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Legal Hurdles in Drug Crime Control: Challenges for Law Enforcement in India

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ABSTRACT

Drug-related crimes are a significant challenge faced by law enforcement agencies in India, affecting public health, national security, and socio-economic stability. Under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985, we are practically and together able to combat drug trafficking, possession, and abuse. Yet, its implementation is frequently thwarted by procedural complications, investigative constraints, delayed judicial proceedings and insufficient inter-agency collaboration. Moreover, the proliferation of digital drug trafficking, cryptocurrencies, darknet markets, and cross-border smuggling networks have increasingly complicated enforcement's ability to effectively halt the illegal drug trade. Notwithstanding this, India is building up a considerable momentum to buttress its anti-narcotics enforcement structures.

The article studies how law enforcement agencies are involved in controlling drug-related crimes in India, elaborating on the legal, operational, and systemic challenges that limit their effective implementation. It highlights the need for legal reforms for simplifying procedural requirements, removing delays in prosecution, and stronger provisions for dealing with cyber-enabled drug crimes. It highlights the significance of capacity-building initiatives, such as specialized training for law enforcement personnel, improved forensic capabilities, and increased cooperation between police, customs, and intelligence services. Using artificial intelligence, big data analytics, and digital tracking technologies could also revolutionize intelligence gathering and crime prevention.

Enforcement alone will not solve the scourge of drug abuse, a multi-faceted approach, including public education campaigns, harm reduction measures and rehabilitation programmes to tackle the drivers of drug use will be needed. The article mentions that to dismantle the drug networks and reduce narcotics-related crimes, there should be swift and effective collaboration between law enforcement, the judiciary, international agencies, and civil society. Other vital steps include strengthening interstate and international cooperation, expediting NDPS cases through special courts, and a centralized criminal database.

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I. INTRODUCTION

Drug-related crime poses a major challenge to law enforcement agencies in India. Illicit drugs are a primary source of organized crime but also bring dire social, economic, and health consequences to the regions affected. Whether it's the smuggling of heroin and opium from one frontier to the other or the growing abuse of synthetic drugs in urban real estate, the drug menace has become not just a problem, but an issue for tough laws and tough enforcement.

Realising the gravity of the issue, India has instituted a robust legal framework, with Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 as the basis of India's drug control laws. The law prescribes heavy penalties for the offenders and provides special powers to the law enforcement agencies like NCB, State Police, DRI, and BSF to curb the drug racket and the allied crimes. Also, India is a signatory to several international conventions for controlling the production, trafficking and abuse of narcotic drugs and psychotropic substances.

However, there are still numerous legal challenges to Law Enforcement's efforts to combat drug-related crime. Enforcement mechanism under the NDPS Act is burdened with strict procedural requirements, evidentiary complexities, judicial delays, and cross-border legal hurdles, often resulting in absence of convictions against drug traffickers and syndicates. Also, criminals often take advantage of legal loopholes in areas like bail provisions, procedural oversights, or technicalities in drug quantity definitions to avoid convictions or secure lighter punishments.

This article attempts to bring to light the major legal barriers which Indian law enforcement agencies face in combating drug-related crimes. It looks at the challenges of proceduralism in the enforcement of drug laws, the issues around collecting and presenting evidence, the effect of delays caused by judicial processes, and the problems in interstate and international coordination. Lastly, it recommends legal and policy reform measures that would enhance the fight against narcotics related crimes in India, while guaranteeing a fair and efficient process for administration of justice.

II. INDIA'S LEGAL FRAMEWORK FOR DRUG CONTROL

Drug-related crimes in India are addressed at length by a legal framework that is primarily centered around the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. This act is a comprehensive legislation that provides strict punishment, procedural guidelines, and the authority for law enforcement agencies to investigate and prosecute offenders²

² Dhamotharan Jothieswari, Darmi Hima Bindu and Audinarayana Nelavala, "Deciphering the narcotic drugs and

The founding legislation on drug control in India is the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985. The Act was brought into force to oppose the rising threat of narcotic and psychotropic drugs and to lay down strict provisions to ban, regulate and penalise drug-related activities. The law divides drugs into narcotic drugs (opium, heroin, morphine, cannabis) and psychotropic substances (LSD, methamphetamine, ecstasy), stipulating different punishments depending on the amount of the substance and nature of the offense. The NDPS Act carries harsh sentences, including imprisonment, heavy fines and, in cases of repeat offenders and large-scale drug trafficking, even the death penalty³.

Warrantless searches, seizures and arrests can be made under special powers conferred to law enforcement agencies by the act in specified conditions. But it has tightly frayed procedural protections against abuses of these powers. For example, Section 50 of NDPS Act provides for conducting search of persons in the presence of a magistrate or gazetted officer. Moreover, the act relies on Section 37 with regard to interdicting bail, especially in commercial quantities of narcotics, so that offenders cannot find loopholes in the law to escape from being penalised. Additionally, the NDPS act features measures aimed at the confiscation and forfeiture of assets obtained through drug-related offences, arising out of an effort to disrupt financial networks sustaining drug cartels. But enforcement is difficult despite these strong legal systems due to procedural complexities, judicial delays, and shortcomings of coordination among law enforcement agencies.

The Role of Law Enforcement Organizations

The enforcement of drug laws in India is governed by a multi-agency framework, with multiple agencies having their respective specialized roles at various levels, from preventing drug trafficking to dismantling organized networks and prosecuting offenders. The Narcotics Control Bureau (NCB) is a premier agency for drug law enforcement and acts as a coordinating agency for operations between the centre and state levels; as well as international level. It coordinates closely with state and central agencies to carry out raids, disrupt supply chains and track emerging trends in narcotics trafficking. Drugs is being investigated by our state police and anti-narcotics cells and also there are some rehabilitation and awareness programs taken by state level⁴.

psychotropic substances act of 1985 and its enforcement guidelines in India,” 3 *Future Journal of Pharmaceuticals and Health Sciences* (2023).

³ Muhammad Alief Yunas Pahlevi, Said Noor Prasetyo and Catur Wido Haruni, “Application of Capital Punishment for Narcotics Offenders in the Perspective of Responsive Law,” 11 *Rechtsidee* (2023).

⁴ Arpit Parmar, Venkata Lakshmi Narasimha and Santanu Nath, “National Drug Laws, Policies, and Programs in India: A Narrative Review.,” 46 *Indian Journal of Psychological Medicine* (2023).

In addition to domestic agencies, a handful of specialized enforcement bodies address various facets of drug crime. The Directorate of Revenue Intelligence (DRI) is now concentrating on large cases of drug smuggling in addition to financial components linked to narcotics. Drug trafficking across the Indo-Pak and Indo-Myanmar borders, focused on smugglers of heroin and methamphetamine, is frequently managed by the BSF and Indian Coast Guard. There is also the Central Bureau of Narcotics (CBN) which regulates the licit cultivation of opium in certain areas (Barabanki in Uttar Pradesh, for example) and ensures it does not leak into the black market⁵.

Hence this elaborate web of agencies and legal provision, but there are problems in controlling drug-related crime. Therefore, jurisdictional conflict, loopholes in procedures, evidence collection and issues of International cooperation prevent successful prosecution of offenders.

III. KEY LEGAL CHALLENGES FOR LAW ENFORCEMENT AGENCIES.

We have a well laid out legal framework which consists of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, yet the enforcement agencies struggle in tackling the drug related crimes in the country. And these challenges include time-consuming legal procedures and burdensome compliance obligations, evidentiary hurdles, judicial delays, legal loopholes and weak interstate and international coordination. These challenges frequently lead to low conviction rates, delays in prosecution and challenges in breaking up organized drug trafficking organizations. Examining these legal challenges provides insight into why enforcement is such an uphill battle, even with tough laws on the books.

Burdensome Legal Procedures and Strict Compliance Requirements

The most critical challenge for law enforcement agencies regarding the NDPS Act comes from the procedural laws that they are mandated to strictly adhere to. Although these protections were instituted to deter abuse of power, many end up being technical obstacles for wrongdoers to avoid consequence. The law requires lists of searches and seizures correctly conducted, the deviation from the procedure is also violated, therefore acquittals occur. For instance, Section 50 of the NDPS Act says that if a person is searched by a law enforcement officer, it must be done in the presence of a magistrate or a gazetted officer. But many times, procedural lapses like not informing the accused of his or her right to be searched before a magistrate have caused cases to get thrown out, even when huge caches of narcotics were seized. Like seizures of drugs, the process must be documented and enter those officers' evinces at all times,

⁵ Letizia Paoli et al., "The global diversion of pharmaceutical drugs," 104 *Addiction* (2009).

guaranteeing the chain of custody is never broken. Even slight failings, like improper labeling, storage or forensic testing of seized substances, can undermine the prosecution's case and give the defense a shot at challenging the evidence.

Furthermore, under certain provisions such as for possession of commercial quantities of narcotics under the NDPS Act, the Act provides that the burden of proof rests on the accused⁶. This provision is a serious attempt to tighten the ligament of the existing law, but in reality possession, which goes well beyond doubt, is still a defence that law enforcement has to work very hard to overcome. A frequent claim among offenders is that they had no knowledge of drugs found in their property or cars. To establish "conscious possession" under the law, a strong evidence is required, and that gets much complicated after a procedural lapse. More so, there are stringent bail provisions in Section 37 of the NDPS Act, which hardly allows bail to drug traffickers. However, procedural defects in investigations become the reason for the accused getting bail on technical grounds which negates the very purpose of those stringent provisions which have been enacted.

Evidentiary Challenges in Drug-Related Cases

Prosecutions involving drug offences are most often heavily reliant on the nature and admissibility of evidence that is offered in court. Law enforcement agencies frequently face challenges around chain of custody, forensic backlogs and the ability for drug traffickers to buy new technology that will complicate the collection of evidence. One major obstacle is demonstrating possession and intent when drugs are located in rented properties, vehicles or courier packages. These are cases in which the defendant generally claims that they have no idea whether narcotics are present, and there is typically a challenge in connecting the accused directly to the illegal drugs⁷.

Moreover, the NDPS Act provides that drugs that are seized should be kept in proper custody, as well as transported and produced in a court, to eliminate any chance of tampering. But chain of custody issues frequently occur when evidence is mishandled, not properly documented or tested after long delays. Without ruling on their admissibility in advance, the court would the chain of custody, or lack thereof, make the evidence inadmissible, resulting in acquittals. Another increasingly serious problem is the prevalence of encrypted platforms and darknet markets for drug deals. Traffickers now increasingly rely on encrypted messaging apps, online

⁶ Bharti Thakur and Neeru Mittal, "Drug Policy in India: An Analysis," 59 *International Annals of Criminology* (2021).

⁷ Prof Souvik Chatterji and Subhajit Sadhu, "Examination of harshness of criminal liability in NDPS cases in India:" *Educational Administration: Theory and Practice* (2024).

black markets and anonymous cryptocurrency payments to avoid detection. Investigating these kinds of cases requires expertise in cyber-forensics and international digital cooperation, which are still wanting in India's law enforcement agencies. Without specialized training and the technological infrastructure, it is challenging to track and break down online drug syndicates.

Low Conviction Rates and Delays Within the Judiciary

Judicial Delays and Low Conviction Rates

India's drug law enforcement efficiency is severely undermined by its slow judicial process. NDPS-related cases can take years to reach a final verdict, allowing offenders a lot of time to play with legal loopholes. India's courts are already loaded with a huge backlog of cases, and trials for drug-related crimes often stall because of procedural inefficiency. Delays in testing seized substances through forensic analysis only extends the trial period, and in many instances, cases end up being dismissed due to the lengthy detention period of the accused before their case goes to trial⁸.

The conviction rates in NDPS cases are low due to weak investigations, procedural lapses and lack of strong evidence. Many accused take advantage of technical defects in the investigation, like improper report filing or breaches of search and seizure protocols, to see their charges dismissed. Sometimes, judicial interpretation of statutory provisions under the NDPS Act provides occasional inconsistencies in grant of bail. Although bail should only be granted in "extraordinary circumstances" under the law, courts have over-ridden this provision and granted bail on occasions where procedural lapses have been pointed out in the investigation. These contrasting orders have a diminishing impact of deterrence in cases involving serious dispensations of drug offences under the NDPS Act, giving a chance to repeat offenders who continue with their criminal activities concerning the same.

Gaps in Law and Abuse of Provisions

Drug traffickers and their legal defence teams often use certain provisions of the NDPS Act to evade a conviction. A key problem is the categorization of drug quantities in the Act. The law distinguishes between "small quantity" and "commercial quantity" of drugs, with commercial quantities carrying much more severe penalties. Drug traffickers commonly exploit these thresholds by transporting amounts just below the commercial quantity limits so that when apprehended, they face comparatively lesser punishment. This allows them to evade the

⁸ Priyanka V Patel, "DRUG REGULATION IN INDIA: SWOT ANALYSIS," 3 *International Journal of Drug Regulatory Affairs* (2018).

strictest provisions of the law while they carry on with their illicit activities.

Another widely used loophole is the use of procedural requirements by defense lawyers to dismiss cases. For instance, although the entire investigative process may not have been compromised, small lapses in documentation, failure to comply with technical requirements in searches, improper forensic reports, etc., would render cases quashed in court. There have also been cases in which drug offenders, arguing that not having access to health care in custody violates their basic rights, use false medical claims to obtain bail.

Issues in International and Inter-State Coordination

Drug trafficking is a transnational offence, and India's geographic location makes it susceptible to cross-border smuggling networks. Yet the enforcement of anti-drug laws is often undermined by a lack of effective international cooperation and coordination mechanisms. India has long land borders with Pakistan, Afghanistan, Myanmar and Nepal, all of which are important transit hubs for narcotics smuggling. Despite the existence of bilateral cooperation, the effective pursuit of individuals involved in drug trafficking from overseas is hindered by inefficient bureaucracy, the lack of Mutual Legal Assistance Treaties (MLATs), and a slow extradition process⁹.

Another big challenge is inter-state coordination within India. Drug syndicates operate across several states, but jurisdictional conflicts and the absence of a cohesive intelligence-sharing system hamper investigations. The absence of a centralized drug enforcement database creates gaps that prevent law enforcement agencies in different states from tracking repeat offenders and connecting the dots between regional and national trafficking networks. This is in addition to the fact that many police forces are not trained to deal with complex NDPS cases which leads to flawed investigation and poor prosecution.

IV. RECOMMENDATIONS AND THE PATH FORWARD

Given the complexity of drug-related crimes in India, addressing the legal and operational constraints on law enforcement is the key to controlling these crimes. Strengthening enforcement mechanisms requires legal reforms, better training, enhanced technological support, improved judicial processes, and enhanced international cooperation. While the current system is rigorous, it is plagued by inefficiency in case management, with procedural delays,

⁹ Priyanka Singh - and Mohini Taneja -, "Causes Of Rising Drug Trafficking In India And Ways To Stop Drug Trafficking," 6 *International Journal For Multidisciplinary Research* (2024).

and lack of coordination¹⁰. The only way to get sustained results is through a broad-based approach that encompasses reforms at all levels of enforcement and judicial administration.

A major reform needed is the streamlining of legal processes under the NDPS Act. Seen as a series of antidotes to the many that fail because of technical lapses related to searches, seizures and documentation, which might be addressed through targeted amendments. These strict procedural requirements are aimed at preventing abuse but can themselves be an obstacle to prosecution. Absent a more defined relaxation of certain procedural constraints to the standard so that minor technical errors are not cause for acquittal enforcement is significantly empowered. Also, the law should define “conscious possession” more clearly so that traffickers can’t escape liability by professing ignorance. The quantity of drugs that is punishable also should be revised, as traffickers can maneuver the thresholds to escape harsher sentences. Justice should be tempered by an understanding of the intent and role of the accused, so far from being all black and white, this is just to say not every crime is punishable by the same sentence. Furthermore, with the growing incidence of trafficking drugs through digital platforms, relevant legal provisions pertaining to cryptocurrency transactions and darknet marketplaces must be integrated into the NDPS legal framework.

Enhanced police capabilities are also key, with the development and deployment of more high-skilled officers and cutting-edge technology. Therefore, when it comes to drug crime, it involves a lot of investigation techniques and skills, such as cyber forensics, surveillance, international intelligence gathering, etc. It is imperative that officers receive such training in these areas to be able to more effectively track and dismantle drug networks. One of the solutions is the establishment of specialized narcotics units at the state and central levels with officers exclusively entrusted with drug-related crimes. Forensics capability also required significant improvement, including an increase in accredited drug-testing laboratories and a decrease in the time taken to analyze seized substances. Such coordination with police, customs and intelligence agencies is imperative to plugin the information flow and deny drug syndicates at exploiting jurisdictional loopholes. Advanced technologies such as machine learning, digital surveillance tools, and data analytics will enhance intelligence collection and predictive policing in drugs-related cases¹¹.

Judicial reforms another critical piece of the puzzle. The drag in judicial process with long

¹⁰ Y.V Stupnyk, V.Y Danko and O.V Bilash, “Coordination of law enforcement agencies’ activities in the sphere of drug criminality counteraction” *Uzhhorod National University Herald. Series: Law* (2021).

¹¹ Louise Kelly et al., “Explainable Artificial Intelligence for Digital Forensics: Opportunities, Challenges and a Drug Testing Case Study” *Digital Forensic Science* (IntechOpen, 2020).

durational trials and delayed forensic reports considerably dilutes the deterrence effect of drug laws. Special NDPS courts need to be set up for speedy trial and expeditious justice. This can help expedite the forensic examination and court processes to avoid unwanted delays during which the culprits can be bailed out or use flimsy tools to escape justice. Witness protection mechanisms also need to be strengthened to prevent these witnesses being intimidated and intimidation from causing vital testimonies to be withdrawn under pressure. Video conferencing for witness statements can also contribute to minimizing delays, and it can improve witness security. A Centralized Computation on all NDPS cases under one database could help produce a profile of drug-related crimes by providing a better overview of the data and help law enforcement and judicial authorities make conscious decisions about drug crimes and track repeat offenders.

To this end, with drug trafficking having a transnational character, it is necessary to strengthen international cooperation. Most of the drug networks are transnational, so action needs to be coordinated both at country level and within different states in India. The country should sign stronger bilateral and even multilateral agreements with neighboring countries to share intelligence and conduct joint operations against drug cartels. Second, expedite Mutual Legal Assistance Treaties (MLATs) and streamline the extradition process, so that drug traffickers operating out of foreign countries are prosecuted in India. A national database on drug-related offenses should be created to allow law enforcement agencies to monitor interstate and world drug networks. Better coordination among the various state police forces and the Intelligence Bureau would also reduce jurisdictional tussles and improve efficiency in investigations. However, better border security and the use of advanced detection technologies would be a more effective remedy for cross-border drug smuggling¹².

Lastly, keeping in mind drug related crimes should be a wide topic which includes public awareness and rehabilitation measures. A better way to go about it is to create a legal framework to sell and use drugs but not without having countering mechanisms in place to facilitate drug usage prevention measures via education and rehabilitation, respectively. The youth need to know the dangers of drug abuse and for that we should have national awareness campaigns. Substance abusers should be placed under an effective de-addiction process and other rehabilitation facilities to undergo medical treatment and not merely be punished. Additionally, local NGO and educational and social organizations should be included in its anti-drug initiatives. Harm reduction strategies can help to mitigate the public health

¹² Bruno Guarita et al., "Monitoring drug trends in the digital environment—New methods, challenges and the opportunities provided by automated approaches," 94 *International Journal of Drug Policy* (2021).

consequences of people who use drugs, and include things like needle exchange programs, but there are also strategies like overdose prevention, etc. By providing rehabilitation to those arrested rather than simply distracting them, we could also eliminate the likelihood of them engaging in criminal behaviour again.

V. CONCLUSION

India has a chronic problem of its own with drug-related offenses, which are part of a larger war that spans the globe and does not appear to be getting any closer to resolution, within Indian borders or beyond. Despite being a strong legal framework in place under the NDPS Act, the real challenge lies in the fact that procedural complexities, investigative challenges, judicial delays and lack of coordination between enforcement agencies often dilute the effectiveness of the same. Enforcement efforts are further complicated by the rapid evolution of drug trafficking methods, including the use of digital platforms and international networks. The circumvention of drug laws is rendered considerably easier for law enforcement agencies in India from the technicalities around implementing drug laws such as product confiscation, in addition to the domination of organized crime on judicial processes. In the face of these challenges, however, we must also remember and take heart from India's commitment to combatting drug-related offenses, and the potential for meaningful change through the implementation of the appropriate reforms.

To combat these challenges, a multidisciplinary approach that combines legislative reforms, trained law enforcement, swift judicial practices, international collaboration, and community awareness is crucial. Moreover, simplifying legal procedures, enhancing forensic and investigative capacities and establishing specialised NDPS courts would enhance the faster and effective prosecution of offenders. Moreover, technology tools including AI-powered analytics, surveillance systems (as seen in facial recognition technology), and digital tracking mechanisms can significantly improve intelligence collection and law enforcement. At the same time, stepped-up cooperation at the national and international level is required to be effective against cross-border drug trafficking networks. In addition, we also require good practises to use in preventing drug abuse and supporting those who have been affected by substance addiction. People with addiction issues receive treatment instead of facing punishment.

Ultimately, overcoming drug-related crimes in India will require a concerted effort from legislators, enforcement personnel, the judiciary, and civil society. Through improved legal enforcement, expedited judicial processes, and advanced technology, along with awareness programs such as society in action, the impact of narcotics on Indian society can be

significantly diminished. To advance, it is crucial to implement anti-trafficking laws with both stringency and fairness, ensuring that severe measures are complemented by initiatives focused on the rehabilitation and the prevention of their trafficking. If implemented properly, these suggestions could help India transition towards a more efficient and sustainable system of drug control, striking a balance between public safety and justice in the nation's efforts to combat narcotics-related offenses.
