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# BEYOND PUNISHMENT: INDIA'S DRUG POLICY LANDSCAPE

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## ABSTRACT

This article primarily focuses on India's drug policy, the Drugs and Psychotropic Substances Act (NDPS) of 1985. It discusses how drug legislation has evolved in India over time, highlighting the transition from regulations to an approach under the NDPS Act. This act is in line with drug control norms across the globe illustrating India's dedication to combating drug abuse and trafficking. The article provides for an analysis of the NDPS Act, its punitive measures and compares it with other national laws. It also addresses the difficulties faced in enforcing these laws in rural areas while taking into consideration the systemic corruption that's prevalent across the country. Furthermore it explores the socio-economic factors that contribute to drug abuse and trafficking advocating for a public health approach. This includes implementing strategies for harm reduction and educational programs being focused on prevention and rehabilitation. The article evaluates both the ethical implications of drug policies while exploring how decriminalisation and legalisation could potentially reshape India's approach to addressing drug abuse.

**Keywords:** NDPS Act, Drug Legislation, Public Health, Law Enforcement, Harm Reduction, Decriminalisation, Drug Abuse.

## **Beyond Punishment: India's Drug Policy Landscape**

In the realm of legislation the battle, against drug abuse and illegal trade is primarily governed and managed by the "Drugs and Psychotropic Substances Act" enacted back in 1985 and it is of significance importance when it comes to addressing issues related to substance abuse. It aligns with global norms on drug abuse and serve as a testament to India's commitment to the international community by not only aligning with international conventions but also by providing a comprehensive framework to curb trafficking across the globe. Several guidelines of the act have been crafted keeping a balanced approach and international cooperation in mind.

In this section of the article we delve into the complexities surrounding the NDPS Act comparing and contrasting it with laws within our country. Furthermore, we would explore the similarities and differences in frameworks on a scale. The NDPS Act was established on November 14th 1985 and marked a shift in India's approach to tackling drugs. Prior to its enactment several regulations were scattered across laws without a focus or strategy dedicated solely for this purpose. The NDPS Act consolidated these efforts further by providing for a framework for managing and monitoring activities that involved narcotic drugs or substances that altered one's state of mind akin to existing regulations. It outlined rules for overseeing operations related to drugs and mind altering substances. The NDPS Act also provides guidelines for confiscating property obtained through sales of items as well as establishing punishments for various offences related to this matter.

One of the crucial aspects of the NDPS Act are its rules on punishment. The law imposes regulations on cultivating, manufacturing, possessing and controlling drugs or mind altering substances during transportation, warehousing, use, import, export and reshipment. It strongly advises against purchasing or engaging in selling activities due to the consequences that could arise if caught by authorities who have directions to strictly enforce these laws without leniency towards violators. The severity of punishment vary depending upon the type of drug involved and whether it is stored for personal consumption or larger quantities meant for distribution.

Popular movies and television shows often depict these larger scale operations on level stations accessible to the general public. People are aware that drug offences and their corresponding penalties can differ significantly indicating that while it remains a problem requiring attention, there are different levels of severity. However it's important to note that the NDPS Act has also faced criticism from those advocating for the protection of rights. Several individuals express

concerns about how the provisions under NDPS can be too harsh and advocate for human rights. Furthermore, the dislike towards the act seems to stem from its emphasis on punishment than rehabilitation and support. This approach often complicates drug abuse than effectively resolving them.<sup>1</sup>

Apart from the NDPS Act there are other regulations and strategies in place to enhance drug control in India. The 1988 Act aimed at curbing the sale of drugs and mind altering substances provides a means to combat those who distribute drugs within communities. By targeting crime networks involved in distributing substances through methods or exploiting outdated regulations this legislation helps safeguard public health and prevents detrimental consequences. The Ministry of Health Family Welfare along with entities focused on improving citizens rights and well being have implemented programs aimed at reducing the demand for these drugs by raising awareness about their impacts on healthy living through innovative techniques introduced over time. These initiatives also focus on facilitating recovery for individuals struggling with addiction so that they can reintegrate into society successfully after achieving recovery.

In our country, corruption poses a challenge to the implementation of laws as they are originally intended to and the NDPS Act is no exception to this in India as it undermines the enforcement of drug control laws. Corruption within the law enforcement agencies often leads to activities such as anti-drug operations getting compromised. This further results in the loss of public trust and ends up creating a safe haven for drug mafias wherein they operate in areas known for corrupt practices easily, slowly expanding their drug trade to other parts of the country. This issue is aggravated by support from various political and financial backing. At times, certain local bodies even offer support to drug mafias as a result of fear or because of the drug trade being a crucial source of income but the impact of the existence of such a support extends beyond certain individuals or their families. It affects various aspects of society including the availability of necessary tools and technologies for detecting and preventing such activities as it leads to drug abuse not being viewed as a very big problem for the government. One major concern is the level of training and expertise among those involved in handling drug cases. There exists a big disparity in knowledge particularly regarding the aspects of NDPS Acts

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<sup>1</sup> Kumar, S. (2022, January 1). Drug Abuse In India: Need And Efficacy of NDPS Act, 1985. [https://www.worldwidejournals.com/international-journal-of-scientific-research-\(IJSR\)/article/drug-abuse-in-india-need-and-efficacy-of-ndps-act-1985/NDIwNTE=?is=1&b1=37&k=10](https://www.worldwidejournals.com/international-journal-of-scientific-research-(IJSR)/article/drug-abuse-in-india-need-and-efficacy-of-ndps-act-1985/NDIwNTE=?is=1&b1=37&k=10)

regulations. Additionally, there is a lack of understanding when it comes to skills such as analysing crime related evidence like photographs. Addressing these areas is crucial to enhance law enforcement agencies ability to effectively combat drug trafficking and usage.<sup>2</sup>

India's geographical location presents challenges in curbing the movement of drugs as well. The nature of boundaries in regions like Punjab and the North East makes it difficult to exert control over drug trafficking. Punjab's proximity to the Golden Crescent regions on the map exemplifies this issue. Unfortunately, due to its location the state has become a hub for drug transportation. The presence of hills or plains makes it challenging to secure borders effectively or closely monitor them. Furthermore, the international borders pose challenges as well due to their length when it comes to prevention efforts. Collaborating on a such a large scale has become increasingly difficult due to the lack of enforcement in the present set of regulations and conflicts with neighbouring countries. Addressing a problem as wide as drug trafficking requires cooperation from all corners of the world but India faces significant challenges in combating this issue, especially when confronted with the ever-evolving techniques utilised by drug smugglers such as the dark web. To highlight the magnitude of drug trafficking and address security concerns within our country, we can examine several cases such as the 2019 seizure of nearly 200 kg of heroin on Gujarat's Mandvi Coast and the ongoing drug crisis in Punjab. Addressing these challenges necessitates a strategy that encompasses bolstering law enforcement capacities promoting cooperation and prioritising the development of skills while combating corruption, within drug law enforcement agencies.

Building upon our conversation regarding enforcement it is important to consider the socio economic factors at play that greatly influence drug abuse and trafficking in India. Poverty, unemployment and lack of education not only contribute to the supply side of the drug trade but also drive demand. In communities individuals may see involvement, in the drug trade as a means of survival while others turn to substance abuse as a way to escape the harsh realities of life. Unfortunately this harmful cycle is further perpetuated by the stigma and criminalisation associated with drug abuse, which results in marginalisation and prevents those affected from seeking help. When it comes to tackling drug abuse taking a public health approach proves effective as it views it as a health concern, than a criminal issue. This approach focuses on

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<sup>2</sup> Balhara, Y. P. S., Sarkar, S., & Singh, S. (2022, December 12). Medical Use, Decriminalization, and Legalization of Narcotic Drugs and Psychotropic Substances—What Does It Mean and What Is Its Current Status in India? *Indian Journal of Psychological Medicine*. <https://doi.org/10.1177/02537176221138496>

reducing the harm often associated with drug abuse by prioritising prevention, treatment and rehabilitation measures. Educational programs and awareness campaigns target at risk populations with the aim of preventing drug abuse before it even starts. Additionally providing psychological support for those struggling with addiction is crucial as these services offer assistance to individuals dealing with substance abuse problems and aid in their recovery process allowing them to reintegrate into society. A comprehensive response to drug abuse includes rehabilitation programs and strategies that prioritise harm reduction. These programs focus on facilitating recovery through social support playing a role in helping individuals overcome addiction while minimising the risk of relapse.

Harm reduction strategies such as needle exchange programs and supervised consumption sites aim to mitigate the health risks associated with drug use. These strategies recognise the truth, about drug abuse and suggest alternatives that aim to reduce harm to individuals and society. When implementing these approaches for health it is crucial to understand how socio factors and drug abuse interact. By addressing these concerns offering support and treatment than relying on punitive measures we can take a significant step forward in combating drug abuse and the illicit drug trade, in India. When we consider the connection, between law enforcement and protecting rights it is important to reevaluate India's drug policy in relation to addiction and its criminalisation.<sup>3</sup>

The current legal system places an emphasis, on imposing punishments, which can often conflict with the rights and well being of individuals who are already grappling with addiction. This approach gives rise to worries regarding the efficiency and fairness of India's strategies, for controlling drugs as our laws are designed in a way that emphasises reform, than strict penalties. Moreover making addiction a criminal offence has its set of repercussions. Labelling individuals with substance abuse disorders as criminals rather than patients in need of medical assistance perpetuates stigma. This stigmatisation is the root cause of the situation worsening from thereon as it creates a barrier for those seeking help exacerbating public health issues related to drug abuse. Moreover taking such an approach has led to an overcrowding of prisons, with drug offenders further straining an already burdened criminal justice system. The impact of these measures is particularly felt among marginalised communities exacerbating existing

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<sup>3</sup> Mohapatra, S. (2013, April 1). Current status of the narcotic drugs and psychotropic substances (NDPS) act. ResearchGate, [https://www.researchgate.net/publication/259937757\\_Current\\_status\\_of\\_the\\_narcotic\\_drugs\\_and\\_psychotropic\\_substances\\_NDPS\\_act](https://www.researchgate.net/publication/259937757_Current_status_of_the_narcotic_drugs_and_psychotropic_substances_NDPS_act)

disparities and inequalities. Given the range of challenges they face it becomes crucial to explore approaches like decriminalisation and legalisation.

Decriminalisation involves removing penalties for drug possession and shifting the focus towards providing support and rehabilitation for individuals. As mentioned earlier this strategy has shown promise in reducing the stigma associated with drug use and has been implemented in parts of the world. It encourages individuals to seek help and eases pressure on our system. Legalisation takes things a step further than decriminalisation by introducing regulation and control over the drug market. The ultimate goal is to address drug trade and associated criminal activities. However legalising drugs also presents complexities. We need systems in place that can effectively manage increased risks associated with drug use while safeguarding health. Therefore, both decriminalisation and legalisation represent a shift in perspective where substance abuse is seen more as a public health concern, than strictly a criminal issue. Considering the debates, among scholars it becomes crucial to assess the health implications and reassess the equilibrium between law enforcement and human rights within drug policies. This evaluation should encompass understanding the repercussions of criminalising addiction as carefully weighing the advantages and disadvantages of alternative approaches like decriminalisation and legalisation. By adopting such a strategy, there is a possibility to develop drug policies in India that focus on striking a balance while also fostering well-being.