



## Addict is Convict: A Dilemma of NDPS Act 1985

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### Abstract

The NDPS Act, through its numerous alterations, looks to accomplish prevention of drug dealing through extreme disciplines and restoration of drug dependents. The law accommodates medicinal care and de-fixation for people distinguished as drug dependents. The Act has neglected to achieve its two goals of prevention and recovery. A significant number of states have added to illicit drug use inside individual regions. Inside the States, the consequence of the Green Revolution activated monetary and mental scars among the adolescent because of rising joblessness, absence of non-ranch employments and developing disappointment. While a blend of inner and outside components added to the 'drug threat' in India, the gravity of the circumstance became the overwhelming focus in 2013, when State of Punjab found 42.3% (14,564 cases) of the all out cases (34,668 cases) covering the NDPS Act the most astounding wrongdoing rate for medication offences crosswise over India. However, regardless of whether drug dealing and habit can be shortened by unforgiving disciplines under NDPS Act, and whether medically addicted are by and large adequately restored into civilization. The investigation in this research paper centers around severe risk arrangements of the law, where discipline is allocated by goodness of an unfair laws (ownership of drugs) free of any going with plan or mental state (dealing, deal, utilization and so forth). Plainly utilization of medications is likewise disallowed under the Act.

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## 1. Introduction

The use of NDPS Act has prompted a few irregularities on the ground. Exacting obligation arrangements have prompted high feelings under the NDPS Act, however a large portion of these are not instances of drug dealing. Indeed, the information recommends that in 70 to 90% of the absolute drug matters filed to Special Courts are moderate amount cases. Indeed, even inside the class of middle of the road amount, most cases fall nearer to the classification of little amount and utilization of drugs culpable under section 27 of the Act. The law decides sentences dependent on the amount of drugs recuperated named little and business amount in the Schedule. Be that as it may, the Schedule does not arrange middle of the road amount matters, or crimes which come in the coverage among little and business amount. This makes vagueness in the use of the law with respect to maximum matters in state. As an adversely characterized classification, middle of the road amount cases get divergent sentences, because of the wide scope of disciplines accessible to a judge together with an absence of condemning rules. Due to this mediation, dependents found with middle amounts of contraband are not given de-dependence treatment. The Report is problematically high convictions under the NDPS Act on these causes:

- a) They don't provide permanent haul answer for the issue of drug dependence, regardless of whether accomplished adequately, and
- b) Opposite to real conceptualization of the law, they do not cover matters of drug trafficking.

Discipline for utilization of any opiate drug or psychotropic substance is that whoever, utilize any opiate drug or psychotropic substance will be at fault -

- a) where the opiate drug or psychotropic substance expended is cocaine, morphine, diacetylmorphine or some other drug tranquilize or any psychotropic substance as might be determined for this sake by the Union Government by notice in the Official

Gazette, with thorough detainment for a time which can stretch out to one year, or with fine which may reach out to twenty thousand rupees; or with both; and

- b) Where the opiate drug or psychotropic substance expended is other than those predefined in or under condition (a), with detainment for a term which may reach out to a half year, or with fine which may stretch out to ten thousand rupees, or with both.<sup>1</sup>

### 1.1 Issues Relating to Addicts

The investigation of NDPS Act notes unbalanced discipline for pharmacy related drug matters. The information uncovers that the normal sentence granted to pharmacy related drug related cases were 10 years or more, far over the normal granted to opiate drug cases, which was simply one to a quarter of a year. This is for the most part in light of the fact that an official notice was issued, which on a very basic level changed the elucidation of the law concerning drug amount and that relating discipline. Because of its severe obligation arrangements, the law does not need data past confirmation of drug ownership to convict a person. A Report found, intensively, that police accounts in control sheets for drug crimes are uniform and tedious over all areas. This consistency recommends that the police & allied authorities are not boosted to look profoundly into the explanations behind belonging, for example, utilization, deal and so forth. It likewise demonstrates that correctional authorizes under the NDPS Act don't recognize instances of individual use and enslavement from offences including drug dealing and deal. These assents likewise don't address the rehabilitative needs of clients. The administration run places for addicts are lacking, contrasted with the quantity of cases under the NDPS Act. Despite the fact that private dependence and restoration focuses dwarf government offices, they are absent in all areas. Further, A Report subtleties how people who ought to have in a perfect world gotten the

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<sup>1</sup> Section 27 of NDPS Act

advantages of probe or de-fixation have been coordinated to the crime related equity framework, without finding long haul answers for habit. The discoveries represent that right till now, there has been no person guided by the judiciary to de-compulsion centers. It can be concluded that India is facing prison overcrowding, infrastructural constraints and incarceration of an unbalanced number of drug addicts. Dependence keeps on being viewed as a crime by the police, indictment and judiciary, rather than a general wellbeing worry, needing therapeutic consideration. Long haul treatment ways to deal with habit have not been effectively sought after. Notwithstanding when de-dependence focuses are accessible, treatment and request decrease methodologies all things considered medical clinics stay lacking. To effectively handle the entire procedure engaged with drug de-enslavement, it is basic to dispense request decrease, treatment and recovery to one and only Ministry, be it the Ministry of Social Justice and Empowerment, or the Ministry of Health and Family Welfare. This will help keep away from disarray with regards to this job and duty of the Ministry and helping it accomplish better responsibility. It is extremely recommended by legal experts of drug laws that drug consumption must be decriminalized, and a general well-being approach be embraced. The law ought to energize redirecting addicts through the non-correctional sections of the NDPS Act, despite no matter they are found possessing little or medium measure of drug. Police and the legal executive ought to be prepared to more readily actualize these non-punitive arrangements. An adequate treatment methodology ought to be created by counseling specialists, accomplice organizations and administration clients; directing sound evaluation and arranging; and allotting satisfactory assets as per the requirements of addicts.

## **1.2. Problem with NDPS Act Toward Addicts**

“Imagine if the government chased sick people with diabetes, put a tax on insulin and drove it into the black market, told doctors they couldn’t treat them...then sent them to jail. If we did

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that, everyone would know we were crazy. Yet we do practically the same thing every day in the week to sick people hooked on drugs.” ~ Billie Holiday<sup>2</sup>

The NDPS Act was set up to fulfill India's responsibilities under a movement of all inclusive customs relating to drugs. The law repeated India's dedication towards annihilating the drug issue in the nation. It additionally solidified laws related to drug crimes. The NDPS Act looks to accomplish discouragement of drug dealers and restoration of drug slaves and clients. Further, the law on drugs means to make strict game plans for limiting and heading of undertakings in relation with sedative drugs and psychotropic matters. Strict arrangements are joined in the NDPS Act primarily through exacting risk. A few offences have severe obligation, for example they need no expectation of carrying out a wrongdoing; the weight of verification is on the implied criminals and the arrangements for safeguard are inflexible. The legislation makes a reasonable qualification between one drug customers and drug dealers. While the last are liable to severe correctional activity, the previous can be redirected to restoration. The NDPS Act has fizzled at accomplishing its double systems of discouragement and restoration. This is to a great extent in light of the fact that under the law, despite the fact that it recognizes singular buyers from dealers, utilization of drugs is still at first sight condemned. While severe risk arrangements are viewed as impediment, use of these arrangements has not brought about high discipline bringing down crime rates. Indeed, notwithstanding these arrangements, the recorded wrongdoing graph under this NDPS Act has expanded in states like Punjab in the course of the most recent a long time since 2002.

Section 27 of the NDPS Act says that whoever is in holding of any narcotic drug or psychotropic substance of a small quantity which is demonstrated to have been expected for his own utilization and not available to be purchased or circulation, yet the offence would run down to comparatively lesser rigorous one as the Court would then be in a position to consider

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<sup>2</sup> Johann Hari, Chasing the Scream: The First and Last Days of the War on Drugs

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awarding imprisonment as sentence for a term which may extend to one year or with fine or with both.<sup>3</sup>

### 3.3 LEGISLATIVE DEVELOPMENTS: REHABILITATION

The NDPS Bill, 1985 was presented in the Lower House on 23 August 1985 and was passed following 4 days of administrative discussion. It got the President's consent on 16 September 1985 and got power on 14 November 1985. Numerous Members were incredulous of the Bill's permissive arrangements for slaves of drugs. VS Krishna Ayer requested hindrance discipline notwithstanding for offences identified with little amounts of drugs (Section 27). On a similar note, Shantaram Naik from INC demanded that necessary discipline was the main technique to adequately handle drug habit. Priya Ranjan Dasmunsi, additionally from the Congress, pointed that insignificant discipline for addicted people would make a convention of acknowledgment of drug use. He accepted that for individuals to afraid from law drug dependents ought to be detained for at least 2 years. Janardhan Poojary, the Minister of Finance for State, mollified these feelings of dread, contending that the law not friendly towards anybody (counting addicts); except if they could demonstrate that the opiates in their ownership was for their own usage. A few Members, including Ajay Mushran (INC), raised worries towards the Bill's arrangements on restoring and caring drug slaves. They called attention to that there is no obligatory commitment on the legislature to set up nursing focuses, and they scrutinized the absence of lucidity about any Ministry was in charge of setting up de-compulsion focuses. They stated that it was the administration's obligation to fix individuals of their addiction.<sup>4</sup>

The parliamentary discussions uncovered a basically poor comprehension of drug fixation among a significant number of the MPs, which converted into a basic shortcoming in the Bill.

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<sup>3</sup> P.P. Beer an v State Of Kerala 2001

<sup>4</sup> Lok Sabha Debates on the NDPS Act, 1985 (Parliamentary Secretariat)

To begin with, the fundamental reason of the Bill was that impediment punishment was expected to check drug misuse was not at all tested. Second, the Bill neglected to recognize a client, a friend, a merchant and a dealer. It just characterized a "junkie" as somebody who was subject to drugs, essentially regarding every one of them as crooks. A couple of MPs voiced this confinement during the discussions, yet nobody pushed for decriminalizing clients and addicts. While MPs raised numerous relevant worries about restoring addicts, none of these worries made an interpretation of into any revisions to the Bill. Consequently, the discussions demonstrate that however a few MPs comprehended the requirement for de-fixation and restoration offices, numerous overwhelmingly accepted that high punishment was the main strategy to discourage drug misuse.

### **3.3.1 NDPS (Amendment) Act, 1988 on Rehabilitation**

The NDPS Act experienced a noteworthy correction in 1988. The change made offences related to drug non-bailable; and accommodated the relinquishment of property identified with drugs, required capital punishment for recurrent guilty parties of specific violations, and the formation of Special Courts. The treatment and restoration of addicts likewise stood out. Truth be told, Jayanti Patnaik (INC) asked the administration to detail an incorporated aversion arrangement, with composed resorts between legal authorization and therapeutic agencies.<sup>14</sup> MPs in the upper house like Kamal Morarka [JD (S)] and P.K. Kunjachen [CPI (M)] unmistakably expressed that the Act was for the most part being utilized to punish addicts who should have been treated as exploited people and rehabilitated.<sup>5</sup> Sadly, these perceptions with respect to compulsion did not prompt any genuine change. Truth be told, Ajit Panja, State Minister, Department of Revenue, Finance Ministry accepted that Section 39, which enabled a judge to choose whether an individual ought to receive medical care, was adequate to handle enslavement inside the law.

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<sup>5</sup> Rajya Sabha Debates on the NDPS (Amendment) Bill, 1988 (Parliament Secretariat)

### 3.3.2 NDPS (Amendment) Act Post 1988 Developments on Rehabilitation

In July of 1994, an Committee of Experts on various Quantities referred in NDPS Act, 1985 was comprised by the Health Ministry on the solicitation of the Revenue Department to decide the extent of 'little amount' drugs. That Committee presented its result on 24-03-1995.<sup>6</sup> The Committee saw that the essential aftermath of the NDPS Act is that individuals got with little measures of drugs confronted long jail sentences and robust fines; except if they could demonstrate that the medication was planned for individual use.

The Committee suggested decriminalizing the utilization of little amounts of drugs, since rebuffing drug addicts cruelly was for all intents and purposes counter-gainful. It prescribed that to battle drug misuse; the attention ought to be on early location, appropriate mental treatment and exhaustive recovery. The Committee called attention to that the invert weight of confirmation under section 27 put a pointless weight on the denounced and prompted maltreatment by requirement specialists. It proposed that as opposed to rebuffing addicts, the law ought to accommodate mandatory treatment by legal request, and offices for medical care and recovery. The report likewise investigated the issue of deciding little amounts and inferred that the administration ought not decide "little amount" for a big scope of drugs, since drug utilization fluctuates among people as indicated by their degree of fixation and monetary capacity, just as the idea of drugs. That Committee suggested a limit for a couple of substances dependent on elements, for example, normal portion devoured by clients, normal restorative portion, lethality, course of organization and customarily utilized drugs.

Deciding qualities for business amount was the duty of the Department of Finance, which comprised a Technical research Committee to do as such. That Committee presented its result on 23 August 2001, and prescribed that business amount be decided 200–250 times the little

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<sup>6</sup> Dr. JS Sapna, Dr. SK Gupta and Dr. S Saxena, Expert Committee on Small Quantities under the NDPS Act (Ministry of Health and Family Welfare, 24 March 1995)



amount, aside from with profoundly strong drugs just as LSD, where the base business amount was decided at 1 gram. This was commonly acknowledged by the Revenue Department as the standard of the Schedule with the exception of specific cases.

In light of the Technical Committee's recommendations, the Central Narcotics control Bureau suggested that business quantity for fabricated salts like dextropropoxyphene, diphenoxylate and so on and psychotropic matters like buprenorphine, alprazolam, nitrazepam and so on. ought to be diminished to 20–25 times the little amount. Further, according to the Narcotics Control Bureau's proposals, business amount for opium was decided 2.5 kilograms; cocaine at hundred grams; heroin and morphine at two fifty grams; and hash at 1 kilogram.<sup>7</sup>

Meanwhile, various research works featured the lopsidedly big amount of captures of down level of drug clients, and the absence of references of such matters by the court. Further, these investigations got that because of legal deferrals, countless those caught on drug charges put quite a while in prison before their cases came for hearing.<sup>8</sup> These reactions prompted a reassessment of the Act and extra revisions.

### **3.3.3 The NDPS (Amendment) Act, 2001**

The NDPS (Amendment) Bill, 1998 was first presented in the upper house on 9-07-1998. The correction was at last sanctioned in 2001 to target a portion of the shortcomings of the NDPS Act, particularly the detainment of guiltless drug addicts in prison for significant duration of time because delay in preliminaries, frail safeguard arrangements, and the disappointment of researching offices to pursue procedural necessities. The reason for the change was to justify the punishment structure to guarantee that while the individuals who dealt in imperative

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<sup>7</sup> Recommendations on Commercial Quantities of Narcotic Drugs and Psychotropic Substances (Department of Revenue, 20 September 2001)

<sup>8</sup> Annuradha KVIN, 'A flawed Act' (2001), Seminar 504: 50-54.

measures of drugs got prevention captures, addicts and the people who submit less genuine crimes got less serious penalty. The alteration arranged amount of drugs into little, business and middle of the road (quantity among little and business quantity), and granted evaluated punishment as needs be. The change likewise evacuated the weight of evidence on the charged from Section 27.<sup>9</sup>

While presenting the Bill, Yashwant Sinha, Finance Minister of N.D.A. Government, told that law prior to 2001 regarding drugs any individual got with medications, regardless of what the amount, must be detained for at least 10 years. The correction took into consideration lesser discipline contingent upon the amount the individual was gotten with. The discussion overall, be that as it may, showed tiny reverse in the point of view of the MPs. Few of them, for example, Priya Ranjan Dasmunsi (INC) and Raghuvansh Prasad Singh (RJD), raised worries about bringing down the punishment for those expending or selling "little amount" of medications, particularly on the off chance that they were doing as such before schools. They stressed that lessening the punishment would set an awful model for criminals and the NDPS Act would stop to be adequately deterrent.<sup>10</sup>

### **3.3.4 Developments Leading to NDPS (Amendment) Act, 2014**

In 2008, the Apex Court provided a noteworthy verdict identified with amount of medications. The Court made it clear that to decide sentences; the unadulterated amount of the medication must be considered.<sup>11</sup> On 18-11-2009, notwithstanding, the National Faculty of Revenue showed an opposite notification. It appointed conviction dependent on the heaviness of the entire drug, and not simply the unadulterated substance. On other hand real advancement was

<sup>9</sup> The NDPS (Amendment) Bill, 2001

<sup>10</sup> Lok Sabha Debates on the NDPS (Amendment) Bill, 2001 (Parliament Secretariat)

<sup>11</sup> E Michael Raj v Intelligence Officer, Narcotics Control Bureau

a Bombay High Court decision<sup>12</sup> on 16 June 2011, where that High Court read down the necessary capital punishment given for by Section 31A of the Act. The capital punishment applied in offences such as:

- a) Engagement in the generation, produce, ownership, transportation, import-fare of certain opiate drugs or psychotropic matters and
- b) Directly or indirectly helping financially of any of such works.

Close by these improvements, palliative consideration gatherings raised worries about access to fundamental torment drugs, for example, morphine and different sedatives for disease patients. Despite the fact that the Act permitted the therapeutic utilization of narcotic drugs, severe punishments clinics and drug stores from warehousing them.<sup>13</sup>

On 8 September 2011, the NDPS (Amendment) Bill, 2011 was presented in the lower house of Parliament by which it was alluded to the Standing Finance Committee on 13 September 2011. That Committee issued its report on 21 March 2012. The Bill came disputable in the lower house on February 20 and in the upper house on 21 February 2014. The Bill got final power on 10 March 2014. It considered so many new concepts which were untouched before. It focused on intention and quantity of recovered contrabands so that more justified approach can be given to Drug Laws.

Key Characteristics of the NDPS (Amendment) Act, 2011:

- i. The 2011 change distinctly explained that the total measure of prescription seized should be taken into consideration while choosing discipline, and not only the unadulterated drug material.
- ii. It offered including the term 'the executives' after 'distinguishing proof, treatment' and so on of drug slaves at governmental recognized centres.

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<sup>12</sup> Indian Harm Reduction Network v Union of India (2012)

<sup>13</sup> Tripti Tendon, 'Drug Policy in India' (2015)

- iii. In reaction to the worries consideration gatherings, the Act presented 'fundamental narcotic drug' under S.2 (viii), i.e. a narcotic drug notified by the Central Government for medical and scientific research use. Drugs identified as 'essential narcotic drug' were made subject to Central Government rules under S.9 (1) (a), which would permit and regulate their manufacture, possession, transport, purchase, consumption etc.

### **3.4. Remarks on Legislative Actions**

The direction of the NDPS Act, 1985, followed beyond parliament houses discussions and researches of different advisory groups and commissions, features a staggering worry with discouragement and criminalization, with discontinuous spotlight on the medical care and restoration of addicts. The discussions in Parliament didn't uncover a nuanced comprehension of various measurements of drug compulsion and dealing. They solely centered on impediment punishments (counting the death penalty for some offences) to handle both dealing and compulsion. Notwithstanding when officials brought up explicit issues about the Act's viability, or the requirement for a planned recovery technique, the Government's reactions were moderate to think about these worries.

Thus, the NDPS Act takes anybody got with drugs, regardless of purpose for self-use or available to be purchased, as a criminal. Conceptualizing fixation inside the ambit of criminalization has had broad outcomes on how enslavement is taken care of in States. Resulting talk in this part will clarify how the arrangements of the NDPS Act have enormous focused on clients and moved them far from de-habit and medical care.

#### **3.4.1 Sentencing Addicts in Criminal Justice System**

The Act holds the harsh sentences for business amount of drugs, expecting that such amounts are intended available to be purchased and dealing. The way that courts are to a great extent

condemning individuals for 1 to 3 months sentence of imprisonment in medium amount matters makes it apparent that these are dealt with like instances of dependence and not dealing.

According to Act, people caught with little amounts of illegal medications can be redirected to de-enslavement focuses rather than prisons. This rule suggest that such criminals are conveying the drugs for own use rather than dealing, and subsequently can be restored. Our information, in any case, proposes that numerous cases including middle amount of drugs could likewise be instances of habit and not dealing, which are incorrectly ending up in the crime equity framework. Frequently makes a decision about themselves recognize that criminals caught with moderate amounts are addicted people. In a Special Court verdict from Jalandhar<sup>14</sup>, the Judge commented that the charged, found possessing 10 grams of heroin, was a 'someone who is addicted'. The denounced was condemned to time previously filled in as going through preliminary, thirty eight days. The judge plainly brought up the negative effect of sentencing on the denounced and his relatives, and expressed that the period experienced was 'adequate to fulfill the closures of equity'.

Like this, in Kapurthala<sup>15</sup>, the police secured three people for having five grams of 'drug powder,' which is also a transitional amount. The judicial authority condemned every one of the three individuals to time filled in as under-preliminaries. The court expressed that the 3 blamed person indulged in the 'terrible organization of young ones' and taken to 'awful indecencies and illegal medication'. In this way, a tolerant penalty was contemplated, to 'pardon the blamed men on justification for their compulsion'.

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<sup>14</sup> State v Mohinder Singh CN 144 2014

<sup>15</sup> State v Charanjit Singh @ Chintu & Ors CN 2323 2013

However when court recognize dependence and put out negligible sentences, the charged are as yet tended to inside the criminal equity framework rather than de-enslavement focuses. The law gives no prudence to judges to move people got with transitional amount of drugs to such focuses. Those insignificant punishments never gain the goal of discouragement, nor avoid drug fixation. This makes apparent a noteworthy negativity in the Act, viz., the ineffectively conceptualized class of middle of the road quantity.

This Act make out a qualification through drug clients and dealers, in that view it accept that criminals got with business amount of drugs are dealers. In view of the suspicion, the law calls for obstacle punishment and stores cruel punishments for such instances of drug dealing. Presently we will research whether this presumption of likening business amount cases to drug dealing crimes is legitimate gaming down to earth setting. Because many times it is not practically applicable what was targeted at the time of enforcement of an enactment. It can be seen that when an addict is convicted it becomes impossible to fetch rehabilitation of that addict. In practical context it is very much difficult to find out whether an accused should be convicted or rehabilitated.

### **3.5 OVERVIEW OF ADDICTION**

Addiction is that state of mind as well as body of a person when he cannot survive without supply and consumption of a particular substance. By some experts it is also said that when daily routine of a person is affected by scarcity of any substance that is also addiction. First of all it is necessary to find out drug addict profiles in present scenario especially in most affected states like Punjab.

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### 3.5.1 Profile of Addicts

The Punjab Opioid Dependency Survey (PODS/ POD Survey 2015), managed by the Society for Protection of Youth and Masses (SPYM) and the AIIMS National Drug Dependence Treatment Centre, described the under mentioned:

- 99% of opioid-dependent persons are males.
- 76% of opioid-dependent persons are between 18 to 35 years.
- 89% are literate and educated.
- 83% are employed.
- 54% are married.

### 3.5.2 Pattern of Addiction

Information collected through RTI response system reveals that the most common drugs in Punjab are opioid, heroin, capsules and tablets. The POD Survey corroborates this, showing that the most known opioid drug used is heroin (53%), followed by opium (33%), and a variety of pharmaceutical opioid (14%). Dr. Ravinder Singh Sandhu's study of 2006, *Drug Addiction in Punjab: A Sociological Study* gives a more nuanced picture. Among the respondents, about 20% were taking engineered drugs, which incorporate tablets like Proxyvon and Diazepam, and infusions of morphine. The 2<sup>nd</sup> prominent drug was heroin. The study showed that smack and heroin were more famous among educated and economically well-off respondents, who constituted only 5.17% of the sample.<sup>16</sup> This research shows that how complicated kind of drugs and psychotropic substances results in enslavement from usage. This pattern of addiction is so dangerous that even harsh punishment and deterrent effect of law is not capable of getting desired results. These addicts don't even care about strict penal provisions of NDPS Act once they are indulged in this kind of activities. Moreover law rarely

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<sup>16</sup> Dr. Ravinder Singh Sandhu's 'Punjab Drug Problem' 2016

tries to help these addicts as the provisions of this act are not so appropriate in favour of addicts. Section 27 of the NDPS Act makes devouring any opiate drug or psychoactive matter a criminal act. This condemns clients and dependents yet there is little proof to demonstrate that detaining drug dependents diminishes the interest for drugs.<sup>17</sup> Also, as far as punishment, Section 27 does not make difference between constant shoppers, and 1<sup>st</sup> time or infrequent clients who could profit by early recognizable proof and instruction on substance misuse. These reformatory authorizations don't deliver the need to restore such clients, despite the fact that that would almost certainly be progressively effective in handling state's drug issue. Globally, sees medication fixation have moved. An expanding number of nations, and the World Health Organization, perceive the disappointments of drug approaches focused on criminalization of drug use. In India, as well, specialists have offered options in contrast to condemning addicts. The Expert Committee on Small Quantities in 1995 suggested that drug dependents be furnished with 'necessary medical care by legal request and institutional offices for medical care and aftercare' rather than punishment.

### 3.5.3 No Court-mandated Diversion of Addicts for Treatment

Section 39 and 64A of the Act permit individuals got with little amounts of drugs, or with drugs for individual consumption, to fetch de-addiction medical care in centres approved by governing bodies instead of imprisonment<sup>18</sup> or prosecution<sup>19</sup>. But answers to RTIs we fled plainly build up that somewhere in the range of 2013 and 2015; no individual brought under the watchful eye of the judiciary in Punjab was coordinated to de-addicting and recovery by the courts. Different meetings with judges and legal advisors uncovered that this arrangement for redirecting addicts was generally obscure to the lawful specialists and judges.

<sup>17</sup> Mathew John, 'The NDPS Act: Room for Greater Reform' 2016

<sup>18</sup> S.39 of the NDPS Act allows the Court to release certain offenders for undergoing medical treatment

<sup>19</sup> S.64A of the NDPS Act provides immunity from prosecution to addicts volunteering for treatment



Regardless of whether these arrangements were utilized all the more frequently, the law would at present be prohibitive in light of the fact that it permits just those got with little amounts to be occupied for treatment. There is no arrangement for judges to practice attentiveness for those got with middle of the road amounts, which is an extremely wide range among little and business amounts, and allude them for treatment. As has been talked about in past parts, arranging drug amounts into little, middle and business is itself dangerous on the grounds that these amounts are apparently self-assertive and the thinking behind them is misty. Because of this mediation, addicts found with middle of the road amounts of medications are being refused the de-obsession treatment that they fetch.

### **3.5.4 Overlapping Responsibilities and Limited Role of Central Ministries**

There is confusion of accountabilities between ministerial bodies for treatment and resettlement. Although the MoSJE<sup>20</sup> is the nodal service for diminishing medication request, the MoHFW<sup>21</sup> is in charge of subsidizing the focal government's de-habit focuses and for planning with different organizations on issues identified with de-compulsion. In this manner, the two Ministries are ordered to support de-dependence and rehabilitation programs. Incidentally, despite the fact that the MoSJE possess a particular plan, its yield is foggy. The yearly reports exhibit that there is no evidence of genuine changes in frameworks to fight drug misuse and no basic outcomes. The reports accentuate the need to precisely survey the 'degree, example and patterns of substances expended', receive 'preventive steps to lessen both interest and supply' and fortify IRCAs, with little proof for any means embraced towards these finishes. Nominal measures attempted are restricted to directing mindful camps and watching the International Day against Drug Abuse.

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<sup>20</sup> Ministry of Social Justice and Empowerment, Govt. of India

<sup>21</sup> Ministry of Health and Family Welfare, Govt. of India, Drug De-addiction Program me

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Regardless of underlining the requirement for 'exact appraisal' of drug utilization, the MoSJE has not directed either an across the nation or state-wide review. Indeed, even the Punjab-explicit review it led in 2015 is going through 'investigation' and has not published. As a result of this obscurity, there is no exact information available to assess or screen the condition.

### 3.5.5 Infrastructural Constraints

Given the size of the issue, the framework accessible for treatment of drug addicts is insufficient. The PODS says that even if 80% of individuals detailed that they endeavored to surrender drugs, just 35% revealed getting any assistance or treatment. Just about 16% said that they had gotten restorative treatment (for example prescriptions to treat withdrawer manifestations) and fewer than 10% of narcotic ward people got OST. Further, most affected state like Punjab has only 11 IRCAs, as against 59 in Maharashtra, 34 in Karnataka and 33 in Orissa.<sup>22</sup>

Looking at the quantity of bed seats in government offices with cases enlisted under the Act in 2014 shows deficiency of de-compulsion offices. The detailed data may not speak to the real population of addicts in states like Punjab yet can be seen as a guess without some other information. As the past themes in part have recommended, maximum matters enlisted under the Act include clients and addicts instead of dealers. It is likely that drug dependents in the state far dwarf those that are gotten under NDPS Act.

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<sup>22</sup> Ministry of Social Justice and Empowerment, 'Drug De-addiction Centers' (Press Information Bureau, 4 August 2015)

### 3.5.6 Poor Quality of Treatment Facilities

In spite of the fact that the legislature has issued least gauges for treatment offices, interviews with authorities in these focuses demonstrate that therapeutically or deductively conceived measures for de enslavement and rehabilitation are particularly missing. Meetings with staff at the Vivekananda De-fixation Center in Maqbool pura, for example, uncovered that focuses facing issues from deficient staffing, hardware and doctors.<sup>23</sup> Numerous journals have recorded the low quality of consideration that private offices give, just as the high expenses they got paid, which coverage from Rupees 3,000 to 10,000 every day relying upon the budgetary foundation of the addict.<sup>24</sup> A 2014 study by the Department of Community Medicine of Dayanand Medical College (DMC) Ludhiana got that many new privatized centres had come up in State without legitimate foundation or prepared staff.

### 3.5.7 Limitations of Demand Reduction Strategies

The Punjab Substance Use Disorder Treatment Rules, 2011 set up least principles for de-dependence and reintegration focuses. They express that victims won't be compelled to experience de addiction medical care without being educated regarding the scope of treating choices accessible to them, include substitute treatment and psychosocial mediation. They additionally state that reintegration directing can occur simply after the victim experiences detoxification from a perceived focus. These benchmarks, in any case, are restricted by the accessibility of physical and restorative offices.

The Rules of 2011 don't set out any predetermined benchmarks or rules for an effective recovery methodology of the medication addict.<sup>25</sup> Given the absence of rules, it is not really

<sup>23</sup> Interview of Dr. PD Garg, Psychiatrist, Vivekananda De-addiction Centre (Amritsar, 8 March 2016)

<sup>24</sup> Yogesh Rajput, 'Punjab Drug Problem: De-addiction and beyond', (Governance Now, April 28, 2015)

<sup>25</sup> The Punjab Substance Use Disorder Treatment Rules, 2011

astounding that systems to lessen drug request all things considered focuses are deficient. As RTI reactions appear, most focuses are not clear on what drug request decrease involves. Drug request techniques all things considered focuses typically center around directing, and giving recreational offices, addresses and battles. Frequently, these focuses have additionally alluded to giving dinners, amusements and TV offices inside the extent of drug-request systems.

### 3.6 Conclusion

India has so far pursued a methodology focused on criminalization to check chronic drug use. From the provisions of Act and their result in cases, obviously the NDPS Act and its execution procedure has for the most part neglected to check dealers and wound up focusing on clients and addicts. As indicated by certain sources, the sweeping prohibition on opiate drugs and psychoactive substances has had numerous unintended however unfriendly results. It has advanced the utilization of hardcore drugs now and again and given a fillip to carrying and dark showcasing. So the problems which would have been reduced are increasing. The dream of rehabilitation of addicts is still a dream. There is not one but many factors are responsible for the same. The dilemma of conviction of addict who is himself a victim of his situations is biggest issue in way of rehabilitation of criminals. Rules of natural justice also support chances to be given for treatment and de-addiction of addicts. But they are imprisoned in that self damaging condition which is not good for them as well as society. It should be remembered that reformation of society is the ultimate aim behind criminal laws. A law with so much inadequate enforcement and poor working of enforcement agencies is emerging danger for society.

## REFERENCES

- [1]. 5G mobile networks “international journal of advanced science and technology volume32, July 201Annuradha KVIN, ‘A flawed Act’ (2001), Seminar 504: 50-54.
- [2]. Dennis Young, Richard Dembo, and Craig Henderson, “A National Survey of Substance Abuse Treatment for Juvenile Offenders,” *Journal of Substance Abuse Treatment* 32 (2007): 255–66.
- [3]. Dr. JS Sapna, Dr. SK Gupta and Dr. S Saxena, Expert Committee on Small Quantities under the NDPS Act (Ministry of Health and Family Welfare, 24 March 1995)
- [4]. Dr. Ravinder Singh Sandhu’s, ‘Punjab Drug Problem’ 2016
- [5]. Expert Committee on Small Quantities under the NDPS Act
- [6]. HP Kumar, The drug menace in India: A growing challenge, *Health Millions* 1997
- [7]. Johann Hari, *Chasing the Scream: The First and Last Days of the War on Drugs*
- [8]. Lok Sabha Debates on the NDPS Act, 1985 (Parliamentary Secretariat)
- [9]. Lok Sabha Debates on the NDPS (Amendment) Bill, 2001 (Parliament Secretariat)
- [10]. Ministry of Health and Family Welfare, Govt. of India, Drug De-addiction Programme
- [11]. Ministry of Social Justice and Empowerment, ‘Drug De-addiction Centers’ (Press Information Bureau, 4 August 2015)
- [12]. Rajya Sabha Debates on the NDPS (Amendment) Bill, 1988 (Parliament Secretariat)
- [13]. Tripti Tendon, ‘Drug Policy in India’ (2015)
- [14]. U.S. Drug Library, 1990 “Legalization: The Pros & Cons”
- [15]. Vidhi Centre for Legal Policy “From Addict to Convict” 2015
- [16]. Yogesh Rajput, ‘Punjab Drug Problem: De-addiction and beyond’, (*Governance Now*, April 28, 2015)