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India's Drug Control Regime: Legal and Regulatory Framework

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ABSTRACT

Drug laws form an essential component of criminal justice systems and public health governance across the world. These laws regulate the production, manufacture, possession, transportation, sale, and consumption of narcotic drugs and psychotropic substances. In India, the legal framework governing drug control is primarily based on the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), which was enacted to fulfil India's obligations under international drug control conventions. The framework aims to prevent drug trafficking, protect public health, and curb organised crime associated with narcotics. However, the implementation of stringent drug laws has also generated debates concerning human rights, proportional punishment, rehabilitation, and decriminalisation. International conventions such as the Single Convention on Narcotic Drugs, 1961, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, significantly influence domestic legislation. This paper examines the legal structure, enforcement mechanisms, judicial interpretations, and contemporary challenges in drug law regulation.

Keywords: Drug Laws, NDPS Act, Narcotic Drugs, Psychotropic Substances, Drug Trafficking, International Drug Control.

I. INTRODUCTION

Drug abuse and illicit trafficking have emerged as major global concerns affecting public health, national security, and socio-economic stability. The rapid increase in narcotics trafficking, organised crime, and cross-border drug networks has compelled nations to establish comprehensive legal mechanisms for drug control. In India, the legal regulation of narcotic drugs and psychotropic substances is primarily governed by the Narcotic Drugs and Psychotropic Substances Act, 1985.¹ The Act consolidates and amends the laws relating to narcotic drugs while providing stringent punishments for illegal possession, trafficking, and consumption.

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¹ The Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61, Acts of Parliament, 1985 (India).

The legal framework for drug laws is not limited to punitive measures alone; it also incorporates preventive, rehabilitative, and international cooperation mechanisms. India's legal regime is influenced by international conventions such as the Single Convention on Narcotic Drugs, 1961,² the Convention on Psychotropic Substances, 1971,³ and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.⁴ These treaties require member states to criminalise illicit drug activities and cooperate in combating international trafficking.

The legal framework also raises concerns relating to human rights, the proportionality of punishment, the rehabilitation of addicts, and the balancing of public health with criminal enforcement.

II. EVOLUTION OF DRUG LAWS IN INDIA

The regulation of narcotic substances in India has evolved significantly from colonial legislation to modern statutory frameworks. During the British period, laws such as the Opium Acts regulated cultivation and trade primarily for revenue purposes.⁵ The Dangerous Drugs Act, 1930 represented one of the earliest attempts to control narcotic substances systematically.⁶ However, increasing international concern regarding drug trafficking and abuse necessitated stronger legislation.

India became a signatory to major international conventions dealing with narcotic drugs, which obligated the country to adopt strict domestic laws. Consequently, the Narcotic Drugs and Psychotropic Substances Act, 1985 was enacted. The NDPS Act consolidated various previous laws and established a comprehensive framework for controlling narcotic drugs and psychotropic substances. The Act introduced stringent penalties, including rigorous imprisonment and heavy fines for trafficking and possession offences.

Subsequent amendments to the NDPS Act further strengthened enforcement mechanisms. The 1989 amendment introduced harsher punishments and expanded investigative powers.⁷ The 2001 amendment categorised punishments based on the quantity of drugs involved,

² Single Convention on Narcotic Drugs, Mar. 30, 1961, 520 U.N.T.S. 151.

³ Convention on Psychotropic Substances, Feb. 21, 1971, 1019 U.N.T.S. 175.

⁴ United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95.

⁵ The Opium Act, 1857; The Opium Act, 1878 (India).

⁶ The Dangerous Drugs Act, 1930, No. 2 of 1930 (India).

⁷ The Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988, No. 2 of 1989 (India).

distinguishing between small quantity, intermediate quantity, and commercial quantity offences, thereby bringing proportionality into sentencing.⁸

The evolution of drug laws also reflects a shift from purely punitive measures to rehabilitation-oriented approaches. Amendments increasingly recognise the need for the treatment and rehabilitation of addicts rather than solely criminal punishment. Government policies now emphasise awareness campaigns, de-addiction programmes, and preventive education.

The evolution of Indian drug laws demonstrates the State's attempt to balance public health concerns, international obligations, and criminal justice objectives while responding to emerging challenges posed by organised crime and transnational drug trafficking.

III. INTERNATIONAL LEGAL FRAMEWORK GOVERNING DRUG CONTROL

International cooperation plays a crucial role in controlling narcotic drugs and psychotropic substances. The global drug control regime is mainly governed by three major United Nations conventions, which establish uniform standards for member states regarding criminalisation, enforcement, prevention, and rehabilitation.

The Single Convention on Narcotic Drugs, 1961 consolidated earlier international treaties and established a comprehensive control system over narcotic substances such as opium, heroin, and cocaine. The Convention aimed to limit the production and use of narcotic drugs exclusively to medical and scientific purposes. It also created monitoring mechanisms through the International Narcotics Control Board (INCB).⁹

The Convention on Psychotropic Substances, 1971 expanded international control to synthetic drugs and psychotropic substances, including amphetamines, LSD, and benzodiazepines. It recognised the increasing abuse of synthetic substances and imposed obligations on states to regulate their manufacture and distribution.

The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 strengthened international cooperation against organised drug trafficking. It required member states to criminalise money laundering, extradite offenders, confiscate the proceeds of drug crimes, and cooperate in investigations.

India, as a signatory to these conventions, incorporated their provisions through the NDPS Act. International obligations influence domestic lawmaking, law enforcement practices, and

⁸ The Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2001, No. 9 of 2001 (India).

⁹ See Single Convention on Narcotic Drugs, *supra* note 2 (establishing the International Narcotics Control Board).

judicial interpretation. Cross-border cooperation between countries has become essential due to the transnational nature of drug trafficking networks.

Despite these legal frameworks, challenges persist due to differing national policies regarding legalisation, decriminalisation, and the medical use of certain substances. Nonetheless, international conventions continue to form the foundation of global anti-drug strategies.

IV. THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

The Narcotic Drugs and Psychotropic Substances Act, 1985 is the principal legislation governing drug control in India.¹⁰ The Act prohibits the production, manufacture, possession, sale, purchase, transport, storage, and consumption of narcotic drugs and psychotropic substances except for medical or scientific purposes.

The NDPS Act prescribes severe punishments depending on the quantity of drugs involved. Offences involving commercial quantities attract rigorous imprisonment of up to twenty years along with substantial fines. Repeat offenders may face enhanced punishments. The Act also empowers authorities to seize property derived from illicit drug trafficking.¹¹

The Act grants extensive powers to law enforcement agencies, including search, seizure, and arrest without warrant under specific circumstances. Specialised agencies such as the Narcotics Control Bureau (NCB) are responsible for enforcement and coordination, and special NDPS courts are established for speedy trials.¹²

One significant feature of the Act is the reverse burden of proof in certain cases, where the accused must prove a lack of knowledge or intention. While intended to strengthen enforcement, this provision has raised concerns regarding fair trial rights and the presumption of innocence.¹³

The Act also recognises treatment and rehabilitation for addicts. Section 64A provides immunity from prosecution for addicts volunteering for de-addiction treatment.¹⁴ Courts increasingly emphasise rehabilitation over punishment for minor consumers and addicts.

Judicial interpretation has played an important role in balancing strict enforcement with constitutional safeguards. Courts have insisted on procedural compliance during search and seizure operations to prevent the misuse of power.

¹⁰ The Narcotic Drugs and Psychotropic Substances Act, *supra* note 1.

¹¹ *Id.* §§ 21–22 (graduating punishment, up to rigorous imprisonment for twenty years and fine, by the quantity of the drug involved).

¹² *Id.* §§ 41–43 (powers of search, seizure, and arrest), § 36 (constitution of Special Courts); the Narcotics Control Bureau was constituted under § 4(3) with effect from March 1986.

¹³ *Id.* §§ 35, 54 (presumption of culpable mental state and presumption from possession of illicit articles).

¹⁴ *Id.* § 64A.

Overall, the NDPS Act represents a strict yet evolving legal framework aimed at combating drug trafficking while gradually incorporating rehabilitative and rights-based approaches.

V. ENFORCEMENT MECHANISMS AND CHALLENGES

Effective implementation of drug laws depends upon strong enforcement mechanisms and institutional coordination. In India, multiple agencies are involved in combating drug trafficking and abuse. The Narcotics Control Bureau coordinates national efforts, while state police, customs authorities, border security forces, and intelligence agencies contribute to enforcement operations.

Drug trafficking in India is significantly influenced by geographical factors. India lies between the “Golden Crescent” and the “Golden Triangle”, two major illicit drug-producing regions. Cross-border trafficking through Punjab, Jammu and Kashmir, and Northeast India poses serious security concerns, and organised criminal networks exploit porous borders and sophisticated smuggling techniques.

Despite strict laws, enforcement faces several challenges. Corruption, inadequate infrastructure, limited forensic capacity, and delayed trials hinder effective implementation. Overcrowding in prisons due to the prolonged detention of undertrial prisoners is another concern, as many accused individuals remain incarcerated for years before conviction.

The misuse of stringent provisions has also attracted criticism. Procedural violations during search and seizure operations frequently result in acquittals. Human rights activists argue that harsh punishments for minor possession offences disproportionately affect economically weaker sections and addicts rather than major traffickers.

Another challenge involves emerging synthetic drugs and online trafficking networks operating through encrypted digital platforms. Law enforcement agencies must continuously adapt to technological advancements and changing trafficking methods.

Preventive measures such as awareness campaigns, rehabilitation centres, and community-based interventions are increasingly recognised as essential components of drug control. International cooperation, intelligence sharing, and financial surveillance are also necessary to dismantle transnational drug cartels.

Thus, while enforcement remains crucial, a balanced strategy combining criminal law enforcement, public health initiatives, and rehabilitation is necessary for effective drug control.

VI. HUMAN RIGHTS AND CONTEMPORARY DEBATES IN DRUG LAWS

Drug laws often generate debates concerning human rights, proportionality, and public health. Critics argue that excessively punitive drug policies criminalise addiction rather than treating it as a health issue, and that harsh sentencing provisions and prolonged incarceration may violate principles of fairness and rehabilitation.

One major concern involves the death penalty for certain drug-related offences in some countries. Human rights organisations contend that capital punishment for drug crimes violates international human rights standards. Although India retains severe punishments under the NDPS Act, judicial discretion and constitutional safeguards provide some limitations.¹⁵

Another debate concerns the decriminalisation and legalisation of certain substances. Several countries have adopted policies decriminalising the possession of small quantities for personal consumption. Advocates argue that decriminalisation reduces prison overcrowding and allows resources to focus on major traffickers, while opponents fear that relaxed laws may increase substance abuse and social harm.

The medical use of cannabis and psychotropic substances has also become a subject of legal reform. Scientific research supporting therapeutic uses has prompted several jurisdictions to permit controlled medical access, and India has witnessed discussions regarding the traditional and medicinal uses of cannabis derivatives.

Human rights concerns also arise regarding custodial violence, procedural irregularities, and reverse burden provisions under strict drug laws. Courts have emphasised adherence to constitutional protections, including the right to a fair trial and protection against arbitrary arrest.

Modern approaches increasingly advocate harm reduction strategies such as needle exchange programmes, opioid substitution therapy, and rehabilitation-based responses. Public health experts argue that addiction should be treated as a medical condition rather than solely a criminal offence.

Contemporary debates demonstrate the need for balanced drug policies that protect society from trafficking while respecting human dignity, public health, and constitutional rights.

¹⁵ The Narcotic Drugs and Psychotropic Substances Act, *supra* note 1, § 31A (death penalty for certain repeat offences, rendered discretionary by the 2014 Amendment).

VII. CONCLUSION

The legal framework governing drug laws plays a vital role in protecting society from the harmful effects of narcotic drugs and psychotropic substances. In India, the NDPS Act, 1985 serves as the primary legislation regulating drug-related activities and fulfilling international obligations under global drug control conventions. The framework aims to prevent trafficking, reduce drug abuse, and combat organised crime through strict criminal sanctions and enforcement mechanisms.

However, the complexity of drug-related issues requires a balanced approach that extends beyond punitive measures. While strong enforcement is necessary to dismantle trafficking networks, the excessive criminalisation of addicts and minor offenders may undermine the principles of justice and rehabilitation. Contemporary legal developments increasingly recognise the importance of public health strategies, rehabilitation programmes, and human rights protections.

International cooperation remains essential due to the transnational nature of drug trafficking. At the same time, domestic legal systems must adapt to emerging challenges such as synthetic drugs, cyber-enabled trafficking, and evolving patterns of substance abuse.

Ultimately, an effective legal framework for drug laws should combine criminal justice, preventive education, rehabilitation, and healthcare-based responses. Such a balanced approach can better address the social, economic, and security dimensions of drug-related problems while ensuring constitutional and human rights protections.

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