

# Beyond Cannabis: Psychotropic Substances Decriminalization

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**Abstract:** *Psychotropic Substances are powerful psychoactive substances that alter consciousness and brain function. Like cannabis, Psychotropic Substances have long been considered prohibited by the NDPS Act 1985. However, via the powerful psychological experiences they induce, Psychotropic Substances are now being shown to be viable therapeutic alternatives in treating depression, substance use disorders, and other mental illnesses, and to enhance the wellbeing of healthy individuals.*

*Psychotropic Substances has been used since the pre-historic period of mankind and is closely integrated with the history of the most ancient civilization known to have existed. In India, it is associated with religious customs and traditions that date back to the period of thriving gods. Legalization of such substances has always been a debatable topic after the enforcement of Narcotic Drug & Psychotropic Substances Act, 1985 illegalization, sale and possession of such substance all over India. Despite its use in the medical field no positive steps have been taken. Czechia, The Netherlands, Portugal and Switzerland are among the handful of countries that have decriminalized drug use and possession for personal use and that have also invested in harm reduction programs. Consequently, diagnosed amongst the people of these are very low. This paper aims at drawing a strict analysis of usage of Psychotropic Substances followed by a comparative study with the rest of the world pin-pointing whether India should de-criminalize Psychotropic Substances or not.*

**Keywords:** Narcotic Drugs, Substance use Disorder, Rehabilitation, Deterrence, Reform

## HYPOTHESIS:

1. Those who feel that they are more creative or insightful or self-aware while under the influence of psychedelics... may be delusional or they may be right. Prohibitionists commonly assume that such claimants are delusional, but proof of that assumption is entirely absent.
2. Use of Psychotropic Substances can be fatal to people.

## RESEARCH OBJECTIVE:

1. Whether psychedelic substances should be legalized in India?
2. Historical reference of Psychedelics in India.
3. Justifying Psychotropic Decriminalization.

## RESEARCH QUESTION:

1. Effect of Decriminalizing Psychotropic Substances in India?
2. How psychotropic substances were Criminalized in India?

## INTRODUCTION

The Narcotic Drugs and Psychotropic Substances Act, 1985 (also known as the NDPS Act) is the main law aimed at combating drug trafficking in India. The NDPS Act created a system of “prohibition, control and prevention”. This law was made with the intention of fulfilling the obligations and commitments of India under various international agreements to eradicate the problem of drug abuse in the country. The NDPS Act comes from an urgent need for legislation to control the menace of drug trafficking in India. The fast was built when India was put into the drug net by becoming a transit country, and the damage is already starting to develop in the form of a ripple effect. It was then that Parliament repealed the supposedly comprehensive NDPS Act, 1985. The NDPS Act prima facie outlaws drug addiction and provides severe punishment to drug dealers, and also includes provisions for the rehabilitation of drug addicts. The Legislature has tried to distinguish between the sellers and the consumers individually, because it is possible to change the victims/consumers through restructuring.

## THE LEGISLATIVE BACKGROUND OF THE ACT

The NDPS Act was a result of a worldwide movement to control the supply of drugs widely known as the

'War on Drugs'. The movement gained prominence in the backdrop of the First Opium War during 1839–42. The same was followed by the International Opium Convention held in Shanghai in 1909, which subsequently acted as a stepping stone due to the participation of delegates from all over the world. The Convention undertook a declaration to regulate licit drugs and prohibit illegal smuggling of narcotics. The international drug control regime was further strengthened and remoulded by various treaties and laws which were later converted into a single document referred to as the 1961 Single Convention on Narcotic Drugs. After a decade in 1971, the Convention on Psychotropic Substances and later in 1988, United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was reformulated which expanded the ambit of international drug prohibitions for regulating the use of psychotropic substances as well as controlling the illicit trafficking of drugs

In 1977, the 'Gopalan Committee' which was constituted by the Ministry of Health and Family Welfare, Government of India, observed that "the penal policy under the relevant laws is weak and hardly effective and the sentencing structure be immediately remodelled on priority basis." The Committee's recommendation also made a phenomenal impact. Although the Committee had felt the urgency of required changes in the sentencing structure in 1977, it took roughly seven-years to establish the NDPS Act.

The NDPS Act is a form of consolidation of various drug laws that exist at the national level, for example, the Dangerous Drugs Act, 1930, which was made on the basis of international conventions approved by the Government of India. However, the three "drug laws" in India at the time remained fragmented and fragmented. In view of international work (United Nations, 1975) (United Nations, 1975) (United Nations, 1988), all these laws have been combined into one law, namely the NDPS Act, Narcotic Drugs Act, 1930, 14 November 1985. On 23 August 1985, the NDPS bill was laid before the Lok Sabha and within four days, on 16 September 1985, the bill received the President's assent and came into force on November 14, 1985. The bone of contention before the House is the issue of soft provisions for drug addicts. The House was divided on the issue of punishment, with a camp led by MP VS Krishna Iyer (Janata Party) favoring

stiffer punishment as a deterrent even for minor drug-related offences. Similarly, Shantaram Naik and the [Indian National Congress (INC)] supported a system of mandatory punishment as the only way to effectively control drug addiction. Similarly, another member, Priya Ranjan Dasmunsi (INC), said:

"Minimum penalties for drug addicts will create a culture of acceptance of drug use." In addition, he said that drug addicts will be sentenced to a minimum of two years in prison. However, Finance Minister Janardhan Poojary tried to allay these concerns, saying that the law does not accept anyone (even drug addicts) unless the accused proves that the drugs in it are intended for use. Several other MPs, such as Ajay Mushran (INC), expressed concern about the law's provision for rehabilitation and treatment of drug addicts. They emphasized that the government is not required to establish a treatment center and criticized the lack of clarity about the role of the ministry in establishing a drug treatment center. They said that it is the duty of the government to cure the disease. When the NDPS Act was amended in 1988, the treatment and rehabilitation of drug addicts also attracted attention. Jayanti Patnaik (INC) urged the government to develop an integrated prevention strategy, with coordinated efforts between law enforcement agencies and health agencies. Rajya Sabha MPs like Kamal Morarka [Janta Dal (Secular) JD(S)] and P.K. Kunjachen [Communist Party of India (Marxist) CPI(M)] clearly said that the NDPS Act is being used to punish drug addicts who should be suffering. he is treated as a victim and rehabilitated. Therefore, this research paper examines the nature and impact of laws governing narcotic drugs and psychotropic substances in India by understanding the factors that preceded the implementation of the NDPS Act, which makes short term of "change of evidence." Communicate the current status and implementation of the NDPS with respect to amendments to previous regulations and emphasize upon the need for rehabilitation.

#### A LOOK AT THE NATIONAL POLICY OF INDIA ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

According to India's National Policy on Drugs and Psychiatry. There are two main factors that lead to the use of drugs: first, access to drugs and, second, the presence of social psychological conditions that lead

to their abuse. Therefore, the focus should be on reducing supply as much as reducing demand. Demand reduction also has two main objectives: first, to treat drug addicts and secondly, to educate and raise awareness in society to prevent drug addiction and improve drug addicts who have received the required treatment. So drug use is not just a question of demand and supply. Rather, it is a psycho-socio-socio-medical problem that requires medical and community support for the treatment and rehabilitation of drug addicts. In line with this policy, the Government of India, as part of its national policy, has adopted a three-pronged strategy for demand reduction which includes:

- “To raise awareness and educate people about the negative effects of drug abuse.
- Treatment of drug addicts through programs of motivational counseling, treatment, supervision and socialization of recovered drug addicts.
- Provides training to volunteers in drug prevention and rehabilitation with the goal of building an educated workforce.

As stated in the policy, treatment is a key component of this plan because it focuses specifically on substance abuse. India follows a two-pronged approach to treatment

- (i) government runs addiction centers in government hospitals and
- (ii) supports NGOs involved in this area. The Government of India also runs more than 100 drug treatment centers across the country in various government hospitals.

In 1985-86, the Ministry of Social Justice and Empowerment launched a program to ban drugs and drug abuse. Government of India supports more than 361 (NGOs); 376 de-addiction and rehabilitation centers, running addiction camps, and counseling and awareness centers and for all these institutions and programs, the Government of India bears a major part of the expenses for providing services to these institutions a. (Department of Revenue, Ministry of Finance, 2017) The policy also requires the central government to ensure that services such as motivational counseling, treatment and rehabilitation are easily accessible whether the government provides them through its own agencies are other independent organizations such as NGOs. .

There should be proper involvement of the "National Advisory Committee on Substance Abuse and Rehabilitation" in matters related to prevention,

substance abuse, rehabilitation and harm reduction. States should also remove age restrictions for access to harm reduction services; in fact, it should be for the benefit of everyone involved. Special provisions are necessary for children who use drugs, focusing on child-friendly prevention and treatment, drug abuse and harm reduction services. States should not criminalize children who use drugs for personal use and bring about change rather than punishment. In India, the state seems to be ignoring the rehabilitation of those involved in cases under the NDPS Act. Instead, they are thrown under the wheel of justice, so their chances of returning to normal are nil. The number of cases under the NDPS Act continues to rise, raising questions as to whether the government has been able to achieve the three objectives of the Act. Companies and opportunities to recover drugs and medical treatment appear

limit. Reports show that the Indian state has spent little money on rehabilitation and even rehabilitation centers and drug addiction centers are either overcrowded or facing financial shortages. Instead of viewing drug users as patients or victims, a haphazard police system and disinterested government agencies treat them as criminals or victims. threatening society. There is an immediate need for change in this approach. The authors believe that it is important to treat individuals as individuals. There can be no strict process for rehabilitation or treatment of any drug addict or offender. In India, we will have to find another way for restrictions, like in Brazil and Portugal. There is an imminent need for resource mobilization in the form of dedicated rehabilitation centers that focus on vulnerable groups such as children, mothers of infants, orphans, minors and other vulnerable groups and economic relations. The law will take into account mitigating factors and look at each case individually rather than making a one-size-fits-all approach.

#### CONCLUSION

Responding to the need to control, prevent and prohibit narcotic drugs with the aim of reducing the menace of 'drug abuse', the Indian Parliament enacted the NDPS Act, 1985. It aims to control and eradicate the menace of the society. of drug addiction and others. drug-related crimes. It is not just an international restriction but a national imperative. However, many reports and even national data released annually by the

Government of India titled 'Crime in India' clearly show the rising number of cases registered under the NDPS Act despite the high number of cases. This clearly shows that the law has reduced drug addiction or ensured rehabilitation for those who need it, despite strict methods and penalties for drug addiction. Therefore, the authors suggest that there is a need to change from the current punishment system to rehabilitation and rehabilitation of drug addicts or drug users. Despite the amendment, in practice, drug users and drug users are still treated as criminals and terrorists rather than - abused. It is important to be careful in the behavior of people towards the defendants small amounts of drugs and items for personal use. They don't deserve to be treated the way people with commercial value are treated. This distinction should be applied not only at the sentencing stage, but even during the execution of their sentences, if they are convicted. The authors suggest that when they are sentenced, the prisoners constantly check their mental and emotional state. For this purpose, standardized tests such as the DSM5 test can be used. Despite the rehabilitation provision under the law, the defendants are sent to the rehabilitation center and even the existing rehabilitation center needs structural and operational planning to fulfill the purpose of the law. The amendment requires that the defendant be treated as a victim rather than a criminal. This shows a positive situation for reform, which shows the need for better health institutions and capacity building while you see the limited involvement of law enforcement officials at any level related to the victims. drug abuse or abuse. The identity of the accused should be kept to a minimum and not disclosed until the conviction, as this may have a negative impact on the accused. In short, we need a coordinated, multi-stakeholder response to scale up treatment and implement effective treatment and rehabilitation in the country. Cases related to the NDPS Act have cost a lot of money due to various reasons such as lack of special courts, laboratories, repeated requests for re-examination and other delays. These words are constantly repeated by various news and even honored by the Supreme Court of India. The Supreme Court of India emphasized the need to establish other courts, provide training to judges who try the case regularly and establish other laboratories in the country and state. Procedural delays, inconvenient detentions and a rigid bail system have resulted in defendants spending years in prison

without trial. This is a violation of the rights of the accused. Rather, the need for better humane methods and alternative methods of imprisonment at various stages of the trial is the need of the hour. Therefore, the authors recommend incorporating these changes into the current legal framework.

Measures to address the issues registered under the NDPS Act to achieve the three objectives of 'prohibition, control and prevention'.