

NARCOTIC OFFENCES AND NARCO-TERRORISM IN INDIA: A CRITICAL ANALYSIS OF THE NDPS ACT, 1985 AND NATIONAL SECURITY CHALLENGES

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ABSTRACT

Narcotic offences and narco-terrorism have become legal, social and national-security issues in India. Narcotic offences usually involve the growing, making, owning, moving, selling or using narcotic drugs and substances that change the mind. Narco-terrorism means when drug trafficking connects with actions. This happens when money from drug work is used to pay for terrorism. The Narcotic Drugs and Psychotropic Substances Act 1985 creates a legal system to control narcotic drugs and mind-changing substances in India. This law makes many actions related to drug trafficking against the law. It also says that the punishment depends on the type and amount of the substance. The paper looks at the system of the NDPS Act. It talks about how narcotic offenders divided. It also covers court decisions. The paper discusses the problem of funding drug activities. It also looks at the growing link, between drug trafficking and terrorism. The paper also studies the steps taken by organizations and countries to fight narco-terrorism. The paper says that stopping these problems needs a mix of strict rules checking money working with other countries helping people recover and making sure the legal process is fair.

Keywords: Narcotics offences, NDPS Act, drug trafficking, narcoterrorism, terrorism financing, national security, organised crime

MEANING OF NARCOTIC SUBSTANCES

The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is India's law for dealing with drug abuse and drug trafficking. This law makes it a crime to make, grow, have sell, buy, move, keep or use drugs and psychotropic substances without proper permission. The only time these activities are allowed is when the right government authorities give permission.

The NDPS Act was passed during a time when the world was becoming more worried about drugs. It shows India's seriousness about following the rules set by drug control treaties. In terms the law sees narcotic drugs as substances that can make people sleepy or change how they feel. Psychotropic substances are seen as those that influence the mind and how people act¹.

The law is made up of six chapters and 83 sections. It defines words names the agencies in charge sets strict rules against certain acts gives different punishments based on the seriousness of the crime and explains how investigations and enforcement should happen. The law is very strict by design. The punishment depends on what kind of drug and how much is involved. For an amount the punishment could be up to one year in prison or a fine. If the amount is close to or more than what is considered a commercial level the punishment can be years of hard prison time and a large fine².

The NDPS Act does not completely ban all use of these drugs. It allows scientific uses under strict rules. It also allows the controlled growing of plants like cannabis and poppy for medicine but under tight supervision. Still the main part of the law does not make a difference between someone who uses drugs occasionally and someone who is part of a big drug trafficking network. Anyone who breaks the law can face criminal charges.

Since 1985 the NDPS Act has been changed times to deal with new types of drug abuse, new ways of trafficking and new medical needs. Some changes were made to help doctors and patients get access to drugs. Other changes increased the punishments for crimes especially when large amounts were involved. The law has been made stronger through agencies like the Narcotics Control Bureau, which works across the country to fight drug trafficking³.

When you read the NDPS Act as a whole it works both as a law about health and a criminal law. It tries to keep the safe and healthy by stopping illegal drug trade controlling legal medical use and supporting other social steps to fight drug abuse. Understanding this law is very important, for anyone who wants to know how India handles the health and security problems caused by narcotics and psychotropic substances.

TYPES OF NARCOTIC SUBSTANCES

Narcotic substances are chemicals that affect the mind and body. They can relieve pain make a person feel calm or sleepy and can also lead to dependence. In India these substances are controlled by law under the Narcotic Drugs and Psychotropic Substances Act, 1985⁴. This law sets rules for their use, distribution and possession. These substances are grouped in ways depending on where they come from and how they are made. They include opiates, which come directly from plants like the opium poppy. There are also -synthetic opioids, made by changing natural substances. Then there are opioids, which are created entirely in labs. Some other substances also have effects and are included in this category. All of them are carefully monitored because of their potential, for misuse⁵.

1. Natural Opiates

Natural opiates are alkaloid compounds that come from the thick juice of the opium poppy plant, known scientifically as (*Papaver somniferum*)⁶. The main natural opiates are morphine, codeine and thebaine. These natural opiates all share a phenanthrene core. Mainly affect the central nervous system causing both a calming depressant effect and pain relief⁷. Morphine, the common and important of the natural opiates is used in medicine to ease severe pain. Codeine, another opiate is used for less intense pain and to stop coughing⁸. Thebaine, an opiate that is not used directly in medicine is a key building block, for making semi-synthetic opioids⁹.

2. Semi-Synthetic Opioids

Semi-synthetic opioids are made in labs by changing opiates, especially morphine and codeine. These changes create compounds that are still based on the original plant-based opioids. Some examples include heroin, oxycodone, hydrocodone, hydromorphone and buprenorphine¹⁰. Heroin, also known as diacetylmorphine is made by adding acetyl groups to morphine. It has no medical purpose in many places and is considered a dangerous addictive illegal drug¹¹. Oxycodone and hydrocodone are used in medicine as painkillers for both term and long-term pain. They come with a high risk of misuse and addiction. Even though these drugs look similar to opiates in structure they behave differently in the body. Their strength, how long they last and how they move through the body can be very different, from the opiates.

3. Synthetic Opioids

Synthetic opioids are made entirely in laboratories. They do not come directly from opiate plants. Yet they still fit into the opioid receptors in the brain. Famous examples are methadone, fentanyl, pethidine, tramadol and levorphanol¹². Fentanyl is a strong synthetic opioid. It is fifty to one hundred times stronger than morphine. Doctors use fentanyl for anesthesia and for long-term pain relief¹³. Methadone is widely used in substitution

therapy. It helps people who have opioid use disorder because it stays in the body for a time. Pethidine was once common, for pain relief¹⁴. It is now used less in clinics because its metabolite can be neurotoxic and because people can abuse it¹⁵.

4. Other Substances with Narcotic Potential

Although the word "narcotic" means opioids many legal and official rules also cover mind-changing substances that can be misused¹⁶. These include cocaine, which's a drug that makes people more energetic and comes from a plant called coca leaf. It also includes cannabis, which's a plant known as hemp. Some other mind-altering drugs that are listed in the rules of the NDPS Act, 1985 are also considered¹⁷. These drugs are watched closely like opioids because they can lead to addiction can be dangerous and can cause problems, in society¹⁸.

LEGAL FRAMEWORK GOVERNING NARCOTIC OFFENCES IN INDIA

The legal framework that governs offences in India is mainly found in the Narcotic Drugs and Psychotropic Substances Act, 1985 which we call the NDPS Act. The NDPS Act was made to stop and control how people grow, make, own, sell, buy, move bring in send out and use drugs and psychotropic substances¹⁹. The NDPS Act shows that India is following its promises to keep drugs under control the rules set out in the Single Convention on Narcotic Drugs, 1961²⁰. The NDPS Act takes two sides: it puts harsh penalties on people who traffic or run organized drug trade while it only gives a small chance, for treatment and help for those who are addicted. This is the way that narcotic offences are handled in India²¹.

The Act defines "narcotic drug" to include coca leaf, cannabis, opium, poppy straw, and all manufactured drugs²². Psychotropic substances are separately regulated because they affect the mind and may create dependence. The Act applies throughout India and also extends to Indian citizens outside India, as well as to persons on Indian-registered ships and aircraft²³.

• Prohibited Activities

The NDPS Act prohibits a wide range of activities connected with controlled substances. These include unauthorised cultivation of opium poppy, coca plant, and cannabis; production and manufacture of drugs; possession, sale, purchase, transport, import, and export; and consumption of prohibited substances²⁴. The Act also penalises financing illicit traffic, harbouring offenders, and permitting premises to be used for drug-related offences²⁵.

The severity of punishment depends upon the quantity of the drug involved. The Act distinguishes between "small quantity," "intermediate quantity," and "commercial quantity"²⁶. Where the quantity is small, the punishment is comparatively lenient. Where the quantity exceeds the small-quantity limit but is below the commercial-quantity limit, the punishment may extend to rigorous imprisonment for ten years and fine up to ₹1 lakh²⁷. In cases involving commercial quantity, the minimum punishment is rigorous imprisonment for ten years, extendable to twenty years, together with a substantial fine²⁸.

For instance, the notified small quantity of cocaine is 2 grams, while 100 grams constitutes commercial quantity²⁹. Similar quantities are notified for heroin, morphine, cannabis, and other controlled substances. This quantity-

based classification enables courts to differentiate between casual possession, personal consumption, and large-scale trafficking.

- Consumption and Rehabilitation

Section 27 of the NDPS Act deals with consumption of narcotic drugs and psychotropic substances. Consumption of drugs such as cocaine, morphine, and heroin is punishable with rigorous imprisonment up to one year, or fine up to ₹20,000, or both³⁰. Consumption of other controlled substances attracts imprisonment up to six months, or fine up to ₹10,000, or both³¹.

However, the Act does not treat addiction exclusively as a criminal problem. Section 64A provides immunity from prosecution to an addict charged with an offence involving a small quantity, if the addict voluntarily seeks medical treatment and completes the prescribed course of treatment³². This provision reflects a reformatory approach and recognises that treatment may be more effective than punishment in addressing dependence.

- Enforcement Powers and Procedural Safeguards

The NDPS Act empowers authorised officers to enter, search, seize, and arrest persons suspected of committing offences. Section 42 governs search, seizure, and arrest based on prior information, while Section 43 applies to seizure and arrest in a public place³³. Section 50 provides an important safeguard by requiring the officer to inform the accused, before a personal search, of the right to be searched before a Magistrate or a Gazetted Officer³⁴.

These procedural requirements are not merely technical. They protect individuals against arbitrary state action and ensure that evidence is collected in a lawful manner. Non-compliance with statutory procedure may affect the validity of the search, seizure, and prosecution³⁵. The Narcotics Control Bureau, Central Bureau of Narcotics, state police, customs authorities, and other empowered agencies work together to enforce the Act³⁶.

BAIL UNDER SECTION 37

Section 37 imposes special restrictions on the grant of bail in cases involving commercial quantity. Bail can be granted only when the court is satisfied that there are reasonable grounds for believing that the accused is not guilty and that the accused is not likely to commit any offence while on bail³⁷. These are commonly described as the “twin conditions” for bail under the NDPS Act.

In *State of Kerala v Rajesh*, the Supreme Court examined a Delhi High Court order granting bail to an accused involved in a large drug-trafficking operation³⁸. The Narcotics Control Bureau had seized 50,000 Tramadol tablets weighing approximately 20 kg, and the investigation disclosed links between the accused and a wider trafficking network³⁹. The Supreme Court set aside the bail order, holding that the High Court had failed to properly apply the twin conditions under Section 37⁴⁰.

The Court held that even if the confessional statement of the accused was excluded, circumstantial evidence such as disclosures, recoveries from co-accused, and the accused’s connection with the trafficking network could establish a *prima facie* case⁴¹. The decision is significant because it clarifies that absence of direct physical possession does not automatically entitle an accused to bail. Where the material indicates active involvement in trafficking, courts must apply the stringent bail standard under Section 37⁴².

Critically, Rajesh demonstrates the court's reluctance to release persons involved in commercial-quantity offences merely because the recovery was not made from their personal custody. At the same time, the case has been criticised for making bail exceptionally difficult in NDPS matters, particularly where the accused is implicated mainly through circumstantial material. The judgment therefore strengthens enforcement but also raises concerns about the presumption of innocence and the right to personal liberty⁴³.

- Search, Seizure, and Public Place

In *Boota Singh v State of Haryana*, the Supreme Court considered whether a private vehicle could be treated as a "public place" for the purpose of Section 43 of the NDPS Act⁴⁴. The accused argued that the recovery was made from a private vehicle and that the procedure under Section 42, rather than Section 43, ought to have been followed⁴⁵.

The Supreme Court held that a private vehicle does not fall within the expression "public place" under the explanation to Section 43⁴⁶. Therefore, where recovery is made from a private vehicle, the procedure prescribed under Section 42 must be followed. The Court further held that total non-compliance with Section 42 is impermissible, although the degree of compliance required may depend on the facts of each case⁴⁷.

The decision is important because it reinforces procedural fairness in NDPS prosecutions. It prevents enforcement agencies from bypassing safeguards by characterising a private vehicle as a public place. At the same time, the judgment does not weaken the anti-drug framework; rather, it ensures that convictions rest upon legally obtained evidence⁴⁸. The case therefore represents a balance between effective narcotics enforcement and protection of constitutional rights against unreasonable search and seizure.

- Financing Illicit Traffic

Section 27A of the NDPS Act punishes financing illicit traffic and harbouring persons engaged in illicit traffic. The punishment is rigorous imprisonment for not less than ten years, which may extend to twenty years, along with fine⁴⁹. This provision targets the financial backbone of drug trafficking rather than merely the person in physical possession of the drug.

A drafting error in the NDPS (Amendment) Act, 2014 created uncertainty regarding Section 27A. When the definition of "illicit traffic" was amended, the corresponding reference in Section 27A was not properly updated, leading to arguments that prosecutions under that section were defective⁵⁰. The Government corrected the anomaly through the 2021 amendment, which restored the intended operation of Section 27A and applied the correction retrospectively from 1 May 2014⁵¹.

This episode illustrates the importance of precise legislative drafting in penal statutes. Because Section 27A carries severe punishment, any ambiguity in its wording can seriously affect prosecutions and the rights of accused persons. The amendment was therefore necessary to preserve the legislative purpose while ensuring legal certainty⁵².

NARCO-TERRORISM Narco-terrorism refers to the use of drug-trafficking proceeds to finance terrorism or to advance terrorist objectives through violence and intimidation⁵³. In India, the problem is particularly serious in

border areas, including Jammu and Kashmir, where drug smuggling may overlap with the movement of arms, money, and terrorist operatives⁵⁴.

The Indian response combines strict enforcement of the NDPS Act with financial investigation, intelligence-sharing, border control, and international cooperation. The Narcotics Control Bureau and other agencies focus on dismantling trafficking networks, while the National Coordination Mechanism promotes coordination between central and state agencies⁵⁵. The Government has also undertaken awareness and rehabilitation measures through the Nasha Mukta Bharat Abhiyaan, launched on 15 August 2020⁵⁶.

CRITICAL ASSESSMENT

The NDPS Act is a strong deterrent law, but its effectiveness depends upon lawful investigation, fair trial, and proportionate sentencing. The quantity-based classification helps distinguish traffickers from consumers, yet it can also produce harsh results where an accused is found with a commercial quantity without clear evidence of trafficking⁵⁷.

The case law reveals a continuing tension between crime control and individual liberty. *State of Kerala v Rajesh* strengthens the enforcement framework by making bail difficult in serious trafficking cases, while *Boota Singh v State of Haryana* protects accused persons by insisting on strict compliance with search and seizure procedure⁵⁸. Together, these decisions show that the NDPS framework must be enforced firmly but within constitutional limits.

The Act also recognises that addiction is not solely a law-and-order issue. Provisions such as Section 64A and rehabilitation programmes acknowledge the need for medical and social intervention⁵⁹. A balanced narcotics policy must therefore combine deterrence, prevention, treatment, and protection of procedural rights.

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