



## **EFFECT OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT), 2011**

**SHEKHARKUMAR PIYUSHBHAI CHAVDA**  
Phd Research Scholar

### **ABSTRACT**

Substance use is universal with a scope of substances being manhandled the world over. India has an enormous purchaser base of various substance victimizers. This has serious repercussions regarding dismalness and mortality. In India, the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) gives the system to illicit drug use control in the India. A few peculiarities of NDPS act is corrected by Narcotic Drugs and Psychotropic Substance (Amendment), 2011. This paper fundamentally audits the drives taken such a long ways to control chronic drug consume in our country.

### **INTRODUCTION**

Narcotic drug use has turned into a general and developing issue of worry to mankind. The illegal medications have various results to wellbeing, society and economy. These results incorporate wellbeing: mortality, horribleness, mental and actual issues; social: mishaps, non-attendance, family breaking down, prostitution, coordinated wrongdoing and so forth; and financial: funds spent on creating administrations, channel on public assets, loss of efficiency, etc.<sup>1</sup>. This issue is perplexing and diverse requiring both wellbeing measures and endeavors to control dealing/carrying and assembling of unlawful medications. A decrease in the interest of medications of fixation both lawful and unlawful is required. As per gauges made by the Service of Wellbeing and Family Government assistance (MOH and FW), something like 40 million individuals all through the world routinely misuse drugs. In India as well, the issue is expanding and it is assessed that 3 million individuals are liquor and other medication victimizers of which 5-6 lakhs are reliant, requiring clinical treatment and recovery. India is the greatest provider of licit interest for opium required fundamentally for restorative purposes. Other than this, India is found near the significant poppy developing region of the world, with "Brilliant Sickle" on the Northwest and "Brilliant Triangle" on the North-East. These make India helpless against substance addiction especially in poppy developing regions and along the travel/dealing courses. The quick changing social milieu, among different elements, is chiefly adding to the multiplication of illicit drug use, both of customary and of new psychoactive substances. The presentation of manufactured drugs and



intravenous medication utilize prompting HIV/Helps has added another aspect to the issue, particularly in the Upper east circumstances of the country.

### **Parts OF NDPS ACT**

The go about as initially passed in 1985 was spread more than six parts containing 83 areas. Subsequent to being revised by drugs and psychotropic substances (amendment act), 1988 with impact from 29-5-1989, the demonstration presently contains eight parts.

### **Administrative Approach of Indidan Parliament on Chronic drug use**

India's methodology towards Opiate Medications and Psychotropic Substances is cherished in Article 47 of the Constitution of India which commands that the "State will attempt to accomplish preclusion of the use beside helpful inspirations driving intoxicating beverages and of prescriptions which are destructive to prosperity". The legal command over opiate drugs was practiced in India through various Focal and State establishments. The important Focal Demonstrations, to be specific, the opium Act, 1857, the Opium Act, 1878 and the Dangerous Drugs Act, 1930 were ordered quite some time ago. With entry of time and the improvements in the field of illegal medication traffic and substance addiction at the public and global level, numerous lacks in the regulations that have come into force under the previously mentioned Acts. Subsequently to give an exhaustive regulation on Narcotic Drugs and Psychotropic Substances which, entomb alia, ought to unite and correct the then existing regulations connecting with opiate drugs, make arrangements for practicing powerful command over psychotropic substances, make arrangements for the execution of global shows connecting with Narcotic Drugs and Psychotropic Substances, The Narcotic Drugs and Psychotropic Substances Bill 1985 was sanctioned on sixteenth September, 1985, and the Demonstration is famously known as (NDPS Act).

NDPS act is a demonstration to combine and revise the law connecting with opiate drugs, to:

1. Make severe arrangements for the control and guideline of activities connecting with Narcotic Drugs and Psychotropic Substances.
2. Accommodate the relinquishment of property got from, or utilized in, unlawful traffic in Narcotic Drugs and Psychotropic Substances.
3. Execute the arrangements of the Worldwide Shows on Narcotic Drugs and Psychotropic Substances and for issues associated therewith.



## **Substance addiction in INDIA**

In the Public Study on "The Degree, Example and Patterns of Illicit drug abuse in India", directed by Beam R (2004)<sup>2</sup> significant discoveries were that liquor, pot, opium and heroin were significant medications of misuse, The number of people requiring treatment was huge, substance addiction was seen in both provincial and metropolitan India and Infusion Medication Use had been accounted for from different destinations, including country India. The stretch of illicit drug use was long with huge delay between beginning of medication use and treatment chasing. Countless medication clients took part in dangerous sex rehearses. Consistency between treatment chasing and the degree of the issue in a given state was missing with low enlistment in treatment.

## **THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) BILL, 2011**

During the execution of NDPS Act, a few peculiarities have been taken note. Appropriately the Narcotic Drugs and Psychotropic Substance (Amendment) Bill, 2011 targets correcting those irregularities and furthermore rolling out specific further improvements to reinforce the arrangements of the Demonstration.

Striking elements of the Narcotic Drugs and Psychotropic Substance (Amendment) Bill, 2011

i. Defining "Central Government Factories" [new entry in Section 2]: Despite the reality that the expression "Central Government Factories" is referenced in specific Areas of the Demonstration, till now it has not been characterized in the Demonstration. It is proposed to characterize "Central Government Factories" on the lines of the meaning of "Government Company" under the Company Act, to permit the Focal Government the adaptability to rebuild the Public authority Opium and Alkaloid Works without weakening the command over them.

ii. Changing the definition of "commercial quantity" and "small quantity" [Section 2 (viia) & (xxiiiia)]: NDPS Act follows an evaluated arrangement of punishment - the quantum of discipline fluctuates relying upon whether the amount of medication engaged with a case is "small" or "commercial" or more than "small" yet not exactly "commercial". It has been held by the Hon'ble High Court that while deciding if the quantum of medication engaged with a specific case is small/ commercial, and so on, it is the unadulterated medication content and not the amount of medication seized, which must be considered. Since the medication is never held onto in the unadulterated structure and "small" and "commercial" amounts have been advised for



arrangements additionally, it is proposed to enable the public authority to tell amounts in regard of arrangements of drugs and psychotropic substances too.

iii. Rationalising the punishment for consumption of morphine, cocaine and heroin [Section 27]: By and by, the utilization of these medications includes a greatest discipline of 1 year while dealing of little amounts of the equivalent draws in most extreme discipline of a half year as it were. This peculiarity is proposed to be redressed, by lessening the greatest discipline for utilization of medications to a half year.

iv. Rehash offenses under the NDPS Act welcome a discipline of one and one half times (1.5 times) of the discipline for the primary offense. Be that as it may, this arrangement has been wrongly phrased as "one-half" of the punishment for the main offense, rather than "one and one half times". This inconsistency is proposed to be amended.

v. While segment 52A of the Demonstration accommodates removal of drugs during preliminary after due affirmation of the inventories of a similar by the equipped Judge, it doesn't do as such for "precursors" utilized in the production of medications, which are likewise at risk for seizure under the Demonstration or for transports seized. The alteration proposes to consider pre-trial disposal of precursors and conveyances also.

vi. By and by, no time limit is endorsed for the exploring official to investigate the illicitly obtained properties of dealing and report something very similar to the Skilled Power. Subsequently monetary examinations in drug cases have been getting low need. It is proposed to make it required for the exploring official to make a report of the illicitly gained properties of the individual engaged with drug dealing, to the jurisdictional competent power inside hundred and eighty days of the arrest or seizure. [New entry Section 57A]

vii. The Hon'ble Supreme Court has deciphered the current arrangements of Part VA (counting Section 68B) and held that it is important to lay out an immediate nexus between the properties tried to be relinquished and the offense committed. It is almost difficult to demonstrate such a nexus as the medication dealers don't track the medications they sell and how they contributes the deal continues. It is, subsequently, proposed to characterize properties having a place with dealers, their family members and partners, the wellspring of which can't be demonstrated and the property of comparable worth, as illicitly obtained properties by revising Section 68B provision (g).



viii. Insertion of Explanation to Section 68H regarding validity of notice: Section 68H arrangements with the issue of a notification for relinquishment of property. As expressed over, the Hon'ble Supreme Court has held that it is important to lay out an immediate nexus between the properties tried to be relinquished and the offense committed, which isn't basically imaginable. To address what is going on, it is proposed to embed an "Explanation" to section 68H expressing that the notification for relinquishment wouldn't be invalid simply on the ground of inability to lay out a nexus between the property looked to be relinquished and any movement in contradiction of the arrangements of this Demonstration (drug trafficking activity).

viii. Legal basis for measures to manage injecting drug users [Section 71]: To limit hazard to HIV, measures, for example, "needle-syringe exchange" and "oral substitution" are followed. These actions focus on administration of junkies and can't be completely called "treatment". Counting "management" in section 71 in order to give a firm legitimate premise to such measures is proposed."

#### **Remarks on THE PROPOSED NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCE (AMENDMENT) BILL, 2011**

The NDPS (Amendment) Bill, 2011 looks to adjust various ordering of the Demonstration, which will influence punishments that individuals who abuse and are reliant upon medications will be dependent upon. Also, the proposed changes have a significant bearing on admittance to treatment and care for drug clients. A few explicit remarks on revising statements:

(1) Amending clause 5, modification in Section 27 "Punishment for consumption of any narcotic drug or psychotropic substance":

The Bill seeks to standardize the punishment for consumption of narcotic drugs and psychotropic substances to a maximum of 6 months imprisonment and/or fine which may extend to Rs 10,000. Under the existing Act, punishment for consumption of certain drugs like cocaine, morphine and heroin is up to 1 year imprisonment and/or fine of Rs 20,000. While the proposed move is a welcome step as Persons who use drugs, need support and assistance. Punishment is not an appropriate sanction to drug dependence. It has to be understood that once a person becomes dependent on drugs, she/he cannot give up without medical help. Punishing a patient is not only unsuitable but also unhelpful and unjust.

(2) Amending clause 15, Section 71 (1) "Power of Government to establish centres for identification, treatment, etc. of addicts":

Proposed insertion of the term "management", after the words "treatment, identification" is a



welcome step as it is a more accurate description of clinical care for drug dependence. There is an urgent need to increase the number of government institutions providing drug dependence treatment as well as to regulate private facilities purporting to provide such services. The suggested language change will help address both concerns.

### **Ideas for Altering Different Other Provisions of the act**

(1) Accessibility of sedatives for clinical use: Under Section 10 (1) (a) (v) of the NDPS Act, the buy, deal, use and utilization of morphine [5] (a modest and powerful narcotic utilized for lightening of torment) is vested with the State Legislatures. Various States have different administrative systems and offices. Also, in certain States, various licenses are expected to have, transport, disperse, sell, buy, use and consume morphine. Morphine has along these lines, remained essentially blocked off. There is a critical need to work on the administrative method and vest it inside a solitary, ideally Focal government organization like the Opiates Official.

(2) Invulnerability for therapy searchers: Under Section 64A of the current Demonstration, drug subordinate people who select clinical treatment are qualified for help from indictment, gave the charge is that of utilization or includes a minor amount of medications. The utilization of this proviso has been laden with ambiguities. Insusceptibility has not been conceded to most medication subordinate people, on one or other specialized grounds. These remember demand for confirmation of dependence, request of responsibility and hanging tight for outlining of charge. This has brought about sabotaging the regulative aim of the part, which is to deter criminalization of medication subordinate people and energize treatment chasing. section 64A requires dire regulative consideration and change.

(3) Obligatory the death penalty: Section 31A of the NDPS Act endorses a required capital punishment for specific medication offenses upon ensuing conviction. Capital punishment is obligatory in that there is no discipline set down in Section 31A other than death and the option of condemning the habitual perpetrator under Area 31 is dispossessed by the non obstante condition in Area 31A. In any case, in 1983 the Supreme Court of India pronounced obligatory the death penalty as unlawful. In a new choice. the Bombay High Court applied a similar rule and held Section 31A of the NDPS Act to be violative of Article 21 of the Indian Constitution. The NDPS (Amendmend) Bill, 2011 overlooks the premise of deficiency of Section 31A as called attention to by the Sacred Court. The Public authority has



neither abrogated nor revised section 31A in the NDPS (Amendment) Bill, in spite of the discoveries of the Bombay High Court on its established legitimacy. This negligence of legal orders merits consideration of the Standing Council.

## **CONCLUSIONS**

The most recent 27 years have seen quick development in the battle against drug reliance particularly the areas of strategy detailing and development of foundation. This is estimable. What presently is not yet clear is the viability and effect of the different measures started. It is basic to have assessment and resulting alterations of plans and approaches in highlight of compelling examination. With no methodical assessment, plans would be only that - plans.

## **REFERENCES**

1. Published in the Gazette of India, Extraordinary, Pt. II, Sec. 1, No. 75, dated 16th September, 1985.
2. Act 2 of 1989 enforced w.e.f. 29th May, 1989, Published in the Gazette of India Extraordinary, Pt. II, Sec. 2, No. 59, dated 6th December, 1988, vide S.O. 379 (E), dated 29th May, 1989, published in the Gazette of India, Extraordinary, Pt. II, Sec 3 (ii), No. 300, dated 29th May, 1989.
3. Malhotra,A., Mathur.R.S., Basu.D. & Mattoo,S.K. (1997) Primer of addiction Drug deaddiction and treatment centre. Postgraduate Institute of Medical Education and Research, Chandigarh.
4. Morphine is classified as an opium derivative, a manufactured drug and a narcotic drug under Sections 2(xvi), (xi) and (xiv) respectively of the NDPS Act, 1985.
5. Bombay High Court's decision dated 16 June 2011 in Indian Harm Reduction Network v Union of India [Criminal writ petition No. 1784 of 2010.
6. Ray R, editor. The extent, pattern and trends of drug abuse in India-National survey. Ministry of Social Justice and Empowerment, Government of India and United Nations Office on Drugs and Crime. 2004. Available from: [www.unodc.org/India/Indianationalsurvey2004.html](http://www.unodc.org/India/Indianationalsurvey2004.html), accessed on June 13, 2012.





**MULTIDISCIPLINARY COSMOPOLITAN JOURNAL OF  
RESEARCH**

**(MUCOJOR)-2583-9829 (On-line)**

**International Peer Reviewed and Refereed Journal**

**Certification of Publication**

The Board of Multidisciplinary Cosmopolitan Journal of Research (MUCOJOR) is hereby awarding  
this certificate to

**SHEKHARKUMAR PIYUSHBHAI CHAVDA**

In recognition of the publication of the paper entitled  
**EFFECT OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES  
(AMENDMENT), 2011**

Published in Volume 02, Issue 03, June 2024.

**EDITOR IN CHIEF**