

# Drug Abuse: Public Health Issue Vs Criminal Issue – Need for Reforms in the NDPS Act

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**Abstract:** *Drug abuse has become one of the most serious social, medical, and legal concerns across the world. In India, the issue of narcotic drugs and psychotropic substances is mainly governed by the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The Act was enacted with the objective of controlling drug trafficking and preventing substance abuse through strict criminal penalties. However, over time, the rigid punitive approach of the NDPS Act has raised several concerns regarding human rights, prison overcrowding, lack of rehabilitation, and the criminalization of addicts.*

*This research examines whether drug abuse should primarily be treated as a public health issue or as a criminal issue. The study analyses the legal framework under the NDPS Act, the constitutional perspective, judicial interpretations, and international approaches towards drug policy. It argues that drug addiction is not merely a crime but also a medical and psychological condition requiring treatment and rehabilitation. And further highlights the need for reforms in the NDPS Act by balancing strict action against traffickers while adopting a health-oriented approach for users and addicts. The study concludes that India requires a compassionate, reformatory, and rehabilitation-based drug policy to effectively address the growing problem of substance abuse.*

**Keywords:** Drug abuse: public health issue vs criminal issue – need for reforms in the NDPS act

## I. INTRODUCTION

Drug abuse refers to the excessive and unlawful use of narcotic drugs, psychotropic substances, or intoxicating substances which adversely affect an individual's physical and mental health. The growing incidence of drug addiction among youth has become a major challenge for society, public health authorities, and criminal justice systems.

Traditionally, many countries viewed drug abuse primarily as a criminal issue and imposed strict punishments on users and traffickers. India adopted this approach through the NDPS Act, 1985, which provides stringent punishments including imprisonment, fines, and restrictions on bail. While the law aims to curb illegal trafficking and consumption, critics argue that it often punishes addicts instead of helping them recover. Drug addiction is increasingly recognized as a disease that affects the brain and behaviour of individuals. Medical experts and human rights organizations emphasize that addicts require treatment, counselling, and rehabilitation rather than imprisonment. Therefore, a debate has emerged regarding whether drug abuse should be addressed as a public health issue or a criminal issue.

The increasing number of drug-related deaths, prison overcrowding, relapse among addicts, and lack of rehabilitation centres demonstrate the limitations of a purely punitive approach. This research therefore examines the need to reform the NDPS Act to create a balanced framework that protects society while ensuring treatment and rehabilitation for victims of addiction.

### Objectives of the Study

1. To examine the concept of drug abuse and addiction.
2. To analyse the legal framework under the NDPS Act, 1985.



3. To study whether drug abuse is a public health issue or criminal issue.
4. To analyse judicial interpretations relating to drug offences.
5. To suggest reforms for a balanced and humane drug policy.

### **Research Questions**

1. Whether drug addiction should be treated as a health issue instead of a criminal issue?
2. Whether the NDPS Act adequately balances punishment and rehabilitation?
3. What reforms are necessary in the NDPS Act?

### **Hypothesis**

The study hypothesizes that drug abuse should primarily be treated as a public health issue and that the NDPS Act requires reforms to emphasize treatment and rehabilitation over excessive criminalization.

### **Research Methodology**

This study adopts doctrinal research methodology based on statutes, case laws, books, journal articles, government reports, and international conventions.

## **II. CONCEPT OF DRUG ABUSE AND ADDICTION**

Drug abuse has emerged as one of the most serious social and public health problems in modern society. The increasing use of narcotic drugs and psychotropic substances among young people has become a matter of grave concern for governments, healthcare institutions, and law enforcement agencies across the world. Drug abuse not only affects the physical and mental health of an individual but also creates severe social, economic, and legal consequences. It destroys families, increases criminal activities, weakens social stability, and negatively affects the productivity and development of a nation. In India, the growing prevalence of drug addiction among students and unemployed youth demonstrates the urgent need for effective legal and healthcare responses.<sup>1</sup>

The term “drug abuse” generally refers to the repeated or excessive use of a substance in a manner that is harmful to the individual or society. Drugs may include narcotic substances such as heroin, opium, morphine, cocaine, cannabis, methamphetamine, and synthetic drugs, as well as the misuse of prescription medicines and pharmaceutical substances. Drug abuse differs from medical use because the substances are consumed without proper medical supervision or for recreational and intoxicating purposes. Continuous consumption of such substances gradually affects the nervous system and reduces the individual’s ability to think rationally and behave responsibly.<sup>2</sup>

Drug addiction, also known as substance dependence, is a condition in which an individual develops physical or psychological dependence on a drug and becomes unable to stop using it despite harmful consequences. Addiction affects the functioning of the brain, particularly areas related to decision-making, emotional control, and reward systems. Medical experts recognize addiction as a chronic and relapsing disease rather than merely a moral failure or criminal behaviour. Addicted persons often experience intense cravings and withdrawal symptoms such as anxiety, sweating, depression, insomnia, nausea, and physical pain when they attempt to discontinue drug use. Therefore, addiction requires long-term medical treatment, counselling, behavioural therapy, and social support.<sup>3</sup>

The causes of drug abuse are complex and interconnected. One of the major causes is peer pressure, especially among adolescents and college students. Young individuals often consume drugs to gain acceptance in social groups or due to curiosity and experimentation. Psychological factors such as stress, depression, anxiety, loneliness, and emotional

<sup>1</sup>WORLD HEALTH ORG., NEUROSCIENCE OF PSYCHOACTIVE SUBSTANCE USE AND DEPENDENCE 1–5 (2004)

<sup>2</sup>United Nations Office on Drugs and Crime, World Drug Report 2023, U.N. Sales No. E.23.XI.6 (2023)

<sup>3</sup>WORLD HEALTH ORG., supra note 1, at 12–18



trauma also contribute significantly to substance abuse. Many individuals use drugs as a temporary escape from personal problems or mental distress. Family-related issues such as domestic violence, broken families, neglect, lack of parental supervision, and poor emotional support may further increase vulnerability to addiction.<sup>4</sup>

Economic and social conditions also play an important role in promoting drug abuse. Poverty, unemployment, lack of educational opportunities, and social inequality often push individuals towards drug consumption and illegal drug trade. In several regions, drug trafficking networks target economically vulnerable populations and unemployed youth for distribution and sale of narcotic substances. In addition, rapid urbanization, changing lifestyles, and increasing exposure to online content and entertainment media have normalized substance use among some sections of society. Movies, music culture, and social media sometimes portray drug consumption as fashionable or glamorous, thereby influencing young minds.<sup>5</sup>

Drug abuse has severe physical consequences on human health. Prolonged use of narcotic substances damages important organs such as the brain, heart, lungs, kidneys, and liver. Drug addicts are more vulnerable to serious diseases including HIV/AIDS, hepatitis, tuberculosis, and respiratory disorders, especially due to unsafe injection practices and poor hygiene. Excessive drug consumption may also result in overdose deaths, paralysis, and permanent neurological damage. Synthetic drugs and chemically manufactured substances are particularly dangerous because they may contain toxic and unknown ingredients that severely affect the body.<sup>6</sup>

The psychological effects of drug abuse are equally serious. Addiction often causes depression, anxiety disorders, hallucinations, aggression, memory loss, paranoia, and suicidal tendencies. Drug-dependent individuals may become emotionally unstable and violent, leading to anti-social behavior and criminal activities. Long-term addiction also affects cognitive functioning, concentration, and decision-making abilities, thereby reducing educational and professional performance. Children and adolescents suffering from substance abuse frequently experience academic failure, social isolation, and emotional trauma.<sup>7</sup>

The social impact of drug abuse extends beyond the individual addict and affects the entire community. Families of addicts often suffer emotional distress, financial hardship, domestic violence, and social stigma. Drug abuse contributes to increased crime rates including theft, robbery, assault, trafficking, and organized criminal activities. In many cases, addicts commit offences to obtain money for purchasing drugs. Drug trafficking networks are also associated with corruption, illegal arms trade, terrorism financing, and cross-border criminal activities. Thus, drug abuse poses a serious threat to public order and national security.<sup>8</sup>

Historically, most legal systems treated drug abuse primarily as a criminal issue. Strict criminal laws were enacted to prohibit possession, sale, manufacture, and consumption of narcotic substances. India adopted a punitive approach through the enactment of the Narcotic Drugs and Psychotropic Substances Act, 1985. The NDPS Act imposes stringent punishments including imprisonment, heavy fines, restrictions on bail, and enhanced punishment for repeat offenders. The law was enacted to combat the growing menace of drug trafficking and to fulfill India's obligations under international conventions relating to narcotic control.<sup>9</sup>

However, the criminal justice approach towards addiction has been criticized by scholars, healthcare professionals, and human rights organizations. Critics argue that imprisoning addicts does not solve the problem of substance dependence and may further worsen their condition. Many addicts who are imprisoned face social stigma, psychological trauma,

<sup>4</sup>Ministry of Social Justice and Empowerment, Government of India, Magnitude of Substance Use in India Report 45–52 (2019)

<sup>5</sup>Id. at 60–64

<sup>6</sup>WORLD HEALTH ORG., supra note 1, at 25–30

<sup>7</sup>Id. at 35–40

<sup>8</sup>United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95

<sup>9</sup>Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE (1985)



unemployment, and social exclusion after release. Prisons often lack proper de-addiction and rehabilitation facilities, resulting in repeated relapse among addicts. Therefore, excessive criminalization may fail to achieve the objective of reducing drug abuse in society.<sup>10</sup>

In recent years, there has been growing international recognition that drug abuse should also be treated as a public health issue. The World Health Organization considers addiction to be a health disorder requiring treatment and rehabilitation. A public health approach focuses on prevention, awareness, counselling, harm reduction, mental healthcare, and social reintegration. Under this model, addicts are treated as patients rather than criminals. Rehabilitation programs, medical therapy, and psychological support are considered more effective than imprisonment in reducing addiction and preventing relapse.<sup>11</sup>

Several countries have shifted from punitive drug policies to rehabilitation-based approaches. Portugal decriminalized personal possession of drugs in 2001 and emphasized treatment and counselling instead of imprisonment. Research studies indicate that Portugal witnessed a reduction in drug-related deaths. These international experiences demonstrate that balancing criminal law enforcement with public health measures can produce better social outcomes.<sup>12</sup>

In India, the NDPS Act itself contains certain provisions recognizing the need for treatment and rehabilitation. Section 64A of the Act grants immunity from prosecution to addicts volunteering for de-addiction treatment, while Section 71 empowers the government to establish rehabilitation centres. However, the implementation of these provisions remains inadequate due to lack of awareness, poor infrastructure, insufficient funding, and social stigma. Rehabilitation facilities are limited in many rural and semi-urban areas, making treatment inaccessible for a large section of addicts.<sup>13</sup>

The constitutional perspective also supports a humane approach towards addiction. Article 21 of the Constitution of India guarantees the right to life and personal liberty, which includes the right to health and human dignity. Courts have emphasized the importance of fair procedure, rehabilitation, and protection of human rights in criminal justice administration. Treating addicts with compassion and providing healthcare support aligns with constitutional values of dignity, equality, and social justice.<sup>14</sup>

Therefore, there is an urgent need to rethink drug policy in India and adopt a balanced framework that distinguishes between traffickers and addicts. While organized traffickers and drug cartels must be punished strictly to protect society, addicts and first-time users should receive treatment, counselling, and opportunities for rehabilitation. A health-oriented and reformatory approach can reduce addiction, improve public health, and promote social reintegration more effectively than excessive criminalization alone.<sup>15</sup>

### **III. LEGAL FRAMEWORK UNDER THE NDPS ACT, 1985**

The problem of drug abuse and illegal trafficking of narcotic substances became a serious concern in India during the late twentieth century. Increasing international drug trade, organized criminal networks, and rising substance abuse among youth created the need for a comprehensive legal framework to regulate narcotic drugs and psychotropic substances. Prior to the enactment of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), India regulated narcotic substances mainly through laws such as the Opium Act, 1857, the Opium Act, 1878, and the

<sup>10</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 112–15 (2017)

<sup>11</sup>WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS 3–7 (2020)

<sup>12</sup>Caitlin Elizabeth Hughes & Alex Stevens, What Can We Learn from the Portuguese Decriminalization of Illicit Drugs? 50 Brit. J. Criminology 999, 1005–10 (2010)

<sup>13</sup>Narcotic Drugs and Psychotropic Substances Act §§ 64A, 71.

<sup>14</sup>INDIA CONST. art. 21

<sup>15</sup>Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction 18–24 (2018)



Dangerous Drugs Act, 1930. However, these legislations were considered inadequate to deal with modern forms of drug trafficking and international obligations relating to narcotic control.<sup>16</sup>

The NDPS Act, 1985 was enacted by the Indian Parliament to consolidate and amend laws relating to narcotic drugs and psychotropic substances and to implement international conventions on drug control. The Act aims to prohibit the production, manufacture, cultivation, possession, sale, purchase, transportation, warehousing, use, consumption, import, export, and trafficking of narcotic drugs and psychotropic substances except for medical and scientific purposes.<sup>17</sup> The legislation reflects a strict punitive approach towards drug offences and prescribes severe punishments including long-term imprisonment, heavy fines, and restrictions on bail.

The NDPS Act was enacted in compliance with India's obligations under international conventions such as the Single Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. These international agreements require member states to criminalize illicit drug production and trafficking while ensuring the availability of drugs for medical and scientific use.<sup>18</sup>

One of the most important provisions of the NDPS Act is Section 8, which prohibits the cultivation, production, possession, sale, purchase, transport, warehousing, use, consumption, import, export, and transshipment of narcotic drugs and psychotropic substances except for medical or scientific purposes and in the manner authorized by law. This section forms the foundation of the entire statute because most offences under the Act arise from the violation of Section 8.<sup>19</sup>

The Act classifies offences and punishments based on the quantity of drugs involved. The punishment varies according to whether the quantity is small quantity, quantity lesser than commercial quantity but greater than small quantity, or commercial quantity. This distinction was introduced through amendments to ensure proportionality in punishment. Section 21 of the Act provides punishment for contravention in relation to manufactured drugs and preparations. If the offence involves small quantity, the punishment may extend to one year imprisonment or fine, whereas offences involving commercial quantity may lead to rigorous imprisonment extending up to twenty years along with heavy fines.<sup>20</sup>

Similarly, Section 22 deals with offences relating to psychotropic substances. Psychotropic substances include synthetic and chemically manufactured drugs that affect the mind and nervous system. The illegal possession, manufacture, sale, or transport of such substances attracts stringent punishments under the Act. The increasing use of synthetic drugs among youth has made the enforcement of this provision particularly significant in recent years.<sup>21</sup>

Section 27 of the NDPS Act specifically punishes the consumption of narcotic drugs and psychotropic substances. Depending on the substance consumed, punishment may extend from six months to one year along with fines. This provision reflects the criminalization approach adopted by the legislation, where even personal consumption of drugs constitutes an offence. Critics argue that punishing addicts for consumption fails to address the root causes of addiction and may discourage individuals from seeking medical help and rehabilitation.<sup>22</sup>

One of the harshest provisions of the NDPS Act is Section 37, which imposes stringent conditions for granting bail in offences involving commercial quantity. Under this provision, bail cannot ordinarily be granted unless the court is satisfied that there are reasonable grounds to believe that the accused is not guilty and is unlikely to commit any

<sup>16</sup>M.P. Jain, *Indian Constitutional Law* 1198–1200 (8th ed. 2018)

<sup>17</sup>Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE (1985)

<sup>18</sup>United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95

<sup>19</sup>Narcotic Drugs and Psychotropic Substances Act § 8.

<sup>20</sup>Narcotic Drugs and Psychotropic Substances Act § 21

<sup>21</sup>Narcotic Drugs and Psychotropic Substances Act § 22

<sup>22</sup>Narcotic Drugs and Psychotropic Substances Act § 27



offence while on bail. The strict bail conditions under the Act have resulted in prolonged pre-trial detention and overcrowding of prisons. In many cases, accused persons remain in custody for several years before the completion of trial.<sup>23</sup>

The Act also contains provisions relating to repeat offenders and enhanced punishment. Section 31 provides enhanced punishment for persons previously convicted under the Act, while Section 31A introduced the death penalty for certain repeat offences involving large quantities of drugs. However, concerns regarding proportionality and human rights led to amendments reducing the mandatory nature of the death penalty.<sup>24</sup>

To strengthen investigation and enforcement, the NDPS Act grants extensive powers to law enforcement agencies. Officers authorized under Sections 41, 42, and 43 may conduct searches, seizures, and arrests without warrant under certain circumstances. However, due to the extraordinary powers granted under the Act, courts have emphasized the importance of strict procedural compliance to protect the rights of accused persons. Failure to comply with mandatory procedural safeguards may result in acquittal.<sup>25</sup>

Section 50 of the Act is one of the most important procedural safeguards available to accused persons. It provides that when an officer intends to search a person, the individual must be informed of the right to be searched before a Gazetted Officer or Magistrate. The Supreme Court in *State of Punjab v. Baldev Singh* held that compliance with Section 50 is mandatory and failure to comply would vitiate the conviction.<sup>26</sup> This safeguard aims to prevent misuse of power, false implication, and illegal search procedures.

The Supreme Court has repeatedly emphasized the importance of fairness and procedural safeguards in NDPS cases. In *Tofan Singh v. State of Tamil Nadu*, the Court held that officers empowered under the NDPS Act are “police officers” for the purpose of Section 25 of the Indian Evidence Act, and therefore confessions made before them are inadmissible in evidence.<sup>27</sup> This judgment strengthened the protection of accused persons against coercion and forced confessions.

Despite its punitive nature, the NDPS Act also contains provisions recognizing addiction as a health issue requiring rehabilitation. Section 64A grants immunity from prosecution to addicts charged with offences involving small quantity if they voluntarily seek de-addiction treatment. This provision reflects a reformatory approach by encouraging treatment rather than punishment. Similarly, Section 71 empowers the government to establish centers for identification, treatment, education, after-care, rehabilitation, and social reintegration of addicts.<sup>28</sup>

However, the implementation of rehabilitation-oriented provisions remains inadequate in India. De-addiction centers are insufficient in number and many rehabilitation facilities suffer from lack of trained professionals, poor infrastructure, and inadequate funding. Social stigma associated with addiction further prevents many individuals from seeking treatment. Consequently, the rehabilitative objectives of the Act have not been fully achieved.<sup>29</sup>

Another major issue under the NDPS Act is delay in investigation and trial. Forensic examination of seized substances often takes considerable time, resulting in prolonged detention of accused persons. The burden on special courts handling NDPS cases further contributes to delay in disposal. Such delays affect the constitutional right to speedy trial guaranteed under Article 21 of the Constitution of India.<sup>30</sup>

<sup>23</sup>Narcotic Drugs and Psychotropic Substances Act § 37

<sup>24</sup> Narcotic Drugs and Psychotropic Substances Act §§ 31, 31A

<sup>25</sup>Narcotic Drugs and Psychotropic Substances Act §§ 41–43

<sup>26</sup> *State of Punjab v. Baldev Singh*, (1999) 6 SCC 172 (India)

<sup>27</sup> *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1 (India)

<sup>28</sup>Narcotic Drugs and Psychotropic Substances Act §§ 64A, 71

<sup>29</sup> Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction 18–22 (2018).

<sup>30</sup>INDIA CONST. art. 21



The NDPS Act has also been criticized for disproportionately affecting economically weaker sections and marginalized communities. Many small-time users and poor individuals are arrested and imprisoned, while major drug trafficking networks often continue to operate through organized criminal structures. Human rights organizations have therefore called for reforms emphasizing proportional punishment, rehabilitation, and healthcare interventions for addicts.<sup>31</sup>

Thus, the legal framework under the NDPS Act demonstrates a combination of strict criminal enforcement and limited rehabilitative measures. While stringent punishment may be necessary to combat organized trafficking and protect society, excessive criminalization of addicts has raised concerns regarding human rights, prison overcrowding, and ineffective rehabilitation. Therefore, there is an urgent need to reform the NDPS Act to create a balanced framework that effectively punishes traffickers while treating addiction as a public health issue requiring medical care and social support.<sup>32</sup>

#### **IV. DRUG ABUSE: PUBLIC HEALTH ISSUE VS CRIMINAL ISSUE**

Drug abuse has become one of the most debated issues in modern legal and healthcare systems. Governments across the world have struggled to determine whether drug addiction should primarily be treated as a criminal issue requiring punishment or as a public health issue requiring medical treatment and rehabilitation. Traditionally, many countries adopted strict criminal laws against drug possession, trafficking, and consumption in order to protect society and maintain public order. However, growing medical research and international experience have demonstrated that addiction is not merely a matter of criminal behavior but also a serious health disorder affecting the physical and mental condition of individuals. Consequently, the debate between the punitive approach and the health-oriented approach has gained significant importance in contemporary legal discourse.<sup>33</sup>

The criminal justice approach towards drug abuse is based on the belief that strict punishment can deter individuals from engaging in drug-related activities. Under this approach, the possession, sale, manufacture, transportation, and consumption of narcotic substances are treated as criminal offences punishable with imprisonment, fines, and other legal sanctions. The primary objective of criminalization is to prevent the illegal drug trade, protect public safety, and reduce organized criminal activities associated with narcotic trafficking. In India, this approach is reflected in the Narcotic Drugs and Psychotropic Substances Act, 1985, which prescribes stringent punishments for various drug-related offences.<sup>34</sup>

Supporters of the criminalization model argue that drug trafficking poses a major threat to society and national security. Illegal drug trade is often connected with organized crime, terrorism financing, corruption, money laundering, and violence. Drug cartels and trafficking networks exploit vulnerable individuals, especially youth, and generate enormous illegal profits through the sale of narcotic substances. Therefore, strict criminal laws are considered necessary to dismantle trafficking organizations and maintain social order.<sup>35</sup> In addition, criminal penalties are believed to create fear and deterrence among individuals who may otherwise engage in illegal drug activities.

Another argument supporting the criminal approach is that drug abuse often contributes to criminal behavior. Addicts may commit theft, robbery, assault, or other offences to obtain money for purchasing drugs. Substance abuse may also increase violent conduct, domestic violence, road accidents, and anti-social behavior. Consequently, governments

<sup>31</sup> Law Commission of India, Report No. 268 on Amendments to Criminal Laws 110–18 (2017)

<sup>32</sup> WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS 3–7 (2020)

<sup>33</sup> WORLD HEALTH ORG., NEUROSCIENCE OF PSYCHOACTIVE SUBSTANCE USE AND DEPENDENCE 1–10 (2004)

<sup>34</sup> Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE (1985).

<sup>35</sup> United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95



consider criminal law enforcement essential for preventing the social harms associated with addiction and protecting public welfare.<sup>36</sup>

However, despite decades of strict criminalization policies, drug abuse continues to increase in many parts of the world. Critics argue that punishment alone has failed to eliminate addiction and has instead created several social and human rights concerns. One of the major criticisms of the criminal approach is that it treats addicts as criminals rather than victims of dependency and mental health disorders. Many individuals who consume drugs are themselves suffering from psychological trauma, depression, unemployment, poverty, or social exclusion. Imprisoning such individuals may worsen their condition rather than reform them.<sup>37</sup>

The excessive criminalization of drug users has also resulted in overcrowded prisons and increased burden on criminal justice systems. A significant number of prisoners in many countries are incarcerated for minor drug offences and personal consumption. Long periods of imprisonment expose addicts to hardened criminals, violence, and social stigma, making rehabilitation more difficult. After release, former addicts often face discrimination in employment, education, and social relationships, which increases the possibility of relapse and repeated criminal involvement.<sup>38</sup>

Medical experts and international organizations increasingly recognize drug addiction as a chronic health disorder requiring treatment rather than punishment. The World Health Organization defines addiction as a condition characterized by compulsive drug use despite harmful consequences. Addiction affects brain functioning, emotional control, decision-making ability, and physical health. Therefore, treatment through counselling, behavioural therapy, medical intervention, and rehabilitation is considered essential for recovery.<sup>39</sup>

The public health approach towards drug abuse focuses on prevention, awareness, treatment, rehabilitation, and harm reduction. Under this model, addicts are viewed as patients in need of healthcare services rather than as criminals deserving imprisonment. The primary objective is to reduce the harmful consequences of drug abuse on individuals and society through scientific and medical interventions. Public health policies aim to prevent overdose deaths, reduce the spread of infectious diseases such as HIV/AIDS, and promote social reintegration of recovering addicts.<sup>40</sup>

Harm reduction is an important component of the public health approach. Harm reduction strategies include counselling services, needle exchange programs, supervised consumption centers, opioid substitution therapy, and rehabilitation programs. These measures seek to reduce the risks associated with drug abuse without necessarily requiring immediate abstinence. Public health experts argue that such measures save lives, improve public health outcomes, and encourage addicts to seek treatment voluntarily.<sup>41</sup>

Several countries have adopted health-oriented drug policies with positive outcomes. Portugal is one of the most frequently cited examples. In 2001, Portugal decriminalized the possession of small quantities of drugs for personal use and shifted its focus towards treatment and rehabilitation. Instead of imprisonment, individuals found possessing small amounts of drugs are referred to “dissuasion commissions” consisting of healthcare and legal professionals. Studies indicate that Portugal experienced reductions in drug-related deaths, HIV infections, and prison overcrowding after implementing these reforms.<sup>42</sup>

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<sup>36</sup>Ministry of Social Justice and Empowerment, Government of India, Magnitude of Substance Use in India Report 52–60 (2019)

<sup>37</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 112–18 (2017)

<sup>38</sup>Id

<sup>39</sup>WORLD HEALTH ORG., supra note 1, at 12–20

<sup>40</sup> WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS 3–9 (2020)

<sup>41</sup>Id. at 15–18

<sup>42</sup>Caitlin Elizabeth Hughes & Alex Stevens, What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?, 50 Brit. J. Criminology 999, 1005–12 (2010)



Similarly, Switzerland introduced supervised drug consumption centers and opioid substitution therapy programs to reduce overdose deaths and criminal activities associated with heroin addiction. Canada and certain states in the United States have also implemented harm reduction measures and rehabilitation-based policies to address the opioid crisis. These international experiences demonstrate that treating addiction as a public health issue can produce more effective and humane outcomes than excessive criminalization alone.<sup>43</sup>

In India, although the NDPS Act mainly follows a punitive framework, certain provisions recognize addiction as a health issue. Section 64A grants immunity from prosecution to addicts who voluntarily seek de-addiction treatment for offences involving small quantities of drugs. Similarly, Section 71 empowers the government to establish rehabilitation and treatment centers for addicts. These provisions indicate legislative recognition of the importance of rehabilitation and medical assistance.<sup>44</sup> However, the practical implementation of these provisions remains limited due to inadequate infrastructure, social stigma, lack of awareness, and insufficient government support.

The constitutional framework of India also supports a humane approach towards addiction. Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to health and human dignity. Courts have emphasized the importance of fair treatment, procedural safeguards, and rehabilitation within the criminal justice system. Treating addicts solely as criminals may violate principles of dignity and social justice, particularly when addiction is linked to mental health and socio-economic vulnerability.<sup>45</sup>

The judiciary has also highlighted the need for procedural fairness and protection of individual rights in NDPS cases. In *Tofan Singh v. State of Tamil Nadu*, the Supreme Court strengthened safeguards against coercive confessions and misuse of investigative powers under the NDPS Act.<sup>46</sup> Similarly, courts have repeatedly emphasized strict compliance with procedural safeguards under Section 50 to prevent abuse of authority by enforcement agencies. These judicial developments demonstrate increasing concern for human rights within the framework of drug law enforcement.

Despite the advantages of the public health approach, complete decriminalization of drugs may also create challenges. Critics argue that excessive liberalization may increase drug availability and normalize substance abuse among youth. Therefore, many scholars support a balanced approach that distinguishes between traffickers and addicts. Organized traffickers and drug cartels involved in illegal trade should continue to face strict punishment, while addicts and first-time users should receive treatment, counselling, and rehabilitation.<sup>47</sup>

A balanced policy combining criminal law enforcement with public health measures is essential for effectively addressing the drug problem in India. Such an approach would ensure strong action against traffickers while protecting the rights and dignity of addicts. It would also reduce prison overcrowding, improve rehabilitation outcomes, and promote social reintegration of recovering individuals. In the long term, a health-oriented and reformative approach may prove more effective in reducing addiction and ensuring public welfare than a purely punitive model.<sup>48</sup>

Thus, drug abuse cannot be understood solely as a criminal issue or solely as a public health issue. It is a multidimensional problem involving medical, psychological, social, economic, and legal factors. The growing recognition of addiction as a disease highlights the need for compassionate and evidence-based policies. India must therefore reform its drug control framework to create a humane, balanced, and rehabilitation-oriented system capable of protecting both society and individual rights.<sup>49</sup>

<sup>43</sup>United Nations Office on Drugs and Crime, World Drug Report 2023, U.N. Sales No. E.23.XI.6 (2023)

<sup>44</sup>Narcotic Drugs and Psychotropic Substances Act §§ 64A, 71

<sup>45</sup>INDIA CONST. art. 21

<sup>46</sup>*Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1 (India)

<sup>47</sup>Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction 18–25 (2018)

<sup>48</sup>WORLD HEALTH ORG., supra note 1, at 35–40

<sup>49</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 120–25 (2017)



#### **V. JUDICIAL APPROACH AND IMPORTANT CASE LAWS UNDER THE NDPS ACT**

The judiciary plays an important role in interpreting and implementing the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). Since the Act prescribes stringent punishments, strict bail conditions, and extensive powers of search and seizure, courts have repeatedly emphasized the importance of procedural safeguards and protection of constitutional rights. Judicial decisions under the NDPS Act have attempted to balance the objectives of controlling drug trafficking and protecting society with the need to ensure fairness, human dignity, and protection against misuse of power.<sup>50</sup>

The Supreme Court and various High Courts in India have dealt with numerous cases involving illegal possession, search and seizure, confessions, procedural compliance, bail, and rehabilitation of drug addicts. Through these judgments, the judiciary has clarified important legal principles relating to investigation, admissibility of evidence, procedural safeguards, and constitutional protections available to accused persons under the NDPS Act.<sup>51</sup>

One of the landmark judgments under the NDPS Act is *State of Punjab v. Baldev Singh*<sup>52</sup> In this case, the Supreme Court examined the mandatory nature of Section 50 of the NDPS Act, which provides that a person about to be searched must be informed of the right to be searched before a Gazetted Officer or Magistrate. The Court held that compliance with Section 50 is mandatory and failure to comply would vitiate the conviction. The Court emphasized that procedural safeguards are essential because of the severe punishments prescribed under the Act. This judgment strengthened the protection of individual rights and aimed to prevent arbitrary searches and misuse of power by enforcement agencies.

The principle laid down in *Baldev Singh* was further reinforced in *Arif Khan @ Agha Khan v. State of Uttarakhand*.<sup>53</sup> In this case, the Supreme Court reiterated that non-compliance with Section 50 would invalidate the conviction of the accused. The Court observed that informing the accused about the right to be searched before a Gazetted Officer or Magistrate is not a mere formality but a valuable legal safeguard intended to ensure fairness and transparency in investigation. The judgment highlighted the importance of strict procedural compliance in NDPS cases due to the serious consequences of conviction.

Another significant case is *Tofan Singh v. State of Tamil Nadu*.<sup>54</sup> This case dealt with the admissibility of confessions made before officers empowered under the NDPS Act. The Supreme Court held that officers authorized under the Act are “police officers” within the meaning of Section 25 of the Indian Evidence Act, 1872, and therefore confessions made before them are inadmissible as evidence. The Court expressed concern regarding the possibility of coercion, torture, and involuntary confessions during investigation. This judgment was considered a major step towards protecting constitutional rights and ensuring fair trial standards under the NDPS Act.

The Supreme Court also addressed issues relating to quantity determination under the NDPS Act in *E. Micheal Raj v. Intelligence Officer*.<sup>55</sup> The Court considered whether the quantity of narcotic drugs should be determined based on the total mixture seized or only on the actual content of the prohibited substance. The Court held that only the actual content of narcotic substance should be considered for determining whether the quantity is small, intermediate, or commercial. This judgment was important because punishment under the NDPS Act depends heavily upon the quantity involved. The decision aimed to ensure proportionality in punishment and prevent excessive sentencing.

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<sup>50</sup>Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE (1985).

<sup>51</sup>M.P. Jain, *Indian Constitutional Law* 1201–05 (8th ed. 2018)

<sup>52</sup>*State of Punjab v. Baldev Singh*, (1999) 6 SCC 172 (India)

<sup>53</sup>*Arif Khan @ Agha Khan v. State of Uttarakhand*, (2018) 18 SCC 380 (India)

<sup>54</sup>*Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1 (India)

<sup>55</sup>*E. Micheal Raj v. Intelligence Officer*, (2008) 5 SCC 161 (India).



However, the legal position regarding quantity determination later underwent changes through subsequent judicial interpretations and legislative notifications. Courts have continued to face challenges in interpreting quantity-related provisions, particularly in cases involving mixed substances and synthetic drugs.<sup>56</sup>

The issue of bail under the NDPS Act has also been extensively examined by courts. Section 37 of the Act imposes strict conditions for granting bail in offences involving commercial quantities. In *Union of India v. Ram Samujh*,<sup>57</sup> the Supreme Court observed that drug offences are more dangerous than ordinary crimes because they affect society as a whole. The Court held that liberal bail policies should not be adopted in serious NDPS offences due to the harmful impact of drug trafficking on public health and national security. This judgment reflected the strict approach of the judiciary towards organized drug crimes.

At the same time, courts have also recognized the need to protect constitutional rights and prevent prolonged detention. In several cases, High Courts and the Supreme Court have granted bail where there was delay in trial, lack of procedural compliance, or insufficient evidence. The judiciary has emphasized that the stringent provisions of the NDPS Act should not result in arbitrary deprivation of personal liberty guaranteed under Article 21 of the Constitution.<sup>58</sup>

The Supreme Court has also dealt with the issue of conscious possession under the NDPS Act. In *Madan Lal v. State of Himachal Pradesh*,<sup>59</sup> the Court held that possession under the Act means conscious possession and not merely physical custody. The prosecution must establish that the accused had knowledge and control over the narcotic substance. This principle is important because many individuals may unknowingly come into contact with prohibited substances without criminal intention.

Similarly, in *Mohan Lal v. State of Punjab*,<sup>60</sup> the Supreme Court addressed the issue of fair investigation. The Court held that the same officer cannot act both as complainant and investigating officer in NDPS cases because such practice creates apprehension of bias and affects the fairness of investigation. The judgment emphasized that fair investigation is an essential component of Article 21 and is necessary to ensure justice under criminal law.

The judiciary has also recognized the importance of rehabilitation and treatment for addicts. Section 64A of the NDPS Act provides immunity from prosecution to addicts volunteering for de-addiction treatment for offences involving small quantities. Courts have encouraged the use of this provision in appropriate cases to promote rehabilitation rather than punishment.<sup>61</sup> Judicial recognition of addiction as a health issue demonstrates the gradual shift towards a more humane and reformatory approach.

Despite these progressive judgments, several challenges continue to exist in the implementation of the NDPS Act. Allegations of false implication, procedural violations, custodial torture, and delay in forensic analysis remain common in many cases. Overburdened courts and lack of specialized investigative training further complicate the effective enforcement of the law. Judicial intervention has therefore become essential in safeguarding constitutional rights and ensuring accountability within the criminal justice system.<sup>62</sup>

The constitutional perspective has significantly influenced judicial interpretation of the NDPS Act. Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to fair trial, speedy trial, legal aid, and human dignity. Courts have repeatedly held that strict laws must still operate within constitutional limits and

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<sup>56</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 118–20 (2017)

<sup>57</sup>*Union of India v. Ram Samujh*, (1999) 9 SCC 429 (India)

<sup>58</sup>INDIA CONST. art. 21

<sup>59</sup>*Madan Lal v. State of Himachal Pradesh*, (2003) 7 SCC 465 (India)

<sup>60</sup>*Mohan Lal v. State of Punjab*, (2018) 17 SCC 627 (India)

<sup>61</sup>Narcotic Drugs and Psychotropic Substances Act § 64A

<sup>62</sup>Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction 20–25 (2018)



procedural fairness cannot be sacrificed even in serious offences.<sup>63</sup> This constitutional approach has encouraged courts to strike a balance between societal interests and individual rights.

The judicial approach towards the NDPS Act thus reflects two important objectives. On one hand, courts recognize the serious social dangers posed by drug trafficking and support strict enforcement against organized criminal networks. On the other hand, the judiciary also emphasizes procedural safeguards, human rights, proportionality, and fair investigation to prevent misuse of power and protect innocent individuals. Through landmark judgments, the courts have attempted to humanize the implementation of the NDPS Act while preserving its deterrent purpose.<sup>64</sup>

Therefore, judicial interpretation has played a vital role in shaping the practical operation of the NDPS Act in India. The courts have ensured that while drug trafficking is controlled through strict legal measures, constitutional rights and principles of natural justice are not ignored. Judicial decisions continue to influence the ongoing debate regarding whether drug abuse should primarily be treated as a criminal issue or as a public health concern requiring rehabilitation and social support.<sup>65</sup>

## **VI. INTERNATIONAL PERSPECTIVE ON DRUG ABUSE AND DRUG POLICY**

Drug abuse and illegal trafficking of narcotic substances are global problems affecting public health, social stability, and national security across countries. Different nations have adopted different legal and policy approaches to address drug abuse depending upon their social conditions, healthcare systems, and criminal justice objectives. Traditionally, many countries followed a punitive or criminalization-based approach that focused on strict punishment for possession, trafficking, and consumption of drugs. However, over the years, several countries began to recognize addiction as a medical and public health issue requiring treatment and rehabilitation rather than mere punishment. Consequently, modern international drug policies increasingly emphasize rehabilitation, harm reduction, and healthcare intervention alongside criminal law enforcement.<sup>66</sup>

The international legal framework relating to narcotic drugs is primarily governed by various United Nations conventions. The Single Convention on Narcotic Drugs, 1961 was adopted to limit the production, manufacture, export, import, and use of narcotic substances exclusively for medical and scientific purposes.<sup>67</sup> Later, the Convention on Psychotropic Substances, 1971 expanded international control over synthetic and psychotropic substances such as amphetamines and hallucinogenic drugs.<sup>68</sup> The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 further strengthened international cooperation against illegal drug trafficking, money laundering, and organized criminal activities connected with narcotic offences.<sup>69</sup> India is a signatory to these conventions and enacted the Narcotic Drugs and Psychotropic Substances Act, 1985 in compliance with its international obligations.

The United States initially adopted one of the strictest anti-drug policies in the world through the “War on Drugs” strategy introduced during the 1970s and 1980s. The policy focused heavily on criminalization, mandatory sentencing, and aggressive law enforcement against drug offences. Large numbers of individuals were imprisoned for drug-related crimes, including minor possession offences. Although the policy aimed to reduce drug abuse and trafficking, critics

<sup>63</sup>INDIA CONST. art. 21

<sup>64</sup>WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS 3–9 (2020)

<sup>65</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 120–25 (2017)

<sup>66</sup> WORLD HEALTH ORG., NEUROSCIENCE OF PSYCHOACTIVE SUBSTANCE USE AND DEPENDENCE 1–10 (2004)

<sup>67</sup>Single Convention on Narcotic Drugs, Mar. 30, 1961, 520 U.N.T.S. 151

<sup>68</sup>Convention on Psychotropic Substances, Feb. 21, 1971, 1019 U.N.T.S. 175

<sup>69</sup>United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95.



argued that it resulted in prison overcrowding, racial discrimination, and excessive incarceration without significantly reducing addiction rates.<sup>70</sup> Over time, several states in the United States began adopting rehabilitation-oriented policies, including drug treatment courts, medical cannabis regulation, and diversion programs for addicts and first-time offenders.

Portugal is widely regarded as one of the most successful examples of a public health-oriented drug policy. In 2001, Portugal decriminalized the possession of small quantities of drugs for personal consumption. Instead of imprisonment, individuals found possessing drugs are referred to “dissuasion commissions” consisting of doctors, psychologists, and legal professionals who assess whether the individual requires treatment or counselling.<sup>71</sup> Portugal’s policy does not legalize drug trafficking; strict criminal penalties still apply against traffickers and organized criminal networks. However, addicts and users are treated as patients requiring healthcare support rather than criminals deserving punishment.

Studies indicate that Portugal experienced significant improvements after adopting decriminalization and rehabilitation-focused policies. Drug-related deaths, HIV infections, and overdose cases reduced considerably. Prison overcrowding also declined, and more addicts voluntarily sought treatment and rehabilitation services.<sup>72</sup> Portugal’s experience demonstrated that treating addiction as a public health issue can produce more effective and humane outcomes than excessive criminalization alone.

Switzerland also adopted innovative drug policies focusing on harm reduction and rehabilitation. During the 1980s and 1990s, Switzerland faced severe heroin addiction problems, rising overdose deaths, and increased criminal activity. In response, the government introduced supervised drug consumption centres, needle exchange programs, opioid substitution therapy, and medically supervised heroin treatment.<sup>73</sup> These measures aimed to reduce overdose deaths, prevent infectious diseases such as HIV/AIDS, and encourage addicts to enter rehabilitation programs. Switzerland’s policies significantly improved public health outcomes and reduced drug-related crimes.

Canada similarly follows a public health-oriented approach towards addiction and substance abuse. Canadian authorities have established supervised consumption sites and harm reduction programs to address the opioid crisis. These facilities provide medical supervision, emergency overdose treatment, counselling, and healthcare services for addicts.<sup>74</sup> Canada also emphasizes rehabilitation, mental healthcare support, and community-based treatment programs. The Canadian model demonstrates the importance of integrating healthcare systems with drug control policies.

The Netherlands is another country known for its liberal and harm reduction-oriented drug policy. The Dutch government distinguishes between “soft drugs” such as cannabis and “hard drugs” such as heroin and cocaine. Cannabis possession for personal use is tolerated under regulated conditions, while strict action continues against trafficking and organized crime.<sup>75</sup>

Asian countries, however, generally maintain stricter anti-drug policies. Countries such as Singapore, Indonesia, and Malaysia impose severe punishments including long-term imprisonment and, in some cases, the death penalty for drug trafficking offences. Singapore’s Misuse of Drugs Act provides mandatory punishments and strict enforcement measures to deter narcotic crimes.<sup>76</sup> Supporters argue that strict penalties contribute to lower drug crime rates and

<sup>70</sup>United Nations Office on Drugs and Crime, World Drug Report 2023, U.N. Sales No. E.23.XI.6 (2023)

<sup>71</sup> Caitlin Elizabeth Hughes & Alex Stevens, What Can We Learn from the Portuguese Decriminalization of Illicit Drugs? 50 Brit. J. Criminology 999, 1001–05 (2010)

<sup>72</sup>Id. at 1005–12

<sup>73</sup>WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS 10–18 (2020)

<sup>74</sup>Id.

<sup>75</sup>M.P. Jain, *Indian Constitutional Law* 1200–02 (8th ed. 2018)

<sup>76</sup>Singapore Misuse of Drugs Act, ch. 185 (2008)



stronger public discipline. However, critics raise concerns regarding proportionality, human rights, and excessive criminalization under such harsh legal systems.

China also adopts a strict anti-drug policy while simultaneously emphasizing rehabilitation and compulsory treatment programs. Chinese authorities operate rehabilitation centres and compulsory detoxification programs for addicts while maintaining severe punishments against traffickers and organized criminal groups.<sup>77</sup> Thus, China attempts to combine criminal enforcement with medical intervention.

International organizations such as the World Health Organization (WHO) and the United Nations Office on Drugs and Crime (UNODC) increasingly support rehabilitation-oriented approaches to addiction. The WHO recognizes addiction as a chronic health disorder requiring evidence-based medical treatment, counselling, and psychological support.<sup>78</sup> Similarly, the UNODC advocates balanced drug policies that combine law enforcement with healthcare intervention, prevention programs, and social reintegration measures. These organizations emphasize that imprisonment alone cannot effectively address the root causes of addiction.

The concept of “harm reduction” has become an important principle in modern international drug policy. Harm reduction refers to strategies aimed at reducing the negative consequences associated with drug abuse without necessarily requiring complete abstinence. Such strategies include supervised consumption centres, needle exchange programs, overdose prevention measures, counselling services, and substitution therapy. Harm reduction policies seek to save lives, reduce health risks, and encourage addicts to seek rehabilitation voluntarily.<sup>79</sup>

The international perspective demonstrates that there is no single universal model for addressing drug abuse. Different countries adopt different approaches depending on their legal systems, healthcare infrastructure, cultural values, and social conditions. However, a common global trend can be observed towards recognizing addiction as a public health issue requiring treatment and rehabilitation. Excessive criminalization alone has often failed to eliminate addiction and has instead created challenges such as prison overcrowding, social stigma, and human rights concerns.<sup>80</sup>

India can learn valuable lessons from these international experiences while reforming its own NDPS framework. The Portuguese model highlights the benefits of rehabilitation and decriminalization of personal consumption, while Switzerland and Canada demonstrate the effectiveness of harm reduction measures. At the same time, India must also ensure strict enforcement against organized traffickers and transnational criminal networks. Therefore, a balanced approach combining healthcare intervention, rehabilitation, awareness programs, and targeted criminal enforcement may prove more effective in addressing the growing problem of drug abuse in India.<sup>81</sup>

Thus, the international perspective clearly indicates that drug addiction cannot be addressed solely through punitive measures. Modern global approaches increasingly emphasize treatment, rehabilitation, public health protection, and human dignity. A humane and balanced drug policy focusing on both public safety and healthcare intervention is essential for effectively reducing addiction and promoting long-term social welfare.<sup>82</sup>

## **VII. FINDINGS, SUGGESTIONS AND CONCLUSION**

### **7.1 FINDINGS OF THE STUDY**

The present study finds that drug abuse has emerged as a serious social, legal, and public health problem in India and across the world. The growing consumption of narcotic drugs and psychotropic substances, particularly among youth, has created severe consequences for individuals, families, healthcare systems, and society as a whole. Drug addiction

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<sup>77</sup>United Nations Office on Drugs and Crime, *supra* note 5

<sup>78</sup>WORLD HEALTH ORG., *supra* note 1, at 12–20

<sup>79</sup>WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, *supra* note 8, at 15–18

<sup>80</sup>Law Commission of India, Report No. 268 on Amendments to Criminal Laws 112–20 (2017)

<sup>81</sup>Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction 18–25 (2018)

<sup>82</sup>WORLD HEALTH ORG., *supra* note 1, at 35–40



adversely affects physical and mental health and contributes to unemployment, domestic violence, criminal activities, social instability, and economic loss.

The study further finds that the Narcotic Drugs and Psychotropic Substances Act, 1985 was enacted with the objective of controlling illegal trafficking and preventing the abuse of narcotic substances through strict criminal sanctions. The Act introduced stringent punishments, strict bail provisions, and extensive powers of search and seizure. Although these measures were intended to deter organized trafficking and protect public order, the implementation of the Act has raised several practical and constitutional concerns.

One of the major findings of this study is that the NDPS Act excessively criminalizes addicts and small-time users without adequately recognizing addiction as a medical and psychological condition. Addiction is increasingly recognized by medical experts and international organizations as a chronic health disorder requiring treatment, counselling, and rehabilitation. However, many individuals suffering from substance dependence are prosecuted and imprisoned for possession or consumption of small quantities of drugs. Imprisonment often results in social stigma, psychological trauma, and repeated relapse instead of recovery and rehabilitation.

The study also finds that the stringent bail conditions under Section 37 of the NDPS Act contribute significantly to prison overcrowding and prolonged detention of undertrial prisoners. Since obtaining bail under the Act is extremely difficult, many accused persons remain in custody for long periods before the completion of trial. Such prolonged detention affects the constitutional right to personal liberty and speedy trial guaranteed under Article 21 of the Constitution of India.

Another important finding is that the law does not sufficiently distinguish between organized traffickers and addicts. Drug traffickers operate for profit and are often linked with organized crime and illegal trafficking networks, whereas addicts are frequently victims of dependency, mental stress, poverty, or social circumstances. Treating both categories alike results in disproportionate punishment and undermines the rehabilitative goals of criminal justice administration.

The study further observes that although the NDPS Act contains rehabilitation-oriented provisions such as Sections 64A and 71, their practical implementation remains inadequate. Many rehabilitation and de-addiction centers suffer from lack of funding, shortage of trained professionals, poor infrastructure, and inadequate mental healthcare support. Access to treatment facilities is especially limited in rural and economically weaker regions.

Judicial interpretation under the NDPS Act demonstrates an attempt to balance strict law enforcement with protection of constitutional rights. Landmark judgments such as *Tofan Singh v. State of Tamil Nadu* and *State of Punjab v. Baldev Singh* strengthened procedural safeguards and emphasized fair investigation, protection against forced confessions, and compliance with legal procedures. The judiciary has therefore played an important role in preventing misuse of power under the Act.

The study also finds that international experiences support the effectiveness of rehabilitation-oriented and public health-based approaches. Countries such as Portugal, Switzerland, and Canada have adopted treatment-focused and harm reduction models that prioritize rehabilitation, counselling, and healthcare intervention rather than excessive imprisonment. These policies have contributed to reductions in overdose deaths, HIV infections, and prison overcrowding.

Therefore, the overall findings of the study indicate that drug abuse cannot be addressed solely through punitive criminal measures. A balanced framework combining strict action against traffickers with treatment, counselling, and rehabilitation for addicts is necessary to effectively tackle the problem of substance abuse in India.

## **7.2 SUGGESTIONS AND RECOMMENDATIONS**

Based on the findings of the study, the following suggestions and recommendations are proposed for reforming the NDPS framework and improving drug control policies in India:



### **1. Adoption of a Public Health-Oriented Approach**

Drug addiction should primarily be treated as a public health issue rather than merely a criminal issue. Addicts should be considered patients requiring medical treatment, counselling, and rehabilitation instead of harsh punishment.

### **2. Distinction Between Addicts and Traffickers**

The law should clearly distinguish between organized traffickers, peddlers, addicts, and first-time users. While traffickers should continue to face strict punishment, addicts and minor offenders should receive rehabilitation-oriented measures.

### **3. Reform of Bail Provisions**

Section 37 of the NDPS Act should be amended to provide more liberal bail provisions in cases involving personal consumption and small quantities. This would reduce unnecessary detention and prison overcrowding.

### **4. Strengthening Rehabilitation Facilities**

The government should establish more rehabilitation and de-addiction centers across the country and improve existing facilities with proper medical infrastructure, counselling services, trained psychiatrists, and rehabilitation programs.

### **5. Integration of Mental Health Services**

Drug rehabilitation programs should include mental health treatment, behavioral therapy, emotional counselling, and psychological support to address the root causes of addiction and prevent relapse.

### **6. Speedy Trial and Judicial Reforms**

Special NDPS courts should be strengthened to ensure speedy disposal of cases. Modern forensic laboratories and improved investigation systems should be developed to reduce delays in trials.

### **7. Awareness and Educational Programs**

Schools, colleges, and community organizations should conduct awareness programs regarding the harmful effects of drug abuse and the importance of rehabilitation and mental health support.

### **8. Training for Law Enforcement Authorities**

Police officers and enforcement agencies should receive proper training regarding procedural safeguards, constitutional rights, addiction psychology, and rehabilitation-based approaches.

### **9. Reduction of Social Stigma**

Government campaigns should promote awareness that addiction is a medical condition requiring support and treatment rather than social discrimination. Reducing stigma will encourage addicts to voluntarily seek rehabilitation.

### **10. Adoption of International Best Practices**

India may adopt suitable aspects of international rehabilitation-oriented models such as Portugal's decriminalization policy and Switzerland's harm reduction measures while maintaining strict control against organized traffickers.

## **7.3 CONCLUSION**

To conclude, drug abuse is not merely a criminal issue but also a major public health and social concern affecting individuals, families, and society at large. The increasing prevalence of addiction, particularly among youth, has created serious challenges for India's healthcare system, criminal justice administration, and social structure. Although the NDPS Act, 1985 was enacted to combat illegal trafficking and substance abuse through strict legal measures, its excessive focus on punishment has resulted in several practical and constitutional concerns including prison overcrowding, criminalization of addicts, procedural misuse, and inadequate rehabilitation facilities.

The study establishes that addiction is a medical and psychological disorder requiring treatment, counselling, and social support. Imprisonment alone cannot effectively solve the problem of substance abuse and may instead worsen the condition of addicts by exposing them to stigma, trauma, and social exclusion. Therefore, a purely punitive approach is insufficient for addressing the growing drug problem in India.

The judiciary has played a significant role in protecting constitutional rights and ensuring procedural fairness under the NDPS framework. Landmark judgments have emphasized the importance of fair investigation, procedural safeguards, and protection against misuse of authority. International experiences further demonstrate that rehabilitation-oriented



and public health-based policies can achieve more effective and humane outcomes than excessive criminalization alone. Thus, there is an urgent need to reform the NDPS Act by adopting a balanced framework that combines strict action against organized traffickers with compassionate treatment and rehabilitation for addicts. The law must distinguish between traffickers and individuals suffering from addiction. Strengthening rehabilitation systems, liberalizing bail provisions for minor offences, improving mental healthcare support, and promoting awareness programs are essential for effective reform.

A humane, rehabilitation-oriented, and constitutionally balanced drug policy will not only reduce addiction and crime but also protect human dignity, improve public health, and promote social welfare. Therefore, the future of drug control in India lies in balancing criminal justice objectives with healthcare intervention, rehabilitation, and social reintegration.

### REFERENCES / BIBLIOGRAPHY

#### Books

1. M.P. Jain, Indian Constitutional Law (8th ed. 2018).
2. K.D. Gaur, Textbook on Indian Penal Code (6th ed. 2016).
3. V.N. Shukla, Constitution of India (13th ed. 2017).
4. P. Ishwara Bhat, Law and Social Transformation (2nd ed. 2020).
5. S.K. Kapoor, Human Rights under International Law and Indian Law (2019).
6. S.N. Mishra, Legal Research Methodology (2018).
7. B.M. Gandhi, Indian Penal Code (4th ed. 2019).
8. Ratanlal & Dhirajlal, The Law of Crimes (28th ed. 2020).

#### Statutes

1. Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE (1985). ([Legal Bluebook](#))
2. Indian Evidence Act, No. 1 of 1872, INDIA CODE (1872).
3. Code of Criminal Procedure, No. 2 of 1974, INDIA CODE (1974).
4. Constitution of India, 1950.
5. Mental Healthcare Act, No. 10 of 2017, INDIA CODE (2017).

#### Cases

1. Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1 (India).
2. State of Punjab v. Baldev Singh, (1999) 6 SCC 172 (India).
3. Arif Khan @ Agha Khan v. State of Uttarakhand, (2018) 18 SCC 380 (India).
4. E. Micheal Raj v. Intelligence Officer, (2008) 5 SCC 161 (India).
5. Union of India v. Ram Samujh, (1999) 9 SCC 429 (India).
6. Mohan Lal v. State of Punjab, (2018) 17 SCC 627 (India).
7. Madan Lal v. State of Himachal Pradesh, (2003) 7 SCC 465 (India).
8. Sanjay Kumar Kedia v. Intelligence Officer, Narcotic Control Bureau, (2009) 17 SCC 631 (India).

#### International Conventions and Reports

1. Single Convention on Narcotic Drugs, Mar. 30, 1961, 520 U.N.T.S. 151.
2. Convention on Psychotropic Substances, Feb. 21, 1971, 1019 U.N.T.S. 175.
3. United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95.
4. WORLD HEALTH ORG., NEUROSCIENCE OF PSYCHOACTIVE SUBSTANCE USE AND DEPENDENCE (2004).
5. WORLD HEALTH ORG. & UNITED NATIONS OFFICE ON DRUGS AND CRIME, INTERNATIONAL STANDARDS FOR THE TREATMENT OF DRUG USE DISORDERS (2020).



6. United Nations Office on Drugs and Crime, World Drug Report 2023, U.N. Sales No. E.23.XI.6 (2023).

#### **Journal Articles**

1. Caitlin Elizabeth Hughes & Alex Stevens, What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?, 50 Brit. J. Criminology 999 (2010).
2. Rajesh Kumar, Drug Abuse and Human Rights in India, 12 Indian J. Crim. L. 45 (2020).
3. Ananya Sharma, Rehabilitation of Drug Addicts under NDPS Act, 5 Indian L. Rev. 88 (2021).
4. Ritu Sharma, Drug Addiction and Criminal Justice System in India, 8 J. Indian L. & Soc'y 112 (2019).

#### **Government Reports**

1. Ministry of Social Justice and Empowerment, Government of India, Magnitude of Substance Use in India Report (2019).
2. Ministry of Social Justice and Empowerment, Government of India, National Action Plan for Drug Demand Reduction (2018).
3. Law Commission of India, Report No. 268 on Amendments to Criminal Laws (2017).

#### **Websites**

1. [United Nations Office on Drugs and Crime](#)
2. [World Health Organization](#)
3. [Ministry of Social Justice and Empowerment, Government of India](#)
4. [India Code](#)
5. [Indian Kanoon](#)

