note 7.

¹² Ibid.

obvious political and economic reasons. In terms of retail sales of these narcotics, the illicit drug trade has recently expanded to the point where it now generates revenues that are close to \$300 billion yearly, outpacing the global oil market.

According to the WHO report, drug addiction is becoming a more significant issue in both developed and developing nations. "Wide scale epidemics of amphetamine abuse" are present in these nations (the US, Japan, and Sweden).¹³

2.1 HOW DRUGS ARE ABUSED?

Alcoholism and drug addiction are psychosocial medical issues. Depending on the drug, it may be smoked, snorted, swallowed, or administered intravenously. Some medications have several applications. For instance, a purer version of heroin can be injected instead than smoking. Drug usage that involves injections is more hazardous than drug use that involves oral use or smoking because injections produce a higher high.¹⁴

2.2 THE GLOBAL CONTEXT OF DRUG USE

Illicit drug use is both a reflection of and a contributor to escalating global tensions. The rapid fluctuations in political affiliations, the decline in unity within families and communities, the rise in unemployment and insufficient employment opportunities, the marginalization of individuals in economic and social aspects, and the surge in criminal activities are among the elements that have played a part in fuelling these conflicts.¹⁵

Alcoholism is a major cause for concern because it frequently results in the individual being under the influence of alcohol. This, in turn, adds to difficulties such as domestic violence, traffic accidents, disruptions in government services, and problems inside educational institutions, amongst other related issues. In addition to this, the daily occurrence of drug abuse is increasing at an alarming rate. The issue of illegal narcotics is getting worse, and it acts as a mirror of as well as a catalyst for the rising tensions that can be found on a global scale. "The escalating conflicts can be attributed to a variety of factors, including sudden shifts in political allegiance, a decline in the unity

¹³ Ibid.

¹⁴ 'Drugs of abuse' (Department of Revenue), www.dor.gov.in accessed on 29th March, 2023.

¹⁵ 'The Social Impact of Drug Abuse' (United Nations Office on Drugs), www.unodc.org

of families and communities, an increase in unemployment and underemployment, increased economic and social marginalisation, and an increase in criminal activity."

Unintended consequences have arisen as a result of global innovations that have made the movement of people, objects, and money across countries much simpler and more economical. They have heightened both the visibility and severity of global inequalities and inequities, particularly in connection to the rising wealth gap that exists between the wealthy and the impoverished. The benefits of growing international commerce and investment, as well as the following expansion of the economy, have been mostly kept from a number of emerging nations, the majority of which are located in Africa, with a few exceptions being found in Latin America and Asia. This exclusion is said to be the result of circumstances such as unstable governments, ethnic wars, natural disasters, or bad economic management. Regardless of the reasons why, these countries' economies have failed to grow, which has put them in a precarious financial situation and severely limited access to key public services for the most underserved parts of their people. As a result of this, these countries, their areas, and their people have grown more susceptible to the appeal of engaging in illegal drug manufacturing and trafficking, as well as the acceptance of earnings from drug-related activities by financial institutions or as direct investments.¹⁶

In recent years, there has been an increase in the number of people who have a heightened knowledge about the issues that are related with illegal substances and the trafficking of drugs. Nevertheless, the most important thing to do next is to put this awareness into action that is positive. "The term "illicit drugs" will be used to refer to the narcotic drugs and psychotropic substances that are listed in the schedules of the 1961 Single Convention on Narcotic Drugs, as revised by the 1972 Protocol, and the 1971 Convention on Psychotropic Substances, respectively, throughout this article." Over 200 different types of illicit substances are recognised by the UNDCP, which includes opium-heroin, cocaine-cocaine, cannabis, and amphetamine-type stimulants. These chemicals are significant not only for developing countries but also for developed countries as well.¹⁷

¹⁶ Ibid.

¹⁷ Ibid.

"According to the World Drug Report published by the United Nations Office on Drugs and Crime in 2015", approximately 246 million people, or one in every twenty people aged 15 to 64, engaged in the consumption of illicit substances in the year 2015. This number is equivalent to one in every five people in the United States. Although there was a 3 million increase in the number of people who used illegal drugs in comparison to the previous year, the overall prevalence of drug use remained largely consistent due to the expansion in the world's population. "The use of cannabis has been increasing, particularly in Western and Central Africa, Western and Central Europe, Oceania, and North America, where current data indicates an upswing in the prevalence of cannabis use, most notably in the United States." After cocaine, opioids, amphetamine-like stimulants, and opiates, cannabis, which is also known as marijuana or hashish, is the most often used illicit drug. Hashish is another name for cannabis. It is estimated that approximately 264 million people around the world partake in the practise of smoking cannabis. Comparatively, around 35 million people make use of stimulants such as amphetamines, 16 million people make use of opioids, and 13 million people make use of cocaine.18

2.3 DRUGS PROBLEM IN INDIA

"In India, there are a lot of alcoholics, drug users, and addicts. Each year, several incidents and cases include drug control and related laws including the Excise Act, the NDPS Act, and others." As a result of these laws, many people have been arrested. Every year on June 26, people around the world mark "the International Day Against Drug Abuse and Illegal Trafficking." The international community frequently use this strategy to raise public awareness of the risk that drugs represent to young people. A bleak picture emerges when the global figures on the drug situation are taken into account. has \$550 billion in income per year.¹⁹ "This is the third largest industry in the world, behind the trade in oil and weapons. In the world, 190 million people use drugs occasionally or regularly. People who abuse drugs experience stress, and the production and distribution of illegal drugs have increased crime and bloodshed around the world." Drug abuse and drug trafficking are widespread global issues today. All around the world, millions of drug users lead miserable lives on the verge of death.

¹⁸ Available at, https://www.unodc.org/unodc.

¹⁹ Drug Abuse in India (Azad India Foundation) www.azadindia.org accessed on 3rd April, 2023.

"India is caught in the drug abuse cycle, and the number of drug users there is increasing daily." According to UN estimate, there are officially 5 lakh people in India and approximately 1 lakh heroin addicts. What started as casual use among a few privileged young people in large cities has spread to all corners of society.

Inhaling heroin has been supplanted by the use of narcotic drugs, both by themselves and in conjunction with other narcotics and painkillers. "It has made the effects more severe, accelerated the onset of addiction, and made the path to recovery more challenging." Cannabis, heroin, and narcotics manufactured in India are the substances that are most frequently abused there. The cannabis substance, also known as bhang, charas, or ganja, is misbehaving all across the country as a result of their connections with specific Hindu deities. They have acquired some religious virtue as a result. In its annual report for 2002, "the International Narcotics Control Board in Vienna noted that opiate users in India are switching from opium to heroin." Additionally, there is an increase in the misuse of drug medicines. Because they are easy to obtain and only cost a tenth as much as heroin, many states have also reported employing analgesics delivered intravenously. Cough medications with codeine continue to be picked up for illegal use on the home market.

"Drug abuse is influenced by a variety of social, cultural, biological, geographical, historical, and economic aspects. The collapse of the traditional nuclear family, the absence of parental love and care in modern households where both parents work, the weakening of traditional religious and moral beliefs, and the rise of drug users seeking to escape the harsh realities of life are all contributing factors."²⁰ The main reasons of drug use, abuse, or misuse are the substance being abused, the individual misusing it, and the environment in which the addict lives. Industrialization, urbanisation, and migration have simplified ancient social control systems that render people sensitive to the stress and strain of modern life. The fundamental reason for the rise of drugs, including both traditional and modern psychoactive substances, is, among other things, a fast-changing society.

"The usage of drugs has contributed to an increase in crime. Addicts turn to crime to pay for their narcotics. Violence, hostility, and impulsive murder, in addition to

²⁰ 'Nature and causes of drug addiction' (Sunrise house) www.sunrisehouse.com

substance misuse and addiction, generate enormous emotional agony for every family member. Because the majority of drug users are between the ages of 18 and 35, the human ability losses are unprecedented. Youth are losing a significant amount of their intellectual, moral, physical, and cognitive capacity. Teenage drug usage is one of the most serious issues concerning young people's behaviour. By the end of ninth grade, it is believed that 50% of Indian boys had used at least one gateway drug. However, the prevalence of substance usage varies significantly across states. West Bengal and Andhra Pradesh, for example, have higher rates of adolescent drug use than Uttar Pradesh or Haryana (about 60% of the two states) (about 35%)."

Both domestically and internationally, our country (India) has faced the challenge of drug trafficking. Several initiatives have been taken to implement unique changes in the judicial, enforcement, and legal systems. "The implementation of the death penalty for drug-related offences has had a significant deterrent effect. To combat this threat, the Narcotic Drugs and Psychotropic Substances Act of 1985 was enacted, which included tough laws. Criminals must serve a minimum of 10 years in prison and can receive up to a 20-year term under the Act." They must also pay a minimum of Rs. 1 lakh and a maximum of Rs. 2 lakhs in fines. Additionally, provisions allowing for the confiscation of assets earned by the trafficking of illegal drugs have been included to the Act. A detailed plan with specific programming has been devised by the numerous government departments and NGOs to lower drug use generally. Actions like education, counselling, treatment, and rehabilitation courses support this method. India and 13 other countries, including Pakistan and Burma, have bilateral agreements to combat drug trafficking. Before 1999, a 1931 pact between the US and the UK-which was later expanded to include India in 1942-governed extradition between India and the US. But in July 1999, a new extradition pact was agreed upon between India and the US. In October 2001, an agreement on reciprocal legal assistance was concluded between India and the US.

Drug addiction can be stopped before it spreads further because of the severe negative effects it will have on people, the environment, and the economy. The government should act right now to end the catastrophe of this social evil since the lain-looking lanes of social offenders should be enough for the movie theatres and other public locations. In addition, it is imperative to stop at all costs the development of such condemnatory behaviours among the comparatively younger members of society. Government enforcement agencies, non-governmental philanthropic organisations, and others must work together and support one another's efforts to combat drug addiction through public awareness campaigns and legal action.

2.4 NATURE OF DRUG ADDICTION

Drugs are extremely hazardous in nature. Talking about addiction may be simple if opium were the only drug that people misused and if the only misuse involved constant, obsessional use. Opium misuse is not limited to other substances, though. There may perhaps be as many different varieties of abuse as there are illicit substances or addicts. "There is no single definition or point of view that could possibly encompass all of the legal, ethical, religious, sociological, cultural, economic, and religious factors that have a significant impact on addiction. This is due to the fact that different substances are used in so many different ways by so many different people for so many different reasons."²¹ All unapproved drug use is categorised as addiction due to prejudice and ignorance, and all drugs that are abused are categorised as narcotics. The practise of treating addiction as a single entity must persist due to custom and law, not to the reality of addiction.

There is some historical evidence to support the practise of equating drug abuse with drug addiction. In the past, addiction was mostly discussed in relation to the misuse of opiates, which are various concoctions manufactured from opium powder. Later, various opium alkaloids were extracted and used, including morphine and heroin. They just had more severe addictions due to the stronger substances they were employing to make opium. "Later medications, like as methadone and Demerol, had side effects that were sufficiently comparable to those of opium and its byproducts for them to be incorporated into the earlier concept of addiction. After the introduction of multiple barbiturates in the form of sedatives and sleeping aids, the uniformity of addictions started to break down." After that, a plethora of sedatives, stimulants, contemporary and historical hallucinogens, and a variety of different combinations of each substance emerged. Addiction could no longer be addressed as a separate entity. Legal restrictions, such as the practise of classifying marijuana as a narcotic, frequently pushed other non-addictive medications into long-established classifications. Issues also arose in the

endeavour to define addiction to encompass habituation and, ultimately, drug dependence. Unitary concepts cannot encompass the many and currently used drugs.

Anyone who gives in to their urge is an addict since addiction occurs with any substance that makes you crave it after you start using it. Over time, a guy may start to feel a physical or mental "need" for the substance. Drug dependency is the enthusiastic urge to use drugs in spite of any potential harmful social, mental, or physical effects. In other words, you could develop psychological and emotional reliance in addition to a severe physical dependence on the drug. When an addict stop taking drugs, they may suffer unpleasant withdrawal symptoms.

The incorrect or negligent use of chemicals that impairs a person's central nervous system, mind, mood, behaviour, and personality is referred to as drug abuse. There are several reasons for choosing to use drugs, as well as countless reasons why taking drugs or any other substance could lead to substance addiction and eventually reliance. There are certain persons whose genes put them at an increased risk for substance abuse and addiction. One of the reasons people may turn to substance use is due of variations in their surroundings, social support, and socioeconomic level. These factors might make it appear as though using drugs or alcohol is a straightforward approach of coping with difficult situations. Other explanations are psychological in nature, such as concomitant disorders that have a positive link with substance abuse or an indiscreet persona that fosters riskier behaviours. Understanding the motivations underlying drug use allows one to spot and avoid risky circumstances. Because of confounding biological, psychological, and social factors, people have little control over substance misuse and reliance. The term "biological component" refers to specific areas of the brain that play a role in both the physiological effects of drug use and the development of physical addiction. The psychological aspect describes how subjective and mental processes, such as stress management techniques or erroneous cost-benefit calculations that lead someone to believe that using drugs has more benefits than drawbacks, might motivate a guy to use drugs. The term "social component" describes to environmental effects that may lead to misuse and dependency. This category also covers family life, social support, socioeconomic situation, and other elements.

According to a study funded by the UN Drug Control Programme (UNDCP), 4000 of the 70.000 drug addicts in Kashmir division are women. "According to a recent poll,

roughly 26% of students in Kashmir are female and between 65 and 70 percent of them are addicted to drugs, including gateway drugs.²² 90% of drug abusers between the ages of 17 and 35 have a lifetime prevalence of drug addiction, according to data from the Government Psychiatric Disease Hospital (GPDH)." The popularity of Kashmir among tourists and migrant workers has led to a rise in drug users who use a variety of narcotics. Due to their accessibility and lack of parental supervision, young males between the ages of 12 and 15 regularly use gateway drugs like cigarettes, paan, and gutka.

According to a Punjabi article on drug addiction titled "Farm Labour, Teenagers Worst Hit by Drug Misuse," when communities hear the secret message "Jahaj aa gaya hai," it uplifts drug addicts who live in small villages in the Malwa area. In this bordering Rajasthani village, men, women, and children of all ages are addicted to bhukki (poppy husk). Once the site where they would receive their daily or weekly dose of bhukki is known, the junkies rush there as soon as possible. To avoid being found by police enforcement and other governmental agencies, the location is frequently changed. As the couriers move the goods on trucks or tractor-trailers, the bhukki bags are concealed among the bags of produce, fruit, or farm products. A poor man's addiction is bhukki. Rajasthan and Madhya Pradesh are Punjab's main supply sources where opium cultivation is allowed. Either "chura" (ground husk) mixed with water or "kadah," produced by boiling bhukki in water (concentration), are consumed by addicts.

According to a recent survey by the Chandigarh-based Development and Communication Institute, Majha, Malwa, and Doaba each had 64, 61, and 68 percent of the families impacted by drug addiction. Opium and bhukki are sold at legal stores in Rajasthan, Madhya Pradesh, and Uttar Pradesh. Many Rajasthani sellers have set up business close to the Punjab border after realising that Punjab has a thriving market. According to a police officer who worked in Aboohar and Fazilka, "We put up nakas to stop people from transporting the contraband from Rajasthan or Haryana, but many manage to conceal it in their undergarments." "Abuser doesn't waste any chances. They frequently visit the store, where there is some laxity or lack of inquiry on the border as a result of the use of force elsewhere. By bringing in, say, 5 kg of bhukki, one not only receives a week's worth of medication but also saves Rs 1,000. While the price per kg

²² Supra note 7, p 42.

in Punjab ranges between Rs. 450 and Rs. 500, it is between Rs. 180 and Rs. 220 in Rajasthan. It claims, under the condition that a police officer's identity not be printed, that the lower middle class is typically comprised of opium, charas, and ganja addicts. In the case of the institute's regions, the colleges claim that in addition to cough syrups, smack and psychiatric medications are in high demand among students in the state. Girls aren't any different. Hunger becomes the most frequently requested "restricted" during election times; it must be for the Gram Panchayat, Block Committee, District Council, Assembly, or Lok Sabha. In the most recent Vidhan Sabha elections in Punjab, alcoholic beverages were sold in mobile shops at rates that were falling daily while those for vegetables were skyrocketing. Although Bhukki has taken over rural Punjab, traditional treatments have been replaced in more affluent urban populations by alcohol, Skype, heroin, and numerous prescriptions. The 65 AIDS deaths recorded from Patti tehseel in Amritsar over the past three years are being caused by injection medications, which are causing havoc in rural regions. The likelihood of drug addiction was at least 50% among the victims. The continual use of this one needle to inject drugs contributed to the spread of a fatal illness.

It is also true that urban adolescents may use cheap medicines like bhukki, charas, and hemp in addition to euphoric and sedative substances as a result of multifaceted increases in beer prices, including beer. Teenagers are the group most affected by drug addiction in farm labour. According to The Tribune News Service, accessibility and affordability are key factors.

To the astonishment of mental health specialists, Punjab is now seeing a significant push to address the issue of drug dependence. As new de-addiction centres are opening in the state, newer trends and patterns of opioid usage are emerging. Patients seeking treatment from these facilities most frequently abuse bhukki. According to a prior case study, the average monthly consumption of bhukki was 2.453 kg per person. The current case is exceptional since it represents a sudden increase in bhukki consumption from a very little amount to a very large amount. Such a high dose of bhukki misuse has never been documented before. This quick and predicted progression from opioid use's commencement to dependency has also been seen in earlier investigations. The prognosis for this transition is bleak, with a 2% chance of death per year and a high mortality rate of nearly 50% in a 30-year follow-up, which is also supported by a 20-

year follow-up research. This continues to be a major concern for many who abuse substances despite being aware of the negative effects on their bodies, minds, relationships, careers, and the law.

2.5 ABUSE OF PRESCRIPTION DRUGS

Adolescent prescription drug addiction has substantially increased during the past ten years. Teenagers use prescription medicines more frequently than marijuana and other illegal substances combined (Substance Abuse and Mental Health Service Administration, 2008). The most misused medications are frequently narcotics, antidepressants, and stimulants. Abuse of prescribed drugs can have serious negative effects. Alcohol or other drugs are frequently abused by teenagers, increasing the likelihood of negative outcomes. This addiction has grown significantly in recent years.

While studies suggest that fewer than 1% of teenagers use the internet to obtain information on dose during adolescence, to identify drugs, to learn about drug interactions and side effects, and to learn about drug misuse Through medical prescriptions, the Investigation of Adolescence participates in online chat rooms and reads blogs to hear about other people's experiences. According to studies, this online drug culture may add to the myth that most prescription drug abuse and/or pharmaceutical abuse is generally risk-free.

Adolescent prescription medication addiction should be treated with the same seriousness as teen alcohol, tobacco, and other drug (ATOD) abuse. Along with behavioural issues and increasing absenteeism, it can also result in ATOD abuse.²³ It may also have a detrimental impact on academic performance. Drug misuse is being studied, and preventative measures are being developed. In the meanwhile, drug misuse and its negative effects must be made known to parents, teachers, health experts, politicians, and most importantly, teens.

Children's attitudes toward prescription medications may be greatly influenced by their parents and other caregivers. While 60% of parents talk to their kids about marijuana "drugs," "just a handful" parents talk to their kids about the risks of a drug's inhibition.

²³ Jeetendra Yadav, Kusum Bharati & Kh Jitenkumar Singh, 'Pattern of Substance Abuse, Sexual Behavior and its Determinants, among Unmarried Youth in India, National Institute of Medical Statistics (ICMR), India

Parents need to discuss managing the hazards of drug usage when they talk to their kids about using drugs.

2.6 DRUGS, ALCOHOL AND JUVENILE

Alcohol is unhealthy and can impair numerous body systems, including the growing brain of your child. This motor has an impact on coordination, memory, impulse control, and judgement.

In addition to having severe impacts on health, alcohol use among young people is strongly associated with aggressive conduct, unsafe sexual behaviour, subpar academic performance, accidents involving alcohol, and other dangerous behaviours. Alcohol use has also been connected to homicide, suicide, and drowning deaths in young people.

According to the Global Level Report on Alcohol and Health (WHO) 2011, alcohol is responsible for 6.2 percent of all male fatalities and 1.1 percent of all female fatalities. Alcohol has a high percentage of total burden when compared to males: 7.4% for men against 1.4 percent for women. Due to their high death and disability rates, one in four men's weekly episodes of heavy drinking involve women. Women abstain from sexual activity at much lower rates than males do. A social variable that affects males more than women is low socioeconomic position and educational attainment, which leads to a higher risk of death from alcohol-related illnesses, injuries, and accidents. Alcohol abuse poses a severe threat to men in particular. This is the largest cause of death between the ages of 15 and 59, with the majority of deaths coming from accidents, violence, and cardiovascular disorders. Alcohol is a factor in 6.2% of all fatalities of men worldwide, but just 1.12% of deaths of women. Men bear a disproportionately large share of the burden of alcohol-related mortality, accounting for about 3.2 percent of all fatalities overall and a total of 4 percent (58 million). According to WHO estimates, one-third of the alcohol consumed in Southeast Asian nations is by men, who make up a quarter of the population. Women are noticing this tendency more and more.

According to the Global Status Report on Alcohol and Health (WHO) 2014, alcohol use contributed to 7.6% of all deaths among men overall and just 4% of fatalities among women. The highest rate of the total weight of the disease expressed in disability-adjusted lifetime (DALAI) caused by alcohol is higher for males compared to women:

7.4% for men and 2.3 percent for women. The fact that males frequently consume less food and drink more frequently and in larger amounts than women has been a major contributor to the higher burden of disease among men.²⁴

Globally, the situation figures are alarming; approximately 190 million individuals use drugs or alcohol due to drug addiction because to illegal drug manufacture and distribution, which contributes to crime and violence globally. Today, drug addiction and drug trafficking are present everywhere in the world. Millions of medicines are being used worldwide, and a wretched life is being lived on the edge of life and death. Psychological problems, increased cigarette use, alcohol misuse, inactivity, high-risk sexual behaviour, and many other factors linked to behaviour and lifestyle can result in sickness, inefficiency, and a life of poor quality. Contribute as much as you can 110. The prevalence of drug addiction was determined to be 77.81 percent overall, with medical professionals having an abuse rate of 82.5 percent, nurses having a rate of 55.31 percent, and paramedical employees having an abuse rate of 18.25 percent in Patiala, Punjab. The most frequently prescribed medications by medical professionals are alcohol (70%) followed by tranquillizers (49%) sedatives (43%), and cigarettes (43%) (37 percent). Other medications include stimulants (27.8%), hemp (26.8%), narcotics (10.3%), opium (7.3%) and inhalants (5%). (1 percent). Tranquilities (46.8%), sedatives (25.53%), alcohol (8.51%), hemp (8.51%), opioids (6.38%), and nicotine (0.38%) were all prevalent among the nursing staff (2.12 percent). Alcohol was the most commonly used drug among paramedics (66.67%), followed by tranquillizers (39.58%), sedatives (33.33%), bhang (22.91%), cigarettes (14.58%), opium (12.5%), stimulants (4.16%), opioids (4.16%), and cocaine (4.16 percent).

2.7 DRUGS USE IN SPORTS (DOPING)

According to UNESCO, "doping" refers to an athlete using illegal substances or techniques to enhance performance during training and competition. Steroid medicines, which frequently discuss doping, but in athletes using illegal substances Use of prohibited procedures (such as blood transfusions or gene doping), use of substances

²⁴ 'The facts about youth and alcohol' www.pubs.niaaa.nih.gov accessed on 10th April, 2023.

(such as stimulants, hormones, diuretics, opiates, and marijuana), and even so, they attempt to tamper with doping or drug testing controls.²⁵

When athletes utilise illegal substances to enhance their performance, it is discovered during testing that they have done so. He is then eliminated from the game.

The most popular restricted drug classifications are hormones and stimulants, which together make up five categories. They are prohibited by the government or the organisations in charge of running the Games because they come with health hazards when consumed.

Since the time of ancient Greece, stimulants and medications that increase power have been utilised in the game. Limits on drug use in sports, on the other hand, was first recognised in the 1920s. "The International Association of Athletics Federation (IAAF), the body that oversees athletics worldwide, was the first international sports federation to outlaw doping."

"Anabolic steroids like androgenic drugs are the most often used substances. These athletes are able to exercise hard, recover quickly, and gain more muscle, but they also have a higher risk of aggression and renal damage." Men may have reduced sperm counts and baldness as well as an increase in facial hair and deep voice in women. Anabolic steroids are typically administered intramuscularly or as tablets. Some creams or gels are used topically.

Then there are stimulants, which raise athletes' alertness and aid in their recovery from exhaustion by increasing their heart rate and blood flow. They are, however, addictive, and in rare cases, heart failure can occur.

Diuretics and masking chemicals are used to remove fluid from the body in order for athletes to "make the weight" in sports such as boxing and horse racing.

Although morphine and oxycodone have been made illegal, the opiate-derived painkiller codenone remains permitted. Cannabinoids and narcotic analgesics are also

²⁵ 'Doping in sport: What is it and how is it being tackled?' (BBC 20 august 2015) www.bbc.com.

used to alleviate pain caused by injury or weariness, though they can aggravate injuries and are addictive.

Peptide hormones comes next. These include EPO (erythropoietin), which increases muscular mass, strength, and red blood cell count while also providing sportsmen with extra energy, and HGH (human growth hormone).²⁶

Less frequently used blood doping involves drawing blood from the body and injecting it later to increase oxygen levels. Such a procedure is prohibited and may result in heart and renal failure.

Because they are anti-inflammatory, alter the metabolism of fats, carbs, and proteins, and control the levels of glycogen and blood pressure, glucocorticoids can conceal significant wounds.

Beta blockers, which can be recommended for high blood pressure and heart attacks, are nevertheless forbidden in sports like archery and shooting since they lower heart rate and lessen hand tremor.

• WADA

All forms of competitive sports are monitored for doping by the "World Anti-Doping Agency" (WADA). WADA was established in 1991 and is an independent international organisation supported by nations and sports federations. Based on the World Anti-Doping Code, it keeps track of doping in sports.²⁷

List of forbidden items: Wada regularly changes its list of prohibited items and procedures. Steroids, anabolic substances, stimulants, and gene doping fall under this category. Narcotics and other substances have been permanently banned. Some substances, like alcohol, are only permitted during competitions.

The National Anti-Doping Agency (NADA) is an independent organisation under the Central Sports Ministry at the national level.²⁸ A few notable incidents of Doping among Indian athletes are:

²⁶ Ibid.

²⁷ 'The dope on doping in sports' *The Hindu* (July 27, 2016).

²⁸ 'Doping in Indian Sports: A brief History' *Times of India* (July 25, 2016).

- Seema, a discus thrower who won the gold at the 2000 World Junior Championships, had his gold medal taken away.
- "Anil and Neelam, two discus throwers, received a two-year suspension for positive tests in 2005."
- "In 2010, shot putter Saurabh got a two-year ban for testing positive for banned stimulant."
- Narsingh Yadav was recently given a four-year suspension for doping by the Court of Arbitration for Sport (CAS). The court's verdict nullified the Indian National Anti-Doping Agency's (NADA) decision to clear the wrestler owing to the potential for "sabotage" in which his food or drink was purportedly contaminated, resulting in two failed drug tests.²⁹

All of the aforementioned information in this chapter makes it quite evident that almost no aspect of society is unaffected by the drug industry. Every institute allows the use of drugs or alcohol. It makes no difference whether the addict is wealthy or not, educated or not. Now, when the government considers how to eradicate this disease, it considers adopting laws or regulations to eradicate this evil, but on the other hand, the laws pertaining to its selling facilitate it for its own gain. Who will look out for the wellbeing of its citizens if the sovereign state declines to do so? However, it is unaware of the type of benefit that it is.

2.8 EFFECT OF DRUG ADDICTION

Our society suffers from a lot of negative consequences due to drug and alcohol abuse. It affects people of all ages and genders, including teenagers, young adults, the elderly, and even little toddlers. Intoxication is the cause of every crime. The impact of alcohol and drugs on crime is multifaceted. The purchase, use, possession, manufacturing, or distribution of illegal narcotics (such as cocaine, heroin, and marijuana) is the most evident infraction. Illegal drug or substance misuse can also be associated with criminal activities. Prescription medication misuse, for example, has been related to a range of crimes, including prescription fraud, the use of unauthorised online pharmacies, and drug theft. Similar to how alcohol can be used in criminal ways while remaining legal for adults.

Despite the detrimental effects that using drugs has on both the addict and those around them, drug users continue to use drugs. Overdoses frequently result from drug addicts ingesting dangerously high doses of their medications. Without drugs, they are unable to function on a physical or psychological level, and when they stop using drugs, they can experience severe withdrawal symptoms.

To enter a person's body, the medicine can be injected, inhaled, or swallowed, among other means. The manner in which a substance enters the body influences how it functions once inside. For example, although ingestion requires the drug to transit through the digestive system, delaying the effects, injection delivers the medication directly into the bloodstream, resulting in more immediate effects.³⁰

Addiction to drugs results in both psychological and physical dependence. Drug abuse refers to the excessive use of a substance, regardless of whether a person is actually dependent on it. Drug users are typically young, emotionally unstable, physically ill, and psychopathic in character. They also have poor mental and physical health.

1. PSYCHOLOGICAL EFFECTS OF DRUG ADDICTION

Even when you are not high, using drugs or alcohol can change how you feel. Drug usage can exacerbate already present problems or cause stress or mental disease.

Stress- It's possible that you think that if you took certain medications, it would make you feel calmer and help you forget about the things that are stressing you out. The use of drugs on a regular basis, on the other hand, can have a significant adverse effect on the way your brain functions and raise the levels of anxiety and tension in your life.

Depression- It is very common to experience feelings of depression after taking some drugs. The substance itself or anything that took place while you were under its influence could have contributed to your current state of depression. Even though these

³⁰ 'Effects of drug abuse and addiction the gateway foundation' www.recovergateway.org accessed on 4th may, 2023.

feelings are frequently made worse by drug use, some people may turn to substance abuse as a means of coping with their despair.³¹

Mental Illnesses- "According to the National Institute on Drug Abuse, even though researchers are in agreement that there is a connection between drug use and severe mental illnesses such as schizophrenia, it is still unclear whether long-term drug abuse causes these conditions or whether having a disease makes a person more likely to abuse drugs. This is despite the fact that researchers are generally in agreement that there is a connection between drug use and severe mental illnesses such as schizophrenia. The brain goes through a transformation when someone develops a dependency on drugs, and this change is what causes the psychological repercussions of addiction. When looking for relief from stress or discomfort, many people turn to the use of pharmaceuticals. When someone is addicted to drugs, they enter a vicious cycle in which they feel forced to take medication whenever they are in any kind of distress or discomfort. The "craving" for the drug is one of the psychological effects that can arise as a direct result of drug addiction. Addiction to drugs causes a side effect known as craving, which is characterized by an individual's preoccupation with obtaining and using the drug in question. One of the psychological effects of addiction is desire, and one of those effects is the addict's mistaken assumption that they are unable to function or deal with life without the substance.

Drug addiction has an impact on the addict as well as his friends and family. When under the influence of narcotics, drug addicts have a propensity to become very violent. Family members and friends are powerless to stop their loved ones from using drugs, and they feel helpless in this situation. 8. Many families are believed to have disintegrated as a result of drug abuse, and addicts may even lose their friends as a result of this behaviour. The repercussions of drug abuse can also be observed in a person's career. Sometimes people struggle to focus on their work, which affects their performance and ultimately results in them losing their jobs.

Treatment for drug addiction is fairly challenging but not impossible. The first step in treatment is for the drug user to acknowledge that he has a problem that puts him and those around him in risk.

³¹ Novika Amalia, 'Causes and Effect of Drug Addiction' www.scribd.com accessed on 4th May, 2023.

The person should be aware that while using drugs may provide him with an instant sense of relaxation, it is a risky addiction that could ultimately cost him his life.³²

2. PHYSICAL EFFECTS OF DRUGS ABUSE

Although the negative effects of drug addiction on the body's numerous physiological systems are not always present, they might manifest themselves at any time. One of the areas in which the physical effects of drug addiction are most readily apparent is in the brain. Addiction to a drug will change the way in which the brain functions as well as the method in which the body experiences pleasure. The usage of drugs is what causes these symptoms of drug addiction, which are brought on by the constant flooding of the brain with the neurotransmitter's dopamine and serotonin when the drugs are being used. The brain is sociable, it can predict what will happen, and it is dependent on medications to perform at a greater level.

Addiction to drugs can have negative impacts on a person's entire body. In the early phases of drug addiction, abnormal breathing patterns, an increase in heart rate and blood pressure, and other physiological symptoms might be seen. Also possible is an abrupt change in the person's weight, either upward or downward.

The consequences of drug addiction over time are more severe. Brain damage, heart disease, arthritis, and lung ailments are just a few of the deadly illnesses brought on by drug addiction. Due to the sharing of needles used to inject narcotics, it is also one of the causes of HIV infection.

Physical Injuries- You can behave in ways that you wouldn't typically be able to if you consume drugs. You are more likely to suffer physical harm or be involved in auto accidents. And to make matters worse, you also murder.

Violence- Some medicines may make aggressive behaviour more likely. Never respond to a situation with violence, and stop immediately if you do. It's a good idea to reevaluate your drug use when you consume drugs. Violence brought on by drugs has the potential to seriously harm both you and others.³³

 ³² Natasha Tracy, 'Effects of Drug Addiction' www.healthyplace.com accessed on 4th May, 2023.
³³ Ibid.

Internal Damage- The liver, brain, lungs, esophagus, and stomach are just a few of the internal organs that using certain medicines might harm. For instance, when sniffed, common household glue can be considered a drug. if you breathe them in for a prolonged period of time. The chemicals in glue can damage your kidneys and cause hearing loss, while long-term marijuana use can affect your brain's memory, attention, and learning centres.

Addiction- There is a danger that you could develop a dependence on drugs if you use them. This implies that you might think you need drugs to function or that you expend a lot of time and effort looking for and using the drug. When you stop using the medicine, withdrawal symptoms may also occur. If you use drugs frequently, your tolerance to them may grow, requiring you to consume more of them to have the same effects.³⁴

3. ECONOMICAL EFFECTS OF DRUG ABUSE

Alcohol abuse or addiction has negative economic repercussions on the nation's health, having an impact on families, communities, and individuals of all ages. Underage drinking is hurting children's development and, in turn, the country's capacity to address the coming economic crisis. College-aged adults may be the most difficult to prevent alcohol usage in due to their early drinking habits and sensitivity to marketing inducements.

According to the data provided by the UNDCP, the economic impact of drug misuse can be quantified in two different ways. Examining the monetary expenditures that are connected to the implementation of national drug policies is one component. Every year, governments all over the world contribute billions of dollars to support a wide variety of programmes that are devoted to reducing drug abuse and increasing compliance with drug laws. Having said that, this expenditure does come with a cost, as there are only so many resources available, and decisions need to be made about how they should be distributed. When money is spent on drug enforcement, it means that there is less money available for other things, such as education, public infrastructure, or prospective tax reductions. Another unfavorable effect that drug use has on the economy is a drop in human productivity. This deterioration in productivity includes

³⁴ Drug Addiction and Society www.scribd.com accessed on 4th May, 2023.

both a fall in income and a reduction in output as a result of illnesses and early deaths that are related with drug addiction.

According to the UNDCP, the economic impact of drug usage varies by country, and several individual countries were identified as specific examples in its studies. In Canada, for example, the UNDCP calculated that lost productivity from drug misuse accounted for 60% of the economic impact of drug abuse. According to German estimates, about 10 billion US dollars are spent each year on drug addiction, enforcement, and treatment, half of which is spent on disease and productivity lost due to premature deaths.

"The three most common narcotics for which patients seek therapy are heroin, marijuana, and cocaine. Only one in every six drug users is regarded to have a problem over the world."

Only roughly one out of every eighteen drug abusers in Africa obtains therapy, but the ratio for problem drug users who receive treatment is approximately one in eleven in Latin America, the Caribbean, Eastern and South-Eastern Europe, and Eastern and Southern Asia. It is believed that around one third of problematic drug users in North America participate in some form of therapeutic intervention. If every person who used drugs in 2010 had received treatment, the total cost would have been in the region of \$200 billion to \$250 billion, which is equivalent to 0.3 percent to 0.4 percent of the global gross domestic product. It has been observed that investing in therapy is a considerably better financial decision than choosing not to treat substance misuse in an individual. According to research carried out in the United States, there is a return of between \$4 and \$12 in reduced crime and healthcare costs for every dollar invested in therapy. These savings can be attributed to the positive effects of therapy.

Financial Issues- The expenses of an addiction can extend beyond only the individual to include family, friends, and society at large. Police work, drug addiction hotlines, support networks, and treatment facilities all have costs. When an addict loses or is unable to work, there is an indirect loss of money in the form of tax and social insurance contributions. As a result, Treasury revenue falls while welfare payments, such as unemployment compensation, rise.

Impact on Public Safety- The use of illegal drugs not only results in increased medical costs but also creates a substantial threat to the health and safety of those who live

nearby as well as the natural environment. For example, in recent years there has been a discernible rise in the number of drug-related road accidents, which has become a substantial problem on a global scale. In addition, there is a growing awareness of the negative effects on the environment that are generated by the illegal manufacture, production, and cultivation of drugs.

Drug Affected Driving- "In addition to other neurological processes, drug abuse affects perception, attention, cognition, coordination, and response speed, all of which have an impact on safe driving. In Canada, the United States, Europe, and Oceania, cannabis use among drivers has been found to be the most common illegal substance." According to studies, the risk of a habitual cannabis user being in a car accident increases by 9.5 times, that of a cocaine and benzodiazepine user by 2-10 times, that of a namphetamine user or someone who uses many drugs by 5-30 times, and that of a person who uses alcohol and drugs together by 5-30 times. Putting passengers and other drivers on the road at risk also has negative effects for them since they could be hurt by drug-impaired driving.

Education- Abuse of alcohol and other drugs has also become a significant issue on college campuses. The majority of students in today's classrooms are drug addicts. Such individuals form their own group, beginning with BD and cigarettes before progressing to booze and narcotics. "According to the National Survey on Drug Use and Health: Summary of National Findings, 63.3 percent of college students reported being heavy drinkers in 2010, while 22% admitted to using illicit drugs." Abuse of alcohol and other drugs among college students has a number of serious, negative consequences for both students as a whole and for campuses.³⁵

Personality- Although it depends on the amount and frequency of usage, addiction has a variety of effects on a person's personality and behaviour. A person's psychological habits, physical health, and way of life determine them first. Young people who regularly consume high amounts of alcohol are more likely to be described as impulsive, effective, hard-working, honest, and sensational, joyous, or novel. They may also experience more negative effects as a result of their drinking. Furthermore, these people have been described as being less controlled in their behaviour, disinhibited,

³⁵ Ashley Miller, *The Effects of Drugs and Alcohol on College Campuses*, www.seattlepi.com accessed on 4th May, 2023.

deviant, radical, and dedicated to conventional values than less frequent or lighter drinkers. Different substances affect mental health in different ways; for example, heroin is more potent than nicotine and has a substantial impact on the brain. The fact that we are all unique in terms of our psychological makeup has been introduced, so two persons are not influenced in the same manner. Because of his brain chemistry, a person may therefore suffer more "disadvantages" than another who uses the same substance.

Work- National, social, cultural, racial, religious, and gender concerns all have a substantial impact on the interaction between drug use and the workplace. Cultural or social norms may also encourage drug abuse. Some businesses promote drinking or drugging cultures, and such cultures may impose prohibitions on employees who do not use these substances. Furthermore, some jobs expose workers to hazardous or addictive substances, such as glue used in the manufacture of shoes. Employees may follow trends or local conventions and enable substance addiction, even having beliefs that are clearly at odds with the scientifically proved physical consequences of these activities. Unemployment has a range of consequences, but it usually makes it more difficult for a person to engage in their society's social, economic, and political life. As more people move from rural to urban regions, competition for jobs intensifies. Without education and job, young people may find themselves on the outside of metropolitan life. Because most people are expected to work in some meaningful capacity, being unemployed can lead to a state of inactivity. When a work requires time away from friends, family, and home, social relationships may deteriorate. Young individuals use drugs at a higher rate than persons of other ages. Prior to entering the workforce, most people have risk factors for drug use. As a result, community drug usage issues have an impact on the workplace. Despite significant regional variations, the age group with the highest incidence of drug use is generally between the ages of 18 and 35. Preventative initiatives may thus be most beneficial before to or during admission into the employment market. Employers can take a variety of initiatives to discourage drug usage, which will benefit both the community and them individually. Workplace drug usage prevention strategies should start in the community and target the young people who will work there in the future. It is not common practise to separate the living and working rooms. Despite the fact that property lines separate these two settlements, people routinely move between them. Because of the intimate relationship between the

family and the job, it is more difficult to use professionally run social services or support programmes to deal with workers' problems. Furthermore, government-run or community-based groups, such as occupational safety and health departments, are less prepared to support workers who do unpaid or home-based labour.

Employment- If one of his employees is impacted by the growth and addiction of the employer, the intelligent employee will be able to replace that employee with someone who can occasionally put off working, and the skilled worker's presence, personal hygiene, and email will signal a level of abnormal or unacceptable behaviour. They are not permitted to be absent for any legitimate reason, to fail to do their job, or to steal from coworkers or the company. As a result, the employee is forced to quit his job, which has an effect on his family's and his family's lives. Losing your job causes financial hardship, especially if it is a big adult, and strains the marriage. This could be the result of a marital or relationship breakdown and/or divorce.

CHAPTER 3

INTERNATIONAL POLICY AND LEGAL FRAMEWORK

At the turn of the twentieth century, drugs and other psychotropic substances that produce psychoactive effects were made the subject of global regulation. At the beginning of the twentieth century, a number of nations got together to examine the worldwide drug problem. They were alarmed by the high rate of opium usage and the negative effects it had on society, the economy, and people's health. The stringent regulations and regulatory framework that are in place at the international level today have not always been in existence; nonetheless, throughout the course of time, they have developed and become more robust.

3.1 "THE SHANGHAI OPIUM COMMISSION, 1909"

It is without a doubt and without a doubt correct to consider it the foundation of the worldwide system for the control of drugs. In February of 1909, the city of Shanghai played host to the very first international conference on the subject of the scourge of drug abuse. This conference, which eventually evolved into something known as the Opium Commission, was significant in determining the primary opium transit channels that existed at the time. At the time, India was the greatest exporter of opium. China was also a significant producer of opium. The most significant importer on a global scale was China.

At first, the purpose of the meeting was to concentrate only on the problem of putting a stop to the flow of opium via Asia, in especially to China. In the days leading up to the meeting, a number of governments communicated their want to attend while also registering their interest to do so. The majority of the concerns were based on the notion that the topic could not be successfully discussed until major producing and consuming nations were present. This was primary justification given for these objections. A great number of states argued against the conferment of any plenipotentiary authority on the conference.

In addition, the International Opium Commission shared data and information with one another and provided several recommendations for further action. It was generally agreed upon that it was a poor plan to smuggle illegal substances into a country that had a ban on their consumption. "Even though the Commission was not required to create legally binding agreements, it was still a tremendous accomplishment because it laid the groundwork for the ratification of The Hague Opium Convention three years later. This convention formally established drug control as a matter of international law. Even though the Commission was not required to create legally binding agreements, it was still a tremendous accomplishment."³⁶

3.2 "THE HAGUE DECLARATION, 1912"

"The non-binding ideas made at the Shanghai Conference gave way to the formation of international legally enforceable instruments, which resulted in a substantial shift in the direction that the development of a legally binding worldwide drug regulation convention should take." The International Opium Convention, a treaty that has six chapters and 25 articles, was finally approved by the conference as the first global drug control pact after a great deal of debate and discussion.

The 1912 Convention gave further impetus to the attempts of a number of countries to control the consumption of drugs. It resulted in the passage of the Harrison Act by Congress in 1913, which is widely considered to be the foundation of the United States' drug policy during the 20th century.³⁷

In spite of the great significance it had, the Hague Convention had only a little effect on the world. The majority of producing countries, such as the United Kingdom, Iran, and Russia, amongst others, have voiced their opposition to the proposal of decreasing cultivation. According to Article 1 of the agreement, the contracting parties were only required to "control" opium production; they were not required to limit its use to just for medicinal and scientific purposes. In addition, the states came to the consensus that the use of opium will be criminalised over time, although they could not settle on a specific date. Because of this, it was possible for the vast majority of nations to keep things the same over the course of the subsequent ten years.

³⁶ Report of the International Opium Commission, Vol. II, Reports of the Delegation, Memorandum on Opium in India, 1909, Op Cit, p. 173.

³⁷ 'UNODC report on Drug Control Foundation'

https://www.unodc.org/documents/WDR2008_100years_drug_control_foundation.pdf accessed on 26th April, 2023.

Even while it was far from perfect, the Convention of 1912 did contain many of the elements necessary for a comprehensive drug control pact. In addition, it was a useful campaigning tool that functioned as an official statement on the hazardous practises of smoking opium and the illegal trafficking of opiates and other narcotics. This was done to raise awareness about these issues.

3.3 "THE LEAGUE OF NATIONS (1925-1945)"

"The conditions of the Treaty of Versailles in 1919, which effectively brought an end to World War 1, were the impetus for the establishment of the League of Nations. The Opium Advisory Committee (OAC) was established by a resolution that was passed by the League of Nations on December 15, 1920." Its purpose was to monitor the implementation of the Opium Convention that was signed in 1912.³⁸

Within the League's secretariat, the League also formed an Opium and Social Questions Section in order to fulfil the executive and administrative requirements of the OAC. The new international drug control organisations established by the League have invested a significant amount of effort into identifying the breadth of the drug problem on a worldwide scale. The OAC demanded information on a variety of topics, including imports, exports, re-exports, consumption, reserve inventories, and more. In light of this, the OAC suggested that states adopt an import/export certification regime that was modelled after the method used by the British.

"The involvement of a number of key nations in the OAC, such as the United States of America and Russia, was severely limited due to the fact that these nations were not the members of the League of Nations." Because of this, the OAC was not as effective as it may have been. After a number of failed attempts to gain permission for the United States to participate directly in the OAC, the State Department of the United States began sending observers to the sessions in 1923. Despite this, it was abundantly evident that the viewpoints held by the member states continue to be diametrically opposed. While the United States delegation urged for stringent supply control, the colonial powers maintained the ancient practises of opium usage in Asia. They were adamant that there should be no serious restrictions placed on the cultivation of poppies, arguing that doing so would only increase illegal cultivation and selling in China.

³⁸ S.K Chatterjee, Legal Aspects of International Drug Control (London, 1981) p. 80.

It was no longer possible for the United States to take the lead in promoting worldwide efforts to curb drug usage because of its stature within the League of Nations. This prevented them from doing so. This function was being fulfilled an increasing amount by the United Kingdom.

At the end of the 1930s, escalating political tensions were a major factor in the decline of international collaboration. After the National Socialists won power in Germany in 1933, the country abruptly left the League of Nations, which it had joined in 1926. Japan left the League of Nations in 1933 as a response to the objections raised by the League of Nations regarding the country's invasion of the Chinese territories. The Soviet Union, which had only recently joined the League of Nations in 1934, was compelled to resign from the organisation after it took military action against Finland in 1939.³⁹

Despite the unfavourable political climate that prevailed in the late 1930s, the majority of states upheld the accords and even continued to furnish statistics until 1939. The most significant breaches of the international drug control treaties that occurred during World War II were those that involved the shipment of opium and other narcotics to China.

"As of 1940, the Opium Advisory Committee was relocated to Princeton, the Central Permanent Board was relocated to Washington, and the Drug Supervisory Body was relocated to Baltimore; nonetheless, the official seat of the international drug control system continued to be in Geneva."

3.4 "THE OPIUM GENEVA CONVENTIONS (1924 AND 1925)"

United States' influence in global drug control concerns has not reduced despite the country's decision to withdraw from the League of Nations (Lower House of the UN). The USA exerted pressure on League of Nations to call a new meeting in order to address the fact that the Hague Convention of 1912 had little effect on the trafficking of opium and, increasingly, synthetic narcotics in East Asia. The League of Nations was anxious that it would act on its own if the United States did not comply with the terms of the agreement. In the span of time from November 1924 to February 1925, there

³⁹ 'A Century of International Drug Control', United Nations Publication, ISBN No. 978-92-1-148252-2, P.79.

were two conferences held consecutively, and as a result, two separate treaties were signed.⁴⁰

"In the first Geneva Convention, which was centred on countries that produced opium, it was specified that members would only be permitted to sell opium through state-run monopolies and that they were expected to totally extinguish the opium trade within 15 years."

"The Geneva Convention on the control of narcotic substances was signed on February 19, 1925, marking a significant advancement in the field of drug control. The newly established Permanent Central Opium Board required that governments provide quarterly reports on the import and export of such substances, including opium and coca leaves, as well as annual reports on the production of opium and coca leaves." Additionally, governments were expected to provide annual information on the production of opium and coca leaves. In addition, import certificates and export authorizations were created, making it necessary for each import and export transaction to receive prior approval from the government. The Convention mandated the creation of a data management system, and "the Permanent Central Opium Board (PCOB)" was created to oversee its operation. The group was made up of eight free-thinking experts who served in their private capacities rather than in the capacity of representatives of their respective governments. The Board might recommend a ban on drug exports to nations that constituted a threat to other countries by establishing a centre for illegal trade even if the country in question was not a party to the Convention. This would apply even if the country in question was not a member of the Convention.

Surprisingly, the PCOB gave preference to suppliers of raw materials. By 1925, the government of India had reached the conclusion that continuing to export opium would incur greater political costs than it would bring in economic rewards. It said that it would no longer export opium to any state or colony that functioned as a hub for illegal commerce, regardless of whether or not such a government could grant valid import certification. This was done despite the fact that such a state or colony would be able to import opium legally. In 1926, the government of India made the announcement that

⁴⁰ Jay Sinha, 'The History and Development of the Leading International Drug Control Conventions' http://www.parl.gc.ca/Content/SEN/Committee/371/ille/library/history-e.html accessed on 19th May, 2023.

all opium exports that were not intended for medical purposes would be gradually eliminated. In the years that followed, India's exports experienced a dramatic decline.⁴¹

The addition of cannabis as a new component in the international system for the control of drugs was a component of the 1925 Convention. Opium, morphine, heroin, and cocaine/coca were subject to significantly more lax regulation compared to cannabis. The Convention of 1925 was the first time that cannabis was subject to the oversight of international authorities; nevertheless, this supervision was only partial. The Convention was only concerned with the commercial component of the cannabis industry in its global context. It did not demand that the domestic cannabis trade be controlled, that the domestic production of cannabis be outlawed in general, that the domestic consumption of cannabis be decreased, or that national governments inform the Board of their estimates of the domestic output of cannabis.

3.5 "THE GENEVA NARCOTICS MANUFACTURING AND DISTRIBUTION LIMITATION CONVENTION, 1931"

The decade of the 1920s came to a close with a number of goals regarding drug control having been successfully accomplished. Even nations like as the United States, which had not signed or ratified the 1925 International Opium Convention, participated in the work of the Permanent Central Opium Board. A clearer and more accurate picture of the supply and demand situation emerged when more statistical returns from the government were received. In addition, a number of countries stepped up their internal law enforcement efforts, and India, the leading opium exporter in the world, began to cut back on its shipments.

It was clear, however, that these strategies would never be completely successful because the agreements were not universal in scope. Following India's withdrawal from the market for quasi-medical products, other nations, like Iran, began to fill the hole that was created. Additionally, China continued to produce an excessive amount of opium in its factories. The number of manufactured pharmaceuticals that the United States purchases from China has reportedly started to increase at an exponential rate. "Several dishonest operators relocated their businesses to nations that had not ratified

⁴¹ Ross Coomber, 'The Control of Drugs and Drug Users, Reason or Reaction' London, 1998, p 38

⁴² Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs' League of Nations, Geneva, 13 July 1931

the International Opium Convention as European governments put pressure on pharmaceutical companies to adhere to stricter control criteria." This occurred as European governments pressured pharmaceutical corporations to adhere to the stricter control criteria. Because production nations were unwilling to give up their current export potential, any attempts at restriction were substantially impeded by the worldwide economic crisis of the 1920s.⁴³

The member nations that backed limits on trade immediately began looking for alternate control methods. The Convention for the Limitation of Narcotic Drug Manufacture and Regulation of Narcotic Drug Distribution established a mandatory estimates system in addition to the establishment of a "Drug Supervisory Body (DSB)" to oversee the operations of the system. The purpose of this system is to limit the number of drugs that are manufactured globally to the amount that is required for medical and scientific purposes.⁴⁴

The following comprised the main components of the new control system: Signatories were required to submit estimates of the quantities required for

- conversion,
- reserve stocks,
- medical and scientific needs and
- government stocks.

Provisions were also made for the change of estimations due to unanticipated medical needs. The 1931 Convention also established the concept of "drug scheduling"⁴⁵, or the application of two separate control levels to medications based on:

- a drug's level of hazard,
- its amount of usage by the medical community.

The duty of monitoring the estimating system (DSB) has been delegated to a Drug Supervisory Body (DSB)⁴⁶, which has just recently come into existence. The DSB was tasked with conducting a comprehensive review of the various drug policies that exist around the world. Following the implementation of the directives, the United States

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Supra note 38.

⁴⁶ Ibid.

was obligated to disclose its imports and exports to the DSB.⁴⁷ "This gave the DSB indirect control over the trade in manufactured medications that occurs around the world. The United States was able to sidestep the necessity of recognising the League of Nations' preeminent position in the field of international drug control by establishing this new body (the functions might have been carried out by the PCOB)."⁴⁸

3.6 BANGKOK OPIUM SMOKING AGREEMENT, 1931

Opium use in the Far East was the topic of discussion during a second conference that took place in Bangkok around the end of 1931. The United States only participated in the treaty as an outside observer, and the European powers were hesitant to enforce significant opium production limitations as long as there was widespread opium overproduction and trafficking. Both of these factors contributed to the treaty's lack of effectiveness. The United States' efforts to restrict poppy cultivation were complicated by the fact that their entire prohibition programme had had little effect on the trafficking and use of opium in the Philippines. This made it difficult for the United States to achieve their goal.⁴⁹

The United States was ultimately convinced at the Bangkok conference that a more aggressive policy was necessary in order to combat the manufacture of raw materials and the trafficking of illegal substances. This was the primary result of the conference.

3.7 "THE GENEVA SUPPRESSION OF THE ILLICIT TRAFFIC IN DANGEROUS DRUGS CONVENTION, 1936"

Regrettably, developments in legal doctrine encouraged a diverse array of behaviour that violated the law. Many organised crime organisations and criminal syndicates began searching for new commercial prospects after the prohibition on alcohol was lifted in the US in 1933. This was due to the fact that international measures had caused a significant setback for the criminal organisations' financial interests. They found that engaging in heroin trafficking was a lucrative endeavour, particularly when carried out in conjunction with their international competitors.

⁴⁷ Available at https://sencanada.ca/content/sen/committee/371/ille/library/history-e.html accessed on 5th may, 2023.

⁴⁸ The United Nations Drug Abuse Control (United Nations 1992) p. 65-66.

⁴⁹ The beginning of International Drug Control (United Nations 1998) p. 53-58.

"Now, in the year 1936, the League of Nations organised a conference to discuss the rapidly expanding drug markets. The Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, which was signed in 1936, was the primary achievement of this conference. This was the first treaty to specifically address the issue of drug trafficking, and it was also the first document of its kind to classify some drug-related offences as crimes against humanity."

The Trafficking Convention of 1936 was a defining moment in history, despite the fact that its total impact was rather insignificant. Every agreement that came before the 1936 Trafficking Convention dealt with the control of "legal" drug use, but that convention designated trafficking as an international crime punishable by monetary sanctions.⁵⁰

As a result of the refusal of a number of significant countries to join and ratify the Convention, the Convention has retained a very low level of practical importance. This included the United States of America, which felt that the meeting did not meet its needs.⁵¹ A number of other nations, including Germany and Japan, have decided to withdraw from participation in international conferences. A total of only 13 nations were required to sign and ratify this agreement. In addition, it did not come into effect until October 1939, which was far after the start of World War II and during a time when concerns regarding the control of drugs took a back seat to those regarding foreign policy. In point of fact, it took an additional half a century for these issues to be substantially discussed on a global basis for the second time.

3.8 "UNDER THE UNITED NATION, 1946 ONWARDS"

The League of Nations' duties and activities in relation to drug control were transferred to the United Nations in 1946. Under the UN system, the following are the main treaties, protocols, and conventions:

1. The Opium Protocol, 1953

"After World War II, there was a dramatic shift in the nature of international relations, and the expansion of multilateralism in the field of drug control was dependent, more than ever before, on diplomatic efforts and the establishment of consensuses. The USA

⁵⁰ Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs, signed June 26, 1936, League of Nations, Geneva.

⁵¹ League of Nations, Records of The Conference for the Suppression of the Illicit Traffic in Dangerous Drugs, Geneva, June 8th to 26th, 1936, Geneva 1936.

and the USSR emerged as the world's two leading nations during this time (USSR). Both Japan and Germany were in the process of reconstruction. After China achieved its independence in 1949, the People's Republic of China, often known as the new Chinese government, put a halt to the cultivation, distribution, and consumption of opium within the country."52

"The nations of the world reached a consensus in June 1953 to create the so-called "1953 Opium Protocol," which is also known as a protocol for limiting and regulating the cultivation of the poppy plant, the production of opium, international and wholesale trade in opium, and the use of opium. This protocol was signed. Under the terms of the Protocol, the manufacturing and use of opium were to be limited to those serving the needs of the medical and scientific communities."

Under the rules of the Protocol, only seven countries were allowed to grow opium for the purpose of exporting it: Bulgaria, Greece, India, Iran, Turkey, and Yugoslavia. In addition, the Protocol necessitated the establishment of in-depth national control mechanisms by the participating nations.⁵³

The PCB was given the capacity to approve and carry out the imposition of an embargo, in addition to receiving special monitoring and enforcement responsibilities. Legal overproduction was supposed to be stopped by imposing restrictions on the quantity of opium that may be held in each state.⁵⁴

The Opium Protocol from 1953 has some of the most stringent drug control restrictions that have ever been incorporated into international law.⁵⁵ The need that producers of narcotics submit reports under the 1931 Convention was enlarged to include raw opium under the terms of the accord. Estimates of the total quantity of opium that was planted, harvested, exported, and stored would be sent to the DSB by the signatories. This included the quantity of opium that was utilised domestically. Producing states were the primary focus of the agreement's provisions. It is necessary for the PCOB to obtain statistics for the year's conclusion. The Board was also given the right to investigate

⁵² Yongming Zhou, (Nationalism, Identity and State Building, The Antidrug Crusades in the People's Republic, 1949-1952) in Timothy Brook and Bob Tadashi Wakabayashi (eds.), Opium Regimes, China, Britain and Japan, 1839-1952 (Los Angeles: University of California Press, 2000) p. 380-403. ⁵³ Supra note 49.

⁵⁴ Supra note 48.

⁵⁵ United Nations Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in, and use of Opium, opened for signature 23 June 1953, 98 UNTS 165 (entered into force 8 August 1954).

irregularities, impose embargoes, and conduct out inspections thanks to the delegation that was included in the Protocol.

Even in the case of countries that were not a party, the Board was given the ability to evaluate estimates and to conduct investigative and punitive action in accordance with the Protocol. In exchange for bearing the additional burdens and limitations, producing nations are granted a monopoly on legal sales of opium and a 15-year grace period during which they are not required to engage in any further manufacture of the drug. The parties that signed the pact committed to only purchasing opium from the seven states that were named in the corresponding legal document.⁵⁶

In order for the Protocol to be valid, the treaty required to be signed by a total of 25 countries, three of which had to be among the seven producing states. Only India and, later, Iran ratified the Protocol out of the seven states that were identified as producing and exporting opium. The other three states were removed from the list.

The Soviet Union raised objections to a number of the restrictions placed on inspections. Greece and Yugoslavia did not announce their readiness to ratify the agreement until after Turkey had already done so. In response to increasing pressure from the United States, Greece and Turkey both ratified the Protocol in February 1963. Greece was the first country to do so.

2. "The Convention on Psychotropic Substances, 1971"

In the middle of 1960s, the distribution of amphetamines, barbiturates, tranquillizers, and other synthetic, non-plant-based drugs was only lightly restricted in the majority of countries. This included both the western and the developing world. Because of the worsening of the aforementioned problems in a number of industrialized nations, restrictions were imposed, which prompted pharmaceutical companies to engage in more aggressive marketing of their products in Latin America, Africa, and Asia. As a result, the abuse of psychoactive substances has developed into a phenomenon that is truly global, and a number of developing nations have begun to condemn the practise of applying double standards. At first glance, it appeared as though these outbreaks were singular events. By the middle of the 1960s, the generally upward trend in drug use of psychotropic drugs became a global phenomenon due to its widespread nature

and increasing prevalence.

The WHO and the UN Legal Office stated in 1967 that a new convention would need to be created in order to regulate these psychotropic chemicals. The Vienna Convention of 1971 established worldwide regulation over a number of stimulants with effects similar to amphetamines, hallucinogens (including LSD), tranquil hypnotics, anxiolytics (benzodiazepines and barbiturates), analgesics, and antidepressants.⁵⁷

The plenipotentiary conference was attended by 71 countries as well as INTERPOL and the World Health Organization. Several representatives from other pharmaceutical businesses also attended.⁵⁸

The control system made available by this Convention included several advances while also being based on the Convention of 1961.⁵⁹ "All substances may only be administered or dispensed with a medical prescription, in accordance with general prescription rules. Such chemicals were not to be advertised to the general public; instead, suitable cautions and warnings were to be stated on the labels and accompanying brochures."⁶⁰

The countries that accepted this treaty were required to establish an inspection system for producers, exporters, importers, wholesale and retail distributors, as well as for institutions of medicine and science. A Party may also communicate its decision to forbid the importation of one or more psychoactive substances to all other Parties via the Secretary-General (later renamed UNODC).⁶¹

"If it had reason to believe that the failure of a country to comply with the provisions had seriously jeopardized the Convention's goals, the Board could recommend to the Parties, the Economic and Social Council, and the Commission on Narcotic Drugs that they halt the export, import, or both of specific psychotropic substances from or to the country in question. This was stipulated in the agreement.

⁵⁷ Convention on Psychotropic Substances 1971, New York, 1977, p. 1.

⁵⁸ Convention of Psychotropic Substances, 1971 art. 19(1) art 19(2).

⁵⁹ United Nations, The United Nations and Drug Abuse Control, 1992, pp. 70-71.

⁶⁰ United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, 1988 Art 36(2).

⁶¹ United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, 1988 art 5 (3).

CHAPTER 4 NATIONAL POLICY AND LEGAL FRAMEWORK

In accordance with the DPSP that are outlined in Article 47 of the Indian Constitution, the State is required to consider enhancing public health as one of its fundamental responsibilities. Activities that are particularly hazardous to health cannot be carried out by the State unless they are performed for medicinal purposes. Efforts to legalise drugs while maintaining consumption prohibitions are being made. This instruction was supported by the law thanks to the NDPS act of 1985, which was passed in 1985 and places more stringent controls and regulations on work linked to NDPS. Concurrently, the government has granted the right to create a large number of centres because of their suitability for the social reintegration of addicts' identities, as well as for the provision of treatment, education, care, and rehabilitation services.

"The Opium Act of 1857, the Opium Act of 1878, and the Dangerous Narcotics Act of 1930" were all pieces of legislation that were enacted to limit the consumption of various substances. However, because to the passage of the Narcotic Drugs and Psychotropic Substances Act in 1985, their viewpoint has now changed. Even though the legislation put an end to the main act, there have been a number of discussions regarding how to better understand the changes in legislative policy and the difficulties the enforcement officers encounter when dealing with the assembly. The outcomes of these discussions have not been very significant, however, so the discussions continue.

4.1 "THE OPIUM ACT, 1857"

"The Opium Act of 1857" is widely regarded as a watershed event in history because it exemplifies the intricate dynamic that existed between British colonialism and the opium trade in the 19th century. This legislation, which was enforced by the British East India Company, intended to restrict the cultivation, production, and sale of opium in India. It was a crucial turning point in the region's social and political scene at the time it was enacted. In this article, we dig into the historical setting, the motivations behind the Act, its influence on India, and the subsequent repercussions that helped determine the trajectory of the opium trade.⁶²

During the 18th and 19th centuries, the British East India Company worked to increase its influence in India in order to improve its chances of securing lucrative trading routes. During this time period, the East India Company was experiencing financial difficulties, which compelled them to investigate alternative sources of income. They were able to accomplish this by participating in the opium trade and capitalising on the widespread addiction that had taken hold of China. The opium that was manufactured in the Indian states of Bihar and Bengal was smuggled into China, primarily through the port of Canton, which is now known as Guangzhou. As a result, the British made great profits from this endeavour.⁶³

The British East India Company enacted the Opium Act of 1857 in order to strengthen their grip on the opium trade and to further solidify their ownership of the industry. Legislation was proposed that would have regulated the growing of opium crops as well as sales of the drug, and would have given the East India Company a monopoly on its manufacture and distribution. Licences were granted, in accordance with the Act, to designated agents who were tasked with the responsibility of monitoring opium production and collecting taxes.⁶⁴

There was a significant amount of opposition and criticism directed against the execution of the Opium Act. The Act was said to be exploitative by its detractors, who said that it benefited the British at the expense of Indian farmers and Indian society as a whole. In addition to this, the Act established an opium department with the responsibility of managing the trade, which served to further consolidate British control.⁶⁵

The Opium Act had significant repercussions for the social order, the economy, and the government of India. Opium cultivation became prioritised over food crop cultivation, which caused firstly a disruption in the old agricultural system. This resulted in decreased access to food as well as higher levels of poverty, thus widening the already existent socioeconomic gaps. The Act also resulted in the consolidation of British power

⁶² Opium Act, s.3

⁶³ Opium Act, s.8

⁶⁴ Opium Act, s.10

⁶⁵ Opium Act, s.11

since it let the East India Company to extend its influence by controlling a lucrative trade that encouraged addiction. This allowed the East India Company to increase its power over the British government.⁶⁶

In addition, the Act contributed to the widening of the racial and cultural gap that existed between the British population and the Indian people. Opium dens mushroomed across the country, leading to widespread addiction as well as societal turmoil. The trade had a catastrophic effect on Chinese civilization and was a direct cause of the infamous Opium Wars. In spite of the fact that the Act did not immediately lead to a conflict of the same nature in India, it did provoke demonstrations and acts of civil disobedience.⁶⁷

Indian leaders such as Raja Rammohan Roy and Ishwar Chandra Vidyasagar aggressively campaigned against the trafficking in opium as opposition to the Opium Act developed. Both the anti-opium movement and the harmful effects of addiction gained steam as the latter acquired more public attention.⁶⁸

In the end, the Opium Act was repealed in the year 1860, which was three years after the Indian Rebellion of 1857, which was also referred to as the Sepoy Mutiny. The broad uprising against British authority resulted in the British administration having to rethink several of its policies regarding India as a result. Despite the tighter rules and increased scrutiny, the opium traffic remained throughout this time period.⁶⁹

4.2 THE DANGEROUS DRUGS ACT, 1930

On February 19, 1925, at Geneva, the International Opium Convention was signed. It had been recommended by the Second Opium Convention, and this Act was approved to give it force. One of the objectives of the act was to establish uniform sanctions for particular operations and to stiffen the penalties for specific offences involving dangerous substances. These were both aims that were intended to be accomplished.⁷⁰

The Central Government was given the authority to prohibit opium cultivation and to establish the terms and circumstances for cultivation and manufacture licences. The

⁶⁶ Opium Act, s.12

⁶⁷ Opium Act, s.13

⁶⁸ Opium Act, s. 21

⁶⁹ Opium Act, s. 26

⁷⁰ Rifat Jan, 'Consumerism and Legal Protection of Consumers: With a Critical and With a Critical and Explanatory Commentary and Latest Case Law'.

Central Government had oversight over the cultivation and manufacture. The Government has the authority to regulate regulatory norms, chemical manufacturing, and opium exports from government enterprises or state governments. Anyone who disobeyed the rules faced up to three years in prison and a fine, or both.⁷¹

Only opium preparations should be made in compliance with central government laws. Anyone who disregarded this rule faced a potential three-year prison sentence, with or without a fine.⁷²

In accordance with the regulations established by the government, only prepared opium may be imported into India. Anyone who disobeyed this rule was subject to jail for a fine or a maximum of three years.⁷³

According to state government regulations, no one is authorised to import or export interstate transportation, buy or sell any manufactured medicines other than opium or coca leaf, or produce medicinal opium or any preparation. Anyone who broke these regulations faced up to three years in prison and a fine, or both.⁷⁴

According to the requirements of government-issued permissions, no one in India may own or operate a business through which a harmful chemical is transported into the country. Anyone who disobeyed the rules faced a punishment of up to a Rs 1000.⁷⁵

Whoever, as the owner or inhabitant of, or having use of, any house, room, enclosure, space, vessel, vehicle, or location, allows certain offences punishable under the Act to be committed by another person should face up to two years in prison and a fine, or both.⁷⁶

The punishment for an attempt was the same as the punishment for the actual offence.⁷⁷

⁷¹ The Dangerous Drugs Act, s.10

⁷² The Dangerous Drugs Act, s.6

⁷³ The Dangerous Drugs Act, s.12

⁷⁴ The Dangerous Drugs Act, s.7

⁷⁵ The Dangerous Drugs Act, s.13

⁷⁶ The Dangerous Drugs Act, s.8

⁷⁷ The Dangerous Drugs Act, s.15

Whoever was responsible for the crime shall be punished according to the laws that regulate the crime, regardless of whether or not the crime was committed as a result of the abetment.⁷⁸

"A warrant may be issued by the Collector or another officer designated by the State Government, the First-Class Presidency Magistrate, or the Second-Class Magistrate for the arrest of any person who the Collector has reason to believe has committed a crime that is punishable by the Act or for the search of any building, vessel, or location, whether during the day or at night, where the Collector has reason to believe that any dangerous drugs are present."⁷⁹

Any officer of the Central Excise, Narcotics, Drug Control, Custom, Revenue, Police, or Excise, which is authorised by Government, the reason for believing with personal knowledge from information provided by anyone and recorded in writing, that in connection with any hazardous drug punishable under this Act has been committed, was placed in the vessel or enclosed space, is entered into between such officer and the Central or State Governments, if such an officer has the reason for believing that in connection with any hazardous drug punish For the aim of seizing narcotics and objects that were used in their manufacturing, as well as to pursue such drug-related searches, arrests, and custody; to break any door and remove any other obstacle for such entrance in the event of resistance. If the authorities had cause to believe that obtaining a search warrant would provide the offender with the opportunity to conceal evidence or other features, then such an action would be permitted at any time between the sunset and the sunrise of the next day. After establishing the foundation of your conviction, the structure, the vessel, or the connected region may find and discover the sunrise.⁸⁰

At any point during the seizure that takes place in a public place, any of the individuals named above may be required to interfere with, stop, or search the item being seized.⁸¹ When someone is detained or arrested, they are obligated to provide the full report of the detention or arrest to their immediate senior official within forty-eight hours of the detention or arrest.⁸²

⁷⁸ The Dangerous Drugs Act, s.20

⁷⁹ The Dangerous Drugs Act, s.21

⁸⁰ The Dangerous Drugs Act, s.22

⁸¹ The Dangerous Drugs Act, s.23

⁸² The Dangerous Drugs Act, s.24

Anyone who detained, searched, or arrested another individual in an unreasonable or vexatious manner was subject to a fine that might run up to 500 rupees.⁸³

In order for the State Government to be able to carry out investigations into offences that are related to the Operate, any official working for the Excise Department, or any class of officer working for the department, may be granted the right to act as an officerin-charge of a police station.⁸⁴

It is considered that the accused broke the law when it comes to his possession of the drugs, items, and other things that he stated in the account as having. This is the case as long as the defendant is found to be guilty.⁸⁵

The authorities that were charged with carrying out the provisions of this Act were granted more authority as a result.

4.3 "NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCE ACT, 1985"

In accordance with Article 253 of the Constitution, the Parliament has been granted the power to enact legislation in order to carry out the responsibilities outlined in international conventions and other international treaties. One of the purposes of the NDPS Act of 1985, was to apply the articles of the existing United Nations Conventions. This was one of the goals of the act. It has severe rules in place for the purpose of controlling and regulating the distribution of psychoactive chemicals, narcotic pharmaceuticals, and older compounds. In addition to this, it provides the appropriate structure as well as measures for administrative action. "In accordance with the provisions of Section 71 of the Act, the government has the authority to establish centres for the identification, treatment, aftercare, rehabilitation, etc. of addicts. These centres may also be used for the distribution of narcotic drugs and psychotropic substances to addicts when it is necessary to do so for medical reasons."⁸⁶

"The importation and exportation of goods that are used in agriculture, production, construction, possession, sale, procurement, transport, storage, consumption, interstate movement, and transport, as well as the use of drugs and psychotropic substances, are prohibited unless done so for medical or scientific purposes and in accordance with the

⁸³ The Dangerous Drugs Act, s.27

⁸⁴ The Dangerous Drugs Act, s.32

⁸⁵ Ibid.

⁸⁶ National Policy for Drug Demand Reduction, 2014

terms and conditions of any licence, permit, or authorization issued by the government." Exceptions can be made for the importation and exportation of goods that are used in the use of drugs and psychotropic substances.⁸⁷

"Prohibition of certain actions involving property obtained through criminal activity, including knowing the conversion or transfer of property that was obtained through a criminal offence under the Act, concealing the true nature, source, or location of such property, and knowingly obtaining, possessing, or using such property." Prohibition of certain actions involving property obtained through criminal activity, including knowing the conversion or transfer of property that was obtained through a criminal offence under the Act.⁸⁸

"It is possible for the central government to regulate the cultivation, manufacturing, import, export, sale, consumption, and use of psychotropic substances and narcotic medications."⁸⁹

"The usage of opium, poppy straw, the manufacturing of therapeutic opium, and the cultivation of cannabis, except hashish, are all activities that state governments have the ability to authorise and control, as well as regulate the transit of these substances across state lines."⁹⁰

In India, it is illegal for anyone to work for or own a company that imports narcotics or psychotropic substances from abroad or supplies them to anybody outside of the country without the prior approval of the central government and subject to any applicable restrictions.⁹¹

Any substance may be designated as a "restricted substance" by the Central Government if it is determined that it would likely be used in the production of NDPS.⁹²

Drug trafficking-related assets are subject to forfeiture, with the sale revenues going to the "National Fund for Control of Drug Abuse."⁹³

⁸⁷ Basic Features of NDPS Act, 1985 www.narcoticsindia.nic.in accessed on 12th June, 2023.

⁸⁸ NDPS Act, s.8

⁸⁹ NDPS (Amendment) act, s.8-A

⁹⁰ NDPS Act, s.9

⁹¹ NDPS Act, s.10

⁹² NDPS Act, s.12

⁹³ NDPS Act, s.9-A

For the purposes of this Act, both the federal and state governments have the authority to nominate officers.⁹⁴

1) "Offences are Cognizable and Non-Bailable Under the Act"

The NDPS Act is a comprehensive legal framework for the management of psychoactive substances and drugs of abuse. In addition to that, it makes it possible to investigate and seize properties that are connected to the drug trade.⁹⁵

2) Enforcement System Under the NDPS Act

As a result of the size of India and the federal structure of our political system, the agencies that are part of either the central government or the state governments have the authority to carry out the provisions of the Act. "The Central Bureau of Narcotics, the Central Bureau of Investigation, the Central Bureau of Border Security Force, the Directorate of Revenue Intelligence, the State Police, and the State Excise Department are all examples of these kind of organisations." The Ministry of Social Justice and Empowerment and Health is in responsibility of certain aspects of reducing the demand for drug law enforcement, which, in general, involves socially reintegrating health care and addiction, as well as rehabilitation and drug addiction.

The Act stipulates the establishment of an authority in order to facilitate the coordination of the activities of the numerous Central and State institutions involved in the enforcement of the laws. As a direct consequence of this, the Central Government established the Narcotics Control Bureau in the year 1986. The NCB is currently responsible for acting as the central hub for the National Coordinator, the International Contact Office, as well as the collection and dissemination centre of intelligence. This system guarantees that the requirements of the broad national plan are implemented in a coordinated way by ensuring that they are met.⁹⁶

3) Illicit Opium Cultivation

The NDPS Act, on the other hand, makes it illegal to cultivate opium poppies unless authorised by the law or the government for the purpose of conducting scientific study

⁹⁴ NDPS Act, s.4,5 and 7

⁹⁵ 'Drug Demand Reduction and Preventive Policies: Government of India's Approach", www.socialjustice.nic.in accessed on 12th June, 2023.

⁹⁶ NDPS Act, s.4(3)

or medical treatment. "In addition, the Central Government has the authority to appoint a narcotics Commissioner, who will exercise all relevant authority and complete all tasks associated with the production of opium and the cultivation of opium poppy, as well as to permit and regulate the cultivation of opium poppy, as long as such cultivation only takes place on account of the Central Government. This is subject to the condition that such cultivation only takes place on behalf of the Central Government."⁹⁷

The majority of the world's opium is produced in India, where it is also used by the domestic pharmaceutical industry and exported.⁹⁸

Every year, the central government releases an opium policy that outlines the guidelines and circumstances under which opium cultivation licences will be granted. The policy also specifies the regions where opium production is permitted and where the government will buy the poppy crop. The crop year's minimum qualifying yield cycle spans from October to May. "The Narcotics Commissioner of India has granted permits to individual farmers for the designated area of land based on this strategy." ⁹⁹

Some of the main elements of the illicit opium control system in India are as follows:

- Only fields that have been granted a special licence for the purpose can be used to grow opium.
- The entire crop must be offered for sale at prices set by the government to the central government.
- If the cultivator doesn't submit the required minimum qualifying yield, they risk losing their licence for the coming crop season.
- "Strict enforcement of these policy controls includes field measurements, regular crop surveys, and physical inspections to avoid diversion. In addition, failing to offer the entirety of the harvest to the government is seen as a serious felony, and any farmer found to have exploited his crop of opium or handled it in any other way without authorization faces a fine and a term of strict incarceration ranging from 10 to 20 years."

⁹⁷ NDPS Act, s.8

⁹⁸ NDPS Act, s.9

⁹⁹ NDPS Act, s.5

4) Special Provisions Relating to Forfeiture of Property

"A new section of the Act was added in May 1989 to address the investigation, freezing, seizure, and forfeiture of property derived from or obtained via illegal drug and psychiatric substance trafficking." This chapter also states that it is unlawful for anybody to hold goods obtained from drug trafficking, and it gives officials the power to look into, locate, and seize such goods in accordance with the Act. "The chapter also outlines a quasi-judicial procedure for seizing such property, for which a central government official will be appointed. Income from any such property sales It will be deposited in the National Fund to combat drug misuse."¹⁰⁰

"These rules, which are limited to the confiscation of assets related to drugs but do not establish the laundering of drug trafficking earnings or the act of trading in such proceeds as criminal offences, do not make up a comprehensive code against the practise." The Money Laundering Prevention Act of 2002 has however protected this flaw.¹⁰¹

5) Penalties and Offences

In chapter IV of the NDPS Act, the various penalties for infractions are detailed. The majority of these offences involve violating the Act's limits on the importation, exportation, manufacturing, distribution, sale, and cultivation of psychotropic substances and narcotic narcotics. All of these offences are cognizable, cannot be released on bail, and are prosecuted by specialised courts. The penalties for committing any of these crimes can be quite severe. There is a minimum sentence of six months, and there is a maximum sentence of thirty years, however it varies depending on the sort of offence. If the court determines that there is sufficient justification to do so, and decides to impose a fine that is greater than two lakh rupees, the punishment will be determined by the "amount involved," and "it will range from ten to twenty years in jail for first offences, and from fifteen to thirty years for any subsequent offences."¹⁰²

With the passing of the Amendment Act in 2001, the sentencing system experienced a significant alteration. The concept of "commercial quantity" was introduced by the Act.

¹⁰⁰ Supra note 97, p.5

¹⁰¹ Ibid.

¹⁰² NDPS Act, s.99

• "Factors To Be Considered for Imposing Higher Punishments"

The court may, among other things, take into account the following information when inflicting harsher sanctions than the minimum punishment:

- the offender's use or threat to use force or weapons.
- that the criminal is a public official who used his position to commit the crime.
- that minors are harmed by the crime or that minors are employed in its commission.
- The fact that the offence was committed at a school or other social services facility, in their immediate neighbourhood, or in another location that students and schoolchildren frequent for social, athletic, and educational activities.
- the fact that the offender is a member of an international organised crime group or another criminal organisation that participated in the conduct of the crime;
- the involvement of the criminal in additional illicit actions made possible by the commission of the crime.¹⁰³

In addition to this, several crimes carry the possibility of the death penalty following the previous term. "The NDPS act also specifies penalties for conspiracy, abetment, attempt, and preparation to commit any crime."¹⁰⁴

Anyone who finances trafficking or provides shelter to a person participating in trafficking is likewise subject to the same range of penalties as those who are directly involved in the distribution of narcotic drugs and psychotropic substances. The Act further stipulates that no sentence imposed in accordance with this Act may be suspended, commuted, or remitted.¹⁰⁵

¹⁰³ Dada v. State of Maharashtra (2000) CrLJ 4619 (SC)

¹⁰⁴ NDPS Act, s.32-B

¹⁰⁵ Gaunter Edwin v. State of Goa (1993) CrLJ 1485 (SC)

The sentence for the former is less severe than that for the latter, although the Act distinguishes between possession for personal use and trafficking. The following two restrictions apply to the application of this provision:

According to the Central Government's guidelines, the amount of substance used in the offence should be minimal.¹⁰⁶

It is the accused's responsibility to prove that the substance in question was intended for personal use only and not for sale, distribution, etc.

6) Precursor Control

India, as a signatory to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1998), is obligated to enforce regulations on the manufacturing, domestic distribution, import, and export of chemicals used in the illegal production of narcotic drugs and psychotropic substances. To achieve these pledges, India modified the NDPS Act in 1989, allowing the Central Government the right to categorise substances as "restricted" and impose limits on their manufacture, import, export, and other associated activities. This precaution was taken to assure compliance with the Convention. Violations of this law may lead to imprisonment for up to ten years and a fine of one hundred thousand rupees, in addition to any other applicable penalties. In 1993, the Indian government issued the NDPS (Regulation of Controlled Substances) Order to regulate the manufacturing, distribution, and associated activities involving chemicals designated as "controlled substances."¹⁰⁷

In accordance with the Act, the Central Government has made use of the authority granted to it by the Act to designate certain substances as "restricted substances." These substances include acetic anhydride, which is used in the conversion of opium into heroin; N-acetyl anthranilic acid, which is used in the illegal production of methaqualone; ephedrine and pseudoephedrine, both of which are illegally utilised in the production of stimulants similar to amphetamines; and phencyclidine, which is used in the illegal production of phencyclidine.¹⁰⁸

¹⁰⁶ P.P. Beeran v. State of Kerala (2001) CrLJ 3281 (SC)

¹⁰⁷ NDPS Act, s.9-A

¹⁰⁸ NDPS Act, s.25-A

4.4 Critical Assessment of Narcotics Drugs and Psychotropic Substance Act (NDPS)

Recreational drug availability and legal regulation has proven to be a particularly perplexing issue. The 1985 NDPS Act is strict legislation. The irony is that despite being strict, the data clearly demonstrates that it has not been able to pose a substantial threat to the drug trade in the nation. Between January 1, 2012, and March 31, 2015, there were 18472 arrests for drug trafficking and 5342 convictions, respectively. Most drug addicts are found in prisons across the nation. Those convicted under the NDPS Act are among them. In addition to this, many who interact with them become addicted while in jail. In India's main prison, Tihar, more than 10% of the inmates have been charged with drug-related offences, and despite the NDPS Act's extensive powers, all of this has been accomplished. The Act gives anti-drug officials the authority to smuggle, search, confiscate, arrest, and seize illegal drugs without obtaining a warrant for the transaction. The courts have the authority to publish the identities, places of employment, and businesses of those who have been detained in addition to the unlawfully grown substances (such as opium, hashish, and hemp). So why has this Act not produced the anticipated results? One significant factor is our courts' propensity for lengthy trials that result in more innocent people being found guilty than guilty.

The NDPS Act, an enormous anti-drug statute, is a tough law in India, but it is not being well implemented, as seen by the numerous quotes you will find all over the place. In this study, we have talked about some of these shortcomings.

This act has strong penalties for the offences, but it also results in a large number of innocent bystanders and inmates, proving that it is ineffective despite its severity. There is no fear of it, not even in the minds of the social drunks. Numerous factors contribute to this, some of which are listed below.

In accordance with Section 50, if an individual who has been detained for the possession of narcotics is not promptly brought to the nearest Magistrate or gazetted officer, then the seized contraband cannot be used as evidence for establishing the individual's responsibility for unlawful possession of the narcotics. The compliance levels have decreased as a result of this non-adherence to the procedure that is specified in Section $50.^{109}$

According to Section 42, the accused should be found not guilty if a police officer fails to inform you take a tour but rather his superiors about its location. But when he uses threats and intimidation, nothing happens. The prosecution is feeble and may allow for the accused's innocence even if the samples are submitted later than expected. However, the police officer frequently makes an effort to ensure that the offender receives prompt and severe punishment.¹¹⁰

• Delay in Trial

Courts with specialised jurisdictions have been set up to address cases as a result of this Act. Nevertheless, these courts are frequently given additional authority to handle drug matters, which delays the settlement of drug-related issues unduly and inefficiently. In addition, it may be difficult to obtain witnesses due to the accused person's repeated threats and the potential payments that may be offered to get them to become hostile. It is unclear how reliable the evidence that was gathered over a long period of time between the commission of the crime and the trial, which concluded that the accused was innocent on the basis of there being insufficient proof. It is a well-known fact that good attorneys will try to undercut the prosecution's case by pointing out contradictions in the witness's evidence while doing cross-examination. This is done in an effort to discredit the witness.

Numerous people have been detained in jail before their cases are heard, according to research, which is a direct outcome of the notoriously cumbersome Indian court system. This sometimes implies that persons who were caught with little amounts of drugs were eventually exonerated.

Long-term incarceration for low-level drug offenders raises worries about recruiting by criminal organisations in addition to the evident unfairness. According to a recent study on organised crime in India, jails there continue to be the best places in the world for orienting vulnerable people to the world of crime.

¹⁰⁹ State of Punjab v. Balbir Singh (1994) CrLJ 3702 (SC)

¹¹⁰ State of Orissa v. Kanduri Sahoo (2004) CrLJ 842 (SC)

In order to accomplish this goal, specialised courts designed to hear cases involving offences covered by the Act need to be established in each of the nation's main cities. At the absolute least, in order to deal with situations like these, a specialised bench had to be constructed. Additionally, organisations that deal with law enforcement should be well-versed in all of the terms of this act. The fact that only a relatively small number of defendants who are now awaiting trial have been found guilty under this Act is evidence of the significant shortcomings of this Act.

• Strict Bail Laws

According to studies, the majority of drug users come from socially and economically disadvantaged sectors. Many accused are frequently found guilty because of an innate lack of information, poverty, and frequently a lack of understanding of bail.

Offenses that involve commercial quantities, as well as those that violate Sections 19, 24, or 27A of the NDPS Act, are not eligible for bail from the courts (Section 2). Everyone is believed to be innocent until their guilt can be established. Nevertheless, if you are charged under this statute, you are presumed guilty unless you can prove your innocence.¹¹¹

A presumption that the accused was in possession of illicit objects that were confiscated from him would be made, unless there is evidence to the contrary, as a result of the addition of Section 54, which goes one step further to include this provision. An accused person under this Act is presumed to have had the intent, motive, and knowledge of and for his activities based on Section 35 of this Act. A presumption will be made that the accused was in possession of illicit items when they were confiscated from him, unless it can be shown that he did not have such items. This provision is added by Section 54, which goes one step further.

At first, it was believed that drug misuse posed a serious threat to society and should be looked into. The standards established for enforcement personnel to uphold the rights of the accused were significantly enhanced by this ruling. As a result, even for very minor employment, there were several commitments in the case of a 10-year prison sentence and fines.

¹¹¹ Kamruddin J. Pathan v. State of Maharashtra (1991) C.L.J. 826 (SC)

• "Understanding Problem About Drug Addiction"

Drug addiction is a persistent, frequently relapsing brain disease that requires illegal substances. Misuse of these substances alters the structure and function of the brain, which leads to brain disease despite the negative effects on the addict and those around them. Although it is true that the majority of people choose to use drugs voluntarily at first. Drug misuse causes changes in the brain that might alter a person's decisions over time and also trigger strong urges to consume drugs.

It is recognised that drug addiction is regarded as a cerebral disease because to study on how it affects the brain. Drug addiction is a chronic illness that can completely wreck a person's life. The brain is "rewarded" to tolerate dopamine neurotransmitters when a person uses drugs, but once the high dose of dopamine is gone, the person feels a return. Using the drug addiction classical conditioning technique, you can control how much of your medication you take so that it becomes associated with drug addiction.

The Act misunderstands the idea of addiction, especially when it grants addicts a onetime reprieve with mandated treatment. However, it makes an effort to provide addicts some relief. It is referenced in the Act's section 64A. Addicts frequently experience multiple relapses before stabilizing. As a result, the relief policy makers now see how completely uninformed they were about the occurrence of intoxication. None of the more than 375 NGOs that the Ministry of Social Justice and Empowerment has financed to operate the treatment centre are notified centres; rather, they are just acknowledged as locations where patients can receive voluntary treatment.

The Act specifies the terms and conditions under which addicts registered at treatment facilities may obtain NDPS as needed for medical purposes (section 71 and 78). But at the district or state levels, no system has yet been developed for this purpose. Additionally, in the late 1950s, the central database of addicts was frozen. The form of addiction in this nation has grave repercussions.

In the past, India produced vast quantities of opium and even had widespread use of cannabis in various forms. In the past, the nation was home to a large number of retailers. But since the prohibition was established, heroin and other pharmaceutical narcotics have become widely accessible, and these natural products have decreased in availability. These incredibly dangerous consequences have been passed on too many

consumers of conventional medications. Opium is heavier than heroin (one kg of heroin is made from ten kg of opium), and ganja smell is similarly heavy, but heroin is simpler to transport, conceal, and sell than raw drugs. Heroin makes it possible for players to pay the authorities because it offers additional advantages. Why do you sell opium in such a situation if anyone is subject to a ten-year prison sentence for both opium and heroin? Drug users have been exposed to criminal groups under this law.

According to section 27, having certain narcotics in modest amounts intended for personal use is only punishable by up to one year in prison, a fine, or both. The Central Government lists the particular drug amounts, and if the medicines listed are used in excess, the penalty is a six-month jail sentence, a fine, or both. The amount that is indicated in the instance of heroin is one-fourth of a gramme.

It is crucial that there be a considerable re-planning of resources for all of them, particularly in the delivery of services for young people, women, communities of colour, and those with mental health issues.

Prison medical care should be taken into consideration, but it should only be a backup plan. Most long-term offenders or trial participants have turned to expensive medications. Whereas upgrading the prisons means that those individuals will leave with a high level of addiction. To keep people out of the jail system, prison officials should work with law enforcement organisations. The availability of medications in the prisons should displease the prison staff.

Programs that aim to lower demand for all young people, especially those who are at risk, must be addressed, and their content must specifically meet the wants and needs of those young people. Particularly crucial are preventive education initiatives that highlight the risks associated with drug usage. Expanding chances for young people to work and participating in anti-drug campaigns among youth, both of which offer entertainment and learning opportunities. Youth organisations can be crucial in developing and putting into practise educational programmes and one-on-one counselling to support young people's integration into society, promote healthy living, and raise awareness of the negative consequences of drugs. Young leaders may be trained as part of this curriculum in counselling and communication techniques.

• Harsh Punishment

Those who break this law will be subject to severe imprisonment for a period of time greater than five years but less than 10 years, with the possibility that their sentences will be increased to twenty years. In addition, they will each be responsible for paying a fine of at least one hundred thousand rupees, with the chance that this amount will be increased to two hundred thousand rupees or even more. It is important to keep in mind that those who break this rule face the possibility of receiving a sentence of imprisonment for a term of less than 10 years, which can be increased to a maximum of twenty years (as outlined in sections 15-25 and sections 27A-29). It is possible to receive a minimum prison sentence of five years and a fine of up to 2,000 rupees if you are convicted of an offence involving cannabis (Rs.). Alternately, the punishment that is imposed for violations of Section 20 is five years in prison in addition to a fine that has the possibility of reaching up to 50,000 Indian rupees. It is important to point out that the most recent person to be convicted was given a sentence that was far harsher than the previous one. In 1989, a change was made to Section 31A that made it possible for certain drug offences involving quantities that exceeded certain limits to result in the death penalty. This change enabled the possibility of the death penalty. According to the information presented earlier, a term of ten years in prison can be imposed for the possession of even a very small amount of a controlled substance under Section 27 of the Code.

Because of these limits, the Act becomes even less feasible to implement. As was mentioned earlier, the bulk of people who use drugs come from economically disadvantaged or rural origins. These individuals do not receive justice because they are unable to pay the associated fines and they do not have access to any type of legal assistance.

The Act fails to differentiate between drug addicts, small-time dealers, and drug traffickers. There is no differentiation made at all between the various offences. Any illicit drug-related conduct is now considered trafficking under the Act, and the penalty has been made absolutely severe. The factors that determine an accused's guilt or innocence—the circumstances of the offence, the accused's purpose, and the judges' discretion—have all been eliminated in one fell swoop. The judge must impose a minimum term of 10 years' harsh imprisonment in other circumstances and five years'

imprisonment in the event of marijuana convictions. The sentence cannot be suspended, lightened, or transferred.

There are better solutions available regardless of the drug that is being discussed if the objective is to reduce the amount of individual and societal harm, which we believe it must be. The amount of time spent in jail for drug possession is disproportionate to the amount of damage caused by the crime, and the person in question is capable of providing enough for their own good. It is commonly held that drug-related concerns are better addressed and resolved in the community rather than in a correctional institution.

However, eliminating jail sentences would eliminate several community sanctions that the courts can only use as alternatives to incarceration. In the worst cases of drug misuse, it won't matter because the applicant may also be charged with other charges at the same time. The courts must take into account the wishes of the entire society in cases where drug users have issues with possession of some harmful narcotics but there are no allegations of any other crimes. It should be acknowledged that a jail punishment may be required in certain situations due to the obvious harm that these medicines inflict. It will serve as a motivator for treatment, and if alternative options are unavailable, the courts will endeavour to allow the implementation of a wide variety of such orders, including the order of community service.

• NEED TO TAKE ACTION

We believe that the objective should be to reduce the amount of personal and social harm that occurs as a result of drug use, and there are better solutions available for this problem regardless of the drug in question. The amount of time spent in jail for drug possession is disproportionate to the amount of damage caused by the crime, especially considering that the person in question is likely to bring sufficient amounts of their own good to the table. It is believed that problems relating to drugs can be resolved more effectively in the community as opposed to a correctional institution.

However, eliminating jail sentences would eliminate several community sanctions that the courts can only use as alternatives to incarceration. In the worst cases of drug misuse, it won't matter because the applicant may also be charged with other charges at the same time. The courts must take into account the wishes of the entire society in cases where drug users have issues with possession of some harmful narcotics but there are no allegations of any other crimes. It should be acknowledged that a jail punishment may be required in certain situations due to the obvious harm that these medicines inflict. It will serve as a motivator for treatment, and if alternative options are unavailable, the courts will endeavour to allow the implementation of a wide variety of such orders, including the order of community service.

4.5 "PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988"

Those who participate in the illegal trade of narcotic narcotics and psychoactive substances, which represents a significant danger to the general populace's health and well-being, have a detrimental impact on the country's economy as a result of their actions. The legislative body came to the conclusion that it was essential to do so in order to effectively prevent such activities and to make provisions for the arrest of anyone involved in any capacity with regard to such activities. This is due to the presence of such people who are responsible for organising and carrying out such activities, as well as the presence of certain individuals "in areas which are extremely vulnerable to illicit trafficking in drug and psychotropic substances," who are responsible for organising and carrying out such activities of a considerable magnitude in secret. In addition to accomplishing these objectives, the Narcotics, Drugs, and Psychotropic Substances Act of 1988 put an end to the unlawful trafficking of controlled substances.

Because of this Act, both the Central Government and the State Governments have the ability to order the detention of any individual in order to prevent that individual from engaging in the criminal trafficking of specific medicines and psychotropic substances. As a result, preventive detention is allowed by the Act. No detention order shall be illegal or ineffective for the following reasons:

- a) To take custody of that person is outside the government's or officer's territorial authority, which is issuing the order for the detention; or
- b) That the place of custody of such a person said outside the limit. Additionally, if a person flees or conceals, they may be sentenced to up to a year in prison, a fine, or both. This offence is also penalized by a cognizable offence.

In the case of Ayyub Khan v. State of Maharashtra,¹¹² it was established that a mere delay in issuing a detention order from the day the particular offense was committed is not considered fatal. However, if the delay can be satisfactorily explained, the detention order does not become unconstitutional.

The detention order cannot be considered illegal solely based on the failure to follow the required procedures, such as issuing a proclamation, when the detenu is absconding and subsequently arrested after a period of 10 months, as clarified by the Supreme Court in the case of Indrodeo Mahto versus State of Maharashtra.¹¹³

In the case of Yakub Ibrahim Patel v. Sh.Shool,¹¹⁴ the Mumbai High Court deemed the imprisonment of the petitioner, who was already in jail, as unlawful. The court decided that the detaining authority had failed to consider the likelihood of the petitioner being granted bail, despite his bail application being denied three weeks prior to the issuance of the detention order. Similarly, in the case of Sumita v. Union of India,¹¹⁵ the Hon. Delhi High Court took a similar approach and stated that, in certain situations, the mere fact of a detainee's previous detention would not be enough to determine that they had been released on bail. Since the detaining authority lacked convincing information to suggest that the detainee would likely be freed on bail, it was necessary to retain her in custody. Consequently, the detention was nullified.

If there is an improper delay between the date of the detention order and the date of the detention arrest, the validity of subjective satisfaction of the right to prevent the passage of a satisfactory order passed by the delayed explanation is seriously called into question. Subjective satisfaction refers to the right to prevent the passage of a satisfactory order passed by the delayed explanation. As a direct consequence of this, the arrest order is argued to be inaccurate and hence invalid. The question of whether or not the delay is reasonable arises in this scenario, and the answer to that question is solely determined by the particulars of each instance.¹¹⁶

¹¹² 1998 Bom.LR 348

¹¹³ AIR 1973 SC 1062

¹¹⁴ 2003 CrLJ 1167 (Bombay)

¹¹⁵ 2003 CrLJ 2928 (Delhi)

¹¹⁶ P.L.J. Iqbal v. Union of India AIR 1992 SC1900

The rulings in Sanjay Kumar Agarwal v. Union of India¹¹⁷ and Noor Salman Makani v. Union of India¹¹⁸ differ from the ruling in Kamarunnissa v. Union of India¹¹⁹ due to varying perspectives on the factors influencing the likelihood of a detainee being granted bail and the potential for engaging in criminal activity post-release. In the former two judgements, the likelihood of release on bail and the possibility of reoffending were simply stated without considering the necessity for credible evidence based on proportionality.¹²⁰ On the other hand, in the latter judgement, the importance of analyzing reliable material to prevent any harm caused by dissemination was underlined. These three judgements were issued by two separate Supreme Court Judge Benches before the order of arrest.¹²¹

4.6 "NATIONAL POLICY ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, 2012"

It is the duty of the government to assist addicts in their rehabilitation, as it is extremely difficult for them to exit the world in which they are immersed in their drug use. In order to address this issue, the Department of Revenue and the Ministry of Finance of the Indian government collaborated in 2012 to develop the National Policy on Narcotic Drugs and Psychotropic Substances. Despite the fact that the policy prioritises activities that cut down on supply, there are signs that a number of different measures are being made to cut down on demand. It states that the goal of the government will be to encourage the use of various substances (specifically narcotic drugs and psychotropic substances) for medical and scientific purposes while simultaneously preventing the diversion of these substances from licit sources and outlawing the abuse of these substances as well as the trafficking of these substances by criminals. While the MSJE is in charge of handling demand reduction-related concerns, the MHFW is in charge of all health-related issues and supports Addiction Centres for the treatment of drug addicts and abusers in various government hospitals.

The aforementioned national strategy notes the rise of several private drug addiction treatment facilities in recent years. The Central Government will establish norms and

¹¹⁷ AIR 1990 SC 1202

¹¹⁸ AIR 1994 SC 575

¹¹⁹ AIR 1991 SC 1640

¹²⁰ Dharmendra Suganchand Chelawat v. Union of India AIR 1990 SC 1196

¹²¹ Jagdish Chander v. State and Ors. 2000 CrLJ 3162 (Delhi)

regulations for these addiction treatment facilities to follow, and will accept the standards that are determined to fulfil the norms and regulations.

4.7 DRUG LAW ENFORCEMENT AGENCIES IN INDIA

We will now talk about the judicial analysis performed by various Indian courts as well as the part major enforcement organisations played.

1) "THE NARCOTIC CONTROL BUREAU (NCB)"

The NDPS Act was enacted in 1985, but it wasn't until 1988 that the "Narcotic Control Bureau (NCB)" was created to ensure that the law was followed. The Prevention of Illicit Trafficking in NDPS Act, which was enacted in 1988, is the law that this organisation is primarily tasked with enforcing in order to achieve its primary goal of combating violations of this act. The National NCB is in charge of monitoring anti-drug operations all over the country of India and putting a stop to the illicit cultivation, manufacture, and distribution of narcotics. "In addition to being in charge of the administration of the Opium Act of 1878 and the Dangerous Drugs Act of 1930, the Department of Revenue is now in charge of the administration of the NDPS Act of 1985."

The passing of this law ensured that India would be able to fulfil its obligations under the UN Conventions against NDPS and Illegal Traffic in NDPS. All these conventions are related to the fight against the illegal trafficking of NDPS. This organisation recruits its members from within the IPS and the IRS.

The Drugs and Cosmetics Act of 1940 is still in existence, and it governs the manufacture, distribution, and sale of products that contain psychoactive substances and narcotic drugs. The BSF, the CBN, the CEIB, Customs and Central Excise, and the Directorate of Revenue Intelligence are some of the law enforcement agencies that collaborate on the administration of this Act. The majority of these organisations are under the direct supervision of the Department of Revenue itself. When the NDPS Act is being administered, it is also the responsibility of the state's enforcement authorities, such as the Police Department, the Excise Department, and the Drugs Control Department. The NCB was established with the intention of bringing together a number of different organisations. One of the duties of the Bureau for the effective

implementation of the various regulatory, prohibitive penalty, and administrative provisions of the Act is to coordinate with various governmental organisations. This coordination takes place at both the central and state levels.

• FUNTIONS AND OBJECTIVES OF THE NARCOTICS CONTROL BUREAU

The DPSP in the Indian Constitution is the foundation for the NDPS. This principle states that the state must work to enact the prohibition of the consumption of intoxicating beverages and drugs that are harmful to health, with the exception of when they are used for medicinal purposes. India has been a signatory to international conferences on this subject, which have had an impact on it. The Bureau was founded with the authority to conduct actions to carry out and enforce the authority of the central government under the supervision and direction of the central government. This authority was granted to the Bureau when it was given the authority to do so by the central government.

It works in close collaboration with other Indian intelligence and law enforcement organisations on both the national and state levels, such as the DGITI, Customs and Central Excise, the Indian Police Department, the CBI, and the CEIB.

In order to carry out the responsibilities and powers outlined in the NDPS Act of 1985; the Central Government has been given the authority to create a Central Authority to oversee compliance with the law. As a result of being granted this jurisdiction, the Narcotics Control Bureau was founded, and its headquarters are located in Delhi. Because it is subject to the Central Government's direction and supervision, the Bureau is obligated to take steps to respect the rights and responsibilities of the Central Government.

• Fardeen Khan Case

The Narcotics Control Bureau (NCB) detained Fardeen Khan¹²², the son of prominent Bollywood actor Feroz Khan, in Mumbai in May 2001 as a result of a tip-off. He was detained on suspicion of possessing cocaine, a controlled substance. The arrest shocked

^{122 2007} CrLJ 1758.

the industry and raised awareness of the problem of drug misuse in the entertainment business.

Fardeen Khan acknowledged buying narcotics throughout the trial, but he insisted it was for personal use only and refuted any role in drug trafficking. Further investigation, including medical testing to identify the kind of chemical found in his possession, was ordered by the court.

Fardeen Khan was released on bond in 2002 after being held in custody by the court. The judge granted him permission to travel overseas for business purposes but stipulated that he must report to the police frequently. After then, the matter was moved to a special court designated for hearings involving the NDPS Act.

Fardeen Khan was exonerated by the special court in 2004 because to insufficient evidence. The prosecution did not successfully prove that the material found in the accused's possession was cocaine or that the accused had any intent to sell or distribute drugs, the court noted.

• Aryan Khan Case

The high-profile legal saga surrounding the Aryan Khan¹²³ narcotics case enthralled Indian media and the general public. Shah Rukh Khan's son Aryan was detained among several other people in a raid on a cruise ship off the coast of Mumbai in October 2021. The case, which contained accusations of drug possession and use, aroused intense discussions about drug abuse, the impact of celebrities, and the effectiveness of the legal system.

The Narcotics Control Bureau (NCB), a federal organisation tasked with combating drug trafficking and addiction, announced Aryan Khan's arrest as part of a broader campaign. The organisation claimed to have acquired information on drug use and distribution at the cruise ship event that Aryan attended. The media picked up on the incident fast, mostly because of Aryan's well-known history.

Aryan Khan was detained and charged with violations under the NDPS Act, which governs drug-related crimes in India. His original request for bail was denied, and he was kept in judicial custody. Aryan and his family's supporters insisted on his

¹²³ Aryan Shahrukh Khan v. Union of India

innocence, and others asked for a fair investigation and harsh punishment if proven guilty. The case drew great public attention.

Aryan's legal team contested his detention and appealed for his release on bail as the court case progressed. The defence underlined the absence of proof linking Aryan to the alleged narcotics transactions throughout a number of hearings before the Mumbai Sessions Court. Aryan's WhatsApp conversations, according to the prosecution, showed that he was involved in drug-related activities. After about three weeks in detention, the court ultimately released Aryan on bail.

The Aryan Khan drug case sparked divisive public discussions. Some condemned the alleged indulgence shown to celebrities, seeing the case as an illustration of privilege trumps justice. Others claimed that the "innocent unless proven guilty" premise was broken by the media trial and the hasty verdicts against Aryan.

The case raised awareness of drug usage and the environment around it in the entertainment sector. As debates over the purported drug-drug nexus and the role of celebrities in influencing public opinion gathered steam, proposals for stronger regulation and awareness campaigns arose.

2) "CENTRAL BUREAU OF NARCOTICS (CBN)"

The IRS has a department called the Narcotics Commissioner of India that is in charge of the CBN, which is supervised by the Central Board of Excise and Customs. The granting of permits for the cultivation, trade, and production of legitimate synthetic pharmaceuticals is the major function of the CBN. The headquarters of the Central Bureau of Narcotics are located in the city of Gwalior.

The Narcotics Commissioner of India is assisted by three DNC, each of whom is in charge of one of the three states in India that are major producers of opium: Madhya Pradesh, Rajasthan, and Uttar Pradesh. Class I personnel in the CBN include those working for the IRS (Customs and Central Excise). Neemuch, Kota, and Lucknow are the three locations that each of their offices calls home.

During the administration of the East India Company, the collection of opium revenue became a central pillar of fiscal policy. As a result, many opium agencies were established over the course of time, some of which include the Bengal Agency, the Banaras (Varanasi) Agency, the Bihar Agency, and the Malwa Agency. Before the year 1950, the enforcement of the laws prohibiting the use of drugs was the responsibility of the provincial government. The CBN issues licences and maintains oversight of primary opium growing as part of its responsibilities. In accordance with the EXIM policy, the CNB has served as a competent authority for the export of psychotropic substances and historic chemicals. In addition, the CNB has collaborated with other nations' governments, organisations within the United Nations, and other international organisations (export- import policy). One of the responsibilities of the CBN is to oversee the cultivation of illegal opium poppies in India.

3) "NARCOTICS CONTROL DIVISION (NCD)"

The NCD of the Department of Revenue is in charge of running the CBN, the NCB, and the Chief Controller Factories (CCF). The provisions of the NDPS Act of 1986, as well as the terms of any bilateral or international agreements, are delegated to the Department of Revenue, which serves as the nodal agency responsible for carrying them out. The enactment of the Prevention of Trafficking in NDPS Act in 1988 resulted in the establishment of more stringent restrictions regarding the prohibition of drug use (PITNDPS Act). The National Crime Bureau was founded as a nodal body as a direct result of this act in order to facilitate cooperation with a wide variety of national, state, and local law enforcement entities in addition to regional, international, and foreign enforcement organisations.

The nation's social structure and national security began to suffer as a result of trade relationships between drug traffickers and criminals. The Special Appellate Tribunal for the Forfeited Properties was established by the Government of India to put an end to this practise. It is divided into five divisions, with headquarters in Delhi, Mumbai, Kolkata, Chennai, and Lucknow.

The property of those who have been found guilty under the NDPS Act and the Customs Act, or who have been imprisoned under COFEPOSA and PITNDPS, is subject to the authority of the tribunal. Unless they can demonstrate that the property was not acquired illegally, the Central Government is entitled to seize the possessions of convicted individuals and their kin. Movables, immovables, bank balance, etc. are all considered properties. The legality of this provision under the SAFEMA, 1976 was called into

question by the Supreme Court, but in the end, the court ruled in favour of the clauses that stated that the most effective punishment, which would serve as a deterrent, is to strip offenders of their illegally obtained wealth.

CHAPTER 5

DRUG ADDICTION AND HUMAN RIGHTS

The Universal Declaration of Human Rights issued by the UN is just that universal. There is no exception. Everyone is entitled to these rights.¹²⁴

However, there are other groups for whom human rights are not even taken into account in the creation and application of laws and policies. Such a category includes individuals who consume illegal drugs. Human rights breaches against drug users are systemic and pervasive, and they have negative effects on their wellbeing and health. In addition to their direct consequences, these human rights breaches make people more susceptible to blood-borne illnesses including HIV and Hepatitis B and C.

The legal framework for worldwide drug control has come under fire for failing to put enough emphasis on the preservation of human health and welfare. Controlling drug abuse does not take into account human rights. The UN regime places a greater emphasis on criminalization and punishment while paying less attention to damage mitigation and education. Academics and nonprofit organisations have argued for a fresh approach to foreign policies. where liberal mechanisms rather than oppressive ones have been emphasized.

Human security is often covered by the human rights. Human security involves both economic safety from severe poverty and social insecurity as well as physical protection from crime and violence. People are forced to engage in illegal activities like drug trafficking, which creates an illicit economy, as a result of extreme poverty. This illegal economy has an impact on daily life. affecting the regular exercise of human rights. Effective actions must be taken to ensure that the rights of a typical person are not violated. Numerous actions have been conducted at the national and international levels by national and international organisations dedicated to the protection of humanity in order to fulfil this criterion.

One of the behaviours that is most stigmatized in the world is drug use. Drug availability violates peoples' human rights. Drug control initiatives in many nations result in grave violations of human rights, including police brutality and torture, mass

¹²⁴ Universal Declaration of Human Rights, 1948 art 1.

incarceration, extrajudicial killings, arbitrary detention, and denial of basic medical care and medications. Drug control laws and the enforcement procedures that go along with them frequently entrench and worsen systematic prejudice against drug and alcohol users and obstruct access to critical controlled medications for those who require them for therapeutic purposes.

As a result of efforts to eradicate illicit crops, local residents in drug-producing nations also experience human rights violations, including environmental harm, evictions, and health problems from chemical spraying.

These wrongdoings are frequent and organized. They themselves are a major source of worry. Additionally, they contribute to at least one million people living with HIV/AIDS not receiving adequate treatment for moderate to severe pain by denying drug users access to services that have been shown to be effective in HIV prevention, care, and treatment. This prevents an effective response to the AIDS epidemic from being made.¹²⁵

Human rights watchdogs, institutions, and NGOs are increasingly concentrating on drug policies and the preservation of those rights, but this rarely occurs in a connected or overarching manner. This chapter's purpose is to give a general overview of some of the most important human rights concerns relating to drug and alcohol control and regulation, as well as to demonstrate how, despite the existence of these laws, human rights continue to be infringed. What impact the legal system is having on human rights. In this chapter, researchers have also covered how they relate to one another as well as how national and international human rights law can be used to address a variety of issues with respect to human rights that are brought up by drug enforcement laws, policies, and practices. The researcher has also attempted to explain how drug misuse and alcoholism affect human rights, examine drug-related disabilities, and identify scenarios where drug users' human rights are most likely to be violated.

The war on drugs is seriously harming human rights in every corner of the world. Through the degradation of civil liberties and fair hearing norms, it has evolved into a

¹²⁵ 'Human rights and drug policy: Briefing for the UN commission on Narcotic Drugs' (*Human Rights Watch*) www.hrw.org accessed on 16th June, 2023.

lecture on abuse, neglect, and political screams. lack of economic and social rights, the adornment of people or groups, and the imposition of degrading or cruel punishment.

5.1 INTERNATIONAL DRUG CONTROL AND HUMAN RIGHTS (UNITED NATION)

- The three pillars of the UN system are human rights, development, and peace and security. These pillars, which are interrelated and mutually supportive, lay the groundwork for everyone's safety and well-being. Respect for the law is essential to the accomplishment of all three pillars.
- 2. Numerous forms of transnational organized crime, such as the trafficking of illegal drugs and people, frequently result in grave abuses of human rights. The cornerstone of UNODC's work is to strengthen the "Rule of Law," which is essential to how the international community responds to these problems. The Charter and the body of international law, which includes international humanitarian law, international criminal law, international refugee law, and international human rights law, serve as the normative underpinning for the United Nations' activities in the domain of rule of law. Therefore, in order to be consistent with the rule of law, responses to drugs, crime, and terrorism must likewise adhere to the law and values of human rights. Too frequently, the criminal justice and law enforcement systems itself commit human rights violations and ostracize and marginalize individuals who most require rehabilitation and treatment from society.
- 3. Provides a set of combined principles for managing human rights in the management of drug misuse, crime prevention, and criminal justice, which blurs the lines across areas and encourages a unified response. Without fair criminal justice and good crime prevention, effective drug control is impossible. The protection of fundamental liberties and the preservation of public safety, morals, and health can be balanced in a delicate way with the help of human rights. It outlines the state's general obligations to respect, safeguard, and uphold the health and wellness of its citizens as well as specific due process protections, such as for those under suspicion or accusation of committing a crime.

4. Member States agreed that the advancement and defence of human rights should be mainstreamed throughout the United Nations organisation and incorporated into national policy in the 2005 World Summit Outcome. It is obvious that the war on drugs, crime, and terrorism must respect human rights. The difficult part is figuring out how to implement these rules in a way that not only upholds and defends human rights but actually works to fulfil them.

5.2 DRUG USE AND HUMAN RIGHTS VIOLATION

It is possible for drug use to result in a wide variety of violations of human rights when the rights of drug users are disregarded as being unworthy of respect. The primary reasons for this are stigmatisation and prejudice, and it's possible that these are the most common causes of unfair discrimination against those who use drugs. In certain circumstances, it may be acceptable to violate the rights of drug users. As a consequence of this, they will be acceptable, necessary, and suitable in light of the positive aspects, potential risks, and unfavourable outcomes of the infringement. However, far too frequently, the reason for infractions is questionable and occasionally predicated on prejudice, ignorance, stigmatisation, or attempts to demonise people who use drugs. This is in contrast to the fact that the cause for infractions should be based on a valid public interest.

It is possible for governments to assert that a right has been violated on the basis that international and local law prohibits the production, manufacture, export, import, distribution, trade in usage, and possession of specific medications. This could be a basis for an argument that a right has been violated. They might argue that state engagement is necessary and appropriate in order to comply with international law, which is a possibility (i.e., that controlling drug use necessitates infringing rights). At other times, a government may consider the negative effects of drug use to be "excessive," and in order to stop or lessen these negative effects, they may claim that controlling particular drugs and drug users is necessary and, as a result, justifiable. In order to stop or lessen these negative effects, the government may also claim that controlling particular drugs and drug users is necessary and justifiable. The frequency and severity of the negative impacts brought on by or associated to drug use and trafficking, most notably acts of violence and criminal activity, both directly and indirectly contribute to an increased chance of this happening. Even the contention that drug use constitutes a significant threat to the safety of the nation has been made. The rights of people who use drugs may be put in jeopardy or threatened by governments in an effort to reduce the number of people who use drugs and, as a result, the demand for drugs. This may take place directly in situations in which individuals are subjected to arbitrary searches, drug testing, incarceration, or the seizure of their belongings. Indirect discrimination is also a possibility; for instance, in the United States, drug users are expressly barred from federal disability protection. This is only one example of how this can happen. At other times, the authorities may assert that drug use is a public health emergency and that violations are acceptable because they protect citizens from the risks to their health. In these cases, the authorities may justify the violations by saying that the violations shield citizens from these risks. The promotion and protection of public health has frequently been invoked as a rationale in order to legitimise the violation of rights in regard to infectious diseases, such as sexually transmissible diseases. This is done in order to legitimate the fact that rights have been violated. Laws pertaining to public health address drug use very infrequently outside of the context of regulating smoking and drinking, and they do so much less frequently in the context of health promotion. Despite the fact that public health systems are becoming more active in their response to drug use, this continues to be the case. In a great number of countries, the criminal justice system is frequently the only instrument that is used as the primary legal response to drug abuse. As a direct consequence of this, legal rules on drug use are uncommon in health law.

Surprisingly, it appears that international accords and conventions pertaining to drugs have not been subjected to formal evaluation to determine whether or not they comply with international human rights standards. The majority of countries' legal systems are organised in a consistent manner. In addition, it would appear that very little investigation into the human rights law that pertains to drug use has been carried out. It's possible that this came about as a consequence of the ongoing conversation about regulating drug use. The majority of this conversation has focused on how well drug use is controlled by current public policy measures rather than addressing whether the legal and public policy responses are reasonable and consistent with human rights standards. This is because the discussion has largely avoided addressing these questions. The majority of these discussions have arrived at the conclusion that the current legal systems may be able to significantly reduce the amount of harm that they do. In addition, despite the fact that the absence of legal systems would have resulted in very little, if any, harm, needless harms have been produced for very little proven benefit. This is the case despite the fact that there would have been no harm at all. Because of this, governments have incurred costs, one of which is the loss of opportunities to participate in health promotion efforts that could reduce the demand for medications.

It is only possible to highlight the urgent need for such an analysis and to suggest topics that require additional investigation when laws and policies pertaining to drug use are not thoroughly examined to determine whether or not they comply with human rights standards. This is because it is impossible to highlight the urgent need for such an analysis and to suggest topics that require additional investigation. The fact that the majority of countries have already put in place control measures that have the potential to influence, and frequently do have unfavourable effects on, the human rights of drug users is an illustration of the demand for more monitoring. Again, it is only conceivable to mention a few scenarios in which such infractions might take place, and it is likely that they do take occur, given the norms and practises that are in place regulating the use of drugs in today's society. Among these situations are the following:

- Finding drug users may involve intrusions into their privacy, a lack of protection for their personal information and freedom from the threat of self-incrimination, medical examinations or drug tests that are necessary or required, and ensuring that drug user registers comply with human rights protections.
- 2. Integrity of persons, which includes the denial of due process or a weakened version of it, arbitrary searches, seizures, arrests, or detentions, and mandatory or compelled treatment.
- Procedures used in criminal justice that conflict with the presumption of innocence, lack or weaken protection against self-incrimination, and apply particular rules and practices for crimes committed while inebriated.
- 4. Detention can involve arbitrary arrest, detention, or imprisonment; the absence of or restricted access to healthcare and social services while a person is detained; the absence of or decreased protection from harsh, inhuman, or degrading treatment; and arbitrary or excessive sentencing rules and procedures.
- 5. Job that involves drug testing processes that are arbitrary or discriminatory, a

lack of or lessened employment or promotion opportunities, unjustified terminations, and a lack of or diminished accommodation for those who are drug-using impaired or disabled.

- 6. housing with few or non-existent housing options, arbitrary eviction, and unstable tenancy.
- 7. education with fewer or missing chances for technical, professional, technical, or private education.
- 8. Mobility, which includes arbitrary or discriminatory exclusion from immigration and travel, as well as unjustifiable inspections and enquiries.

Another, more ubiquitous violation of human rights that affects drug users is wrongful discrimination. Wrongful discrimination is heavily influenced by the negative stigmatization of drug users. The Americans with Disabilities Act of 1990, which clearly excludes disabled people who are currently using drugs from its protection, is one example of how such prejudice manifests itself.

Drug control initiatives lead to major human rights violations in many nations around the world, including police torture and maltreatment, extrajudicial killings, arbitrary incarceration, and denial of necessary medical care and medications. The impact that drug control policies have on fundamental human rights, as well as the question of whether or not international drug control programmes are compatible with the preservation of human rights, have received very little consideration from the UN drug control authorities.

Human Rights Watch has been capturing instances of police enforcement violating human rights for more than ten years. According to our study, several governments have used the "war on drugs" as justification for a variety of grave human rights violations.

The approach that India takes toward drugs spans a remarkable spectrum, going from tradition to modernity, from tolerance to prohibition, from tolerating drugs to strictly enforcing laws against their use, and from manufacturing opiates for medicinal use to providing no access to medical care at all. In-depth references to India's centuries-long tradition of using cannabis and opium can be found scattered across policy assessments.

India's drug policy conundrums straddle "demand" and "supply" control as a nation with sizable amounts of licit and illicit drug cultivation, a transit route, as well as a consumer market. Due to its substantial chemical and pharmaceutical industries, the nation engages in discussions about precursor control, non-medical use of prescription medications, and illicit drug production.

Health and harm reduction are crucial policy considerations due to disturbingly high rates of drug dependence, HIV, and viral hepatitis among injecting drug users in several regions of the country. While India's draconian drug laws, which include criminalising drug use and imposing the death sentence for some drug offences, rigidly adhere to prohibition, its controlled opium farming sector offers insights for nations testing out alternatives to prohibition.

"In 2008, India used a quantity of morphine (Afeem Sattv) that was sufficient to appropriately treat during that year only roughly 40,000 patients suffering from moderate to severe pain due to advanced cancer, or about 4% of those requiring it," according to a Human Rights Council report.¹²⁶ Only 0.4% of patients, according to yet another research, have access to oral morphine.

5.3 CRIMINAL LAWS, POLICIES AND LAW ENFORCEMENT APPROACHES

Governments must work to reduce the supply and demand for banned substances in accordance with international law. They must ensure that these initiatives strike a balance between the necessity of ensuring the proper supply of illegal substances for medical use and the requirement that these activities be in compliance with a state's obligations under international human rights law. Regrettably, the global approach to drug use and drug dependence has prioritised punitive methods in law, practise, and money. People's health and a number of other human rights are harmed by criminal laws, severe penalties, and law enforcement tactics.

The possession of drugs for personal use is prohibited almost everywhere on the planet. Many people consider drug use alone to be a crime. People with recurring, chronic medical disorders, such as dependency, are particularly affected negatively. Everyone has the right to access life-saving medical treatment without fear of punishment or

¹²⁶ UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, Manfred Nowak, 10 March 2008, A/HRC/7/3/Add.7

discrimination. Even though it is legal to carry sterile syringes or other injecting equipment in some countries, many drug users opt not to do so for fear of being recognised as drug users and facing punishment on other grounds. Again, many people decide not to seek treatment or participate in harm reduction programmes out of concern that they will be detained and found guilty. A criminal record can seriously affect future employment prospects, educational possibilities, and even access to social assistance like housing, in addition to the apparent bad effects of imprisonment. The criminal past is also made known. Police mistreatment of drug users, including beatings, extortion, and sometimes torture, is also revealed by criminal status.

5.4 DRUG DETENTION CENTRES

In India, drug users are regularly incarcerated in drug detention facilities without being tried or given a fair trial, for example, based only on the word of a relative or police officer for a period of months or even years. These detentions can last for as long as these individuals are held. In spite of the fact that they are occasionally referred to as "treatment" or "rehabilitation" institutes, these places are nothing more than detention centres, and it can be difficult to tell them apart from actual prisons (except that those in prison have at least often seen a lawyer and a courtroom). Infrequently do these clinics provide treatment that is backed by scientific study despite frequently being run by the military or other government entities charged with public safety and using personnel who are not qualified in the medical field. Instead, detainees are frequently subjected to forced labour and military training exercises, and are tested for HIV without their knowledge.

1. IMPRISONMENT AND FORCED LABOUR IN DRUG DETENTION CENTRES

The typical perception of drug users and addicts is that they are aberrant and unable to exercise agency or self-determination in their decision to use or abstain from using drugs. Due to these prejudiced, disempowering, and persistent beliefs, many drug users have been detained in "treatment" prisons. Once more, this violates the human right of drug users to be free from arbitrary detention. These facilities are far from actually helping drug users and exist to imprison people without due process or a trial in what

amounts to labour camps. Despite the fact that India has a large number of drug rehabilitation facilities today, these facilities frequently use overdose medications as a kind of therapy, preventing them from assisting drug users in their recovery and instead leaving them in the same condition as before with no improvement. These facilities just boast. Is this a violation of someone's human rights?

2. INHUMAN OR DEGRADING TREATMENT

People who use illegal substances, are arrested for drug offences, or are accused of doing so are frequently subjected to a wide array of severe and unusual punishments. This covers abuses such as making death threats and beating people to get information; extortion of cash or confessions through forced withdrawal without medical attention; judicially approved corporal punishment for drug use; and various forms of cruel, inhumane, and degrading treatment under the guise of "rehabilitation," such as withholding meals, beating people, abusing them sexually, and making rape threats; isolation; and forced labour. This covers abuses such as making death threats and beating people to get information.

Judicial physical punishment is expressly prohibited by international law on the grounds that it constitutes a form of torture as well as a cruel, inhuman, or humiliating form of punishment. This is reflected not only in the law that is developed from international human rights treaties but also in the norm of international law that is generally acknowledged. To put it another way, it is forbidden to apply it to people who abuse alcoholic beverages or illegal narcotics. In certain countries, the use of physical force as a form of punishment is either the primary form of punishment or is used in conjunction with jail. It is common practise to cane, whip, or flog a person in public view, with the intention of intentionally heightening the victim's feelings of shame and humiliation; this practise, in addition to causing significant bodily injury, can inflict serious psychological harm. Because a disproportionate number of people who use drugs are dealing with mental health concerns or are in other vulnerable situations, the effects of these harms can be especially severe for vulnerable populations of drug users.¹²⁷ The use of judicial physical punishment is expressly prohibited by international law on the grounds that it constitutes a form of torture as well as a cruel,

¹²⁷ Available at http://antitorture.org/torture-in-healthcarepublication accessed on 16th June, 2023.

inhuman, or humiliating form of punishment. This is reflected not only in the law that is developed from international human rights treaties but also in the norm of international law that is generally acknowledged. To put it another way, it is forbidden to apply it to people who abuse alcoholic beverages or illegal narcotics. In certain countries, the use of physical force as a form of punishment is either the primary form of punishment or is used in conjunction with jail. In public settings, the victim is routinely subjected to flogging, caning, or whipping with the intention of exacerbating feelings of shame and humiliation; this practise, in addition to causing substantial bodily suffering, can result in severe psychological damage.

5.5 DETENTION WITHOUT TRIAL

Those suspected of drug trafficking are frequently detained without being put on trial and with only minimal protections for their due process rights. For instance, the Dangerous Drugs Act in Malaysia grants the authorities the right to detain individuals suspected of being involved in drug trafficking without a warrant for a period of up to seven days without bringing them before a judge. After that period of time has passed, the Home Ministry may issue a detention order, which grants the inmate the ability to come before the court and argue their case for release.

In the event that the suspect's release is denied by the court, they may be detained for additional two-year periods.

An advisory board is responsible for conducting a review of the suspect's custody, although this process is in no way comparable to the procedural rights that are afforded during a court trial. It has been alleged that the police continue to hold individuals who have been charged with breaking this statute even after it has been determined that they are innocent. Under the provisions of this statute, 798 people were arrested in 2007, and an additional 805 were arrested during the first eight months of 2008.

5.6 VIOLATIONS OF BODILY INTEGRITY AND ARBITRARY ARREST

Everyone possesses the right to life, liberty, and the protection of their own person, in accordance with the Universal Declaration of Human Rights. Users of drugs are frequently subjected to violations of both their bodily integrity and their personal safety.

The possession of illegal drugs is frowned upon by the vast majority of countries. Because of this, people who take drugs are essentially considered to be criminals. Furthermore, in some countries, it is against the law to even have narcotics in one's system, which means that it is illegal to use drugs. Consequently, those who use drugs are already at an increased risk of having the police become involved and harassing them, of being subjected to intrusive cavity and strip searches, of having their person inspected in public, of being detained, and of being incarcerated.

Police stop, detain, and arrest people all around the world simply for acting like they take drugs; it goes without saying that this procedure is completely arbitrary and discriminatory. When authorities find someone with needles, they may be detained and/or their injection equipment may be destroyed. People who use drugs are just stopped to determine whether they may be "under the influence of a psychotropic drug" whereas those who inject drugs are singled out owing to visible indicators of having injected.

5.7 PRINCIPLES OF HUMAN RIGHTS AND DRUG TREATMENT

Treatment for drug addiction must adhere to the same criteria as other types of medical care since it is a form of healthcare. Human rights must be upheld and protected when creating and implementing successful drug addiction treatment programmes. These rights include the right to the highest possible level of physical and mental health for drug users; patient rights, including the right to confidentiality and the right to information about one's health status; the human rights principle of informed consent (including the right to refuse treatment); the right to non-discrimination in health care; and the right to be free from torture and other forms of cruel, inhuman, or degrading treatment.

In accordance with the principles that govern international human rights, the provision of medical treatment must be based on the patient's free and informed agreement, which must also include the choice to refuse treatment. The right to treatment decisions based on informed consent is intrinsically linked to the rights to health, privacy, and bodily integrity, as well as the freedom from torture and harsh, inhuman, or humiliating treatment or punishment. These freedoms are all intertwined with one another. Several UN agencies, such as UNAIDS, WHO, UNICEF, and UNDP, as well as the Global Fund for AIDS, Tuberculosis, and Malaria, have stated that reports of illegal detention and violations of human rights, such as torture, have been received from a number of nations. They have advocated for the elimination of mandatory drug incarceration facilities and for their replacement with community-based, evidence-based, and voluntarily participated drug treatment programmes that are respectful of human rights standards.¹²⁸

The United Nations Office on Drugs and Crime has also acknowledged that it is a violation of international human rights standards when drug "treatment" and "rehabilitation" programmes coerce individuals into treatment on a regular basis and in large numbers. This is something that has been acknowledged by the UN Office on Drugs and Crime.

People are required to go through fake "therapy" and "rehabilitation" by a number of different systems, regardless of whether or not they are actually unable to consent to treatment, whether or not they pose a threat to themselves or others, or whether or not they have a genuine need for treatment that has been determined by an appropriately trained medical professional. People are frequently coerced into receiving treatment not because they actually have a need for it but rather because they have broken the law surrounding the use of drugs or the possession of drugs in some way. Due to the fact that it disregards a person's treatment requirements, such a method cannot be backed by proof of the real advantages that the proposed intervention will bring about.

5.8 CRIMINALISATION AND HUMAN RIGHTS

Since the war on drugs began, drug use has rapidly increased worldwide. Between 155 and 250 million persons worldwide, or 3.5 percent to 5.7 percent of the population aged 15 to 64, are estimated to have taken illicit drugs at least once in the previous year, according to UNODC estimates that are probably conservative. The number of lifetime users worldwide is substantially larger, likely close to one billion. The philosophy behind the war on drugs, however, continues to be one of punishment for drug use.¹²⁹

¹²⁸ World Health Organization, 'A First Comparison Between the Consumption of and the Need for Opioid Analgesics at Country, Regional, and Global Levels', 2011

¹²⁹ Available at http://apps.who.int/medicinedocs/documents.pdf accessed on 17th June, 2023.

Drug use is not justified in any way, nor is it being justified. However, discussions about the morality of individual drug use should not obscure the fact that criminalising the consenting actions of hundreds of millions of people has a negative impact on a number of other human rights, such as the right to privacy, the right to free speech, and the right to a healthy lifestyle, and it also has a significant financial and human cost. Because criminalising users is so important, the war on drugs is actually largely a war on drug users and a war on individuals.

The results of criminalization and enforcement vary, and the measures taken against users can range from formal or informal warnings, fines, and treatment referrals (which are frequently required) to lengthy prison terms and corporal punishment. Impacts within populations also vary, but are mostly felt by young people, particular ethnic and other minorities, communities in social and economic deprivation, and problematic users.

To "decriminalize" or "de-penalize" drug possession and usage, UN member states have been urged by the Special Reporter on the right to health. In the context of HIV/AIDS, the UN Secretary-General, the leaders of UNAIDS and the Global Fund to Fight AIDS, Tuberculosis, and Malaria, as well as prominent politicians, including numerous current and previous heads of state, have all echoed this appeal.

5.9 DRUG TRAFFICKING AND HUMAN RIGHTS

The problem that drugs trafficking poses for governmental intervention in the form of attempts to regulate drug use is that it offers a tough paradox. Reducing drug use and fighting drug trafficking can have severe repercussions for drug users if the supply of drugs is reduced without a corresponding fall in demand for drugs. So long as buying, selling, and even being in possession of illegal substances is against the law, obtaining drugs will remain a covert endeavour. A drug user, who would normally be considered to be a law-abiding citizen, is put in a precarious position because of this circumstance since they are subjected to an unsavoury, profit-driven, and potentially criminal atmosphere. Because of this condition, those who take drugs are encouraged to conduct illegal acts because they cannot be sure of the potency of the contraband they are obtaining. Drug users often purchase impure or tainted substances of unknown toxicity

and strength because of the risk of being detected, charged with a crime, and incarcerated as a result of their behaviour.

Drug prices are also increased when the supply of pharmaceuticals is restricted. This in turn encourages drug users to traffic narcotics to cover the cost of their drug consumption. People, especially young people, are frequently persuaded (or forced) to engage in drug trafficking by the substantial earnings that may be made from "pyramiding" and the unlawful selling of drugs. Profits encourage market growth, driving up medication demand. When people, particularly young people, who are prone to drug experimentation and who are unaware of, unprepared for, or unable to prevent or decrease the hazards associated with drug usage are preyed upon by the outcome is extremely distressing for those involved in the drug trade. This holds true, in particular, for younger generations.

Maintaining the status quo, which is a policy of blanket prohibition, is supported by the majority of electorates and governments because of attitudes that despise the problems that are caused by the illegal drug trade, despise the entire situation, and loathe it altogether. On the other hand, the problems cannot be ignored. The illegal conduct that some addicts turn to in order to fund their addictions, as well as the routine criminal action of illegal drug distributors, costs victims' lives in addition to providing the criminals with financial benefit. The illegal drug trade provides financial support to organised crime networks all around the world. Users of illegal drugs are dragged into a world filled with unclean needles, poisoned doses, and pushers who are determined to offer them with more addicting and perilous fixes. The work that is being done to put an end to and prevent trafficking is not cheap. A greater understanding of the ineffectiveness and financial shortcomings of efforts to restrict drug use, particularly by criminalising drug possession and trafficking, has led various governments to reevaluate or change their approach to regulating the use of drugs such as cigarettes, alcohol, and cannabis. This includes a greater understanding of the inefficiency and financial shortcomings of efforts to restrict drug use. There have been instances in which governments have substituted regulatory restrictions for criminal justice measures, such as taxing and licencing programmes. The strictest form of alcohol restriction would be a total prohibition on the sale of alcoholic beverages, which would result in an absence of any licenced establishments selling alcohol. There is a lot of reason to reject the claim that the early years of alcohol prohibition in the United States, Canada, and Finland resulted in all measures of alcohol usage and alcohol-related problems falling to their all-time lowest levels ever. This is the case whenever there is relevant data available for a certain time period. It is also evident that consumption increased dramatically in subsequent years, about 1923–1933 in the United States, as the illegal trade became well-established and speakeasies and other clandestine enterprises developed. This led to an increase in consumption by a significant amount.

It is highly improbable that drug use and the hazards connected with it can be effectively managed by criminalising drug possession or by conducting interventions with the goal of reducing the demand for drugs. These two approaches need to be brought into harmony in order to eliminate or significantly reduce both the highly lucrative and criminally prone black market economy and the demand for illegal substances. As a result, the existing legal and social responses to drug use have come under increased scrutiny in order to find a better way to strike a balance between the many possibilities. The scope of this essay does not involve making recommendations for the best possible middle ground between the available choices. This article emphasises the relevance of human rights in order to help build and evaluate this balance. The article does this by focusing on the importance of human rights concepts and principles.

5.10 NARCO ANALYSIS TEST IS VIOLATION OF HUMAN RIGHTS

The validity of the narcoanalysis test has come under scrutiny in recent years. In light of the fact that the respondent is highly susceptible to suggestion and is likely to provide false or misleading responses to questions that may have been constructed incorrectly, scientific investigations demonstrate that the test is not perfect and even leads to admissions from people who are not guilty. As a result, it is debatable whether or not it amounted to the use of testimonial coercion in the judicial system as well as a violation of human rights, individual liberty, and freedom. Maintain the use of narcotics analysis, particularly in India. In the vast majority of developed and democratic countries, the practise of using narcoanalysis for investigative reasons is not openly permitted. The use of deception detection tests (DDT) such as the polygraph, narco-analysis, and brainmapping has major implications in a variety of fields, including psychology, neuroscience, ethics, and the law. The DDTs are useful for uncovering previously hidden information regarding criminal cases. There are instances in which the only individual who can access this information is the subject of an ongoing criminal investigation.

DDTs are utilised rather regularly by the investigation agency. On the other hand, the information-gathering organisations are well aware of the fact that it cannot be used in court as evidence. They have contested the assertion that it is less harmful than the "third degree approaches" that some investigators utilise. The claim that is being made in this instance is that the utilisation of these allegedly "scientific procedures" in fact-finding will provide direct assistance to the investigating agencies in the gathering of evidence, thereby increasing the likelihood that the guilty will be brought to justice and that the innocent will be exonerated. Recently, these procedures have been sold as being more accurate and advanced than any of the others, despite the lack of any reliable data to support this claim. The Supreme Court of India found in a precedent-setting ruling that DDTs cannot be provided without the patient's informed permission.

• SUPREME COURT JUDGMENT ON DDTS

The ruling of the Supreme Court on the involuntary administration of DDT was challenged on the grounds that it violated fundamental rights in order to improve investigation efforts in criminal cases in India. These fundamental rights included the "Right against self-incrimination," which is outlined in Article 20(3) of the Constitution and states that no one accused of a crime shall be forced to testify against themselves. Article 21 of the Constitution also states that no one accused of a crime shall be forced to testify against themselves (Right to life and personal liberty).

A key problem raised by DDTS is the medical staff's professional ethics in administering these procedures and the potential violation of an individual's human rights. Human rights violations in the DDT process have long been a source of concern, and in 2000, the National Human Rights Commission released Guidelines for the Administration of Polygraph Tests.¹³⁰

¹³⁰ Dinesh Dalmia v. State CRL R.C. No. 259 of 2006

The Supreme Court's ruling, which states that narcoanalysis tests cannot be examined without the accused's permission, is a major setback for the nation's investigative authorities. KG Balakrishnan, a judge. The bench of Justices J.M. Panchal and B.S. Chauhan made these statements in their landmark verdict. According to the court, narco-analysis, brain mapping, and polygraph tests cannot be conducted without the accused's permission. Justice Balakrishnan spoke for the bench when he noted that forcing an accused person to be examined was against both his or her and human rights.

The attention of the media and critics brought the narcotic analysis test back into the spotlight, which raised a variety of concerns regarding its reliability as a scientific tool of inquiry, its admissibility in court, and the potential violations of individual fundamental rights as well as its value as evidence.

The group that administers the narcotics test in India consists of a nursing staff member who acts as the coordinator, an anesthesiologist, a psychiatrist, a clinical/forensic psychologist, an audio-videographer, and a videographer. A forensic psychologist will be the one to write the report about the revelations, and it will come with an audiovideo compact disc. In order to verify the accuracy of the claims made by the suspect, other procedures such as brain mapping and polygraph examinations may be administered if deemed required.

In India, narcoanalysis is gradually becoming a routine practise in a variety of settings, including labs, investigations, and legal proceedings. the decision that was made by a panel of eleven judges in the case of State of Bombay v. KathiKalu Oghad,¹³¹ in which it was stated that self-incrimination involves communicating information based on intimate knowledge of the person, and that self-incrimination cannot simply include the formal production of documents in court. It was decided in the case of Ram Jawayya Kapur versus the State of Punjab¹³² that the executive branch cannot violate a person's constitutional rights and liberties or, for that matter, any other rights. This decision was made in light of the fact that the executive branch was the defendant. Additionally, it was ruled that in the absence of any law, any violation of fundamental rights shall be

¹³¹ AIR 1961 CrLJ (volume 2) 2007

¹³² AIR 1955 SC 549

considered unconstitutional. This was an important decision since it means that the constitution cannot be changed.

The use of lie detector tests is permitted under the expansive investigative authority granted by sections 160–167 of the Criminal Procedure Code. However, it is imperative that everyone is aware that it is the responsibility of the individual to choose whether or not they will participate in a polygraph examination; this choice should not be left up to the authorities.¹³³ If it is not authorised by law, it must be regarded illegal and a violation of the constitution. On the other hand, if the individual willingly consents to it, then it might be okay. The term "free consent" refers to assent that is given voluntarily and without being forced in any way. You can get a good idea of someone's level of voluntarism if they say something like, "I want to take a lie detector test because I want to clear my name." Despite the fact that it proves his or her voluntariness, it is still necessary to explain whether or not this voluntariness was motivated by force. If a person is ordered by the authorities to "Take a lie detector test if you want to clear your name" or "Take a lie detector test and we will let you go," then the exam cannot be considered voluntary under any circumstances. It is well knowledge that statements of this sort constitute self-incrimination.

5.11 CRIMINAL LAWS, POLICIES AND LAW ENFORCEMENT APPROACH

Under international law, governments are required to take action to lower the supply and demand for restricted substances. They must make sure that these efforts strike a balance between the need to guarantee the proper supply of prohibited substances for medical use and the need to ensure that these actions are compliant with a state's commitments under international human rights law. Regrettably, punitive strategies have been prioritised in law, practise, and finance for the global response to drug use and drug dependence. Criminal laws, harsh punishments, and law enforcement methods have a detrimental effect on people's health and a variety of other human rights. Drug possession for personal use is illegal in practically every nation on earth. For many, simply using drugs is a criminal. The effects on people with chronic, recurrent medical conditions like dependency are particularly severe. Without fear of penalty or discrimination, people have the right to receive life-saving medical care. However, even

¹³³ Kharak Singh v. State of U.P. & Ors. 1964(1) SCR 332

though carrying sterile syringes or other injecting equipment is permitted in some nations, many drug users choose not to do so because doing so could identify them as drug users and subject them to punishment on other grounds. Again, for fear of being arrested and found guilty, many people choose not to seek treatment or attend harm reduction programmes. In addition to the obvious negative effects of jail, having a criminal record can have serious repercussions on future work opportunities, educational opportunities, and even access to social services like housing. Drug users are also more likely to experience police brutality, including as beatings, extortion, and even torture, due to their criminal status.¹³⁴

¹³⁴ Ananthi S Bharadwaj Sumithra Suresh, 'Narco Analysis and Protecting the Rights of The Accused'

CHAPTER 6

CONCLUSION AND SUGGESTIONS

Since the 1980s, India has been facing a significant challenge with the problem of drug use. Illicit narcotics are the second most widely trafficked commodity in the world at the present time. The drug epidemic represents a significant risk to the safety, prosperity, and stability of a number of different countries. On the other hand, it is not clear how many people in the country are addicted to drugs. The world's illicit drug industry was sorely needed up to the 1960s. In order to maintain their livelihood, India's position made them vulnerable to drug trafficking. In the north, the Golden Crescent countries of Pakistan, Afghanistan, and Iran produce large amounts of heroin, which they then use to supply the Middle East's underground European market. Since the early 1980s, illegal drugs from the Golden Triangle—Malaysia, Thailand, and Laos—have also been smuggled and distributed through India. The Golden Hexagon also serves as an illegal source of opiates, which continues to have an adverse effect on India by escalating the illicit transit of heroin.

India has evolved into an opium transit route as well as a destination without the golden crescent, triangle, and hexagon surrounding it. Both herbal (marijuana) and (hashish), which are traditionally sourced from Nepal, aggravate the problem. In addition to this, the Punjab border state has been impacted by narco-terrorism since its inception, which deals with the transportation of illegal drugs and weapons across the border. At this point, the usage of drug smugglers in India as a country of transit had the effect of dispersing drug addiction. There are no excuses for complacency, but drug addiction in India has not reached the same serious levels as in certain Western nations.

When it comes to caste, creed, social class, or economic standing, drug users in India are treated the same regardless of where they stand in society; they are imprisoned at the centre of society, not just on the margins. Throughout the course of history, people who abuse drugs have used a wide variety of chemicals, some of which include opium, cannabis derivatives, LSD, mandrax, cocaine, and barbiturates. Recent years, however, have seen "synthetic" stimulants such as methaqualone, acetic anhydride, pyridine, and others take the lion's share of the market. One of the main modifications in the pattern is the transition from inhaling narcotics through smoking to injecting them. Heroin is

the drug that is most commonly used to treat addiction in India; nevertheless, opiates are the substance that is more commonly utilised in rural areas. Along with the recovery of cocaine, hashish, and other drugs, the rise in the use of heroin is particularly noticeable in metropolitan cities.

Pharmaceutical preparations are available without a prescription from a pharmacy as well as a large number of other retail locations. The distribution channels for pharmaceutical preparations are being separated from those used for home goods. The country is going to become part of the international network of internet pharmacies. The primary purpose of this syrup, which typically consists of high quantities of both codine and buprenorphine, is to serve as an addictive substance in the majority of locations.

Abuse of several traditional Ayurvedic medicines is also a problem in India. In this area, cannabis is abused on a regular basis, and it is also farmed illegally. Opium is produced for a variety of uses, including scientific and medical research, in the states of Rajasthan, Uttar Pradesh, and Madhya Pradesh, where it is mostly farmed. While opium is grown in northern states like Uttar Pradesh, Bihar, and Madhya Pradesh, states like Andhra Pradesh, Tamil Nadu, and Kerala are hotspots for cannabis-related drugs that are under the strict licensure, supervision, and control of their respective governments.

The majority of terrorist acts in the nation are linked to illegal drug smugglers, despite the fact that the availability of pharmaceuticals has not increased over the past ten years. An increasing menace to the nation is narcoterrorism, a multifaceted problem. The three facets of the illegal drug trade are production, smuggling, and consumption. According to the current study, there are connections between narcoterrorism and drug production, abuse, trafficking, and money laundering. The government can use effective strategies to stop the return of this type of farming, such as giving the farmers in issue with legal means of support in addition to stepping up law enforcement efforts. The unlawful production of opium and the threat of its turn should cause the authorities to exercise caution.

Mumbai is regarded as India's primary hub for drug trafficking. Lower-level operators are typically the ones who get detained. The true mastermind, though, is so far away. The identity of their most recent guru is unknown. Dawood Ibrahim is ranked fifth in this industry, according to numerous news sources. Security agencies have now detected that Dawood was supplying this poison to India in addition to Pakistan and Afghanistan. Dawood conducts business in India aside from India and African nations. The information was made public when Subhash Dushyani was detained and drugs worth Rs 4,500 crore were recovered in Udaipur.

Terrorism is made even more destructive when it coexists with illegal drug trade. Terrorist organisations involved in the illegal drug trade, such as the LTTE, JKLF, Bodoland Liberation Tiger Force (BLTF), Al-Qaida, Deccan Mujahideen, etc., primarily traffic in illegal drugs. It must be questioned that despite political leaders' promises to the Indian people, particularly in the northeast, the rate of expansion of terrorism in India is unsatisfactory.

An expression of the growing discontent with India's political and social order is the rise of terrorism and illegal substances. Before responding to the growing risks of terrorism in India, it is important to address this issue as well. The Golden Crescent drug situation and Pakistani politicians' and law enforcement institutions' active involvement have raised concerns about the safety of the Indian subcontinent.

The distressed issue needs to be resolved after a situation analysis. the state of Pakistan, which has developed into a haven for both drug traffickers and terrorists.

In other words, the Indian government cannot effectively regulate this incidence unless the causes for supporting narcoterrorism are investigated. Terrorists' access to sophisticated and lethal weaponry can be prevented, albeit to a lesser extent, by diminishing their financial strength; however, this is contingent on the efficient execution of anti-money laundering measures.

The government should take the initiative to look into every incidence of turning and attempt to turn around to detect new patterns in light of the ongoing turn of drugs and psychological substances in India. The competent authorities should constantly identify the extent and pattern of drug misuse and enhance drug abuse prevention and remedies connected to drug treatment and rehabilitation in order to identify such crimes and apprehend the terrorists involved in them.

But the government is still encouraging more people to misuse drugs today. Resources for drug prevention and treatment continue to be available. Between inadequate and the organisations concerned in it, there is a lack of coordination and cooperation. The government can provide more personnel, training, and logistical support to these organisations to increase their effectiveness. In addition, the government should put zero-tolerance policies against corruption into place, increasing the efficiency and openness of the legal system and law enforcement organisations by providing adequate human resources and training.

Money laundering and the trafficking of illegal drugs are linked. overly intricate. To stop money laundering in 2005, the government must take strong action to guarantee that the law is properly followed. The act's main draw is that it categorises a variety of behaviours as crimes and creates a multidisciplinary unit to gather information on shady financial dealings and their connections to criminal activity.

The spread of AIDS was also perpetuated by increased drug abuse. As a result, the government is always working to establish programmes for the prevention of substance (medication) and alcohol abuse: Grants for the implementation of community-based awareness raising, preventive education, counselling, and identification programmes. is offered following drug addiction treatment, detoxification, and rehabilitation.

The majority of drug offenders are dishonest, including international traffickers and large-scale local dealers. They aim to make enormous profits from drug sales and will utilise any available technology at any cost to escape police intervention. The formal technical tools used for monitoring, communication, and fighting are out-of-date, therefore law enforcement organisations must lag behind offenders in developing their technique. Because it is so challenging to compete with the financial resources associated with the drug industry, these agencies are frequently contrasted to analogous technology. However, any measures should be tried when the destiny of the nation is at stake.

Another barrier for government employees is corruption. renders drug traffickers vulnerable and sometimes hard to defeat. It interferes with how the legislation is really put into practise and even taints the state's legitimacy. Without a legal foundation, there is no way to oppose the state's evils. Therefore, it is important to eradicate corruption

at every stage. In exchange, the process of elimination calls for strong adherence to the law, careful preservation of institutions, morally upright employees, and curricular funding.

No country can effectively compete with it without the active help of others since drug misuse is an issue that transcends national borders.

In order to effectively combat the trafficking of immoral substances, international collaboration becomes crucial. The first step in creating an international community that is sensitive to the issue and aware of its gravity is international cooperation, which can take many different forms, including information sharing, financial support, joint operations, the development of international norms and principles, signing of treaties, the designation of contact officers, regular meetings, training, and other activities. Due to lengthy bureaucratic processes, information should be discussed immediately; significant information frequently surfaces after necessary information.

A quicker information exchange is necessary for efficient international cooperation. Due to the importance of the system, steps should be taken to advance technological advancement in addition to regulating internal procedures to protect against bureaucratic barriers, providing the drug mafia officers with adequate training, and acquiring the most up-to-date tools and equipment.

The complete eradication of drug usage in India turned out to be an impossible goal. However, the Indian government has already made a number of important moves in this regard: Border fencing between India and Pakistan with drug enforcement agencies maintaining and pursuing enforcement activities, training officers, flood illumination, authority to discard BSF under the Customs Act, and the Coast Guard, a predecessor to inform chemicals acetic anhydride, Fed As 'restricted substances' under no circumstances Organisation of a quarterly coordination meeting by the NDPS Act, NCB, and Secretary and General Manager level meetings on a regular basis for signing a bilateral agreement with Pakistan, signing a bilateral agreement with Myanmar, protecting Myanmar's rights, and organising meetings of Indian and Pakistani antinarcotics agencies across the ranges of quarterly border meetings of BSF and Pak Rangers. Meetings at the operational level with Myanmar and the s give famous and canine training. At the moment, CNB, Customs, Directorate of Revenue Intelligence, NCB, and other states are closely observing the Indo-Nepal border. Enforcement agencies are required to look into all instances of drug usage by farmers and smugglers in order to investigate the unlawful twisting and trafficking of opium.

The National Defence Authorization Act of 1985 is a comprehensive piece of legislation that includes the following unique provisions: In some instances, there is no opportunity for collateral; in contrast to common law, which presumes innocence, the burden of proof lies on the defendant who has demonstrated their innocence in order to secure a conviction for the perpetrator. In point of fact, it is every bit as stringent as any antidrug law in the Western world. Nevertheless, this action is extremely harsh, and even if the culprits will be harmed by its outcome, there will be a hitch-to-death trial in which the innocent party will prevail. This is because the trial will be conducted in accordance with the hitch-to-death procedure. Because of this, jails are currently at or near capacity.

Concerning the ineffectiveness of another ambiguity brought up by the Section 50 Provision, the contraband that was seized cannot be used to fix the liability of unlawful possession against a person who has been arrested for possessing drugs but is not brought to the nearest Magistrate or Gazette Officer right away after the arrest has been made. This applies to a situation in which the person has been taken into custody for possessing drugs.

The NDPS Act, 1985 has some distinctive features, but it is not without flaws and criticisms. For instance, in some situations, bail is not an option, and the burden of proof rests with the accused, as opposed to common law, which presumes innocence until proven guilty.

Amendments in 1989 and 2001 have solved some technical flaws:

- Punishment based on the seizure of property and the size of the drug seizure.
- The NDPS Act is strict in any form of anti-drug laws anywhere in the West. But it is often criticized that it has been prepared in relation to Indian culture and conditions under the pressure of the United State of America.

As a result, the NDPS Act did not examine drug addiction, and as a result, its requirements should be updated to reflect current conditions.

Sections 42 and 50 of the Act have some technical shortcomings, including giving the accused the upper hand, failing to resolve cases quickly, and allowing cases to drag out in court for a long time to the benefit of offenders.

SUGGESTIONS

- Drug addiction poses a serious risk to society's well-being. The number and proportion of victims of this threat are increasing at risky rates. Local governments and other institutions should cooperate to combat it in order to control it.
- It has been discovered in the research of how an abuser makes his life miserable that this is the same thought for someone who gradually takes drugs and then tries to escape his grasp. It almost gets harder. Now that it has been established that heroin addiction is an illness, it is important to treat the addict with compassion and respect rather than using force or violence against him. As a result, it must enhance the legal, prison, security, and customs systems. It was made accountable for treatment as a result of being recognised by the World Health Organisation as a form of alcoholism. In order to fulfil their social commitments, governments and social organisations advocate medical practise as the primary method of alcohol treatment.
- Numerous programmes are organised by the United Nations International Drug Control Programme (U.N.D.C.P.) to safeguard against drug addiction and alcoholism throughout the world. To entirely free patients from treatment, the Indian government has given institutes for drug addiction treatment financial and technical help. But even after this, the number of addicts keeps rising. Making laws is the only thing that can stop this wickedness, and that is not right. The society must be made aware of its negative effects and educated as a result of various initiatives. Although treatment and reunion cannot follow the same pattern, they should be founded on research that takes into account factors such as cultural traditions, the social and economic climate of the country or region, etc. Demand management should take a back seat to preventative strategies like education, particularly for young people who are at risk for alcohol and drug abuse.

- All hospitals in the area, as well as treatment institutions in particular, shall offer the service of D-addiction treatment. The success of rehabilitation ultimately depends on its resurrection and ongoing maintenance, even though alcohol treatment is typically effective. Abuse is the biggest task facing professionals involved in the treatment of alcohol and other drugs.
- In terms of social support, alcoholic anonymity, and spirituality, studies have indicated that alcoholics are rearranged, and those who desire to be under stress after treatment are under stress. The study's findings also indicate that stress tolerance and social support are important. Alcoholics' spirituality and alcoholism are two sides of the same coin.
- It was shown that abusers or alcoholics who are sober have a higher tolerance for stress than those who relapse. The addict or alcoholic who had recovered from treatment, as well as their family, friends, and other loved ones, provided further support, enabling them to start anew.
- Demand-cutting tactics are being promoted by many governments. Demand, production, and illegal transportation all promote the use of several drugs, including both recreational and therapeutic ones, in many regions of the world. Abusers and abuse should be addressed and reintegrated as useful members of society in order to decrease demand.
- The NDPS Act has not had a significant effect on the country's drug scene. According to the findings of this study, the policy that underlies this act is not founded on dependable criminal science concepts. Despite the seriousness of the crime, the statutory minimum punishment of hard labour for 10 years seems excessively harsh, especially in light of minor transgressions.
- This study has demonstrated that the court is reluctant to find the offenders guilty because, in the vast majority of cases, the mandatory minimum punishment is incompatible with the seriousness of the crimes, and because judges lack discretion in the case of conviction. As a result, the crime rate is estimated to be below 45.5% in general crime and below 35% in violent crime, with a drop to below 10% after the first appellate phase. Therefore, the policy on punishment must be logical if it is to be used to minimise the proportion of crime.

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