

LEGALFOXES LAW TIMES

NDPS Act, 1985

By Swathi R

Introduction:

The Narcotic Drugs and Psychotropic Substances Act, 1985, commonly referred as the NDPS Act, is an Act of the Parliament of India, that prohibits a person the production/manufacturing or cultivation, possession, sale, purchasing, transport, storage, and/or consumption of any narcotic drug or psychotropic substance. This act totally contains six chapters and eighty three sections. Narcotic drugs are those which induce sleep, while psychotropic substances have the ability to alter the mind of an individual. Among the developing countries India was one of the first countries which introduced National Drug Policy (NDP) to make drugs available to poor ones despite the leading brands of pharmaceuticals taking over through the prescription by the medical practitioners. In 1963 Indian government passed a drug price control order (DPCO) to keep a check on the price of drugs in the market. While drug price control order did not bring much difference, since many drug manufacturers withdrew from the country. This act was enacted with the view to direct the population away from the illicit substances that are capable of hampering the physical well-being of an individual. This essay reads about the evolution of drugs, the addiction towards drugs and how it is spoiling the upcoming generations.

The NDPS Act was evolved to regulate the relation between the individual and drug consumption. In the earlier days, the psychotropic substances were used in three ways, by priests in religious ceremonies, by medical practitioners for medicinal purposes, by the general population in socially approved ways. Priests have ingested plants for millennia to induce states of dissociative trance. Such substances are sometimes termed as “entheogenic” (from the Greek roots “en” [inside], “theo” [god], and “gen” [create]). Amanita muscaria had a religious significance in ancient India, and travelers recorded its use as late as the 18th century in Northeastern Siberia. Some drugs have been used as medications for most of human history. For instance, the medicinal use of opium is described from the earliest written records. Some potentially addictive drugs have been used by a significant proportion of the population on a regular basis, to the point that they have been considered staple commodities. Alcohol, nicotine, and caffeine, being palatable for their mild psychotropic properties, are examples of widely consumed drugs. The Narcotic Drugs and Psychotropic Substances Act, 1985 came into force on November 14, 1985, and has become the statute under which all cases relating to possession, consumption, and sale of ‘Narcotic drugs’ are prosecuted. This act was amended thrice in the years of 1988, 2001 and 2014. These amendments have changed its scope and direction towards the use of drugs. Before 1985, there was no law which criminalised the possession and use of drugs, and so the social convention prevailed. Religious and mythological history had references to the usage of drugs, and throughout India marijuana and its various derivatives were sold freely, and were viewed in the same light as alcohol, and consumed, albeit in different forms. It is believed that one of the reasons behind the NDPS coming into force is the Single Convention on Narcotic Drugs which was an international treaty drafted in 1961. The Convention aimed at preventing the production and sale of specified narcotic substances. The first chapter serves as a Preliminary chapter, introducing and defining the various narcotic drugs and psychotropic substances, and finally highlighting that the Central government has the power to omit or add other substances to the list under the NDPS Act. The second chapter highlights the relevant Authorities and Officers that have been created under the NDPS Act. It also sets the guidelines for the Central government to appoint a Narcotics Commissioner, to set up a Narcotic Drugs and Psychotropic Substances Consultative Committee and to fund a National Fund for Control of Drug Abuse. The third chapter lays out the Prohibition, Control and Regulation of the previously mentioned substances. It prevents the cultivation or production of the coca plant, opium poppy or any cannabis plant by anybody, while reserving these rights with both the Central and State governments if they wish to do so, by creating rules later. Furthermore, all Inter-State and International smuggling of such substances have been prohibited. Finally, this chapter looks at the regulation on other controlled substances that can be used to create narcotic drugs and also has clauses which illustrate cases under which opium poppy, coca plant, and cannabis plant can be legally cultivated. The Fourth Chapter deals with the Offences and Penalties under the NDPS Act. It describes with punishment duration the various possible crimes that can be tried under this Act, such as possession of such substances, for commercial or recreational use, cultivation or preparation of such substances and smuggling of such substances. The fifth chapter looks at the

Procedure of how the cases are to be dealt with, and also set the guidelines for the officers empowered under this Act.

The issue:

The issue is that, Different forms of alcohol have been used in various forms of human societies since the beginning of recorded history. As a part of the contemporary dynamic of globalization, there has also been an increased use of drugs, which has now reached mammoth proportions. The use of both licit drugs such as alcohol and tobacco and illicit drugs such as cannabis, cocaine and opioids has been acknowledged to have multiple consequences to health, society and economy. According to estimates made by the World Health Report, at least ten thousand million people throughout the world regularly use alcohol and about 11.7 million people use opioids. In India too, the problem is slowly reaching its height and it is estimated that 75 million people are alcohol users and nearly three million are opioid users, of which a majority require medical treatment and rehabilitation. A number of other psychoactive substances are being added daily to the present list of psychotropic substances. The entire issue is complex and multifaceted and requires both health measures and efforts to control trafficking, smuggling and manufacture of these drugs. There is a need for the reduction in the demand of drugs for addiction, in both legal and illegal manner, which may otherwise lead to numerous health, family and societal consequences. The NDPS Act deals with supply reduction activities of psychotropic substances namely, cannabis, cocaine and opium. However, the absence of alcohol in the list of psychotropic substances is surprising. By the given, that the mental health professionals consider alcohol to be a psychoactive substance leading to various social, legal, economic and medical complications ranging from gastritis to withdrawal seizures and delirium tremens and numerous unhealthy conditions. The reasons for not including alcohol in the NDPS Act can be more, the most important reasons are (a) prevailing social acceptance even for frequent self-induced intoxication of alcohol; (b) the high revenues earned by the Government on the sale of alcoholic beverages to the individuals; (c) prevalence of illicit and locally brewed undistilled forms of alcohol is high in the society and (d) there may be differences in the clinical course of alcohol dependence contrary to other drugs like opium which have been included in NDPS.

Conclusion:

The government must have a concern towards the unhealthy global growth that depends on alcohol. The alcohol use is not restricted nor prescribed in the Act. Even though the Narcotic Drugs and Psychotropic Substances Act, 1985 restricts use of listed drugs, those drugs have been used by the individuals partially throughout the states. The use of anonymous drugs must be eradicated in order to protect the future generations and the NDPS Act must be followed strictly in order to prevent the destruction of future individuals.

