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## **Effects Of NDPS Act 1985 On Juvenile Offender**

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### **ABSTRACT**

The Psychotropic substances Drugs and Psychotropic Substances Act, sometimes known as the NDPS Act, was created to control drugs of abuse and outlaw their use, distribution, manufacturing, and commerce. Narcotic medicines are those that cause drowsiness, whereas psychotropic compounds have the power to change a person's state of mind. The NDPS Act was enacted by Parliament on November 14th, 1985.

Even yet, these substances are essential to the practice of medicine. As a result, the act also contains regulations relating to the production of any psychotropic compounds and the cultivation of cannabis, poppy, or coca plants. The primary goal of the law is to regulate the production, possession, sale, and transportation of narcotic and psychoactive drugs. Around 200 psychotropic substances are prohibited by the act, therefore any walk-in person cannot buy these drugs over the counter. Only when a prescription is available for the pharmaceuticals in question are they put on sale. If this legislation is broken, you could get fined, imprisoned for a long time, or both. The severity of the situation being handled determines the level of punishment. The penalties may be lessened if the medicines were used for personal use. Although the law has undergone numerous revisions since it was first passed. Nevertheless, it can be challenging to deal with new pharmaceuticals that have the potential to be abused because of the availability of synthetic drugs and problems with illicit and designer drugs.

## INTRODUCTION

The management of narcotic drugs has been implemented in India, taking into account both the country's duties under the UN Conventions and the need for narcotic medications and psychotropic substances for medical purposes. India has ratified three major UN conventions, including the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971, and the Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, all of which recommend various forms of control to achieve the dual goals of restricting the use of narcotic drugs and psychotropic substances for medical and scientific purposes as well as preventing their abuse. The Indian government has adopted the UN Convention as its

NDPS fails to distinguish between drug consumers, dealers, and hard-core criminals in this sector. The current study provides a summary of the NDPS act and its capabilities. This essay seeks to shed light on the ambiguities surrounding the interpretation of some NDPS Act parts as well as the failings of the authorized authorities and the investigating teams that lead to incorrect convictions in cases that should have resulted in acquittals and vice versa. These flaws could appear during the examination, during the investigation, following the investigation, or even when the defendant is being tried by the Act. To reach a firm judgment regarding the current state of the law, the authors of this article made a concerted effort to critically examine the NDPS Act by examining the various ways that the Act's clauses have been interpreted in various court decisions. framed the system of government and law

Drugs used in the narcotics industry include those covered by the 1985 Psychotropic Substances Act. (1) The Dangerous Drugs Act, of 1930 was superseded by the act, which was pushed through without debate or discussion, but the Cosmetics and Drug Act Act, of 1940 remained and remains in force.

The 1985 Act has undergone three revisions: in 1989, 2001, and most recently in 2014. (2) The NDPS purchase, exchange, and consumption. The law outlines the process of narcotics and psychotropic substances for any for searching, seizing, authorized, including cultivation, information , production, possession, sale, arresting people in both public and private settings and purpose other than medical and research purposes that are outlaws the

use In light of the severe punishments imposed by the act, precautions such as prior records of Act telling a higher authority, restricting the use of force to officers with authority, and warning the subject of their right against it being examined have been carefully imposed by the courts.

The Prohibition of Narcotic Drug Illicit Trafficking and Neuroleptic Substances Act was put into effect in 1988 to allow for the pre-emptive detention of those suspected of being drug traffickers or those who have been charged with doing so.

## **WHAT IS NDPS ACT 1985?**

The Narcotic Substances and Psychotropic Substances Act, or NDPS Act, is a law passed by the Indian Parliament in 1985 that makes it illegal to produce, manufacture, cultivate, possess, sell, buy, transport, store, use, or consume any narcotic or psychotropic substance. On August 23, 1985, this bill was introduced into the Lok Sabha. Both Houses of Parliament approved it; the then-President Giani Zail Singh gave his assent on September 16, 1985, and it went into effect on November 14, 1985. Since then, the NDPS Act has undergone four revisions: in 1988, 2001, 2014, and 2021. The Act applies to the entire country of India, as well as all Indian citizens living abroad and passengers on ships and planes. With effect from March 1986, the statute created the Narcotics Control Bureau. The Act is intended to fulfil India's duties under the United Nations Treaty Against Illicit Traffic in Narcotics and Psychotropic Substances, the Convention on Illicit Traffic in Narcotic Drugs, and the Single Convention on Narcotic Drugs. The NDPS Act of 1985 consists of 83 sections and 6 chapters.

## HISTORICAL CONTEXT

India's geography renders it susceptible to a large influx of people crossing the border from the "Golden Crescent" in the west, which includes Iran, Afghanistan, and Pakistan, and the "Golden Triangle" in the north-east, which includes Burma, Laos, and Thailand. Acts that attempted to regulate India's illegal narcotics trade were passed.

The main Central acts included:

1. The 1857 Opium Act
2. The 1878 Opium Act
3. The risky conduct of 1930

These laws were insufficient to address the newer drugs that had entered the market.

The following international norms were ratified in order to manage and regulate the production of opium as well as other narcotic drugs:

- i. 1912: International opium Convention
  - ii. 1925: Agreement Re Manufacture, international trade and use of prepared opium
  - iii. 1931: Concentration manufacture and distribution of narcotic drugs
  - iv. 1936: Convention for the suppression of illicit traffic in dangerous drugs
  - v. 1946: Protocol Amending the 1912, 1925, 1931, and 1936 instruments
  - vi. 1948: Protocol extending the 1931 convention to synthetic narcotic drugs
- 1953: Protocol Re Cultivation of the opium poppy and production trade and use of opium.

S. No	Drug / psychotropic substance	Small quantity	Punishment	Commercial quantity	punishment
1.	Cannabis	100gm	Maximum 1 year of strict imprisonment or 10,000 rupees of fine or both	1 kg	Strict imprisonment of (min) 10 years to 20 years and fine upto 1 lakh to 2 lakh.
2.	Cocaine	2 gm	Maximum 1 year of strict imprisonment or 10,000 rupees of fine or both	. 100 gm	Strict imprisonment of (min) 10 years to 20 years and fine upto 1 lakh to 2 lakh.
3.	Codeine	10 gm		1 kg	
4.	Ganja	1 kg		20 kg	
5.	Heroin	5 gm	Maximum 1 year of strict imprisonment or 10,000 rupees of fine or both	250 gm	Strict imprisonment of (min) 10 years to 20 years and fine upto 1 lakh to 2 lakh.
6.	Morphine	5 gm	Maximum 1 year of strict imprisonment or 10,000 rupees of fine or both	250 gm	Strict imprisonment of (min) 10 years to 20 years and fine upto 1 lakh to 2 lakh.
7.	Opium	25 gm	Maximum 1 year of strict imprisonment or 10,000 rupees of fine or both	2.5 kg	Strict imprisonment of (min) 10 years to 20 years and fine upto 1 lakh to 2 lakh.
8.	Opium derivatives	5 gm		250 gm	
9.	Poppy straw	1 kg		50 kg	



10.	Diazepam	20 gm		500 gm	
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Table-1: Definition of small, commercial quantities and punishment.

## **IMPORTANT SECTION UNDER NDPS ACT**

### **Section 3:**

The Central Government has the authority to add or remove such substances, natural materials, salts, or preparations of such substances, materials, or substances from the list of psychoactive drugs, as stated in Section 3 of the NDPS Act. The government can easily implement this at any moment by alerting the public in the gazette notification without adopting any legislation or altering the law in accordance with the information at hand or a decision made in accordance with an international convention.

### **Section 7A and 7B:**

Section 7A gives the Central Government the authority to establish the National Foundation for the Prevention of Drug Abuse. The fund is specifically meant to be used to pay for costs associated with the actions taken to combat the illicit trafficking of narcotics and psychotropic substances. Section 7B includes a requirement for the Central Government to submit yearly accounts on the projects it funds.

### **Section 41:**

According to Section 41 of the Acts, magistrates and specially appointed Gazetted Officers of the excise duties department, narcotics department, customs department, financial intelligence unit, or other department of the state are both able to issue search warrants. As a result, while getting information, actions can be conducted quickly and successfully.

### **Section 50:**

According to Section 5 of the NDPS Act, a person may request that a magistrate or designated officer perform a search, and the officer may hold the individual until the magistrate arrives. However, if the officer has grounds to suppose that the individual could be taken to the closest

constituted officer or judicial officer without running the risk of the person being caught in possession of any illegal drugs or psychoactive substances, he may proceed to search the individual in accordance with Section 100 of the Criminal Procedure Code, 1973. A copy of the search warrant, which must be given to his direct supervisor within 72 hours, must include the justifications for this belief.

CASE LAW UNDER NDPS ACT:

1. Gujarat State v. Mahesh Laxmanbhai Patel, 2002, 4 GLR 3127 The judge in this case acknowledged the prosecution's evidence and determined that the accused's possession of 6 grammes of brown sugar and his involvement in violations punishable by Sections 8(C) and 21 of the NDPS Act were established beyond a reasonable doubt. Additionally, it was determined that all of the NDPS Act's mandatory requirements had been met and that none of those requirements had been violated. The court issued a sentence directive.
2. Himachal Pradesh State v. Madan Lal and Ors. [(2003) 7 SCC 465] It was decided that once NDPS Act restricted substance possession was proven, it would be assumed that the possession was intentional. The individual making the opposite allegation would have to prove that it was an unconscious possession. The NDPS Act's Sections 35 and 54 provide this position with legal recognition.

## CONCLUSION

It is important to monitor how the NDPS Act is being enforced in order to control drug use in society. The importance of ensuring the calibre of medications used for medicinal purposes crucial factor that needs to be considered. It is crucial to keep and control data on drug users, including the efforts of many organisations working in this field enhancing state coordination for investigation in drug-related instances Drug misuse is a significant and serious issue in our nation. It causes severe physical and mental health issues. It has an impact on not only the individual but also the family and the community. Overall, we can categorise the issue as psychosocial and economic. For obvious lines of inquiry, separating synthetic from natural substances can be beneficial. Having a transparent policy can help us solve drug-related offences more quickly and efficiently. For our nation to be free of the scourge of illegal drugs, it is crucial to comprehend drug trends. Increasing awareness and educating the public can aid in the eradication of the drug addiction issue in our nation. In order to protect future generations from the negative consequences of substance misuse, rehabilitation facilities should coordinate with the federal and state governments. While the government is doing its best to address social inequalities through media like TV, radio, and newspapers, it is also our duty as pharmacists to do so. Pharmacists are knowledgeable about a variety of acts linked to sickness, medications, and treatments in addition to these. Because patient counselling is a part of what pharmacists do, they can thus do it better than others.